

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



**AGENDA ITEM NO.: Z-23  
AGENDA DATE: Thu 01/12/2006  
PAGE: 1 of 1**

**SUBJECT:** C14-05-0005 - Gables/Park Plaza - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 910 West Cesar Chavez Street (Tracts 1 and 2) (Town Lake and Shoal Creek Watersheds) from downtown-mixed use (DMU) district zoning to downtown-mixed use-central urban redevelopment-conditional overlay (DMU-CURE-CO) combining district zoning with conditions. Zoning and Platting Commission Recommendation: To grant downtown-mixed use-central urban redevelopment-conditional overlay (DMU-CURE-CO) combining district zoning with conditions. Applicant: LG Lamar Limited Partnership and LG Park Plaza Limited Partnership (Ben Pisklak). Agent: Drenner, Stuart, Wolff, Metcalfe (Michele R. Allen). City Staff: Jorge E. Rousselin, 974-2975.

**REQUESTING** Neighborhood Planning  
**DEPARTMENT:** and Zoning

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guernsey

**ZONING REVIEW SHEET****CASE:** C14-05-0005**Z.A.P. DATE:** October 4, 2005  
November 1, 2005**ADDRESS:** 910 West Cesar Chavez Street (Tracts 1 and 2)**OWNER:** Lumberman's Investment Corporation  
(Wayne McDonald)**AGENT:** Drenner Stuart  
Wolff Metcalfe von Kreisler  
(Michele Allen)**ZONING FROM:** DMU (Downtown Mixed Use)**TO:** DMU-CURE (Downtown Mixed Use - Central Urban Redevelopment Combining District)**AREA:** 4.524 Acres**SUMMARY ZAP RECOMMENDATION:**

November 1, 2005:

APPROVED DMU-CURE-CO DISTRICT ZONING WITH STAFF CONDITIONS;  
ADDED CONDITIONS OF:

- SUBJECT TO PARTICIPATION IN GREAT STREETS PROGRAM;
- MAXIMUM HEIGHT OF 195-FEET , WITHIN AN ENVELOPE FROM THE WESTERN EDGE OF THE CAPITOL VIEW CORRIOR MOVING WEST TO THE EASTERN EDGE OF A THROUHWAY EASEMENT TO BE PROVIDED;
- EVERYTHING RECOMMENDED BY THE STAFF AND AGREED TO BY THE APPLICANT.

[K.J, T.R 2<sup>ND</sup>] (7-1-1) M.H – ABSTAINED; J.M – NAY**SUMMARY STAFF RECOMMENDATION:**

Staff recommends DMU-CURE (Downtown Mixed Use - Central Urban Redevelopment Combining District) based on the following considerations:

- 1.) The proposed use is compatible with existing multifamily residential, commercial, and mixed-use development along West 3<sup>rd</sup> Street and west of Lamar Boulevard;
- 2.) The proposed development lies within the downtown CURE district;
- 3.) The proposed development will not be subject to compatibility standards;
- 4.) The proposed development will be near future transit station / hub; and
- 5.) The Seaholm Master Plan recommends the revitalization of this section of downtown with a mixture of retail, office and high density residential; and
- 6.) The proposed project will lie within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines.

## **ISSUES:**

There is an existing approved zoning site plan, which was approved October 18, 1984 under case No. C14-83-140, to construct a 15 story office tower and a parking garage on Tract 1 (see Exhibit A). This site plan does not have an expiration date and may be used for the construction of a new project. Should the subject rezoning be approved, it will delete the existing JETCO zoning site plan (C14-83-140) which allows a 15 story, 220-foot office structure.

On January 8, 2001 the City of Austin entered into a Settlement Agreement (see exhibit B) with the Lumberman 's Investment Corporation (LIC). The settlement was a result of a lawsuit between the City and LIC, in regards to a boundary dispute. As a condition of the settlement, if the City of Austin granted approval of the previously proposed project (C14-01-0070), the approved zoning site plan will be terminated. However, the owner of the property must adhere to certain "Project Characteristics " as noted in section 8 and 9 of the settlement agreement which states:

- The project must adhere to DMU development regulations, as well as provisions in the Waterfront Overlay Combining District and Northshore Central Sub-district.
- It shall be a mixed-use project with a floor area of 400,000 and 500,000 square feet and a parking structure for at least 600 automobiles.
- The gross floor area shall contain at least 60% of residential with the balance for commercial uses allowed in the DMU zoning district.
- The proposed project shall conform to all Land Development Code regulations governing zoning, subdivision, and site plans, aside from the exceptions within this agreement. Also the owner will work with City Staff, should conflicts arise between this project and the Seaholm Master Plan.
- One building on the northwest corner shall be 180', with the remaining buildings in the Capitol View Corridor averaging a height (including the 180 foot building) of 120 feet.

The property lies within the Seaholm District Master Plan Boundaries (SDMP). The SDMP is attempting to revitalize this section of downtown with a mixture of retail, office and high density residential. The SDMP illustrative plan suggests a residential, mixed-use development for the property (see Exhibit C).

At this time a site plan for the new project has not been submitted to the City of Austin for formal review. The proposed project is located within the Waterfront Overlay Combining District, and as per the settlement agreement must adhere to the provisions set forth in the Land Development Code (a copy of the overlay has been included).

As requested by the Planning Commission at the time, case No. C14-01-0070 was heard by the Parks Board on August 14, 2001. By a vote of 5-2, the Parks Board voted to not support

the proposed zoning change. The concern was the precedent this would set for development along Town Lake.

Furthermore, on September 27, 2001, a motion to approve case No. C14-01-0070 to grant DMU-CURE failed at City Council on a vote of 3-4.

### **DEPARTMENT COMMENTS:**

The subject area is a 4.524 acre site zoned DMU accessed from West Cesar Chavez Street. The applicant proposes to rezone a portion of the property to DMU-CURE district to allow for a mixed-use development including a structure exceeding 120' but under 200' in height. The modification to the base zoning district sought is the height limitation exceeding 120'. The proposed development will be subject to the regulations of the North Shore Subdistrict of the Waterfront Overlay District. Furthermore, a master agreement for a proposed pedestrian through-way easement from the extension of the Pfluger Bridge to Bowie Street addressing issues relevant to water quality and transportation improvements is under development and if approved, would supersede the existing settlement agreement. The City Council will address issues relevant to a Chapter 26 application on existing parkland adjacent to the subject property regarding potential realignment of Sandra Muraida Way.

The Land and Facilities Committee of the Parks Board, the Parks Board, and the Environmental Board have recommended approval of the Chapter 26 application and proposed center alignment of the Pfluger Bridge.

Furthermore, a portion of this site lies within the Capitol View Corridor (CVC). Any proposed development within the CVC will be subject to the provisions of 25-2-642.

Current site development regulations for DMU are as follows:

<b>DMU</b>	
<b>Maximum Height:</b>	120'
<b>Maximum Building Coverage:</b>	100%
<b>Maximum Impervious Cover:</b>	100%
<b>Maximum Floor Area Ratio:</b>	5:1

Source: The Code of the City of Austin, Volume III, Chapter 25-2-492

Staff recommends Downtown Mixed Use - Central Urban Redevelopment Combining District (DMU-CURE) based on the following considerations:

- 1.) The proposed use is compatible with existing multifamily residential, commercial, and mixed-use development along West 3<sup>rd</sup> Street and west of Lamar Boulevard;
- 2.) The proposed development lies within the downtown CURE district;
- 3.) The proposed development will not be subject to compatibility standards;
- 4.) The proposed development will be near future transit station / hub; and
- 5.) The Seaholm Master Plan recommends the revitalization of this section of downtown with a mixture of retail, office and high density residential; and
- 6.) The proposed project will lie within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	DMU	Undeveloped land
<i>North</i>	DMU / DMU-CO	Lounge / Studio / Apartments - Condominiums
<i>South</i>	P	North Town Lake Shore
<i>East</i>	P	City of Austin Power Plant
<i>West</i>	LI-CO-NP	YMCA

**AREA STUDY:** Seaholm Master Plan, Downtown Austin Design Guidelines**TIA:** Waived, see attached comments under transportation**WATERSHED:** Shoal Creek; Town Lake    **DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** Yes    **HILL COUNTRY ROADWAY:** N/A**NEIGHBORHOOD ORGANIZATIONS:**

57--Old Austin Neighborhood  
 402--Downtown Austin Neighborhood Assn. (DANA)  
 511--Austin Neighborhoods Council  
 623--City of Austin Downtown Commission  
 742--Austin Independent School Districts  
 744--Sentral Plus East Austin Koalition (SPEAK)  
 998--West End Austin Alliance

**SCHOOLS:**

Austin Independent School District

- Mathews Elementary School
- O. Henry Middle School
- Austin High School

**RELATED CASES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-83-140	D to C	07/24/83: Approved zoning and a site plan for office building and parking garage. (7-1)	10/18/84 APVD C, 3RD H&A; 3RD RDG, EMERG. PASS.
C14-01-0070	DMU to DMU-CURE	08/21/01: Approved Staff's recommendation of DMU-CURE. (7-1, JM-NO).	09/27/01: Motion to approve DMU-CURE failed on a vote of 3-4 vote. (JG/BG/DS/DT-NO).

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-05-0093	ROW to DMU	Pending	Pending
C14-02-0112	Old West Austin Neighborhood Plan Combining District	08/14/02: PC APPROVED: (6-0, DS-RECUSED) SF-2-NP, SF-2-H-NP, SF-3-NP, SF-3-H-NP, SF-4A-NP, SF-6-NP, MF-2-NP, MF-3-NP, MF-3-H-NP, MF-4-NP, MF-4-H-NP, NO-NP, NO-CO-NP, NO-MU-H-CO-NP, P-NP, P-H-NP, LO-NP, LO-CO-NP, LO-H-NP, LO-MU-NP, GO-NP, GO-CO-NP, LR-NP, GR-NP, GR-MU-CO-NP, CS-MU-CO-NP, CS-H-MU-CO-NP, CS-1-MU-CO-NP, LI-CO-NP, PUD-NP.	09/26/02: APVD SF-2-NP, SF-2-H-NP, SF-3-NP, SF-3-H-NP, SF-4A-NP, SF-6-NP, MF-2-NP, MF-3-NP, MF-3-H-NP, MF-4-NP, MF-4-H-NP, NO-NP, NO-CO-NP, NO-MU-H-CO-NP, P-NP, P-H-NP, LO-NP, LO-CO-NP, LO-H-NP, LO-MU-NP, GO-NP, GO-CO-NP, LR-NP, GR-NP, GR-MU-CO-NP, CS-MU-CO-NP, CS-H-MU-CO-NP, CS-1-MU-CO-NP, LI-CO-NP, PUD NP AND DIRECTED STAFF TO INITIATE REZONING OF 1706 & 1708 W 6TH FROM SF-2-NP TO NO-MU-CO-NP
C14-05-0025	SF-2-NP TO NO-MU-CO-NP	05/24/05: PC : APPROVE STAFF RECOMMENDATION, INCLUDING ALL CONDITIONS, BUT REQUIRE INGRESS AND EGRESS ONLY FROM THE ALLEY AND DIRECT STAFF TO PREPARE A PLAN TO ALLOW ON-STREET PARKING ON WEST 6 <sup>TH</sup> STREET TO ADDRESS THE PARKING CONCERNS FOR SITE. VOTE: (JR-1 <sup>st</sup> , MM-2 <sup>nd</sup> ; CM-OPPOSED, CG- ABSENT)	Pending
C14-03-0168	DMU-CURE to DMU-CURE (ground floor rezoned for office and pedestrian oriented uses)	01/06/04 : ZAP – Pulled, sent to City Council without recommendation.	01/29/04: APVD STAFF REC OF DMU-CO-CURE (NO COCKTAIL LOUNGE), (5-0); 1ST RDG;  02/12/04: APVD DMU-CO-CURE (7-0); 2ND/3RD RDGS
C14-00-2132	DMU to CBD	08/22/00: PC - APVD STAFF REC W/COND OWNER RECONNECT HIKE/BIKE	09/28/00: APVD CBD-CO W/CONDS (7-0) ALL 3 RDGS

		<b>TRAIL (8-0); SA-ABSENT)</b>	Conditional Overlay: - Vehicle trip limitation to 2,000
<b>C14-00-2127</b>	<b>DMU to CBD</b>	<b>08/22/00: PC - APVD STAFF REC W/COND OWNER RECONNECT HIKE/BIKE TRAIL (8-0); SA-ABSENT)</b>	<b>09/28/00: APVD CBD-CO W/CONDS (7-0) ALL 3 RDGS</b>  Conditional Overlay: - Height limitation of 170 feet; - FAR of 5:1.
<b>C14-99-0002</b>	<b>P to DMU-CO</b>	<b>02/09/99: PC - APVD STAFF REC OF DMU-CO BY CONSENT (9-0).</b>	<b>04/15/99: APVD DMU-CO W/CONDITIONS (7-0) 2ND/3RD RDGS</b>  Conditional Overlay: - Vehicle trip limitation to 2,000

**ABUTTING STREETS:**

<b>NAME</b>	<b>ROW</b>	<b>PAVEMENT</b>	<b>CLASSIFICATION</b>
Lamar Boulevard	200'	Varies	Arterial
Sandra Muraida Way	90'	Varies	Arterial
Cesar Chavez	Varies	Varies	Arterial

**CITY COUNCIL DATE:** December 15, 2005; January 12, 2006**ACTION:****ORDINANCE READINGS:** 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup>**ORDINANCE NUMBER:****CASE MANAGER:** Jorge E. Rousselin, NPZD**PHONE:** 974-2975**E-MAIL:** [jorge.rousselin@ci.austin.tx.us](mailto:jorge.rousselin@ci.austin.tx.us)

**Watershed Protection and Development Review Department  
CITY OF AUSTIN  
TRAFFIC IMPACT ANALYSIS (TIA) DETERMINATION WORKSHEET**

**APPLICANT MUST FILL IN WORKSHEET PRIOR TO SUBMITTING FOR TIA DETERMINATION**

**PROJECT NAME:** Museum Park Plaza  
**LOCATION:** 810 West Cesar Chavez Street  
**APPLICANT:** Heldt Ross, WHM Transportation **TELEPHONE NO.:** (512) 473-8343  
**Fax:** (512) 473-8237

**APPLICATION STATUS:** ☐ **DEVELOPMENT ASSESSMENT** ☒ **ZONING** ☐ **SITE PLAN**

**EXISTING:** **FOR OFFICE USE ONLY**

TRACT NO.	TRACT ACRES	BUILDING SQ. FT.	ZONING	LAND USE	I.T.E. CODE	TRIP RATE	TRIPS PER DAY
1	1.942		DMU				
2	2.582		DMU				

**PROPOSED** **FOR OFFICE USE ONLY**

TRACT NO.	TRACT ACRES	BUILDING SQ. FT.	ZONING	LAND USE	I.T.E. CODE	TRIP RATE	TRIPS PER DAY
1 and 2	4.524	335 DU	DMU-CURE	Multifamily	220		2,164
		50,000 SF	DMU-CURE	Shopping Center	820		4,328
		30,000 SF	DMU-CURE	General Office	710		528
		110 DU	DMU-CURE	Residential Condominiums	230		696

\*With amendment to allow multi-family development

7,716

**ABUTTING ROADWAYS**

**FOR OFFICE USE ONLY**

STREET NAME	PROPOSED ACCESS?	PAVEMENT WIDTH	CLASSIFICATION
West Cesar Chavez	Yes		
Sandra Muraida Way	Yes		
Lamar Boulevard	Yes		

**FOR OFFICE USE ONLY**

       A traffic impact analysis is required. The consultant preparing the study must meet with a transportation planner to discuss the scope and requirements of the study before beginning the study.

       A traffic impact analysis is NOT required. The traffic generated by the proposal does not meet or exceed the thresholds established in the Land Development Code.

  X   The traffic impact analysis has been waived for the following reason(s):  
See attached waiver

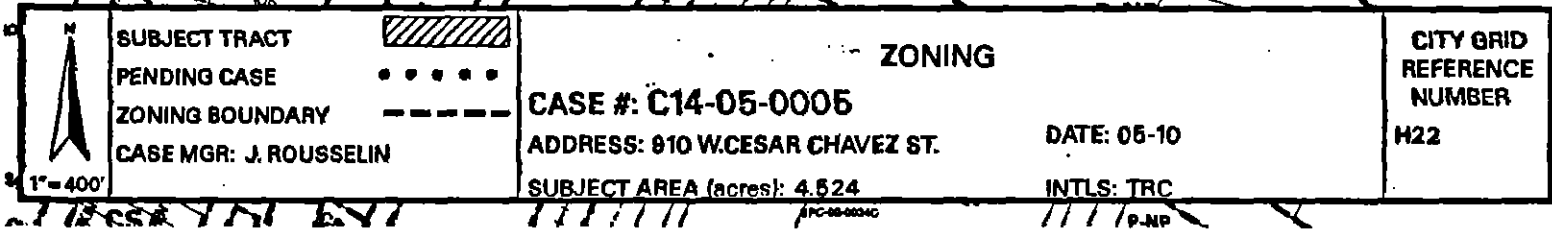
       The traffic impact analysis has been waived because the applicant has agreed to limit the intensity to 2,000 vehicle trips per day.

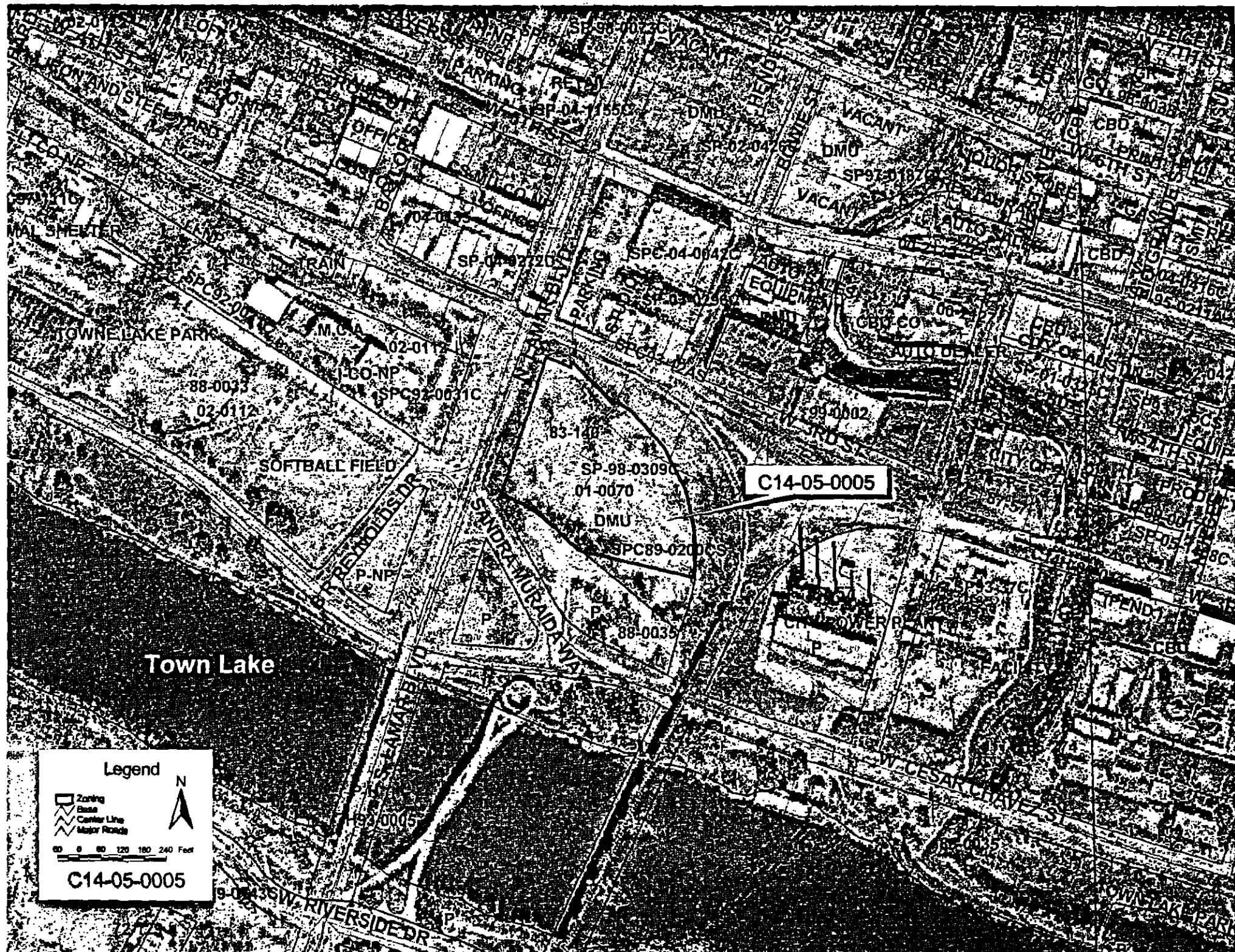
       A neighborhood traffic analysis will be performed by the City for this project. The applicant may have to collect existing traffic counts. See a transportation planner for information.

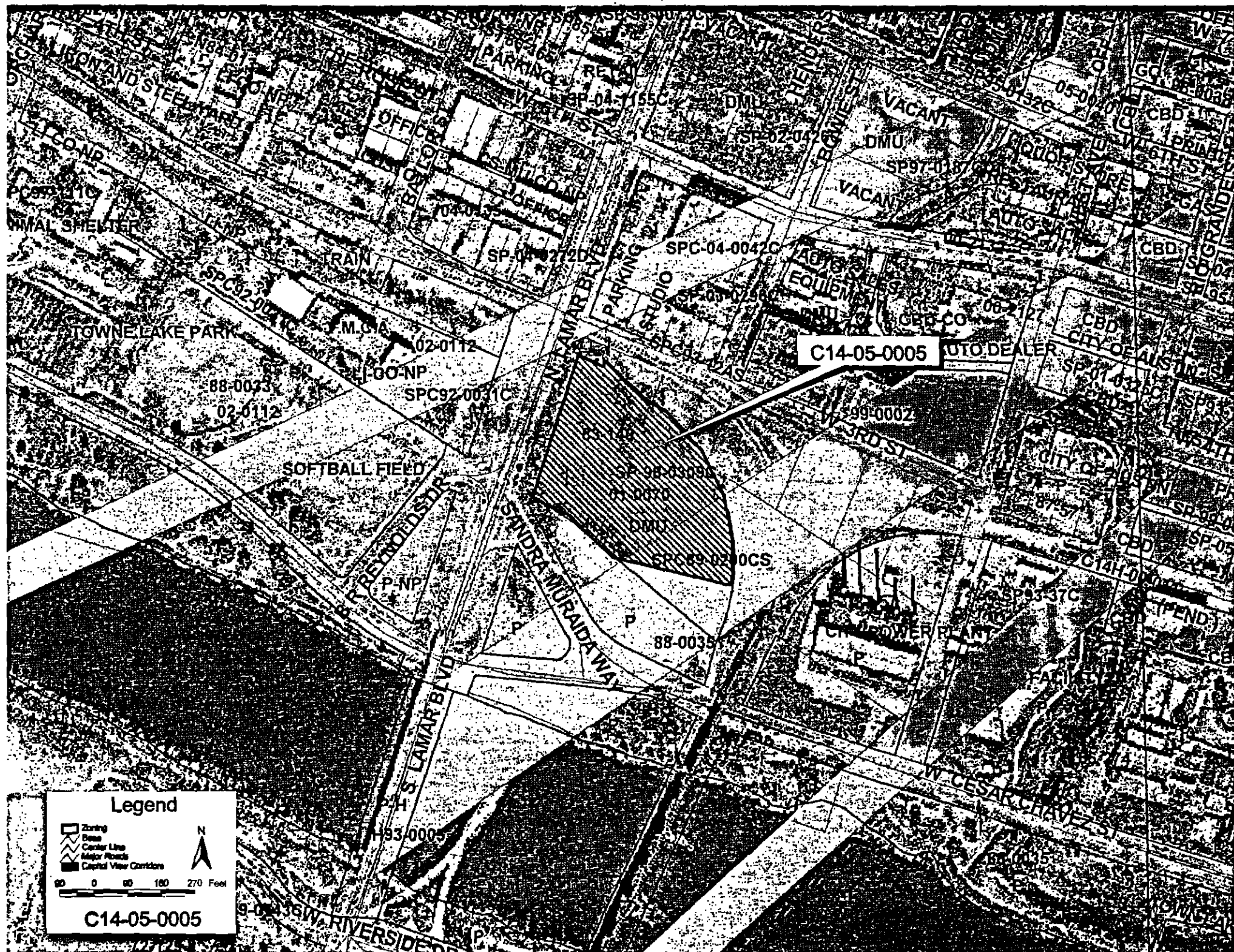
**REVIEWED BY:** *Joe U'Brien* **DATE:** September 27, 2005  
**DISTRIBUTION:** FILE CAP. METRO TxDOT COPIES:  
TRANS. REV. Travis Co./Williamson Co. TPSD

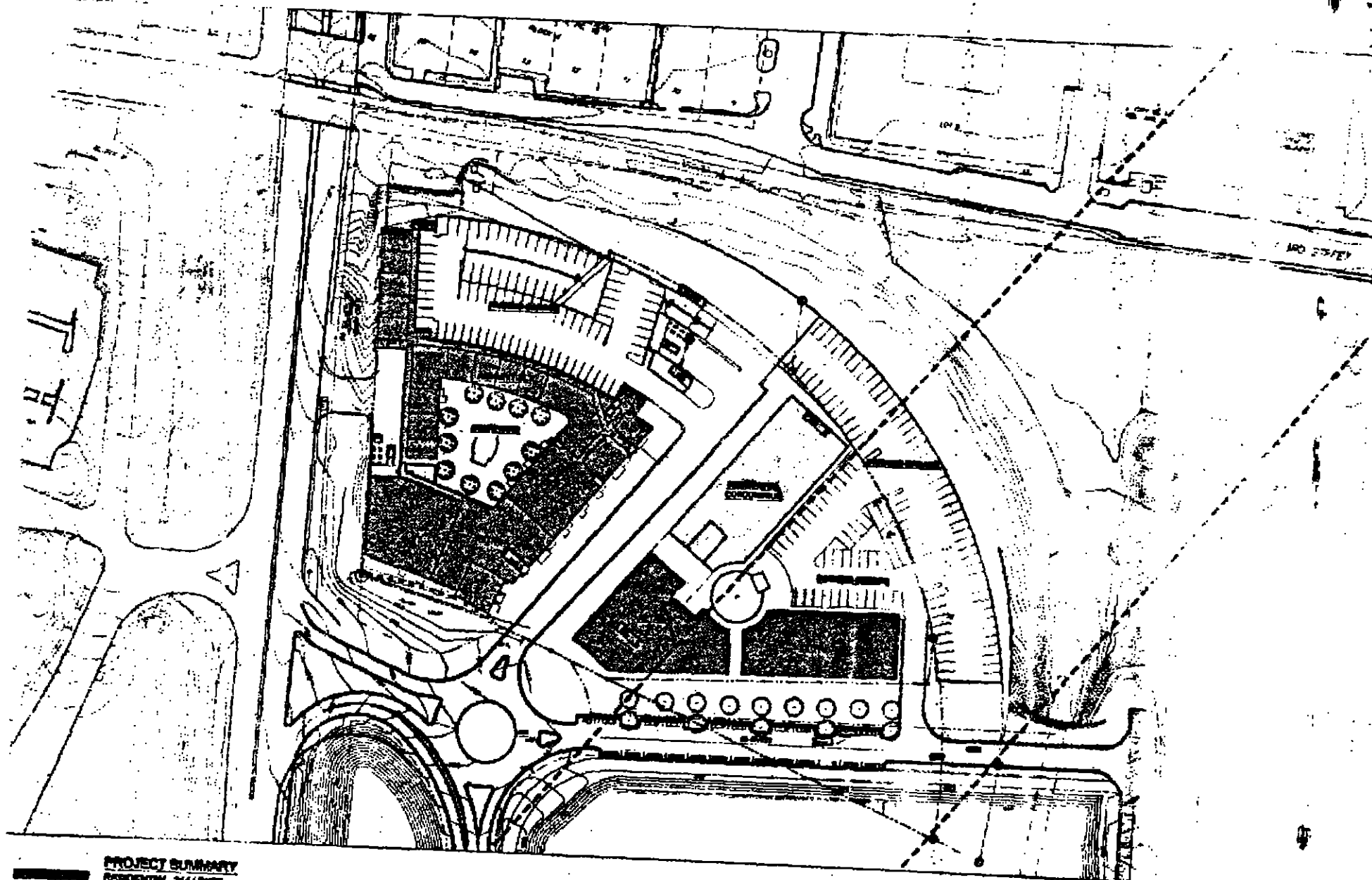
**NOTE:** A TIA determination must be made prior to submittal of any zoning or site plan application to Planning; therefore, this completed and reviewed form must accompany any subsequent application for the IDENTICAL project. CHANGES to the proposed project will REQUIRE a new TIA determination to be made.











**PROJECT SUMMARY**

RESIDENTIAL 214 UNITS  
 OFFICE 235,000 SF  
 RETAIL 40,000 SF  
 RESIDENTIAL CONDOMINIUM ABOVE

C14-05-0005

**SITE MASTER PLAN**

SCALE 1" = 40'  
 09.04.05

**H-5**

## **STAFF RECOMMENDATION**

Staff recommends Downtown Mixed Use - Central Urban Redevelopment Combining District (DMU-CURE) based on the following considerations:

- 1.) The proposed use is compatible with existing multifamily residential, commercial, and mixed-use development along West 3<sup>rd</sup> Street and west of Lamar Boulevard;
- 2.) The proposed development lies within the downtown CURE district;
- 3.) The proposed development will not be subject to compatibility standards;
- 4.) The proposed development will be near future transit station / hub; and
- 5.) The Seaholm Master Plan recommends the revitalization of this section of downtown with a mixture of retail, office and high density residential; and
- 6.) The proposed project will lie within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines.

Downtown Mixed-Use zoning district is intended for areas on the periphery of CBD, Central Business District designations. DMU may be applied to a development that includes any combination of office retail, commercial, and residential uses compatible with the downtown area. A DMU district may be used as a transition between the downtown area and surrounding districts and where it is suitable for an area to which the Central Business District may expand.

The CURE combining district is intended for a combination with all base districts within specific central urban areas, in order to modify base district provisions as necessary to allow for appropriate uses. The proposed CURE is appropriate at this location in order to allow the proposed mixed use development exceeding 120' as specified in the settlement agreement. As per the settlement agreement, the project will be a mixed-use project combining retail, office and at least 60% residential. It is this type of development that should be encouraged within the downtown core.

## **BASIS FOR RECOMMENDATION**

*1. The proposed zoning should be consistent with the purpose statement of the district sought.*

The property is located on the periphery of the Central Business District, within the recognized downtown area boundaries.

(A) The purpose of a central urban redevelopment (CURE) combining district is to promote the stability of neighborhoods in the central urban area.

(B) A CURE combining district may be used:

- (1) for sustainable redevelopment of homes, multifamily housing, and small businesses;
- (2) to accommodate high priority projects that enhance the stability of urban neighborhoods including the development of affordable housing and small businesses along principal transportation routes that serve a neighborhood;
- (3) to improve the natural environment; and



- (4) to encourage high quality development with architectural design and proportion compatible with the neighborhood.

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The subject property is the current location of a lounge and studio and is across from residential multifamily development zoned DMU-CO on Bowie Street.

***2. Zoning changes should promote compatibility with adjacent and nearby uses***

The proposed change is compatible with the surrounding area where there exists a variety of land uses conducive to promoting a variety of residential, commercial, industrial, and civic uses.

**EXISTING CONDITIONS**

**Site Characteristics**

The subject area is a 4.524 acre site zoned DMU accessed from West Cesar Chavez Street and West 3<sup>rd</sup> Street. The site is undeveloped land and lies within the CURE District. Furthermore, the site lies within the Seaholm Master Plan Study Area which specifies a mixed-use development for this site. The subject property also lies within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines.

**Impervious Cover**

Maximum impervious cover allowed under DMU is 100%.

**Transportation**

The trip generation under the requested zoning is estimated to be 7,716 trips per day, assuming that the site develops with the proposed uses of multi family, retail, office and residential condominiums. The traffic impact analysis for this site was waived because:

1. The following improvements will be done in accordance with the master agreement for this site:
  - a. Reconstruction of Sandra Muraida Way with pavement dimensions, right-of-way widths, and traffic circle as shown in the attached figure.
  - b. Construction of a signalized intersection on Cesar Chavez just east of the Missouri Pacific Railroad. Cesar Chavez is proposed to be striped to provide a five lane cross section with the eastbound left turns being the only signalized movement at the intersection with no southbound left turns permitted.
  - c. Construction of an east-west street to connect the proposed traffic circle and the Seaholm property, which is located just east of the subject site.

2. The improvements listed above have been approved by the COA Public Works Department in a concurrence letter dated December 21, 2004 and signed by Gordon Derr. These improvements are subject to change based on future negotiations between the developer of this property, the City of Austin and the Seaholm property. The improvements approved by the Department of Public Works or any future proposed improvements for the site should provide similar access and capacity characteristics. Any changes to the agreed improvements will require approval from the City of Austin Department of Public Works and Watershed Protection and Development Review Department.
3. No additional right-of-way is needed at this time.
4. Capital Metro bus service is available along Lamar Boulevard, Sandra Muraida Way, and Cesar Chavez.
5. There are existing sidewalks along Lamar Boulevard and Sandra Muraida Way.

#### **Right-of-Way Management**

1. The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) Projects planned for implementation by the City of Austin. No aspect of the proposed project is being considered or approved with this review other than the need for right-of-way for City projects. There are separate right-of-way dedication and reservation requirements enforced by other Departments and other jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan, roadway projects funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.
2. We have reviewed the proposed subdivision, site plan, or zoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

#### **Environmental**

1. The site is located within 1500 ft of the Edwards Aquifer Recharge Zone. A geologist will need to verify whether or not the site lies within the recharge zone.
2. The site is located in the Town Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
3. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

4. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals, which would preempt current water quality or Code requirements.
5. According to flood plain maps, there is flood plain within the project area.
6. At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
7. Downtown mixed-use zoning is not subject to landscaping requirements, as per 25-2-981.

### **Water and Wastewater**

1. The site is served with City water and wastewater utilities. If water or wastewater utility improvements, or offsite main extension, or system upgrades, or utility relocation, or utility adjustment are required, the landowner, at own expense, will be responsible for providing. Also, the utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The utility construction must be inspected by the City. The landowner must pay the associated City fees.
2. The landowner must pay the tap and impact fee once the landowner makes an application for a City water and wastewater utility tap permit.

### **Site Plan**

1. A portion of this site is within the Lamar Bridge Capitol View Corridor. Height limitations will be strictly enforced within the corridor.
2. This project is within the North Shore Central Waterfront Overlay subdistrict. In the North Shore Central, South Shore Central, Auditorium Shores, Butler Shores, and City Hall Waterfront Overlay subdistricts, at least 50 percent of the net usable floor area of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. [Section 25-2-691, 692]. Additional design regulations will be enforced at the time a site plan is submitted for the North Shores Central (25-2-738).
3. West Cesar Chavez is a scenic roadway.

### **Compatibility Standards**

1. This site is not subject to compatibility standards.



- (1) subject to a settlement agreement adopted by council before December 6, 2003 that prescribes development regulations;
- (2) zoned as a planned unit development before December 6, 2003; or
- (3) subject to a site plan approved as a condition of zoning before December 6, 2003.

(C) In this section, RETAIL USE means:

- (1) agricultural sales and services use;
- (2) art gallery use;
- (3) art workshop use;
- (4) automotive repair services use;
- (5) automotive sales use;
- (6) construction sales and services use;
- (7) equipment sales use;
- (8) food sales use;
- (9) general retail services (convenience) use;
- (10) general retail sales (general) use;
- (11) liquor sales use;
- (12) monument retail sales use;
- (13) pawn shop services use;
- (14) pet services use;
- (15) plant nursery use;
- (16) recreational equipment sales use;

- (17) restaurant (drive-in, fast food) use;
- (18) restaurant (general) use;
- (19) restaurant (limited) use;
- (20) service station use;
- (21) special use historic use; or
- (22) veterinary services use.

(D) Except as provided in Subsections (E) and (F), a principal retail use and its accessory uses may not exceed 50,000 square feet of gross floor area.

(E) Except as provided in Subsection (F), a principal food sales use and its accessory uses may not exceed 100,000 square feet of gross floor area.

(F) A principal retail use that exceeded the limitations of Subsection (D) or (E) on December 16, 2003 may be changed to another retail use if the existing impervious cover and gross floor area are not increased.

(G) Subsections (C)(2) and (3) of Section 25-2-947 (*Nonconforming Use Regulation Groups*) do not apply to a use that exceeds the limitations in Subsections (D) or (E) on the effective date of the ordinance.

Source: Ord. 031204-57; Ord. 031211-11; Ord. 040617-Z-1.

#### Division 6. Waterfront Overlay District Requirements for Town Lake Park.

#### § 25-2-671 TOWN LAKE PARK TERMS.

In Section 25-2-672 (*Town Lake Park Regulations*):

**(1) COMMUNITY PARK** means a portion of Town Lake Park that is intended for city wide use and designed to accommodate large numbers of people involved in a variety of activities. The following areas in Town Lake Park are community parks:

(a) tracts S-1, S-2, S-3A, S-4, S-6, S-7, S-8, S-9, N-1, N-2, N-3, N-4, N-5A, N-6, N-7, N-8, N-9, N-10, N-11, N-15, N-16A, and N-17A on the park classification map;

(b) park land in the area bounded on the north by the Colorado River, on the west by Pleasant Valley Road, on the south by the proposed extension of Lakeshore Boulevard, and on the east by the crest of the bluff of Country Club Creek;

(c) park land in the area bounded on the north by Lake Austin Boulevard, on the south by Town Lake, on the east by the MoPac Freeway, and on the west by the extension of the western boundary of Eilers Park;

(d) the Holly Street Power Plant, when its current use ceases and it is dedicated as park land; and

(e) park land within 50 feet of the shoreline of Town Lake.

**(2) CULTURAL PARK** means a portion of Town Lake Park that is intended for cultural facilities, including museums, botanical gardens, and performance areas. The following areas in Town Lake Park are cultural parks:

(a) tracts S-2D, S-3, S-4A, S-5, S-5A, S-5B, and S-5C on the park classification map;

(b) park land in the area bounded on the east by Dawson Road, on the west by Lamar Boulevard, on the south by Barton Springs Road, and on the north by Riverside Drive;

(c) park land in the area bounded on the north by Town Lake, on the south by Barton Springs Road, Barton Boulevard, and the westward extension of Linscomb Avenue, on the east by Lamar Boulevard, and on the west by Robert E. Lee Road and the hike and bike trail;

(d) park land north of the intersection of River Street and Bierce Street, known as the City of Austin Street and Bridge Yard; and

(e) the Seaholm Power Plant and the Green Water Treatment Plant, including the water intake structures, when the current uses cease and the plants are dedicated as park land.

**(3) NEIGHBORHOOD PARK** means a portion of Town Lake Park that is small, informal, is less intensely used than the developed areas of Town Lake Park, and serves adjacent neighborhoods. The following areas in Town Lake Park are neighborhood parks:

(a) tracts S-2A, S-10, N-5, N-16, and N-17 on the Park Classification Map;

(b) park land in the area bounded on the north by Town Lake, on the west by East Bouldin Creek, on the east by Blunn Creek, and on the south by Riverside Drive; and

(c) park land in the area bounded on the north by the Colorado River, on the east by Montopolis Drive, on the south

by the extension of Grove Boulevard, and on the west by the crest of the bluff of Country Club Creek.

- (4) **PARK CLASSIFICATION MAP** means the map that is on file with the Parks and Recreation Department and that is Exhibit "B" to Ordinance No. 890126-P.
- (5) **NATURAL AREA** means that portion of Town Lake Park that is preserved as a natural environment with limited human activity. The following areas in Town Lake Park are natural areas:
  - (a) tracts W-1, S-2B, S-2C, N-3A, and N-18 on the Park Classification Map;
  - (b) park land located between the Colorado River shoreline and the crest of the bluff north of the Colorado River, from Longhorn Dam to U.S. 183 (Montopolis Bridge); and
  - (c) park land northeast of Town Lake from Tom Miller Dam to the west boundary of Eilers Park and southwest of Town Lake from Tom Miller Dam to the Austin Nature Center.
- (6) **TOWN LAKE PARK PLAN** means the Town Lake Park Plan adopted by Ordinance No. 890126-P.
- (7) **TOWN LAKE PARK** means all the dedicated park land in the waterfront overlay zoning district.
- (8) **URBAN WATERFRONT** means that portion of Town Lake Park that is adjacent to high-density urban development. Tracts N-12, N-13, and N-14 on the park classification map are urban waterfront areas.

Source: Section 13-2-228.1; Ord. 990225-70; Ord. 031211-11.

## **§ 25-2-672 TOWN LAKE PARK REGULATIONS.**

- (A) Development of a natural area described in Section 25-2-671 (*Town Lake Park Terms*) is limited to:
  - (1) nature trails with interpretive signs and facilities;
  - (2) surface parking with pervious material;
  - (3) maintenance and improvement of environmental quality, including fencing and wildlife and vegetation management; and
  - (4) general park support and maintenance.
- (B) Development of a neighborhood park described in Section 25-2-671 (*Town Lake Park Terms*) is limited to:
  - (1) walking, exercise, and bicycle trails;
  - (2) surface parking and access roads;
  - (3) picnic facilities;
  - (4) general neighborhood park uses, including playing fields, ball courts, swimming pools, and playscapes;
  - (5) concessions primarily serving an adjacent neighborhood, including food vending, bicycle rentals, and sports equipment rentals;
  - (6) cultural facilities primarily serving an adjacent neighborhood;
  - (7) maintenance and improvement of environmental quality, including stream bank stabilization, fencing, and wildlife and vegetation management; and

(8) general park support and maintenance.

(C) Development of a community park described in Section 25-2-671 (*Town Lake Park Terms*) is limited to:

(1) development permitted in a neighborhood park;

(2) municipal swimming pools and associated facilities;

(3) concessions designed to attract individuals from throughout the city, including boat rentals, food vending, dining facilities, special sports facilities, and special recreational facilities;

(4) surface parking and parking structures;

(5) performance and special events facilities;

(6) specialized facilities, including facilities that serve the handicapped, private nonprofit recreational facilities that serve the general public, and private park enhancement facilities;

(7) an internal park road system, with grade-separated intersections if required;

(8) athletic facilities, including multipurpose sports fields and exercise courses;

(9) maintenance and improvement of environmental quality, including stream bank stabilization, fencing, and wildlife and vegetation management; and

(10) general park support and maintenance.

(D) Development of a cultural park described in Section 25-2-671 (*Town Lake Park Terms*) is limited to:

(1) cultural facilities and special event and performance areas;

(2) parking structures and limited surface parking;

(3) concessions that are designed to attract people from throughout the city, that are mobile, temporary, or located in a building described in the Town Lake Park Plan, and that require a small amount of space, including pushcarts selling food or flowers, temporary vending stands for special events, and museum gift shops;

(4) walking, exercise, and bicycle paths;

(5) an internal park transportation system;

(6) maintenance and improvement of environmental quality, including stream bank stabilization, fencing, and wildlife and vegetation management; and

(7) general park support and maintenance.

(E) Development of an urban waterfront described in Section 25-2-671 (*Town Lake Park Terms*) is limited to:

(1) plazas for performances and special events;

(2) wide sidewalks for walking, exercising, and bicycle riding;

(3) concessions that are designed to attract people from throughout the city, are mobile, temporary, or located in a building described in the Town Lake Park Plan, and require a small amount of space, including pushcarts selling food or flowers, temporary vending stands for special events, and museum gift shops;

(4) rowing facilities, boathouses, and similar water-related activities;

(5) maintenance and improvement of environmental quality, including stream bank stabilization, fencing, and wildlife and vegetation management; and

(6) general park support and maintenance.

(F) Development of an area of Town Lake Park not included in a natural area, neighborhood park, community park, cultural park, or urban waterfront described in Section 25-2-671 (*Town Lake Park Terms*) is limited to:

(1) walking, exercise, and bicycle trails;

(2) picnic facilities;

(3) surface parking of pervious material and park access roads; and

(4) general park support and maintenance.

(G) This section does not apply to a community events use.

*Source: Section 13-2-228.1; Ord. 990225-70; Ord. 990902-57; Ord. 031211-11.*

#### **Division 7. Waterfront Overlay District and Subdistrict Uses.**

#### **§ 25-2-691 WATERFRONT OVERLAY (WO) DISTRICT USES.**

(A) This section applies to the waterfront overlay (WO) district, except for a community events use.

(B) A residential use that is permitted in an MF-6 or more restrictive base district is also permitted in an NO or less restrictive base district.

(C) A pedestrian-oriented use is a use that serves the public by providing goods or services and includes:

(1) art gallery;

(2) art workshop;

(3) cocktail lounge;

(4) consumer convenience services;

(5) cultural services;

(6) day care services (limited, general, or commercial);

(7) food sales;

(8) general retail sales (convenience or general);

(9) park and recreation services;

(10) residential uses;

(11) restaurant (limited or general) without drive-in service; and

(12) other uses as determined by the Land Use Commission.

(D) Pedestrian oriented uses in an MF-1 or less restrictive base district:

(1) are permitted on the ground floor of a structure; and

(2) may be permitted by the Land Use Commission above the ground floor of a structure.

(E) A determination by the Land Use Commission under Subsection (D)(1) may be appealed to the council. For the City Hall subdistrict, a determination by the Land Use Commission under Subsection (C)(11) may be appealed to council.

*Source: Section 13-2-228; Ord. 990225-70; Ord. 990715-115; Ord. 990902-57; Ord. 010607-8; Ord. 031211-11; Ord. 031211-41; Ord. 040617-Z-1.*

**§ 25-2-692 WATERFRONT OVERLAY (WO)  
SUBDISTRICT USES.**

**(A)** This subsection applies to the University / Deep Eddy subdistrict.

**(1)** The following uses are prohibited:

- (a)** automotive rentals;
- (b)** automotive repair services;
- (c)** automotive sales;
- (d)** automotive washing;
- (e)** commercial off-street parking;  
and
- (f)** a use with a drive-in service.

**(2)** The following are conditional uses:

- (a)** hotel-motel;
- (b)** service station;
- (c)** local utility services.

**(B)** In the North Shore Central subdistrict, not less than 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.

**(C)** This subsection applies to the Red Bluff subdistrict.

**(1)** The following uses are prohibited:

- (a)** light manufacturing;
- (b)** basic industry;

- (c)** stockyards;
- (d)** laundry services; and
- (e)** resource extraction.

**(2)** The following are conditional uses:

- (a)** automotive rentals;
- (b)** automotive repair services;
- (c)** automotive sales;
- (d)** automotive washing;
- (e)** commercial off-street parking;
- (f)** a use with a drive-in service; and
- (g)** warehousing and distribution.

**(D)** This subsection applies to the East Riverside subdistrict.

**(1)** The following uses are prohibited:

- (a)** automotive rentals;
- (b)** automotive repair services;
- (c)** automotive sales;
- (d)** automotive washing;
- (e)** basic industry;
- (f)** commercial off-street parking;
- (g)** a use with a drive-in service;
- (h)** laundry services;
- (i)** light manufacturing;
- (j)** stockyards; and
- (k)** warehousing and distribution.

- (2) The following are conditional uses:
- (a) hotel-motel;
  - (b) service station; and
  - (c) local utility service.
- (E) This subsection applies to the Travis Heights subdistrict.
- (1) The following uses are prohibited:
- (a) automotive rentals;
  - (b) automotive repair services;
  - (c) automotive sales;
  - (d) automotive washing;
  - (e) basic industry;
  - (f) commercial off-street parking;
  - (g) laundry services;
  - (h) light manufacturing;
  - (i) stockyards; and
  - (j) warehousing and distribution.
- (2) The following are conditional uses:
- (a) hotel-motel;
  - (b) service station; and
  - (c) local utility service.
- (F) In the South Shore Central subdistrict, not less than 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.
- (G) This subsection applies to the Auditorium Shores subdistrict, except for a community events use.
- (1) Not less than 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.
- (2) Use of the area between the primary setback line and the secondary setback line is limited to:
- (a) cultural services;
  - (b) day care services;
  - (c) park and recreation services;
  - (d) food sales; and
  - (e) restaurant (limited) without drive-in service.
- (H) In the Butler Shores subdistrict, not less than 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.
- (I) Use of the Zilker Park subdistrict is limited to park-related structures.
- (J) In the City Hall subdistrict, at least 50 percent of the net usable floor area of the ground level of a structure adjacent to

Town Lake must be used for pedestrian-oriented uses. The Land Use Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement. This requirement does not apply to a building used by the City for a governmental function.

*Source: Section 13-2-229; Ord. 990225-70; Ord. 990713-115; Ord. 990902-37; Ord. 010607-8; Ord. 031211-11; Ord. 031211-41.*

**Division 8. Waterfront Overlay  
District and Subdistrict  
Development Regulations.**

**Subpart A. General Provisions.**

**§ 25-2-711 APPLICABILITY.**

- (A) This division applies in the waterfront overlay (WO) combining district.
- (B) The requirements of this division do not apply to:
  - (1) a community events use; or
  - (2) the construction or reconstruction of existing or proposed development for which:
    - (a) a building permit was issued before July 18, 1986;
    - (b) a certificate of occupancy was issued before July 18, 1986;
    - (c) a site plan was approved before July 17, 1986, including a phased project or a special permit site plan;

(d) a site plan was filed with the City before July 17, 1986 as a condition of zoning, and the site plan was previously approved by the council or Town Lake Task Force; or

(e) building plans were filed with the City before July 17, 1986.

(C) The requirements of this division supersede the other provisions of this title, to the extent of conflict.

*Source: Sections 13-2-700 and 13-2-701; Ord. 990225-70; Ord. 990902-37; Ord. 031211-11.*

**§ 25-2-712 DEFINITIONS.**

In this part:

- (1) **BASEWALL** means the vertical surface of a building beginning at the finished grade up to a level defined by a setback or an architectural treatment, including a cornice line or similar projection or demarcation, that visually separates the base of the building from the upper portion of the building.
- (2) **PRIMARY SETBACK AREA** means the area between a primary setback line and the centerline of an identified creek, the shoreline of Town Lake, the shoreline of the Colorado River, or the boundary of an identified street, as applicable.
- (3) **PRIMARY SETBACK LINE** means a line that is a prescribed distance from and parallel to the centerline of an identified creek, the shoreline of Town Lake, the shoreline of the Colorado River, or the boundary of an identified street, as applicable.
- (4) **SECONDARY SETBACK AREA** means the area between a primary setback line and a secondary setback line.



- (5) **SECONDARY SETBACK LINE** means a line that is a prescribed distance from and parallel to a primary setback line.

*Source: Section 13-2-1; Ord. 990223-70; Ord. 031211-11.*

#### § 25-2-713 VARIANCES.

- (A) The Land Use Commission may grant a variance from the requirements of Sections 25-2-692 (*Waterfront Overlay (WO) Subdistrict Uses*), 25-2-721 (*Waterfront Overlay (WO) Combining District Regulations*), or Subpart C (*Subdistrict Regulations*) after determining that:

- (1) the proposed project and variance are consistent with the goals and policies of the Town Lake Corridor Study, including environmental protection, aesthetic enhancement, and traffic; and

- (2) the variance is the minimum required by the peculiarities of the tract.

- (B) For the City Hall subdistrict, an interested party may appeal the Land Use Commission's grant or denial of a variance under Subsection (A) to the council.

*Source: Section 13-2-704; Ord. 990223-70; Ord. 990713-115; Ord. 010607-8; Ord. 031211-11.*

#### § 25-2-714 ADDITIONAL FLOOR AREA.

- (A) In the WO combining district, a structure may exceed the maximum floor area permitted in the base district as provided by this section.

- (1) Additional floor area under Subsection (B) is limited to 60 percent of the base district maximum.

- (2) Additional floor area under Subsection (C), (D), (E), (F), (G), (H), or (I) is limited to 20 percent of the base district maximum.

- (3) Total additional floor area under this section is limited to 60 percent of the base district maximum.

- (B) For a structure in a neighborhood office (NO) or less restrictive base district, floor area for a residential use is permitted in addition to the maximum floor area otherwise permitted.

- (C) For a structure in a multifamily residence limited density (MF-1) or less restrictive base district, floor area for pedestrian-oriented uses is permitted in addition to the maximum floor area otherwise permitted, if the pedestrian-oriented uses are on the ground floor of the structure and have unimpeded public access from a public right-of-way or park land. The pedestrian-oriented uses required under Sections 25-2-692 (*Waterfront Overlay (WO) Subdistrict Uses*) and Subpart C (*Subdistrict Regulations*) are excluded from the additional floor area permitted under this subsection.

- (D) Except in the North Shore Central subdistrict:

- (1) an additional one-half square foot of gross floor area is permitted for each one square foot of gross floor area of a parking structure that is above grade; and

- (2) an additional one square foot of gross floor area is permitted for each one square foot of a parking structure that is below grade.

(E) Additional gross floor area is permitted for each existing Category A tree, as determined by the Watershed Protection and Development Review Department's tree evaluation system, that is either left undisturbed or transplanted under the supervision of the city arborist.

(1) A tree is considered undisturbed under this subsection if the area within a circle centered on the trunk with a circumference equal to the largest horizontal circumference of the tree's crown is undisturbed.

(2) A tree may be transplanted off-site if the Land Use Commission determines that the character of the site is preserved and approves the transplanting.

(3) The permitted additional gross floor area is calculated by multiplying the undisturbed area described in Subsection (E)(1) by the base district height limitation and dividing the product by 12.

(F) Additional gross floor area is permitted for land or an easement dedicated to the City for public access to Town Lake or the Colorado River. The additional gross floor area is calculated by multiplying the square footage of the access area by the height limitation applicable to the property and dividing the product by 12.

(G) Additional gross floor area is permitted for land that is restricted to create a side yard or restricted public access to Town Lake, the Colorado River, or a creek. The additional gross floor area is calculated by multiplying the square footage of the restricted area by the height limitation applicable to the property and dividing the product by 12.

(H) An additional one square foot of gross floor area is permitted for each one square foot of area restricted to create a scenic vista of Town Lake, the Colorado River, or a creek.

(I) For a proposal to develop less than the maximum allowable impervious cover, an additional one square foot of gross floor area is permitted for each one square foot of impervious cover less than the allowable maximum.

*Source: Section 13-2-703; Ord. 990225-70; Ord. 010329-18; Ord. 010607-8; Ord. 031211-11.*

#### **Subpart B. District Regulations; Special Regulations.**

#### **§ 25-2-721 WATERFRONT OVERLAY (WO) COMBINING DISTRICT REGULATIONS.**

(A) This subsection provides requirements for review and approval of site plans.

(1) Approval of a site plan by the Land Use Commission is required if an applicant requests a waiver from a requirement of this part under Section 25-2-713 (*Variances*).

(2) Review of a site plan by the director of the Parks and Recreation Department is required before the site plan may be approved. The director of the Parks and Recreation Department shall determine:

(a) whether the site plan is compatible with adopted park design guidelines; and

(b) if significant historic, cultural, or archaeological sites are located on the property.

**(B) In a primary setback area:**

- (1) except as otherwise provided in this subsection, parking areas and structures are prohibited; and
- (2) park facilities, including picnic tables, observation decks, trails, gazebos, and pavilions, are permitted if:
  - (a) the park facilities are located on public park land; and
  - (b) the impervious cover does not exceed 15 percent.

**(C) In a secondary setback area:**

- (1) fountains, patios, terraces, outdoor restaurants, and similar uses are permitted; and
- (2) impervious cover may not exceed 30 percent.

**(D) This subsection provides requirements for parking areas.**

- (1) Surface parking:
  - (a) must be placed along roadways, if practicable; and
  - (b) must be screened from views from Town Lake, the Colorado River, park land, and the creeks named in this part.
- (2) A parking structure that is above grade:
  - (a) must be on a pedestrian scale and either architecturally integrated with the associated building or screened from views from Town Lake, the Colorado River, park land, and the creeks named in this part; and

(b) If it is adjacent to Town Lake, the Colorado River, park land, or a creek named in this part, it must incorporate pedestrian oriented uses at ground level.

(3) Setback requirements do not apply to a parking structure that is completely below grade.

**(E) This subsection provides design standards for buildings.**

- (1) Exterior mirrored glass and glare producing glass surface building materials are prohibited.
- (2) Except in the City Hall subdistrict, a distinctive building top is required for a building that exceeds a height of 45 feet. Distinctive building tops include cornices, steeped parapets, hipped roofs, mansard roofs, stepped terraces, and domes. To the extent required to comply with the requirements of Chapter 13-1, Article 4 (*Heliports and Helicopter Operations*), a flat roof is permitted.
- (3) Except in the City Hall subdistrict, a building basewall is required for a building that fronts on Town Lake, Shoal Creek, or Waller Creek, that adjoins public park land or Town Lake, or that is across a street from public park land. The basewall may not exceed a height of 45 feet.
- (4) A building facade may not extend horizontally in an unbroken line for more than 160 feet.
- (F) Underground utility service is required, unless otherwise determined by the utility provider.

- (G) Trash receptacles, air conditioning or heating equipment, utility meters, loading areas, and external storage must be screened from public view.

*Source: Section 13-2-700; Ord. 990223-70; Ord. 990713-115; Ord. 010607-8; Ord. 031211-11.*

#### **§ 25-2-722 SPECIAL REGULATIONS FOR PUBLIC WORKS.**

- (A) Development of public works in Town Lake Park, including utility construction, flood control channels, and bridge improvements, must be consistent with the Town Lake Park Plan.
- (B) The Watershed Protection and Development Review Department shall review an application for development of public works in Town Lake Park and shall work with the Parks and Recreation Department to implement applicable recommendations by the Comprehensive Watershed Ordinance Task Force that were approved by the council on May 22, 1986.
- (C) The Environmental Board shall review a project if the director determines that the project offers an opportunity for a major urban water quality retrofit. If Land Use Commission review is required, the Environmental Board shall forward its comments to the Land Use Commission.

*Source: Section 13-2-700.1; Ord. 990223-70; Ord. 010329-18; Ord. 010607-8; Ord. 031211-11.*

#### **§ 25-2-723 SPECIAL REGULATIONS FOR PUBLIC RIGHTS-OF-WAY.**

- (A) For a right-of-way described in Subsection (B), development of the right-of-way, including street, sidewalk, and drainage construction, must be compatible with the development of adjacent park land and consistent with the Town Lake Park Plan. Factors to be considered in determining

consistency with the Town Lake Park Plan include park land access, road alignment, utility placement, sidewalk design, railing design, sign design and placement, landscaping, and stormwater filtration.

- (B) Subsection (A) applies to:

- (1) public rights-of-way within or adjoining the boundaries of the WO combining district, including public rights-of-way for streets designated in the Transportation Plan;
- (2) Trinity Street, from Cesar Chavez Street to Fifth Street; and
- (3) Guadalupe Street and Lavaca Street, from Cesar Chavez Street to Fifth Street.

- (C) For a street described in Subsection (D), streetscape improvements that are consistent with the Town Lake Park Plan are required. A streetscape improvement is an improvement to a public right-of-way, and includes sidewalks, trees, light fixtures, signs, and furniture.

- (D) Subsection (C) applies to:

- (1) Barton Springs Road, from Congress Avenue to MoPac Freeway;
- (2) Cesar Chavez Street, from MoPac Freeway to IH-35;
- (3) Congress Avenue, from Riverside Drive to First Street;
- (4) Grove Boulevard, from Pleasant Valley Road to Montopolis Drive;
- (5) Guadalupe Street, from Cesar Chavez Street to Fifth Street;
- (6) Lakeshore Boulevard, from Riverside Drive to Montopolis Drive;

(7) Lamar Boulevard, from the Union Pacific railroad overpass to Barton Springs Road;

(8) Lavaca Street, from Cesar Chavez Street to Fifth Street;

(9) South First Street, from Town Lake to Barton Springs Road; and

(10) Trinity Street, from Cesar Chavez Street to Fifth Street.

Source: Section 13-2-700.2; Ord. 990223-70; Ord. 031211-11.

(2) Entryways or architectural detailing is required to break the continuity of nontransparent basewalls.

(E) The maximum gross floor area at ground level is:

(1) for a structure in the primary setback area, 2,000 square feet; and

(2) for a structure in the secondary setback area, 75,000 square feet.

Source: Section 13-2-702(1); Ord. 990223-70; Ord. 031211-11.

#### Subpart C. Subdistrict Regulations.

##### § 25-2-731 AUDITORIUM SHORES SUBDISTRICT REGULATIONS.

(A) This section applies in the Auditorium Shores subdistrict of the WO combining district.

(B) The primary setback line is located 1,200 feet landward from the Town Lake shoreline.

(C) The secondary setback line is the northern boundary of public right-of-way of Barton Springs Road.

(D) This subsection applies to a nonresidential use in a building adjacent to park land adjoining Town Lake.

(1) For a ground level wall that is visible from park land or a public right-of-way that adjoins park land, at least 60 percent of the wall area that is between 2 and 10 feet above grade must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.

##### § 25-2-732 BALCONES ROCK CLIFF SUBDISTRICT REGULATIONS.

(A) This section applies in the Balcones Rock Cliff subdistrict of the WO combining district.

(B) The primary setback line is located:

(1) 75 feet landward from Town Lake shoreline; or

(2) 50 feet landward from the Town Lake shoreline, for a single-family lot platted before July 17, 1986 that is either zoned RR or at least 20,000 square feet in size.

(C) For an area not included in a primary setback area or a secondary setback area, the maximum impervious cover is 30 percent.

(D) For the exterior of a building visible from park land adjacent to Town Lake, natural building materials are required.

(E) For the portion of a structure that is visible from the Town Lake shoreline, at least 75 percent of the structure at grade level must be screened with trees and shrubs native to

the Balcones Cliff subdistrict and approved by the city arborist.

*Source: Section 13-2-702(o); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-2-733 BUTLER SHORES SUBDISTRICT REGULATIONS.**

- (A) This section applies in the Butler Shores subdistrict of the WO combining district.
- (B) The primary setback lines are located:
  - (1) 100 feet landward from the Town Lake shoreline;
  - (2) 35 feet south of the southern boundary of Toomey Road;
  - (3) 35 feet south of the southern boundary of Barton Springs Road;
  - (4) 35 feet north of the northern boundary of Barton Springs Road; and
  - (5) 100 feet from the Barton Creek centerline.
- (C) The secondary setback line is located 100 feet from the primary setback line of Town Lake.
- (D) Impervious cover is prohibited on land with a gradient that exceeds 25 percent.
- (E) This subsection applies to a nonresidential use in a building adjacent to park land adjoining Town Lake.
  - (1) For a ground level wall that is visible from park land or a public right-of-way that adjoins park land, at least 60 percent of the wall area that is between 2 and 10 feet above grade must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.

(2) Entryways or architectural detailing is required to break the continuity of nontransparent basewalls.

(3) Except for transparent glass required by this subsection, natural building materials are required for an exterior surface visible from park land adjacent to Town Lake.

(F) For a structure on property adjacent to and oriented toward Barton Springs Road, a building basewall is required, with a maximum height of:

- (1) 45 feet, if north of Barton Springs Road; or
- (2) 35 feet, if south of Barton Springs Road.

(G) That portion of a structure built above the basewall and oriented towards Barton Springs Road must fit within an envelope delineated by a 70 degree angle starting at a line along the top of the basewall with the base of the angle being a horizontal plane extending from the line parallel to and away from the surface of Barton Springs Road.

*Source: Section 13-2-702(m); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-2-734 EAST RIVERSIDE SUBDISTRICT REGULATIONS.**

- (A) This section applies in the East Riverside subdistrict of the WO combining district.
- (B) The primary setback line is located 100 feet landward from the Town Lake shoreline.
- (C) For an area not included in a primary setback area or a secondary setback area, the maximum impervious cover is 50 percent.

*Source: Section 13-2-702(i); Ord. 990225-70; Ord. 031211-11.*

### **§ 25-2-735 FESTIVAL BEACH SUBDISTRICT REGULATIONS.**

- (A) This section applies in the Festival Beach subdistrict of the WO combining district.
- (B) The primary setback line is located 100 feet landward from the Town Lake shoreline.
- (C) The secondary setback line is located 50 feet landward from the primary setback line.
- (D) For an area not included in a primary setback area or a secondary setback area, the maximum impervious cover is 40 percent.

*Source: Section 13-2-702(e); Ord. 990225-70; Ord. 031211-11.*

### **§ 25-2-736 LAMAR SUBDISTRICT REGULATIONS.**

- (A) This section applies in the Lamar subdistrict of the WO combining district.
- (B) The primary setback lines are located:
  - (1) 100 feet landward from the Town Lake shoreline; and
  - (2) 90 feet from the Johnson Creek centerline.
- (C) The secondary setback line is located 100 feet landward from the primary setback line that is parallel to the Town Lake shoreline.
- (D) For a structure located within 140 feet of the Johnson Creek centerline, the maximum height is 35 feet.
- (E) Surface parking is prohibited, except for a parking area for buses, van pooling, the handicapped, or public access to park land.
- (F) A garage access point or curb cut is prohibited if the pattern or alignment of the

surrounding, existing sidewalks would be disrupted.

*Source: Section 13-2-702(b); Ord. 990225-70; Ord. 000309-39; Ord. 031211-11.*

### **§ 25-2-737 MONTOPOLIS / RIVER TERRACE SUBDISTRICT REGULATIONS.**

- (A) This section applies in the Montopolis / Riverside Terrace subdistrict of the WO combining district.
- (B) The primary setback line is located 150 feet landward from the 430 foot contour line along the Colorado River.
- (C) The secondary setback line is located 100 feet landward from the primary setback line.

*Source: Section 13-2-702(g); Ord. 990225-70; Ord. 031211-11.*

### **§ 25-2-738 NORTH SHORE CENTRAL SUBDISTRICT REGULATIONS.**

- (A) This subsection applies in the North Shore Central subdistrict of the WO combining district.
- (B) The primary setback lines are located:
  - (1) 100 feet landward from the Town Lake shoreline;
  - (2) 60 feet from the Shoal Creek centerline; and
  - (3) 50 feet from the Waller Creek centerline.
- (C) Surface parking is prohibited, except for a parking area for buses, van pooling, taxis, delivery services, commercial loading, public transportation, the handicapped, or public access to park land.

(D) The location of a garage access point or curb cut must minimize the disruption of pedestrian traffic on existing sidewalks.

(E) A structure must fit within an envelope delineated by a 70 degree angle starting at a line 45 feet above the property boundary line nearest Town Lake, Shoal Creek, or Waller Creek, with the base of the angle being a horizontal plane extending from the line parallel to and away from the surface of Town Lake, Shoal Creek, or Waller Creek.

(F) This subsection applies to a nonresidential use in a building adjacent to Town Lake.

(1) For a ground level wall that is visible from park land or a public right-of-way that adjoins park land, at least 60 percent of the wall area that is between 2 and 10 feet above grade must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.

(2) Entry ways or architectural detailing is required to break the continuity of nontransparent basewalls.

(3) Except for transparent glass required by this subsection, natural building materials are required for an exterior surface visible from park land adjacent to Town Lake.

(G) A building may not be constructed within 80 feet of the existing east curb line of Congress Avenue south of First Street.

*Source: Section 13-2-702(c); Ord. 990223-70; Ord. 000309-39; Ord. 031211-11.*

#### **§ 25-2-739 RAINEY STREET SUBDISTRICT REGULATIONS.**

(A) This section applies in the Rainey Street subdistrict of the WO combining district.

(B) The primary setback lines are located:

(1) 150 feet landward from the Town Lake shoreline; and

(2) 50 feet from the Waller Creek centerline.

*Source: Section 13-2-702(d); Ord. 990223-70; Ord. 031211-11.*

#### **§ 25-2-740 RED BLUFF SUBDISTRICT REGULATIONS.**

(A) This section applies in the Red Bluff subdistrict of the WO combining district.

(B) The primary setback lines are located:

(1) 40 feet from the 450 foot contour line, from Pleasant Valley road to the extension of Shady Lane; and

(2) 40 feet from the 440 foot contour line from the extension of Shady Lane to US 183.

(C) A secondary setback line is located 110 feet from the corresponding primary setback line.

(D) For the exterior of a building adjacent to Town Lake, natural building materials are required on the exterior surface.

*Source: Section 13-2-702(f); Ord. 990223-70; Ord. 031211-11.*

#### **§ 25-2-741 SOUTH LAKESHORE SUBDISTRICT REGULATIONS.**

(A) This section applies in the South Lakeshore subdistrict of the WO combining district.

(B) The primary setback lines are located:

(1) 65 feet landward from the Town Lake shoreline; and



- (2) 50 feet south of Lakeshore Boulevard.

*Source: Section 13-2-702(h); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-2-742 SOUTH SHORE CENTRAL SUBDISTRICT REGULATIONS.**

- (A) This section applies in the South Shore Central subdistrict of the WO combining district.

- (B) The primary setback lines are located:

- (1) 150 feet landward from the Town Lake shoreline;
- (2) 80 feet from the East Bouldin Creek centerline; and
- (3) 35 feet north of the northern public right-of-way boundary of Riverside Drive.

- (C) The secondary setback lines are located:

- (1) 50 feet landward from the primary setback line parallel to the Town Lake shoreline; and
- (2) 130 feet from the primary setback line parallel to the East Bouldin Creek centerline.

- (D) This subsection applies to a nonresidential use in a building adjacent to park land adjoining Town Lake.

- (1) For a ground level wall that is visible from park land or a public right-of-way that adjoins park land, at least 60 percent of the wall area that is between 2 and 10 feet above grade must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.

- (2) Entryways or architectural detailing is required to break the continuity of nontransparent basewalls.

- (3) Except for transparent glass required by this subsection, natural building materials are required for an exterior surface visible from park land adjacent to Town Lake.

- (E) For a structure property adjacent to and oriented toward Riverside Drive, a building basewall is required, with a maximum height of:

- (1) 45 feet, if north of Riverside Drive; or
- (2) 35 feet, if south of Riverside Drive.

- (F) That portion of a structure built above the basewall and oriented toward Riverside Drive must fit within an envelope delineated by a 70 degree angle starting at a line along the top of the basewall with the base of the angle being a horizontal plane extending from the line parallel to and away from the surface of Riverside Drive.

*Source: Section 13-2-702(k); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-2-743 TRAVIS HEIGHTS SUBDISTRICT REGULATIONS.**

- (A) This section applies in the Travis Heights subdistrict of the WO combining district.

- (B) The primary setback lines are located:

- (1) 100 feet landward from the Town Lake shoreline;
- (2) 80 feet from the East Bouldin Creek centerline; and

(3) 80 feet from the Blunn Creek centerline.

(C) Section 25-2-714 (*Additional Floor Area*) applies only to structures located between Bouldin and Blunn Creeks.

(D) For an area not included in a primary setback area or a secondary setback area, the maximum impervious cover is 50 percent.

*Source: Section 13-2-702(j); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-2-744 UNIVERSITY / DEEP EDDY SUBDISTRICT REGULATIONS.**

(A) This section applies in the University / Deep Eddy subdistrict of the WO combining district.

(B) The primary setback lines are located:

(1) 200 feet landward from the Town Lake shoreline, between Tom Miller Dam and Red Bud Trail; and

(2) 300 feet landward from the Town Lake shoreline, between Red Bud Trail and MoPac Boulevard.

(C) The secondary setback lines are located:

(1) 50 feet landward from the primary setback line, between Tom Miller Dam and Red Bud Trail; and

(2) 100 feet landward from the primary setback line, between Red Bud Trail and MoPac Boulevard.

(D) For a primary setback area, a secondary setback area, or an area within 50 feet of a secondary setback line:

(1) the maximum building height is 35 feet; and

(2) the floor to area ratio may not be increased under Section 25-2-714 (*Additional Floor Area*).

(E) For an area not included in a primary setback area or a secondary setback area, the maximum impervious cover is 40 percent.

*Source: Section 13-2-702(a); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-2-745 ZILKER PARK SUBDISTRICT REGULATIONS.**

(A) This section applies in the Zilker Park subdistrict of the WO combining district.

(B) The primary setback line is located 100 feet landward from the Town Lake shoreline.

(C) The secondary setback line is located 700 feet landward from the primary setback line.

(D) For an area not included in a primary setback area or a secondary setback area, the maximum impervious cover is 40 percent.

*Source: Section 13-2-702(n); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-2-746 CITY HALL SUBDISTRICT REGULATIONS.**

(A) This section applies in the City Hall subdistrict of the WO combining district.

(B) The primary setback line is located 100 feet landward from the Town Lake shoreline.

(C) A surface parking area located at or above grade is prohibited, except for a parking area for buses, van pooling, taxis, delivery services, commercial loading, public

transportation, the handicapped, or public access to park land.

- (D) The location of a garage access point or curb cut must minimize the disruption of pedestrian traffic on existing sidewalks.

- (E) A structure:

- (1) must fit within an envelope delineated by a 70 degree angle starting at a line 45 feet above the property boundary line nearest Town Lake, with the base of the angle being a horizontal plane extending from the line parallel to and away from the surface of Town Lake; or

- (2) may not exceed a height of 100 feet.

- (F) This subsection applies to a nonresidential use in a building adjacent to Town Lake.

- (1) For a ground level wall that is visible from park land or a public right-of-way that adjoins park land, at least 60 percent of the wall area that is between 2 and 10 feet above grade must be constructed of clear or lightly tinted glass. The glass must allow pedestrians a view of the interior of the building.
- (2) Entry ways or architectural detailing is required to break the continuity of nontransparent basewalls.
- (3) Except for transparent glass required by this subsection, natural building materials are required for an exterior surface visible from park land adjacent to Town Lake.

Source: Ord. 990715-115; Ord. 031211-11.

## Division 9. University Neighborhood Overlay District Requirements.

### § 25-2-751 APPLICABILITY.

This division applies to property in the university neighborhood overlay (UNO) district if the property owner files a site plan and an election for the property to be governed by this division.

Source: Ord. 040902-58.

### § 25-2-752 CONFLICT OF LAW.

For property governed by this division, this division supersedes the other provisions of this title to the extent of conflict.

Source: Ord. 040902-58.

### § 25-2-753 LOCAL USES DESCRIBED.

- (A) In this division, a local use is a use that serves the public by providing goods or services in a manner readily accessible by pedestrians or the occupants of the structure in which the uses are located. Local uses include:

- (1) administrative and business offices;
- (2) art and craft studio;
- (3) art gallery;
- (4) art workshop;
- (5) business and trade school;
- (6) consumer convenience services;
- (7) consumer repair services;
- (8) counseling services;
- (9) custom manufacturing;

Exhibit A

C14-83-140

HOUSTON, TEXAS

**Cost of Sand Beach Reserve Improvements**

ESTIMATED COST OF IMPROVEMENTS  
ON CITY PROPERTY \$150,000 TO \$175,000  
PORTION TO BE PAID BY DEVELOPER 100%  
PORTION TO BE PAID BY CITY 0%

**Paving in Sand Beach Reserve**

REMOVE EXISTING ASPHALT PAVING 15,000 SF  
ADD NEW ASPHALT/CONCRETE PAVING 15,000 SF  
NET DECREASE OF PAVED  
ON CITY PROPERTY 4,500 SF  
20% X

**Trees in Sand Beach Reserve**

REMOVE EXISTING TREES:

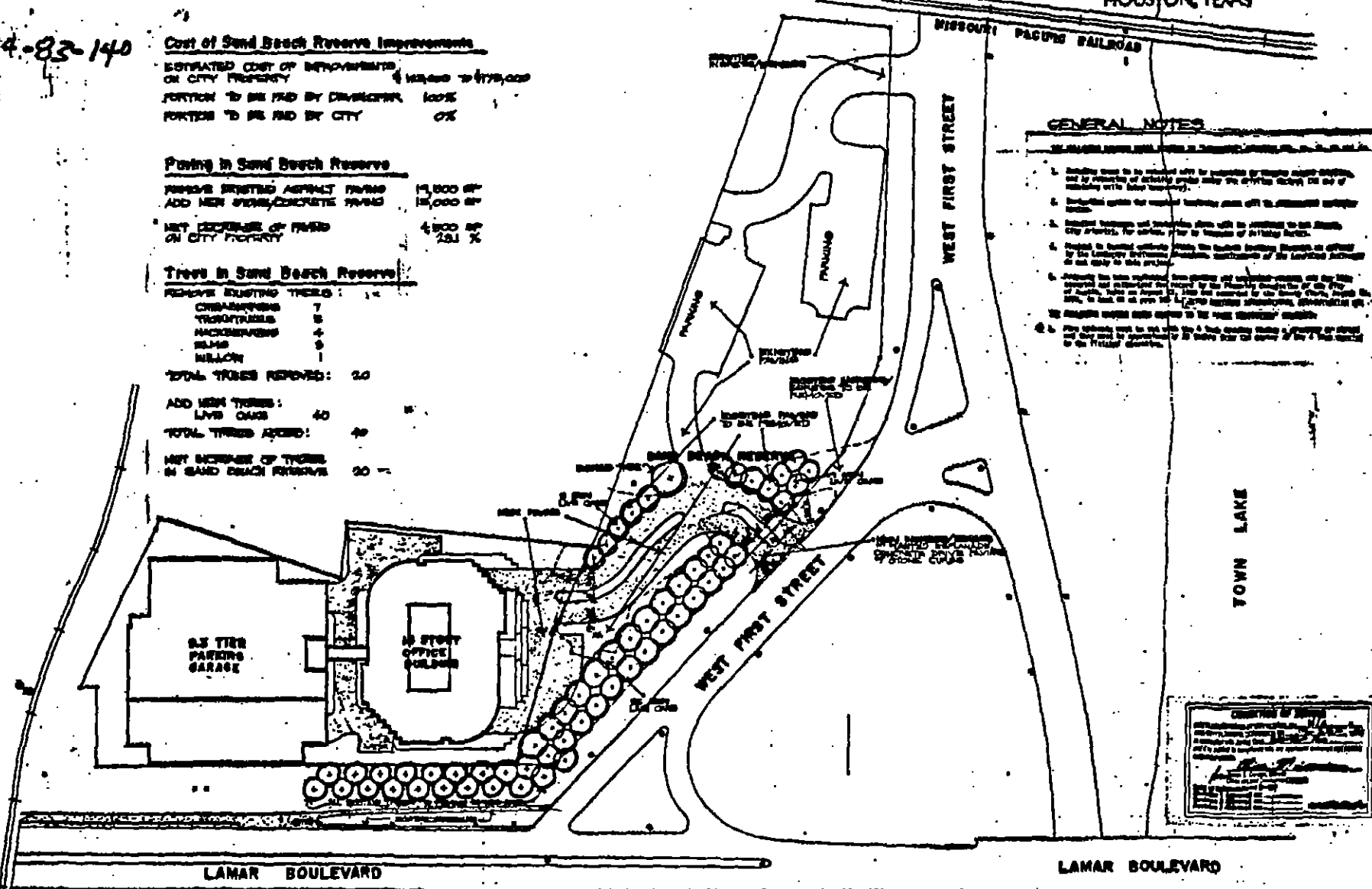
CHINA SPRINGS	7
TRIFOLIUM	5
HICKORY	4
BALM	3
MILK	1

TOTAL TREES REMOVED: 20

ADD NEW TREES:  
LIVE OAKS 40

TOTAL TREES ADDED: 40

NET INCREASE OF TREES  
IN SAND BEACH RESERVE 20



**GENERAL NOTES**

1. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
2. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
3. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
4. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
5. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
6. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
7. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
8. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
9. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.
10. The owner shall be responsible for the removal of existing trees and the replacement of new trees in the same location and size as the original trees.

EXHIBIT A



SITE PLAN (TRAFFIC STUDY AND LANDSCAPE)

Exhibit.



ALL TREES, GRASS, BUSHES,  
AND/OR GRASS COVER, REMOVE  
DURING CONSTRUCTION IN THE  
SAND BRACK RESERVOIR AREA.  
ALL BE REPLACED THROUGH  
CITY OF AUSTIN TREE DEP.

ROBERT H. SMANN AIA & ASSOCIATES / ARCHITECTS

THIRD STREET

WIT & JURY RETURNED VERDICT, WHEREUPON THE COURT, Judge George F. Taylor, according to the map or plan thereof caused to be laid on, Page 10-11, the Record of said Court, to wit:

2000



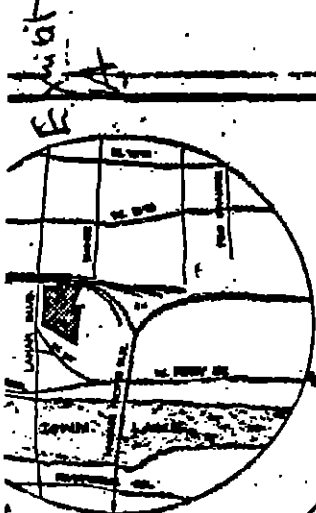
**GRAPHIC SCALE**



THE FOLLOWING DOMAINS WERE SELECTED TO ANALYZE: 1. THE

1. STATE OF MISSISSIPPI vs. JOHN EDGAR HOOVER, Defendant. (1936)
2. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)
3. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)
4. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)
5. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)
6. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)
7. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)
8. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)
9. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)
10. JOHN EDGAR HOOVER vs. STATE OF MISSISSIPPI, Defendant. (1936)

DATE 11 MAR 68 JOB NO. 1000 PROJECT JETCO OFFICE BUILDING AUSTIN, TEXAS



LOCATION MAP

1ST FIRST STREET

HOUSTON, TEXAS

LAGER BOULEVARD



ROBERT HUSMANN AIA & ASSOCIATES ARCHITECTS

THIRD STREET

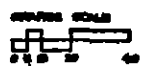
RECORDING FROM  
PLAT 100-10000  
IN THE  
COUNTY OF DALLAS  
STATE OF TEXAS

GENERAL NOTES

1. ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS IN PARENTHESES ARE IN METERS.
2. THE SITE PLAN IS BASED ON THE 1950 AERIAL PHOTOGRAPH. THE 1950 AERIAL PHOTOGRAPH IS THE BASIS FOR THE LOCATION OF THE BUILDING AND THE PARKING GARAGE.
3. THE BUILDING IS TO BE CONSTRUCTED ON THE LOT BOUNDARY LINES. THE BUILDING IS TO BE CONSTRUCTED ON THE LOT BOUNDARY LINES.
4. THE BUILDING IS TO BE CONSTRUCTED ON THE LOT BOUNDARY LINES. THE BUILDING IS TO BE CONSTRUCTED ON THE LOT BOUNDARY LINES.

SITE PLAN (FIRST FLOOR PLAN)

1" = 20'-0"



PROJECT TITLE: TOWN LAKE PLAZA  
200 WEST FIRST STREET  
JETCO DEVELOPMENT, INC.  
OWNER:  
LEGAL DESCRIPTION:

BE A. AND OTHERS, TRUSTEES OF THE TOWN LAKE PLAZA, TRUST, SUCCEEDING TO THE TOWN LAKE PLAZA TRUST, INC. OF THE COUNTY OF DALLAS, STATE OF TEXAS.

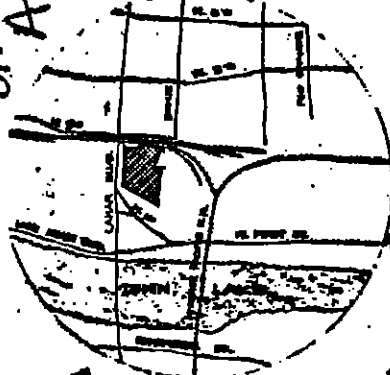
PREPARED BY: ROBERT HUSMANN AIA & ASSOCIATES ARCHITECTS  
DATE: JANUARY 24, 1964  
SCALE: 1" = 20'-0"

04-03-1403

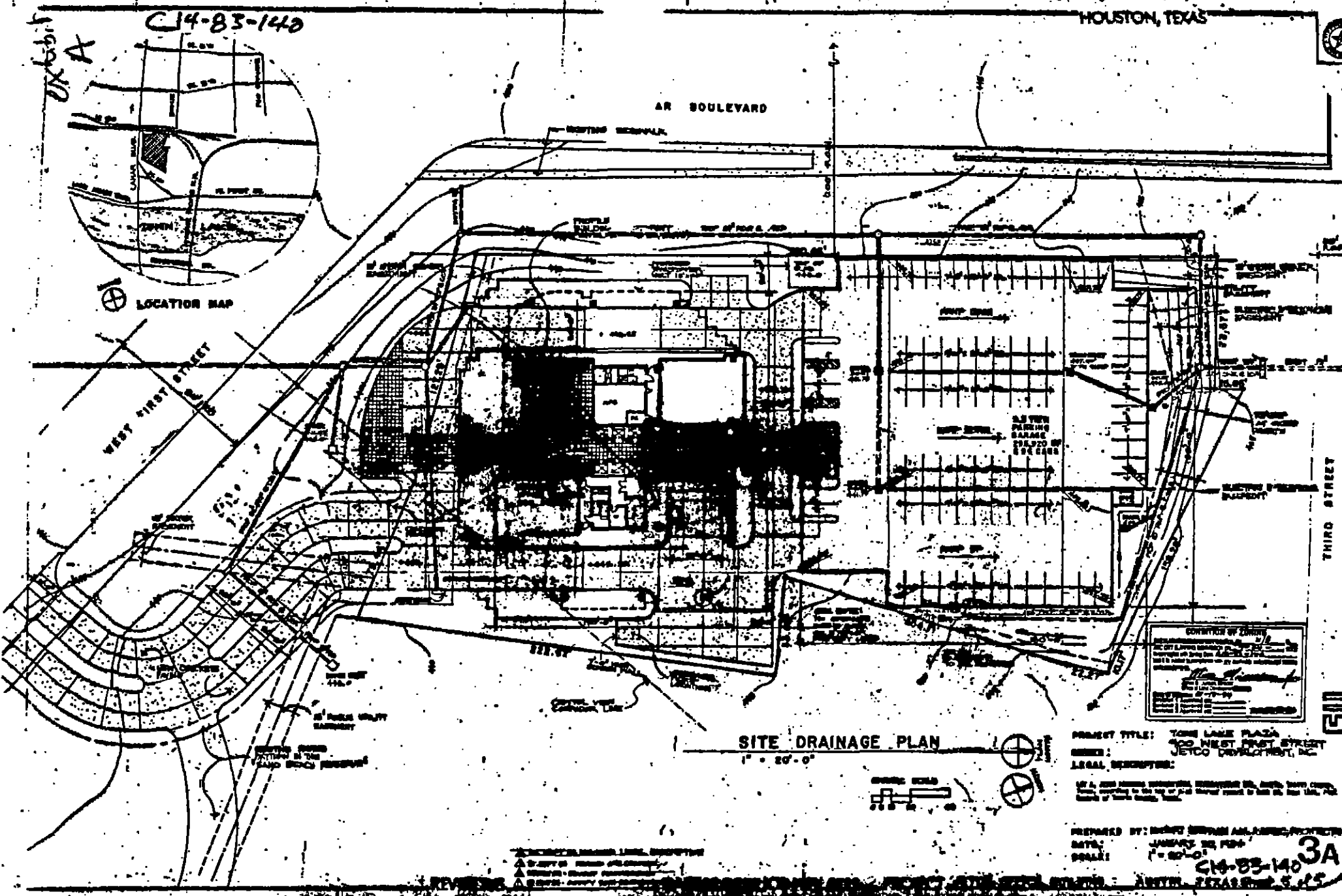
REVISIONS: 1. DATE: 10/11/64, JOB NO. 3115 PROJECT: JETCO OFFICE BUILDING, AUSTIN, TEXAS

C14-83-140

HOUSTON, TEXAS



LOCATION MAP



SITE DRAINAGE PLAN

1" = 20'-0"

COUNTY OF DALLAS	
I, JERRY L. BROWN, County Clerk, do hereby certify that the foregoing is a true and correct copy of the original as filed in my office.	
FILED	RECORDED
JAN 10 1984	140

PROJECT TITLE: TOWN LAKE PLAZA  
 100 WEST FIRST STREET  
 JETCO DEVELOPMENT, INC.  
 LEGAL DESCRIPTION:

100 WEST FIRST STREET, HOUSTON, TEXAS, 77002  
 100 WEST FIRST STREET, HOUSTON, TEXAS, 77002

PREPARED BY: BROWN ENGINEERING AND ARCHITECTS  
 DATE: JANUARY 10, 1984  
 SCALE: 1" = 20'-0"

C14-83-140 3A  
 JETCO DEVELOPMENT, INC.

**SETTLEMENT AGREEMENT**

This Settlement Agreement (the "Agreement") is executed effective as of January 8, 2001 (the "Effective Date") between the CITY OF AUSTIN, a Texas home rule city and municipal corporation (the "City"), and LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation ("LIC"), relating to a lawsuit between the City and LIC, Cause No. 99-13013 in the 126<sup>th</sup> Judicial District Court of Travis County, Texas (the "Lawsuit").

**RECITALS**

A. LIC holds record title to two tracts of land containing approximately 1.94 acres and 3.19 acres, collectively referred to as the "LIC Property", located near the intersection of Lamar Boulevard and Cesar Chavez Street, as shown on the attached Exhibit "A".

B. The City holds record title to the land adjacent to the south boundary of the LIC Property known as the "Sand Beach Reserve", as shown on the attached Exhibit "A".

C. In the Lawsuit, the City alleges that the north boundary line of the Sand Beach Reserve (which forms the south boundary line of the LIC Property) was incorrectly located in a 1916 survey of the Sand Beach Reserve.

D. The City alleges that the proper location of the common boundary line between the LIC Property and the Sand Beach Reserve is somewhere north of the south boundary line of the LIC Property.

E. In response to the Lawsuit, LIC alleges that the south boundary line of the LIC Property, as shown on the attached Exhibit "A", is the correct boundary line between the LIC Property and the Sand Beach Reserve, and alleges that the City has ratified, acquiesced and caused others to rely on such boundary line through a course of conduct over a period of 84 years.

F. LIC wishes to develop and construct a mixed-use project on the LIC Property (the "Project"), but it has been unable to do so because of the uncertainty created by the Lawsuit.

G. The City wishes to have the LIC Project developed and constructed in a manner that is compatible with and enhances the Sand Beach Reserve parkland and the proposed redevelopment of the adjacent Seaholm Power Plant as a museum or other public facility (the "Seaholm Project").

H. LIC and the City wish to settle the Lawsuit by establishing the south boundary of the LIC Property, as shown on the attached Exhibit "A", as the common boundary line between the LIC Property and the Sand Beach Reserve (the "Agreed Boundary Line"), subject to the terms and conditions set forth in this Agreement.



6

I. LIC and the City also wish to enter into various agreements relating to the development and construction of the Project in a manner that is compatible with the adjacent Sand Beach Reserve parkland and the Seaholm Project.

NOW, THEREFORE, in consideration of the foregoing recitals; the mutual benefits to be received by the City and LIC by settling the Lawsuit; and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LIC and the City hereby agree as follows:

1. Agreed Judgment. Within five (5) days after the Effective Date of this Agreement, LIC and the City shall jointly request the State of Texas, acting by and through the Texas Attorney General ("Attorney General"), to intervene in or to consent to be joined as a party in the Lawsuit for the purpose of giving his consent and approval on behalf of the State of Texas to the entry of the Agreed Judgment. If the Attorney General consents to and approves the Agreed Judgment, then LIC, the City and the Attorney General, on behalf of the State of Texas, shall execute an Agreed Judgment with respect to the Lawsuit substantially in the form attached hereto as Exhibit "E". If the Attorney General fails to give his consent and approval to the entry of the Agreed Judgment within sixty (60) days after the Effective Date of this Agreement, this Agreement and the documents executed pursuant thereto shall automatically become null and void, unless LIC and the City Manager mutually agree to extend the time period for obtaining such consent and approval for an additional thirty (30) days. Thereafter, any extension of the time period for obtaining such approval may only be granted by the City Council. As soon as possible after such execution of the Agreed Judgment, LIC and the City shall submit the Agreed Judgment for entry by the District Court of Travis County. If the District Court fails to enter the Agreed Judgment, this Agreement and all documents executed pursuant thereto shall automatically become null and void and the parties are relieved of their obligations hereunder.

2. Boundary Line Agreement. Simultaneously with the execution of this Agreement, LIC and the City shall execute a Boundary Line Agreement substantially in the form attached hereto as Exhibit "F", which establishes the Agreed Boundary Line as the common boundary line between the LIC Property and the Sand Beach Reserve. The executed Boundary Line Agreement shall not become effective and shall not be recorded until the entry of the Agreed Judgment referenced in Section 1 hereof.

3. Conveyance of LIC Parcel A. Simultaneously with the execution of this Agreement and the Boundary Line Agreement, LIC shall execute a Special Warranty Deed, in a form mutually acceptable to LIC and the City, which conveys to the City a tract of land at the southeast corner of the LIC Property adjacent to the Sand Beach Reserve ("LIC Parcel A"), as shown on the attached Exhibit "B" and to be more particularly described in a survey thereof to be provided by LIC. The executed Special Warranty Deed for LIC Parcel A shall not become effective and shall not be recorded until the entry of the Agreed Judgment referenced in Section 1 hereof.

4. Conveyance of LIC Parcel B. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, LIC shall execute and deliver to the City a Special Warranty Deed, in a form mutually acceptable to LIC and the City, which conveys to the City a tract of land at the

northwest corner of the LIC Property adjacent to the Union Pacific Railroad Company right-of-way ("LIC Parcel B"), as shown on the attached Exhibit "C" and to be more particularly described in a survey thereof to be provided by LIC. If the City does not acquire the Union Pacific Parcel as provided in Section 5 hereof, the conveyance of LIC Parcel B to the City shall be subject to the City's agreement to maintain LIC Parcel B in such a manner that it does not become a nuisance or detriment to the LIC Project, and LIC, at its option and expense shall have the right to landscape and maintain LIC Parcel B for so long as it remains vacant.

5. Acquisition of Union Pacific Parcel. The City shall negotiate in good faith to acquire the tract of land now owned by Union Pacific Railroad Company adjacent to the LIC Property, as shown on the attached Exhibit "D" and to be more particularly described in a survey thereof to be provided by LIC (the "Union Pacific Parcel"). Subject to LIC receiving Project Approval pursuant to Section 8 hereof, LIC agrees to pay up to Seven Hundred Fifty Thousand Dollars (\$750,000) of the purchase price and closing costs, which amount shall be paid at the closing of the purchase of the Union Pacific Parcel, and the City shall pay any amount in excess thereof. If the City is not able to acquire the Union Pacific Parcel on terms acceptable to the City within the later of (i) one (1) year after the Effective Date of this Agreement, or (ii) thirty (30) days after LIC receives Project Approval pursuant to Section 8 hereof, the City shall have no obligation to acquire the Union Pacific Parcel; and the amount to be paid by LIC to the City for the purchase of the Union Pacific Parcel referenced in this Section 5 shall instead be paid by LIC to the City for the Alternative Parking as defined and provided in Section 6 hereof.

6. Parking Plaza. If LIC Parcel B and the Union Pacific Parcel are conveyed to the City, such Parcels shall be used to construct a landscaped public parking plaza consisting of a two-lane driveway with not less than one hundred twenty-five (125) head-in parking spaces (the "Parking Plaza") and a twelve (12) foot wide bikeway on the northern edge of the Parking Plaza. The Parking Plaza shall be designed and constructed in accordance with plans and specifications to be prepared by the City and approved by LIC, and shall be completed no later than the completion of the LIC Project. All costs relating to the construction of the Parking Plaza shall be paid by the City. If the City is unable to acquire the Union Pacific Parcel as provided in Section 5 hereof, and subject to LIC receiving Project approval pursuant to Section 8 hereof, the Seven Hundred Fifty Thousand Dollar (\$750,000) payment to be made by LIC to the City referenced in Section 5 hereof shall instead be paid by LIC to the City for the construction of no less than one hundred twenty-five (125) landscaped, public parking spaces at a mutually acceptable location on City-owned land near the LIC Project and the Seaholm Project (the "Alternative Parking"). Such amount shall be paid by LIC to the City upon the commencement of construction of the Alternative Parking. The Alternative Parking shall be designed and constructed in accordance with plans and specifications to be prepared by the City and approved by LIC in a manner that is consistent with the City's Seaholm District Master Plan.

7. Landscaping and Other Improvements. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, LIC agrees to pay Five Hundred Thousand Dollars (\$500,000) for the installation and construction of landscaping, trees, trails, and other public amenities on the Sand Beach Reserve parkland, the Parking Plaza and LIC Parcel A to be conveyed to the City, in accordance with plans and specifications to be prepared by LIC and approved by the City. Such amount shall be paid by LIC to the City upon commencement of

#### **SETTLEMENT AGREEMENT**

construction of such landscaping and other improvements. The foregoing landscaping and improvements shall be provided in lieu of the landscaping and improvements referenced in Ordinance No. 85-0110-X, which shall no longer be applicable to the LIC Property; and shall be in addition to the landscaping that may otherwise be required for the Project under the applicable provisions of the City Land Development Code.

8. **Project Approval.** The term "Project Approval" shall mean the completion of all of the following with respect the Project: (i) the approval of any required subdivision or resubdivision of the LIC Property pursuant to Section 13 hereof; (ii) the zoning of the LIC Property as part of the Downtown Mixed-Use (DMU) zoning district with the Central Urban Redevelopment Combining District Overlay referenced in Section 9 hereof; and (iii) the issuance of a Site Development Permit for the Project. To obtain Project Approval, the Project must have the following "Project Characteristics":

- a. The Project must be subject to the requirements of the Downtown Mixed-Use (DMU) zoning district and the current applicable provisions of the Waterfront Overlay Combining District and North Shore Central Subdistrict, except for the waivers and variances provided for in this Agreement or otherwise approved by the City.
- b. The completed Project must be a mixed-use project containing between four hundred thousand (400,000) and five hundred thousand (500,000) square feet of floor area and a parking garage for not less than six hundred (600) automobiles.
- c. The completed Project must have not less than sixty percent (60%) of the gross floor area for residential use and the balance for permitted commercial uses in the DMU zoning district.
- d. The Project must comply with all applicable subdivision, zoning and site plan requirements of the City, except for the waivers and variances provided for in this Agreement or otherwise approved by the City. If there are any conflicts between the design of the LIC Project and the Seaholm District Master Plan, LIC and the City will collaborate together and attempt to resolve such differences, but LIC shall not be obligated to make any changes to the LIC Project solely to address conflicts between the design of the LIC Project and the Seaholm District Master Plan.

The performance of LIC with respect to the payments and obligations referenced in Sections 4, 5, 6, 7, 9, 10 and 11 hereof shall be subject to and conditioned upon LIC receiving Project Approval from the City for the Project.

9. **Release of Zoning Site Plan.** Subject to LIC receiving Project Approval pursuant to Section 8 hereof, the existing zoning site plan for a proposed fifteen (15) story office and nine (9) story parking garage authorized for the LIC Property by Ordinance No. 84-1018-B shall be terminated simultaneously with the rezoning of such tracts of land as part of the Downtown Mixed-Used (DMU) zoning district, with a Central Urban Redevelopment Combining District

Overlay that permits one building to be located at the northwest corner of the LIC Property with a height (as defined in Section 25-1-21 of the City Land Development Code) not to exceed one hundred eighty (180) feet, so long as (i) the average height (to be determined as hereafter provided) of all buildings located outside the Capitol View Corridor (including the building at the northwest corner) does not exceed one hundred twenty (120) feet, (ii) the building heights are stair-stepped in a manner that provides a mix of building heights and minimizes the height of the buildings closest to Town Lake, and (iii) all of the buildings otherwise comply with the applicable setback and height restrictions and design guidelines of the Waterfront Overlay Combining District and North Shore Central Subdistrict. The above-referenced average height for all of the buildings in the Project (other than the parking garage and the buildings located in the Capitol View Corridor) shall be determined by (i) multiplying the height of each portion of the building by, (ii) the corresponding square footage of the building footprint beneath that height, (iii) totaling the calculations for all of such buildings, and (iv) dividing the total by the aggregate square footage of the footprints for all of the buildings. LIC agrees to consult with the Downtown Design Commission concerning the massing of the buildings in the Project and their impact on the adjacent parkland and along Lamar Boulevard.

10. Access. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, including the proposed access from Sandra Muraida Way provided for in this Section 10, LIC agrees to release and quitclaim to the City all right, title and interest of LIC in the easements dedicated by implication across the Sand Beach Reserve in a previous lawsuit between the State of Texas, the City and Missouri Pacific Railroad Company, Cause No. 477,213 in the 201<sup>st</sup> Judicial District Court of Travis County, Texas, affirmed by the Third Court of Appeals in Case No. 3-92-466-CP. LIC also agrees to release and quitclaim to the City all right, title and interest in the street right-of-way across the Sand Beach Reserve dedicated by Ordinance No. 85-0110-X. In exchange for the release of such existing access, the City shall abandon, release and quitclaim to LIC all right, title and interest of the City in the Bowie Street right-of-way located on the LIC Property, without the payment of any additional consideration. The City shall also dedicate the necessary right-of-way and allow access across the Sand Beach Reserve from Sandra Muraida Way at a location mutually acceptable to LIC and the City, and the City waives any objection to the location of such right-of-way across the Sand Beach Reserve parkland. The City shall also permit LIC to have at least two points of access to the Project from the Parking Plaza at a location mutually acceptable to LIC and the City.

11. Utility Lines. The existing 30-inch sanitary sewer line currently located on the LIC Property shall be rerouted across the Parking Plaza or other location mutually acceptable to LIC and the City. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, LIC agrees to pay the cost of relocating the sanitary sewer line. The City shall grant an easement or otherwise give its permission for LIC to connect the LIC Property to the existing utility lines located on the Sand Beach Reserve, at one or more locations mutually acceptable to LIC and the City, upon the payment by LIC of the City's standard utility connection fees.

12. Floodplain. The City agrees to grant variances so as to permit the LIC Project to be constructed in the 25-year and 100-year floodplains, so long as LIC's engineer demonstrates through a floodplain hydraulic study acceptable to the City and certifies to the City that (i) the Project will not result in additional identifiable adverse flooding on other property; (ii) the Project complies with the minimum requirements of the National Flood Insurance Program; and

#### SETTLEMENT AGREEMENT

B

(iii) adequate provisions are made for emergency access to the Project. The City also agrees to grant variances for the Project so that LIC will not have to dedicate an easement or right-of-way for the 25-year and 100-year floodplains.

13. Resubdivision. If the conveyance of the LIC Parcel to the City constitutes a subdivision or resubdivision of the LIC Property under the applicable City and State subdivision ordinances, statutes and regulations, or if any portion of the LIC Property is otherwise determined not to be a subdivided or legal lot, the City agrees to cooperate with LIC to expedite the processing and approval of any required new subdivision plat.

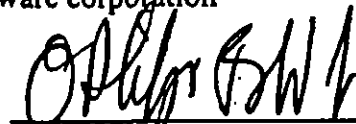
14. Miscellaneous.

- a. No term or provision of this Agreement shall constitute or be deemed to be an admission of liability on the part of any party hereto, all such liability being expressly denied.
- b. LIC and the City agree to cooperate with each other in the preparation and execution of the documents referenced in this Agreement or reasonably required to implement the terms and conditions of this Agreement, including but not limited to Special Warranty Deeds, Cost Reimbursement Agreements, Quitclaim Deeds, Releases, Contracts, Waivers, Consents and Approvals, and to take such other actions that may be reasonably necessary to implement the terms and conditions of this Agreement.
- c. The City and LIC represent and warrant to each other and agree (i) that they have been fully informed and have full knowledge of the terms, conditions and effects of this Agreement; (ii) that they have been represented by independent legal counsel of their choice throughout all negotiations preceding their execution of this Agreement; (iii) that they, either personally or through their independently retained attorneys, have fully investigated to their satisfaction all facts surrounding the various claims, controversies and disputes and are fully satisfied with the terms and effects of this Agreement; (iv) that no promise or inducement has been offered or made to any of them except as expressly stated in this Agreement, and that this Agreement is executed without reliance on any statement or representation by any other party or any other party's agent, and that this Agreement supercedes all prior negotiations and discussions; (v) that they are the sole owners of the claims or causes of action released in this Agreement and have not previously assigned or transferred or purported to assign or transfer any interest in such claims to any person or entity; and (vi) that they have full authority to enter into this Agreement, and are competent to do so, and that the person executing this Agreement on behalf of each party to this Agreement is duly authorized and empowered to do so. The City and LIC each recognize that the other has relied on the foregoing representations and warranties in entering into this Agreement, and each agrees that these representations and warranties shall survive the execution of this Agreement.

- 6
- d. This Agreement constitutes the complete Agreement between the parties, and any prior oral representations or understandings are superceded by it. Further, this Agreement may not be altered or amended except in writing signed by the parties hereto.
  - e. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. All references herein to LIC shall be understood to mean LIC and its successors and assigns and any subsequent owner of the LIC Property and the Project to be constructed thereon.
  - f. This Agreement may be executed in multiple counterparts, each of which may be deemed to be an original, so long as all parties execute this Agreement.
  - g. This Agreement shall be construed in accordance with the laws of the State of Texas, and is performable in Travis County, Texas, and the prevailing party in any lawsuit to enforce this Agreement shall be entitled to recover reasonable attorneys' fees and court costs in accordance with applicable Texas law.
  - h. Each party hereto agrees to bear its own costs and attorneys' fees.

LUMBERMEN'S INVESTMENT CORPORATION,  
a Delaware corporation

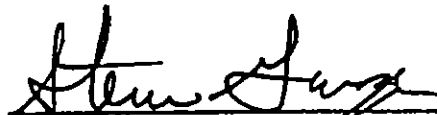
By:



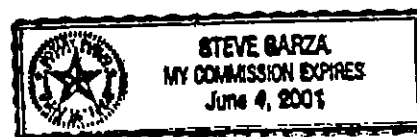
O. Philip Breland, Jr.  
Senior Vice President

STATE OF TEXAS     §  
                                 §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on January 7, 2001, by O. Philip Breland, Jr., Senior Vice President of LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation, on behalf of said corporation.



Notary Public, State of Texas  
My Commission Expires: 6/4/01 J.C.

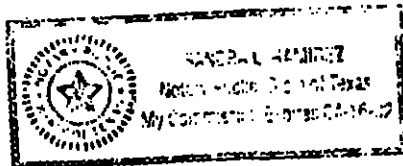


**CITY OF AUSTIN**  
a Texas home-rule city and municipal corporation

By: Jesus Garza  
Jesus Garza,  
City Manager

STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on January 8<sup>th</sup>, 2001, by Jesus Garza, City Manager of the City of Austin, a Texas home rule city and municipal corporation, on behalf of said city.

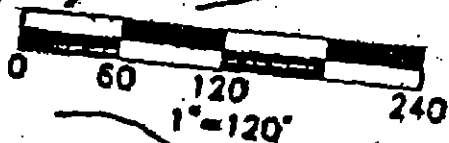


Judith R. Ramsey  
Notary Public, State of Texas  
My Commission Expires: 04-16-02

31514.00001 : AUSTIN : 218002.14

BR. REYNOLDS DRIVE

LAMAR BOULEVARD



SANDRA MURADA WAY

SAND BEACH RESERVE

1.94 ACRES—LOT A  
JETCO PARTNERS  
INTERNATIONAL  
RESUBDIVISION ONE  
BK. 83, PG. 184A.

± 5.13 ACRES

3.19 ACRES  
LUMBERMEN'S INVESTMENT  
CORPORATION  
VOL. 12038, PG. 535

NORTH LINE OF  
SAND BEACH RESERVE  
(AGREED BOUNDARY LINE)

WEST CESAR CHAVEZ STREET

RAILROAD

PACIFIC

MISSOURI

WEST 3RD STREET (60' R.O.W.)

BOWIE STREET (80' R.O.W.)

16

15

14

13

12

11

10

9

BLOCK

**Bury Partners**  
Consulting Engineers and Surveyors  
Sociedad, P.O. Box 112/326-2011 San Jose, Costa Rica

EXHIBIT "A"  
LUMBERMENS INVESTMENT  
CORPORATION TRACT

LUMBERMENS  
INVESTMENT CORP.

SAND BEACH  
RESERVE

DATE: 10/04/00

FILE: H:\034\14\03414EX2.dwg

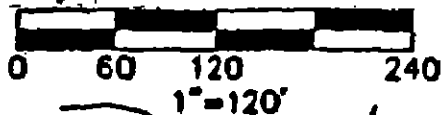
PN No.: NA

DRAWN BY: MW



B.R. REYNOLDS DRIVE

LAMAR BOULEVARD



SANDRA MURKIDA WAY

NORTH LINE OF  
SAND BEACH RESERVE  
(AGREED BOUNDARY LINE)

1.94 ACRES—LOT A  
JETCO PARTNERS  
INTERNATIONAL  
RESUBDIVISION ONE  
BK. 83, PG. 184A

3.19 ACRES  
LUMBERMEN'S INVESTMENT  
CORPORATION  
VOL. 12038, PG. 535

0.609 ACRES  
L.I.C. PARCEL "A"

SAND BEACH RESERVE

WEST CESAR CHAVEZ STREET

N49°32'53"W  
62.90'

N49°32'53"W 363.61'

S14°55'01"E 321.86'

P.O.B.

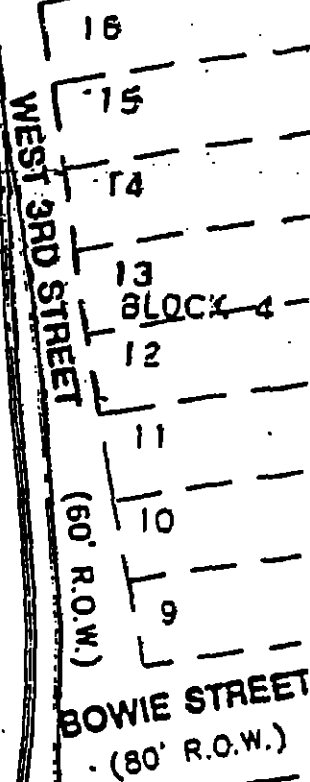
C1

L1

RAILROAD

PACIFIC  
(R.O.W. VARIES)

MISSOURI



LEGEND

- 1/2" IRON ROD FOUND
- PROPOSED CORNERS
- P.O.B. POINT OF BEGINNING

LINE TABLE

No.	Bearing	Distance
L1	N20°22'52"E	45.27'

CURVE TABLE

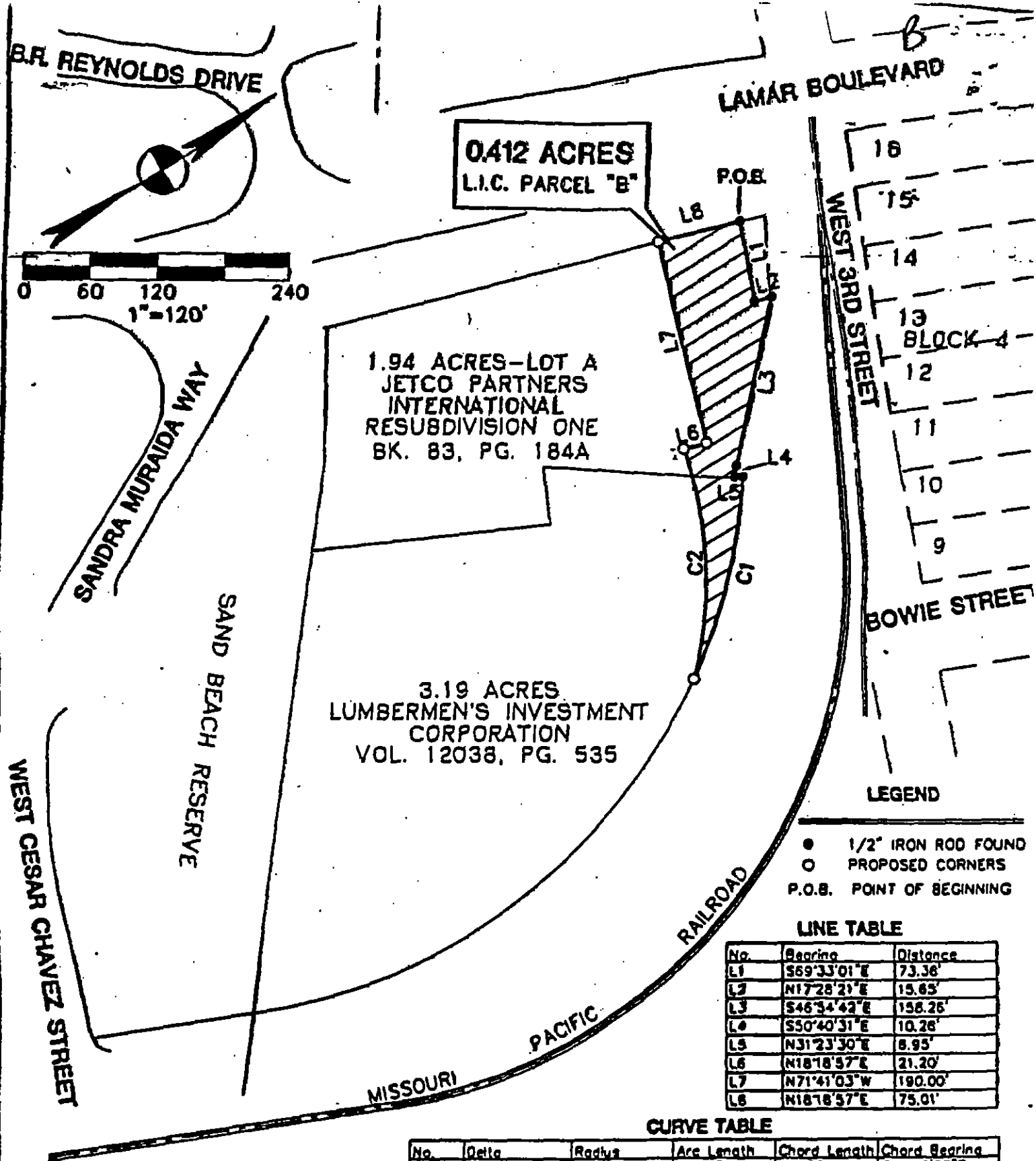
No.	Delta	Radius	Arc Length	Chord Length	Chord Bearing
C1	22°03'38"	520.00	200.22	198.98	S14°08'04"W

NORTH LINE IS ALONG PROPOSED CURBLINE

**Bury+Partners**  
Consulting Engineers and Surveyors  
Austin, Texas Tel 512/224-0111 Fax 512/224-0223  
Bury+Partners, Inc. ©Copyright 2001

SKETCH TO ACCOMPANY DESCRIPTION OF  
**L.I.C. PARCEL "A"**  
EXHIBIT "B"

**LUMBERMENS  
INVESTMENT CORP.**  
  
**SAND BEACH  
RESERVE**



**Bury+Partners**  
Consulting Engineers and Surveyors  
Austin, Texas Tel 512/328-0811 Fax 512/328-0225  
Bury+Partners, Inc. © Copyright 2001

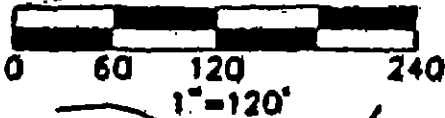
SKETCH TO ACCOMPANY DESCRIPTION OF  
**L.I.C. PARCEL "B"**  
Exhibit "C"

**LUMBERMENS  
INVESTMENT CORP.**

**SAND BEACH  
RESERVE**

BR. REYNOLDS DRIVE

LAMAR BOULEVARD



SANDRA MURADA WAY

± 1.42 ACRES  
UNION PACIFIC PARCEL

3.19 ACRES  
LUMBERMEN'S INVESTMENT  
CORPORATION  
VOL. 12038, PG. 535

NORTH LINE OF  
SAND BEACH RESERVE  
(AGREED BOUNDARY LINE)

SAND BEACH RESERVE

WEST CESAR CHAVEZ STREET

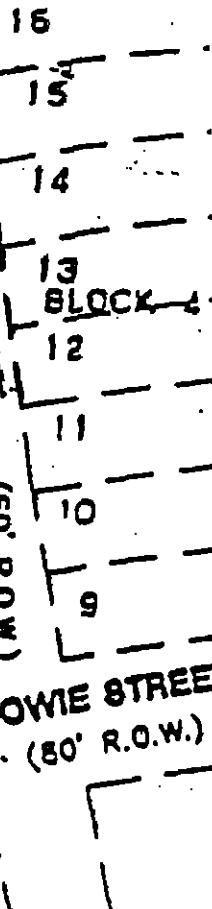
MISSOURI

PACIFIC  
RAILROAD

WEST 3RD STREET

(60' R.O.W.)

BOWIE STREET  
(80' R.O.W.)



**Bury+ Partners**  
Consulting Engineers and Surveyors  
Suite 1000, 1012/1014-1015 No. 112/114-115  
Burlington, Iowa 52601-0001

EXHIBIT "D"  
**UNION PACIFIC  
PARCEL BOUNDARY**

**LUMBERMEN'S  
INVESTMENT CORP.**  
**SAND BEACH  
RESERVE**

**Exhibit "E"**

**NO. 99-13013**

**CITY OF AUSTIN,**

**Plaintiff,**

**vs.**

**LUMBERMEN'S INVESTMENT  
CORPORATION,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**IN THE DISTRICT COURT OF**

**TRAVIS COUNTY, TEXAS**

**126<sup>TH</sup> JUDICIAL DISTRICT**

**AGREED JUDGMENT ESTABLISHING BOUNDARY**

Came before the Court on this \_\_\_\_ day of \_\_\_\_\_, 2001, Plaintiff City of Austin ("City"), Defendant Lumbermen's Investment Corporation ("LIC") and Intervenor State of Texas ("State"), appearing by and through their respective counsel, and announced to the Court that they have reached a compromise and settlement of all matters in controversy between them regarding this boundary dispute and that they desire the entry of this Agreed Judgment Establishing Boundary. Accordingly, based upon the parties' agreement and the pleadings and papers on file in this cause, as well as the facts associated with the above-styled and numbered cause, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. The City is the owner of that certain property designated as the Sand Beach Reserve as described in a Patent to the City dated July 3, 1945, which is described therein as follows:

Seventy-seven (77) acres of land more or less, commonly known as "Reserve", bounded on the north by Outlots 1 and 11, Division "Z", City of Austin, as established by a survey made by William H. Sandusky under an Act of Congress of the Republic of Texas, passed January 5, 1840; on the east by West Avenue as located by the said survey; on the south by the Colorado River; and on the west by the east line of the George W. Spear League; said tract being marked "Reserve" on the Sandusky map above referred to.

b

2. Defendant LIC is currently the owner of approximately 5.13 acres of real property located at the northeast corner of the intersection of North Lamar Boulevard and Cesar Chavez Street in the City of Austin, Texas, which is more particularly described in Exhibit "A" attached hereto ("LIC Property"). LIC acquired the LIC Property in two parcels, the 1.94 acres west tract by foreclosure in 1987 and the 3.19 acre east tract by purchase from Missouri Pacific Railroad Company in 1993. The west tract and east tract together comprise the LIC Property.

3. The State has a reversionary interest in the Sand Beach Reserve, and the Permanent School Fund of Texas owns the oil, gas and sulphur in and under the Sand Beach Reserve.

4. The LIC Property abuts the northern boundary of the Sand Beach Reserve.

5. The City, LIC and the State have agreed that the common boundary between the LIC Property and the Sand Beach Reserve is the southern boundary of the LIC Property described in the attached Exhibit "A", which Agreed Boundary Line is more particularly described in the attached Exhibit "B".

6. All relief requested that is not expressly granted herein is hereby DENIED.

7. Each party shall bear its own attorneys' fees and costs of suit.

SO ORDERED on this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

---

JUDGE PRESIDING

**AGREED AS TO FORM  
AND SUBSTANCE:**

**SCOTT, DOUGLASS & McCONNICO, L.L.P.**  
600 Congress Avenue, Suite 1500  
Austin, Texas 78701

By: \_\_\_\_\_  
Casey L. Dobson  
State Bar No. 05927600  
Elizabeth N. Miller  
State Bar No. 14071100

**ATTORNEYS FOR PLAINTIFF CITY OF  
AUSTIN**

**LOCKE LIDDELL & SAPP LLP**  
100 Congress, Suite 300  
Austin, Texas 78701

By: \_\_\_\_\_  
William B. Steele III  
State Bar No. 19107400  
Jan Soifer  
State Bar No. 18824530

**ATTORNEYS FOR LUMBERMEN'S  
INVESTMENT CORPORATION,  
DEFENDANT AND COUNTER-PLAINTIFF**

**OFFICE OF THE ATTORNEY GENERAL OF  
TEXAS**

John Cornyn  
Attorney General of Texas

Andy Taylor  
First Assistant Attorney General

Jeffrey S. Boyd  
Deputy Attorney General for Litigation

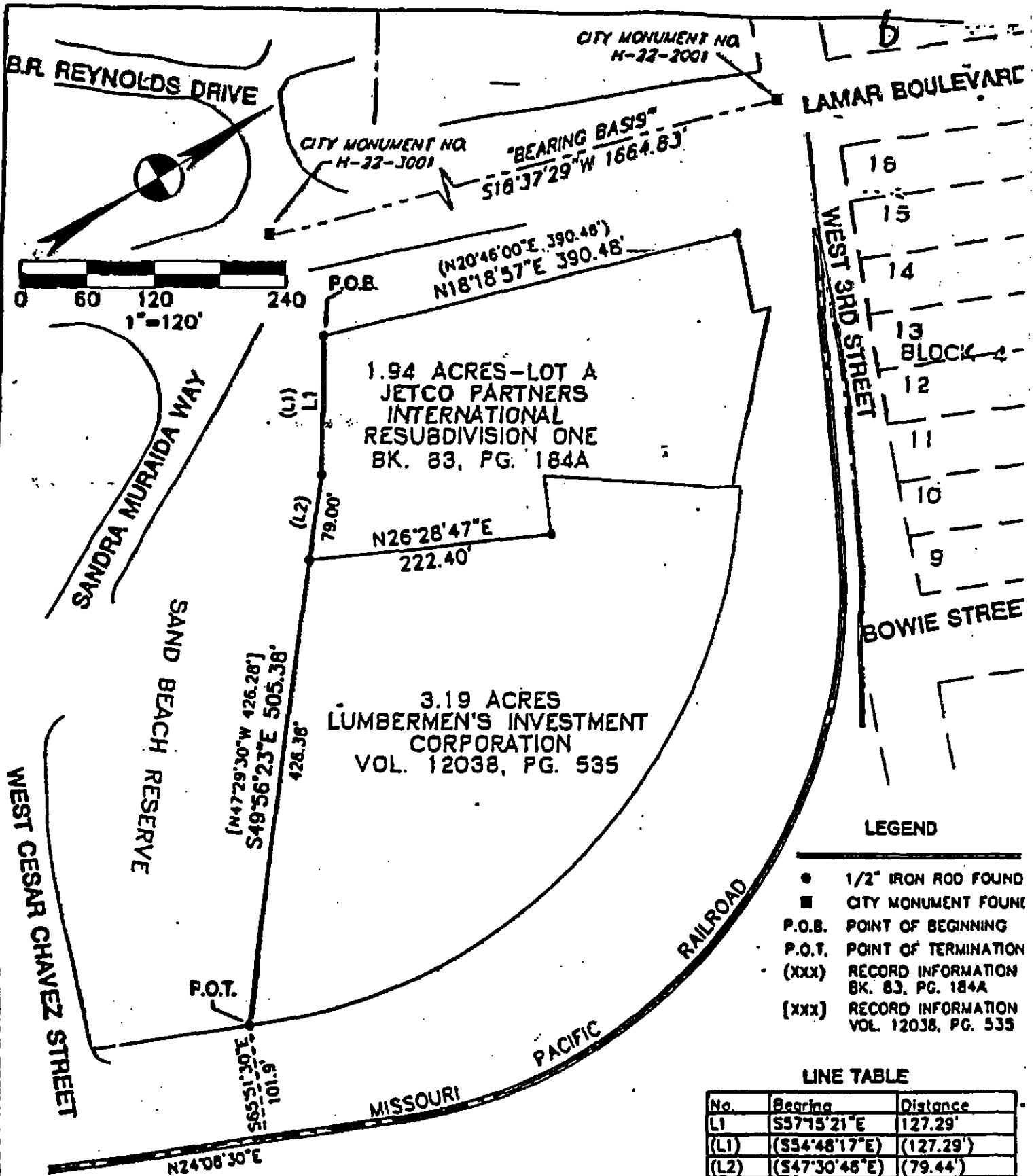
Karen W. Kornell  
Assistant Attorney General  
Chief, Natural Resources Division

By: \_\_\_\_\_  
Joe Riddell  
Assistant Attorney General  
Texas Bar No. 16886500

Natural Resources Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548

(512) 463-2012 (telephone)  
(512) 320-0052 (telecopier)

**ATTORNEYS FOR PLAINTIFF-INTERVENOR  
STATE OF TEXAS**



#### LEGEND

- 1/2" IRON ROD FOUND
- CITY MONUMENT FOUND
- P.O.B. POINT OF BEGINNING
- P.O.T. POINT OF TERMINATION
- (xxx) RECORD INFORMATION BK. 83, PG. 184A
- [xxx] RECORD INFORMATION VOL. 12038, PG. 535

#### LINE TABLE

No.	Bearing	Distance
L1	S57°15'21"E	127.29'
(L1)	(S54°48'17"E)	(127.29')
(L2)	(S47°30'48"E)	(79.44')

**Bury+ Partners**  
 Consulting Engineers and Surveyors  
 Austin, Texas Tel 512/228-0111 Fax 512/228-0001  
 Bury+Partners, Inc. © Copyright 2001

**SKETCH TO ACCOMPANY DESCRIPTION OF**  
 SOUTHERLY BOUNDARY LINES OF LOT A JETCO PARTNERS INTERNATIONAL RESUBDIVISION ONE, A SUBDIVISION OF RECORD IN BOOK 83, PAGE 184A OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND THAT 3.18 ACRE TRACT CONVEYED TO LUMBERMENS INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.

**LUMBERMENS INVESTMENT CORP.**

**SAND BEACH RESERVE**

B  
112

**Exhibit "F"**

**BOUNDARY LINE AGREEMENT**

THIS BOUNDARY LINE AGREEMENT (the "Agreement") is executed the \_\_\_\_ day of January, 2001, by Lumbermen's Investment Corporation, a Delaware corporation ("LIC"); the City of Austin, a Texas home rule city and municipal corporation (the "City"); and the State of Texas, acting by and through David Dewhurst, in his capacities as Commissioner of the General Land Office of the State of Texas and Chairman of the School Land Board, and on behalf of the Permanent School Fund of the State of Texas (the "State").

**RECITALS:**

A. LIC holds record title to two (2) tracts of land containing approximately 1.94 acres and 3.19 acres, collectively referred to as the "LIC Property", located near the intersection of North Lamar Boulevard and Cesar Chavez Street in the City of Austin, Texas, as more particularly described in the attached Exhibit "A".

B. The City holds record title to the land adjacent to the south boundary of LIC Property known as the "Sand Beach Reserve", as described in a Patent from the State to the City dated July 3, 1945, which is described therein as follows:

Seventy-seven (77) acres of land more or less, commonly known as "Reserve", bounded on the north by Outlots 1 and 11, Division "Z", City of Austin, as established by a survey made by William H. Sandusky under an Act of Congress of the Republic of Texas, passed January 5, 1840; on the east by West Avenue as located by the said survey; on the south by the Colorado River; and on the west by the east line of the George W. Spear League; said tract being marked "Reserve" on the Sandusky map above referred to.

C. The above-referenced Patent reserved to the State all oil, gas and sulphur and an interest in the sale of sand and gravel, and a reversionary interest if the Sand Beach Reserve was ever sold by the City.

D. A dispute arose between LIC and the City over the north boundary line of the Sand Beach Reserve, which forms the south boundary line of the LIC Property. The City filed suit in the case styled *City of Austin v. Lumbermen's Investment Corporation*, Cause No. 99-13013, in the 126<sup>th</sup> Judicial District Court of Travis County, Texas (the "Lawsuit"). LIC filed its answer and counterclaim in the Lawsuit.

E. The City and LIC desire to resolve their dispute over the common boundary line between the LIC Property and the Sand Beach Reserve and thereby avoid the costs and uncertainties of further litigation.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual benefits to be received by the City, LIC and the State for settling the Lawsuit and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LIC, the City and the State hereby agree as follows:



b

1. The common boundary between the LIC Property and the Sand Beach Reserve (the "Agreed Boundary Line") is established by this Agreement, and is the southern boundary of the LIC Property described in the attached Exhibit "A", which Agreed Boundary Line is more particularly described in the attached Exhibit "B".

2. Within five (5) business days after the entry of the Agreed Judgment Establishing Boundary, a copy of which is attached hereto as Exhibit "C", LIC agrees to deliver to the Commissioner a check in the amount of Ten Thousand and No/100 Dollars (\$10,000.00) payable to the order of the Permanent School Fund of the State of Texas, as consideration for any potential mineral interests or contingent reversionary interest of the State of Texas and the School Land Board in and to any portion of the LIC Property, if the City were to prevail in its claims in the Lawsuit.

3. This Agreement setting forth the Agreed Boundary Line shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns.

4. This Agreement shall not become effective and shall not be recorded until the entry of an Agreed Judgment Establishing Boundary, a copy of which shall be attached hereto as Exhibit "C".

5. The City, LIC and the State represent and warrant to each other and agree (a) that they have been fully informed and have full knowledge of the terms and effects of this Agreement; (b) that they have been represented by independent legal counsel of their choice through all negotiations preceding their execution of this Agreement; (c) that they, either personally or through their independently retained attorneys, have fully investigated to their satisfaction all facts surrounding the various claims, controversies and disputes and are fully satisfied with the terms and effects of this Agreement; (d) that no promise or inducement has been offered or made to any of them except as expressly stated in this Agreement, and that this Agreement is executed without reliance on any statement or representation by any other party or any other party's agent, and that this Agreement supercedes all prior negotiations and discussions; and (e) that they have full authority to enter into this Agreement and are competent to do so and that the person executing this Agreement on behalf of each party to this Agreement is duly authorized and empowered to do so. LIC, the City and the State each recognize that the other has relied on the foregoing representations and warranties in entering into this Agreement and each agrees that these representations and warranties shall survive the execution of this Agreement.

IN WITNESS WHEREOF, the parties hereto have subscribed their names.

6  
Executed by the undersigned on behalf of Lumbermen's Investment Corporation on the date of the following acknowledgement, to be effective as of the date referenced in Section 4 hereof.

**LUMBERMEN'S INVESTMENT CORPORATION,**  
a Delaware corporation

By: \_\_\_\_\_

**O. Philip Breland, Jr.**  
**Senior Vice President**

STATE OF TEXAS     §

§

COUNTY OF TRAVIS     §

§

This instrument was acknowledged before me on January \_\_\_\_, 2001, by O. Philip Breland, Jr., Senior Vice President of LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

B

Executed by the undersigned on behalf of the City of Austin on the date of the following acknowledgement, to be effective as of the date referenced in Section 4 hereof.

**CITY OF AUSTIN**  
a Texas home-rule city and municipal corporation

By: \_\_\_\_\_  
Jesus Garza,  
City Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on January \_\_\_\_, 2001, by Jesus Garza, City Manager of the City of Austin, a Texas home rule city and municipal corporation, on behalf of said city.

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires: \_\_\_\_\_

6 -

Executed by the undersigned on behalf of the State of Texas on the date of the following acknowledgement, to be effective as of the date referenced in Section 4 hereof.

David Dewhurst, in his capacities as Commissioner of the General Land Office of the State of Texas and Chairman of the School Land Board, and on behalf of the Permanent School Fund of the State of Texas

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

This instrument was acknowledged before me on January \_\_\_\_, 2001, by David Dewhurst, in his capacities as Commissioner of the General Land Office of the State of Texas and Chairman of the School Land Board, and on behalf of the Permanent School Fund of the State of Texas.

Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

Exhibit C

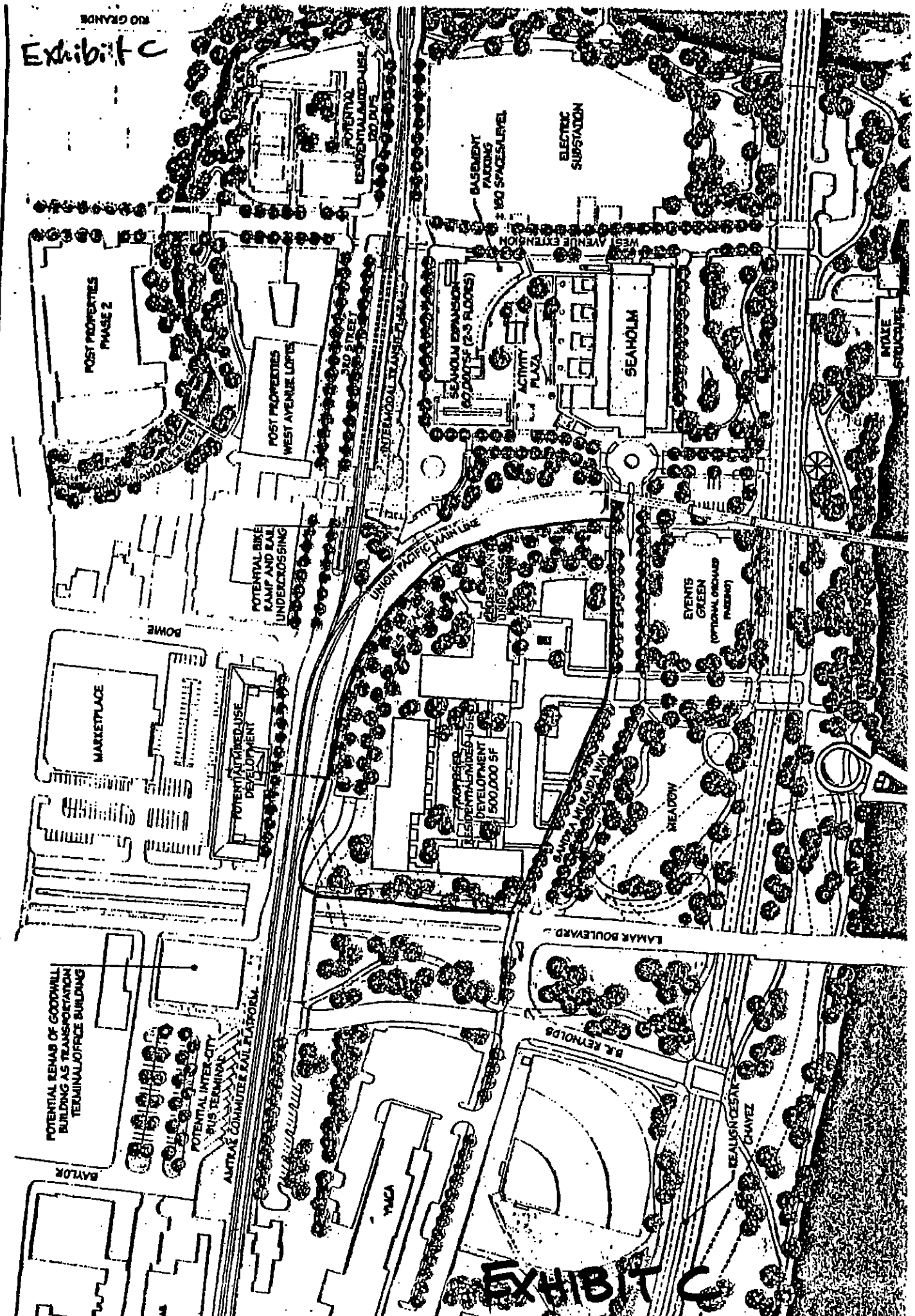


EXHIBIT C

**RECEIVED**

SEP 26 2005

Neighborhood Planning &amp; Zoning

**RECEIVED**

SEP 26 2005

Neighborhood Planning &amp; Zoning

MICHELE R. ALLEN  
SENIOR DEVELOPMENT PLANNER(512) 404-2251  
mra@lawdsw.com

September 26, 2005

Ms. Alice Glasco  
Neighborhood Planning and Zoning Department  
City of Austin  
505 Barton Springs Road, 5<sup>th</sup> Floor  
Austin, TX 78704

**VIA HAND DELIVERY**

RE: Zoning Case Number C14-05-0005  
4.524 Acres Located at 910 West Cesar Chavez Street (the "Property");  
Proposed Rezoning from DMU, Downtown Mixed Use District zoning to  
DMU-CURE, Downtown Mixed Use-Central Urban Redevelopment  
Combining District zoning

Dear Alice:

As representatives of the prospective purchaser of the above stated Property, we respectfully submit the revised information for the above-mentioned zoning case. Following the filing of the zoning application, the proposed land uses for the project have shifted to accommodate the movement of the Austin Children's Museum to Block 21. The prospective buyer still intends to develop the Property with a mixed-use project, which now includes condominiums, multifamily, retail and office land uses. The following information should be updated accordingly:

- 1) Please list the applicant's agent as Michele Allen of DSWMvK;
- 2) Please revise the project name to be the "Gables/LIC Project";
- 3) The revised land uses and subsequent vehicle trips per day are being revised with the transportation reviewer, Emily Barron, and a new TIA waiver letter will be produced;
- 4) The request for DMU-CURE for both Tract 1 and Tract 2 remains the same; however the area the CURE encompasses will be reduced to reflect the portion of the total site area of 4.524 acres, which will allow for height to exceed the maximum 120-feet under DMU. Specifically, the proposed condominium building is proposed to be a height of 190-feet, with all other buildings being less than 120-feet. Field notes will be produced to depict the exact boundaries of the CURE accordingly.

An exhibit depicting a version of the project and land use site layout is attached for your reference. Please note that this exhibit is a draft exhibit and subject to change.

Ms. Alice Glasco  
September 26, 2005  
Page 2



Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Very truly yours,

A handwritten signature in cursive script that reads 'Michele R. Allen'.

Michele R. Allen

Enclosure

cc: Greg Guernsey, Neighborhood Planning and Zoning Department, via hand delivery (without enclosure)  
Jorge Rousselin, Neighborhood Planning and Zoning Department, via hand delivery (with enclosure)  
Austan Librach, Economic Growth and Redevelopment Department, via facsimile 974-7825 (without enclosure)  
Brett Denton, Gables Residential, via facsimile 502-6009 (without enclosure)  
Jim Knight and Charlie Fowler, Bury + Partners, via facsimile 328-0325 (without enclosure)  
Heidi Ross, WHM Transportation Engineering, via facsimile 473-8237 (without enclosure)  
Steve Drenner, Firm



# DOWNTOWN AUSTIN ALLIANCE

*A Vision and a Voice for Downtown*

## Officers

Jeff Trigger, Chair  
Derrick Hunt  
John Bonatz, Vice Chair  
Business Strategies Group  
Nancy Barnes, Secretary  
Normand Thayer  
G. Kent Collins, Treasurer  
Centre Development

## Board of Directors

Taylor Brown  
AMLI Residential Properties Trust  
Maydon Realty  
American Realty Corporation  
Oakley Commercial  
Dynamis Property Group LLC  
C. Wade Carson, Chief Executive  
Jackson Walker LLP  
Green Center  
Austin Children's Museum  
Tim Flaherty  
Flaherty Company  
John C. Foster  
Wells Fargo Bank  
Robert Gartin  
Randy Office Properties Trust  
Charles Richmond  
Firehouse No. 1 Corporation  
Tim Wondolowski  
Coastal Properties  
Gary Massey  
Pecos Street Real Estate Holdings  
Brenda McDonald  
Mark Shaw Properties  
BRI McLean  
Treaty Oak Financial  
John Wylder  
Agiltra Corporation  
Jeff Pace  
CorvAmerica Realty  
Tina Feltre  
Crescent Real Estate Equities  
Dana Polan  
Shelb Preservation Board  
Vic Russo  
Russo Commercial LLC  
Amy Shaw Thomas  
University of Texas  
Jodi Shaw  
Congress Holdings Group  
Steve Simpson  
Angshury Management  
Judy Baker  
Wilson Hotels Corporation  
Kofon Bonlechner  
Travis County  
Julia Spauld  
Carnegie of Austin  
Leo Walker  
Capital Mains  
Will Wynn  
City of Austin

Charles Bates, Executive Director  
Downtown Austin Alliance

311 East Seventh Street, Suite 100-L  
Austin, TX 78701

Phone: (512) 469-1766

Fax: (512) 477-7456

Website: [www.downtownaustin.org](http://www.downtownaustin.org)

E-Mail: [dae@downtownaustin.org](mailto:dae@downtownaustin.org)

October 14, 2005

Mr. Brett Denton  
Gables Residential  
6850 Austin Center Blvd., Suite 200  
Austin, 78731

Mr. Denton,

We understand that in order to fulfill your plans to build a mixed-use project in southeast downtown Austin, you are seeking DMU-CURE zoning on a tract that is currently zoned DMU. At its October 2005 meeting, the Board of Directors of the Downtown Austin Alliance voted to support the requested zoning change so that a portion of the project may exceed the current height restrictions. This excellent project will enhance an emerging district, and we are pleased to support it.

Sincerely,

Jeff Trigger  
Chair

cc: Steve Drenner, Drenner Stuart Wolff Metcalfe von Kreisler, LLP





## **M E M O R A N D U M**

**TO:** Mayor Will Wynn and City Council Members

**FROM:** Perry Lorenz, Chair  
Downtown Commission

**DATE:** October 20, 2005

**RE:** Gables Park Plaza  
910 W. César Chávez  
Proposed Rezoning to DMU-CURE  
Case No. C14-05-0005

---

At their Wednesday, October 20, 2005 meeting, the Downtown Commission received a presentation on the proposed mixed-use project at 910 W. César Chávez. After discussion, the Commission unanimously approved the following resolution:

"The Downtown Commission recommends approval of the zoning change to DMU-CURE as requested by the applicant."

A handwritten signature in dark ink, appearing to read "Perry Lorenz", is written over a horizontal line.

Perry Lorenz, Chair  
Downtown Commission

**cc:** Toby Hammett Futrell, City Manager  
Alice Glasco, Director, Neighborhood Planning and Zoning Department  
Tom Bolt, Neighborhood Planning and Zoning Department



# AUSTIN DESIGN COMMISSION

**October 31, 2005**

Mayor WB Wynn  
Mayor Pro Tem Danny Thomas  
Council Member Jennifer Kim  
Council Member Paul Alvarez  
Council Member Betty Donkerley  
Council Member Brewster McCracken  
Council Member Lee Lettingwell

RE: Gables/LIC development rezoning from DMU to DMU CURE

Dear Mayor and members of the City Council:

On October 24, 2005 the Design Commission received a presentation from Steve Drenner regarding the proposed Gables LIC project and his request for a change of zoning from DMU to DMU CURE. As you know, this site has many challenging aspects, including Capitol View Corridor limitations, proximity to Town Lake, access to the Pfleger bridge extension, and providing parking and access for the future Seaholm District.

The developers have worked with the City and the public in order to address many of these challenges, and the Design Commission recognizes their efforts in coming up with design solutions amenable to the various stakeholders. The developers have also committed to participating in the Great Streets program on the south side of the project and on the interior drive being proposed to accommodate the Pfleger Bridge extension.

The Design Commission believes the requested change in zoning will allow the developers to create a better project with a greater mix of uses, and we therefore support the change of zoning from DMU to DMU CURE. However, there are a few issues of concern that we would like to point out. First, we are concerned about the service access from the project to Lamar Blvd., which is already a traffic problem. Also, we hope that the buildings that line the internal drive created for the Pfuger Bridge extension can be designed to accommodate a human scale in terms of both height (which may warrant stepping back the building) and length (which could be addressed with pedestrian access points that could break up the massing of the building). Finally, our support is contingent upon the additional height being restricted to one lower at 200' height and the provision of the Pfuger Bridge extension including a bicycle lane, streetscape improvements, and ground floor retail as presented at the meeting.

The Design Commission wishes to commend the Gables/LIC developers for their commitment to the public process and their focus on how the proposed project will integrate into the changing landscape of Downtown. We support the change in zoning as indicated and would welcome the opportunity to periodically review the project as the design progresses.

Sincerely,  
*Richard Weiss*  
Richard Weiss, AIA  
Chair, Austin Design Commission  
Cc: City Manager Toby Futrell