

**MANAGED GROWTH AGREEMENT
REVIEW SHEET**

CITY COUNCIL DATE: June 24, 2010

CASE NUMBER: SP-2010-0090C.MGA

PROJECT NAME: Aviara Heights and Residences

ADDRESS: 7308 Old Bee Caves Road

AREA: 39.5 acres

OWNER: CRB-Aviara L.P.
221 W. 6th Street, Suite 1900
Austin, TX 78701

AGENT: Hanrahan Pritchard Engineering Inc.
8333 Cross Park Dr.
Austin, TX 78754

CASE MANAGER: Nikki Hoelter Telephone: 974-2863
Nikki.hoelter@ci.austin.tx.us

PROPOSED DEVELOPMENT: The development consists of a 10 phase single and multi family development, which will include 134 single unit detached condominiums and one four-plex building.

Existing improvements on site include, one, four-plex condominium building, and 8 detached condominium buildings, a swimming pool, playground area, all interior drives and roads, water quality and drainage ponds, utilities and infrastructure. All existing improvements were constructed under the previously approved site plan SP-06-0281C. Currently one detached condominium structure is under construction. 126 detached condominium structures remain to be built.

Site plan SP-06-0281C expired under project duration on May 15, 2009. A new site plan SP-2010-0090C.MGA has been filed with a Managed Growth Agreement request. This site plan is substantially the same as the original now expired site plan.

EXISTING ZONING: The site is zoned SF-6-NP and LR-NP; and is located in the Oak Hill Combined Neighborhood Plan West

APPLICANT'S REQUEST FOR MGA: The applicant is requesting a 10 year permit life to a new to an approved site development permit through the Managed Growth

Agreement process. The purpose of this agreement is to provide certainty that this project will not be required to undergo design changes as a result of changes to City regulations over a long period of time. This amount of time is required in order for the owner to obtain buyers for each unit and complete the project in phases.

This would extend the life of the permit to January 22, 2020.

NEIGHBORHOOD ORGNIZATIONS:

Austin Parks Foundation
Austin Independent School District
Austin Neighborhood Council
Austin Southwest Association
Barton Springs/Edwards Aquifer Conservation District
Far South Austin Community Assn.
League of Bicycling Voters
Homeless Neighborhood Association
Home Builders Association of Greater Austin
Onion Creek Homeowners Association
Park Ridge Owners Assn.
Super Duper Neighborhood Objectors and Appealers Organization
Terrell Lane Interceptor Association

LEGAL DESCRIPTION: 5.054 acres more or less out of the A.J. Bond Survey No.91, Abstract 114 as described in the special warranty deed to PCG-Aviara L.P. A Texas Limited Partnership recorded as Document # 2006173743, in the official records of Travis County, Texas and 33.098 acres and 1.307 acres more or less as described in the special warranty deed to PCG-Aviara L.P. a Texas Limited Partnership recorded as Document # 2006173744 in the official records of Travis County, Texas.

WATERSHED: Williamson Creek (Barton Springs Zone – Contributing Zone)

APPLICABLE WATERSHED ORDINANCE: Williamson Creek Watershed
Ordinance – Ordinance No. 861009J
and associated Restrictive Covenant

CAPITOL VIEW: Not in View Corridor

T.I.A.: Not required.

PREVIOUS ZONING AND PLATTING COMMISSION ACTION: Not required for the approval of the MGA, managed growth agreement.

PREVIOUS SITE PLAN APPROVAL: A site plan was approved under case number SP-06-0281C on December 29, 2006 on this site for the same development that's requesting an MGA. Because it's located in the Drinking Water Protection Zone and subject to Project Duration under LDC 25-1, the site plan expired May 15, 2009. No variances were requested with the site plan.

Zoning Ordinance No. 86-1009-J changed the zoning on the property to SF-6 and LR, and had a restrictive covenant attached to the zoning ordinance. The site is located in the Barton Springs Zone, and over the Contributing Zone, however NOT located in the Edwards Aquifer Recharge Zone. The restrictive covenant permitted the project to develop under the Williamson Creek Watershed regulations in effect in 1986.

It also stated that for Lot 1, the SF-6 zoned portion of the land, a maximum impervious cover of 50 % was permitted, Limited to a maximum of 400 residential units and, no development on slopes with a grade of 15% or greater.

For Lot 3, which is the LR zoned portion of the site, a maximum impervious cover limit of 65%, maximum building square footage of 48,000 square feet, limited to one curb cut along Old Bee Cave Road and no development on slopes with a grade of 15% or greater.

Because the restrictive covenant accompanied the zoning ordinance, the applicant did not request grandfathering of the site plan, and therefore staff reviewed and approved the plan based on current code as modified by the approved restrictive covenant standards.

If the restrictive covenant were not in place, the plan would have been required to comply with current standards, (SOS ordinance regulations), which would have involved stricter water quality rules and an impervious cover limit of 25% for the entire site.

A unified development agreement was executed with this site plan which tied the two lots together, for purposes of impervious cover, joint access and maintenance of water quality and detentions ponds.

SITE PLAN APPROVAL: Based on the previously mentioned history of the 2006 site plan the new site plan that matches the previous site plan, was administratively approved on May 11, 2010, for a permit life of 3 years. Because this site is subject to Project Duration under 25-1-535 (B)(4)- Drinking Water Protection Zone, the expiration for the site plan permit is 3 years from the submittal date of January 22, 2010, which would then **expire on January 22, 2013.**

The site complies with portions of Subchapter E that pertain to all zoning districts. 2% private common open space is being provided and the exterior lighting requirement which requires light fixtures to be shielded and hooded are being met. No buildings are proposed within the LR zoning district, therefore no portion of Subchapter E will be required to be met on this lot.

SUMMARY STAFF RECOMMENDATION: Staff does not recommend approval of the requested Managed Growth Agreement. Based on the adopted rule for MGA's which requires that "A Managed Growth Agreement application must meet or exceed current code and will not impede or delay other city initiatives related to economic development or sustainable growth." The applicant is requesting a 10-year extension to an approved site plan through a MGA.

The current, approved site plan does not meet Land Development Code requirements as of application date January 22, 2010, which specifically speak to the Save Our Springs Ordinance, in regards to impervious cover limitations and water quality controls. Under current code, the maximum impervious cover limit would be 25% for the entire site and more restrictive water quality pond regulations. Currently, water quality is being provided but not built to current standards.

The owner would be permitted to request a one year administrative extension if the request were submitted 60 days prior to the expiration date. Once that extension expires, no further extensions could be granted. Section 25-1, Project Duration supersedes all other sections, including 25-5, which speaks to site plan permit approval.

Since staff does not recommend the 10 year time frame for the extended expiration date, the owner would be permitted to request a one, time, one year administrative extension if the request were submitted 60 days prior to the expiration date and meet criteria under

LDC Section 25-1-534(C)-

(1) Except as provided in Subsection (C)(2), obtained one or more approvals for a final subdivision plat, including subdivision construction plans for infrastructure, for at least 50% of the land area within the project between September 1, 1992 and September 6, 1997; or

(2) obtained one or more approvals for a site plan, excluding subdivision construction plans for infrastructure, for at least 30% of the land area within the project between September 1, 1992 and September 6, 1997; or

(3) since September 1, 1992 has incurred direct costs for development of the project (exclusive of land acquisition, interest expense, attorneys fees, allocated corporate overhead and ad valorem taxes) in the lesser amount of :

(a) 10% of the most recent appraised market value of the real property on which the project is located, as established by the applicable Appraisal District; or

(b) \$1 million

Once that extension expired, no further extensions could be granted and a new application would be required in order to continue development. Section 25-1-535, Project Duration supersedes all other sections, including 25-5, which speaks to site plan permit approval.

PROJECT INFORMATION: 39.5 acres

EXIST. ZONING: SF-6-NP and LR-NP

of UNITS: 135

MAX. HEIGHT ALLOWED: 36'

PROPOSED HEIGHT: 24'- 33'

PROPOSED OVERALL IMPERV. CVRG.: 46.8%

SF-6 Lot Impervious Cover - Proposed: 32.58%

SF-6 Lot Impervious Cover permitted under Restrictive Covenant: 50%

LR Lot Impervious Cover - Proposed: 13.9%

LR Lot Impervious Cover permitted under Restrictive Covenant: 65%

REQUIRED PARKING: 412 **PROVIDED PARKING:** 412 via garages within each unit and tandem spaces in the driveway

CURRENT CODE STANDARDS (based on SOS regulations for Contributing Zone within Barton Springs Zone)

Maximum Permitted Impervious Cover: 25% *

*For entire site, due to the executed Unified Development Agreement for both lots which tied the site together for purposes of impervious cover, maintenance of detention facilities, parking, and joint access.

PROPOSED ACCESS: Access from an existing driveway onto Old Bee Caves Road.

SUMMARY COMMENTS ON SITE PLAN:

LAND USE: This large condominium site consists of 39.5 acres, and is currently zoned SF-6-NP and LR-NP and is in the Drinking Water Protection Zone. The following improvements constructed on site include 8 buildings, one 4-plex, the community pool, all drives, utilities and water quality and detention ponds. 126 units are left to be built, and parkland dedication fees were paid for all proposed units.

ENVIRONMENTAL: This site is located in the Williamson Creek Watershed and is classified as Barton Springs Zone. The site is not located over the Edward's Aquifer Recharge Zone. Environmental regulations were reviewed based on the restrictive covenant associated with the zoning ordinance, which was the Williamson Creek watershed ordinance in effect in 1986. There are no Critical Environmental Features on this site. All environmental comments have been cleared.

TRANSPORTATION: Access will be from Old Bee Caves Road
A TIA was not required. All transportation comments have been cleared.

SURROUNDING CONDITIONS:

Zoning/ Land Use

North: SF-6-NP, RR-NP, SF-2-NP - Undeveloped

South: GO-NP, SF-6-NP, RR-NP – Single family residence, church

West: SF-2-NP, P-NP - Undeveloped

East: Old Bee Caves Road (ROW), RR-NP – Single family residence

<u>STREET:</u>	<u>R.O.W.</u>	<u>SURFACING</u>
Old Bee Caves Road	varies	80'



CITY OF AUSTIN
One Texas Center-505 Barton Springs Road
Site Plan Permit-Drinking Water Protection Zone

Application Date: 12/11/2009 **Site Plan Expiration Date:** May 11, 2012
Permit No.: SP-2010-0090C **Project Duration Expiration Date:** Dec. 11, 2012
Project Name (or description): AVIARA SINGLE AND MULTI-FAMILY PROJECT
Address or Location Description: 7308 OLD BEE CAVES RD
Watershed: Williamson Creek
Owner of Property: CRB Aviara LP, (512) 499-0088
Address: 221 W. 6th St., Suite 1900, Austin, TX 78701
Owner's Representative: Thrower Design, (Ron Thrower) (512) 476-4456
Address: 4608-A South Lamar Austin, TX, 78745
Legal Description: 39.5 Acres of land situated in the A.J. Bond Survey No. 91, The Thomas Anderson Survey No. 90 and the TW Moore Survey No. 526 in Travis County

PERMIT IS HEREBY ISSUED FOR:

The construction of a 10 phased single and multi family housing development, which will include 135 single unit detached condominiums on 39.5 acres.

One 4-plex condominium building and all drives, water quality, and drainage ponds, and infrastructure were permitted and built under case number SP-06-0281C.

The project is located within the Williamson Creek watershed and is subject to all watershed protection regulations as set forth in Chapter 25 of the City of Austin Code of Ordinances. This project is located within the City's Full-Purpose jurisdiction.

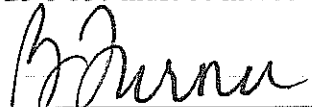

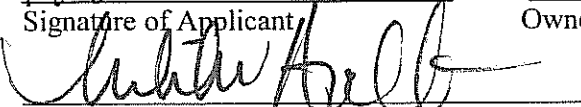
CONDITIONS OF PERMIT

It is agreed that the proposed development shall be performed and completed in accordance with the plans and specifications approved by the City of Austin Standard Specifications and Code requirements and State of Texas construction safety statutes. All development approved by this permit is subject to the inspection and control of the City of Austin.

It is the responsibility of the permit holder to identify all utilities in the work area and to notify each utility of the scope of work in the immediate area of the utilities.

ENGINEER'S CERTIFICATION: Inspection and a "Certification of Completion" by a Texas Licensed Engineer is required for the development approved by this permit. No Certificate of Occupancy may be approved until the Engineer's Certification is filed. The engineer is responsible for the adequacy of the plans submitted with this application.

SPECIAL CONDITIONS: This project is located in the Drinking Water Protection Zone (DWPZ). An administrative, one time one year, extension may be requested under Sec. 25-1-537 for this project provided the request is submitted at least 60 days prior to the expiration date noted above. Progress under 25-1-537 must be met for the extension. No other extensions may be granted.


Signature of Applicant For  CRB Aviara LP 5/11/10
Owner Date

Permit Approved by City of Austin 5/11/10
Date

Thrower Design

4608-A South Lamar Boulevard
Austin, Texas 78745
(512) 476-4456 • Fax (512) 476-4454

January 14, 2009

Mr. Greg Guernsey, Director
Planning & Development Review Department
City of Austin
P.O. Box 1088
Austin, Texas 78767

RE: Managed Growth Agreement - Aviara Heights and Residences - SP-06-0281C

Dear Mr. Guernsey,

Attached you will find the requisite materials necessary for review and processing for a Managed Growth Agreement application to the above referenced project.

The 39.5 acre project is located at 7308 Old Bee Caves Road, lies in the Williamson Creek watershed, classified as Barton Springs Zone, and has zoning of "SF-6" and "LR". The 4.23 acre "LR" piece is along the Old Bee Caves Road right-of-way and contains the access to the development which is in the 35.27 acre "SF-6" portion. The project common infrastructure facilities have been constructed and accepted by the City of Austin as complete. Only 10 residences have been constructed in 7 buildings out of a total of 135 residences proposed for the project. The attached site plan reflects the infrastructure and residences that have been constructed shown with a shading over the site areas where these areas are 100% complete.

The purpose of this application is to request a Managed Growth Agreement for the project to all for a build-out of 10 additional years for completion of the entire project. As you are aware, the current economical conditions of the world have caused for a dramatic slowdown in sales of residential units. Only time will correct the situation as the projected absorption models at the time of initial site plan approval have not been met. With the entire infrastructure in place, designed and built to the current water quality standards of SOS, it is reasonable to continue the same project endeavor to completion of each residential unit within the project boundary.

L A N D P L A N N E R S

The Aviara Heights and Residences meets the requirements for a Managed Growth Agreement application as follows:

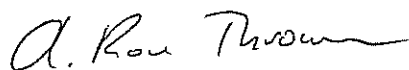
- 1) Large Project – The entire 39.5 acre site consists of multiple phases as shown on Sheet 70. The 10 phases of construction are shown; however, these will differ from actual phases of construction which will be determined as buyers come forward to live in the Aviara Heights and Residences project. Ultimately, the number of phases may be as many as there are buildings on the property so that each Certificate of Occupancy can stand-alone solely contingent on the single building. Further, every building shown on the site plan will require a separate building permit. Thus far, 7 residential buildings and the amenity center building have been constructed. The remaining number of building permits to complete Aviara Height and Residences numbers to 128 building permits.
- 2) Long-Term Project – The time-frame to complete all of the construction associated with this development is anticipated to take 10 years from the date of the application. The vitality of the Aviara Heights and Residences lies with 100% completion of the project to equitably divide the interest to the expected residences for continued and perpetual maintenance of the common facilities.

The project meets all current codes of the City of Austin.

Therefore, on behalf of our client, we respectfully request consideration of a 10 year Managed Growth Agreement site plan for the 135 unit condominium project known as Aviara Height and Residences.

Should you have any questions or need additional information, please contact me at my office.

Sincerely,

A handwritten signature in cursive script that reads "A. Ron Thrower".

A. Ron Thrower

and a notice of construction filed within 10 years of the date on which the new application is approved. The new application must reduce impervious cover as follows:

- (1) Other than in the Barton Springs Zone, impervious cover must be reduced to not more than the lesser of 25 percent of net site area or of the impervious cover limitations for the net site area under the regulations in effect for the original application; and
- (2) Other than in the Barton Springs Zone, impervious cover must be reduced to not more than the lesser of 20 percent of the net site area in any portion of the recharge zones of the Northern Edwards Aquifer and Southern Edwards Aquifer located outside the Barton Springs Zone or of the impervious cover limitations for the net site area under the regulations in effect for the original application.

Source: Ord. 990225-70; Ord. 031211-11.

§ 25-1-539 INCENTIVES FOR UPDATING TO CURRENT REGULATIONS.

An application that may comply with original regulations may be withdrawn and a new application filed that complies with the regulations in effect on the date of the new application. As an incentive, the city council may approve modifications of site development regulations, other than compatibility standards, water quality regulations, or drainage regulations.

Source: Ord. 990225-70; Ord. 031211-11.

§ 25-1-540 MANAGED GROWTH AGREEMENTS.

An applicant who files the first application for a project after September 5, 1997 may request that the city council enter into a Managed Growth Agreement for planning and developing large projects, long term projects, or any project which has special benefits that are in the public interest. The agreement may specify the time period during which an application may comply with original regulations and shall establish an

expiration date for each application necessary to complete the project if the otherwise applicable expiration date is to be extended.

Source: Ord. 990225-70; Ord. 031211-11.

§ 25-1-541 WAIVER OF FEES.

The director shall waive the filing fee for an application that is required to bring a project into compliance with subsequent regulations under this article.

Source: Ord. 990225-70; Ord. 031211-11.

§ 25-1-542 NONAPPLICABILITY; COUNCIL AGREEMENTS.

(A) This article does not apply to:

- (1) Chapter 25-12, (*Technical Codes*), or Chapter 25-3, (*Traditional Neighborhood District*), of the City Code;
- (2) all zoning regulations;
- (3) ordinances and regulations for utility connections;
- (4) ordinances and regulations to prevent the imminent destruction of property or injury to persons;
- (5) ordinances and regulations regarding the construction of public works located on public lands and easements.
- (6) ordinances and regulations necessary to comply with federal or state requirements.

(B) The following agreements are governed by their terms and laws applicable thereto and are not subject to this article:

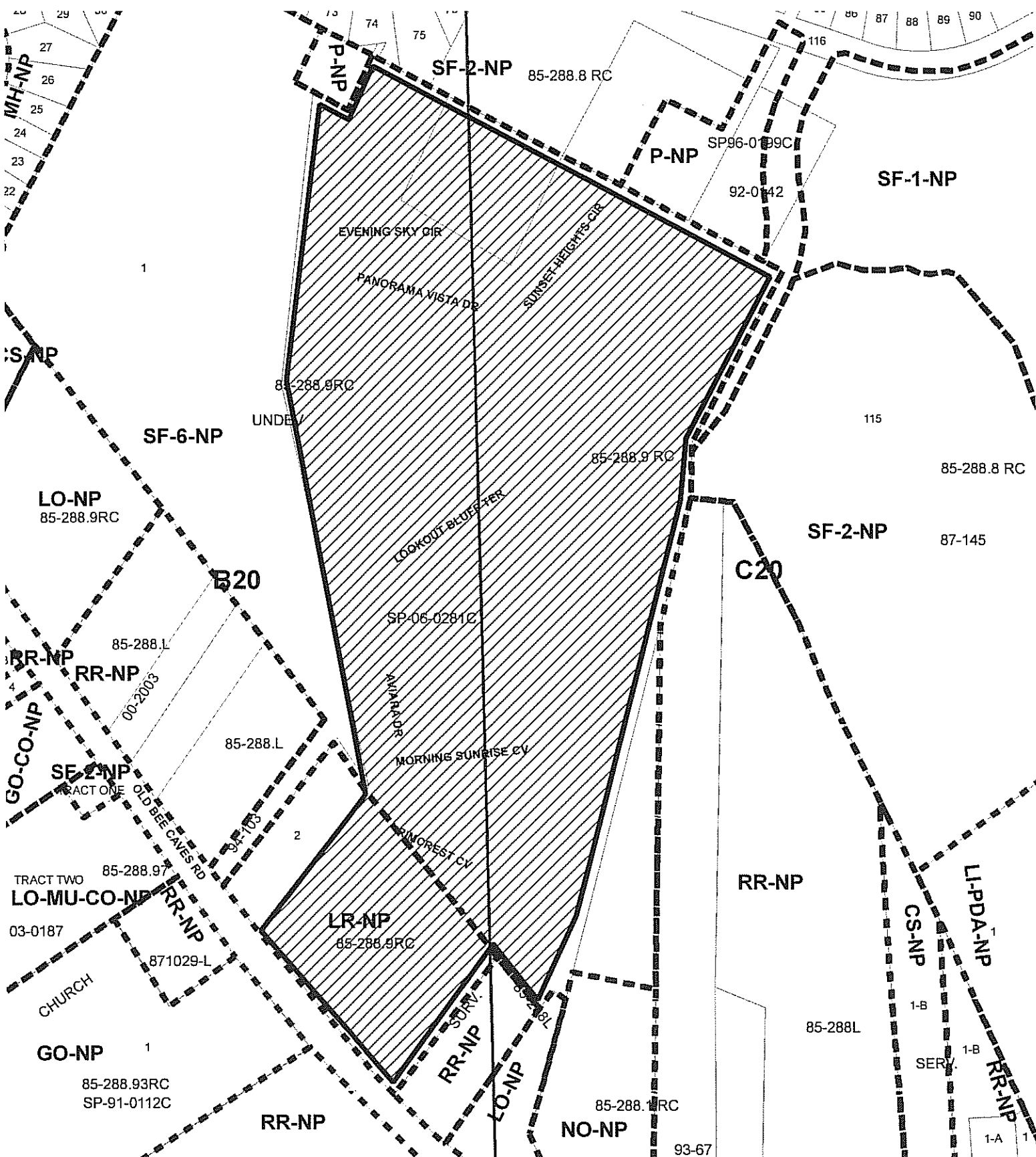
- (1) a planned development area agreement approved by the council or a planned development area combining district;

SUMMARY LETTER

Submit a summary letter which explains why a Managed Growth Agreement is being requested and how the project meets one or more of the following criteria. The letter should also state the proposed time period during which an application may comply with original regulations and should establish an expiration date for each application necessary to complete the project.

Definitions and Criteria:

- A *large* project:
 - Consists of three or more phases, constructed sequentially, or
 - requires more than two building permits to complete the project
- A *long-term* project:
 - Is a master planned development
 - Fund raising is necessary for implementation
 - Is a mixed-use project, or
 - design and construction will exceed five years
- Special public benefit includes one of the following:
 - 501 C3 project that complements city initiatives
 - Educational facilities
 - Hospitals, medical research, or other health facilities
 - Joint public/private projects
 - Emerging technology/small or minority business
 - Sustainable development in the Desired Development Zone
 - Cultural arts and heritage
 - Other public benefit as determined by City Council
- Other requirements
 - A Managed Growth agreement application must meet or exceed current code and will not impede or delay other city initiatives related to economic development or sustainable growth. Staff will make a recommendation to Council.



SITE PLAN



SUBJECT TRACT



ZONING BOUNDARY

CASE#: SP-2010-0090C.MGA
 ADDRESS: 7308 Old Bee Caves Road
 GRID: na
 MANAGER: Nikki Hoelter

OPERATOR:



This map has been produced by site plan review for the sole purpose of geographic reference.
 No warranty is made by the City of Austin regarding specific accuracy or completeness.

Project: AVIARA HEIGHTS AND RESIDENCES
Site: 7308 OLD BEE CAVES ROAD
Date: 02/01/07
Drawn By: HD
Checked By: GFL
Scale: 1" = 40' x 100'



AVIARA HEIGHTS AND RESIDENCES SITE PLAN "B" 7308 OLD BEE CAVES ROAD

HANRAHAN • PRITCHARD ENGINEERS, INC.
CONSULTING ENGINEERS
3000 CROSS PARK DRIVE
AUSTIN, TEXAS 78754
OFFICE: 512.459.1714 FAX: 512.459.1725
hpe@hpe-engineers.com
HPE

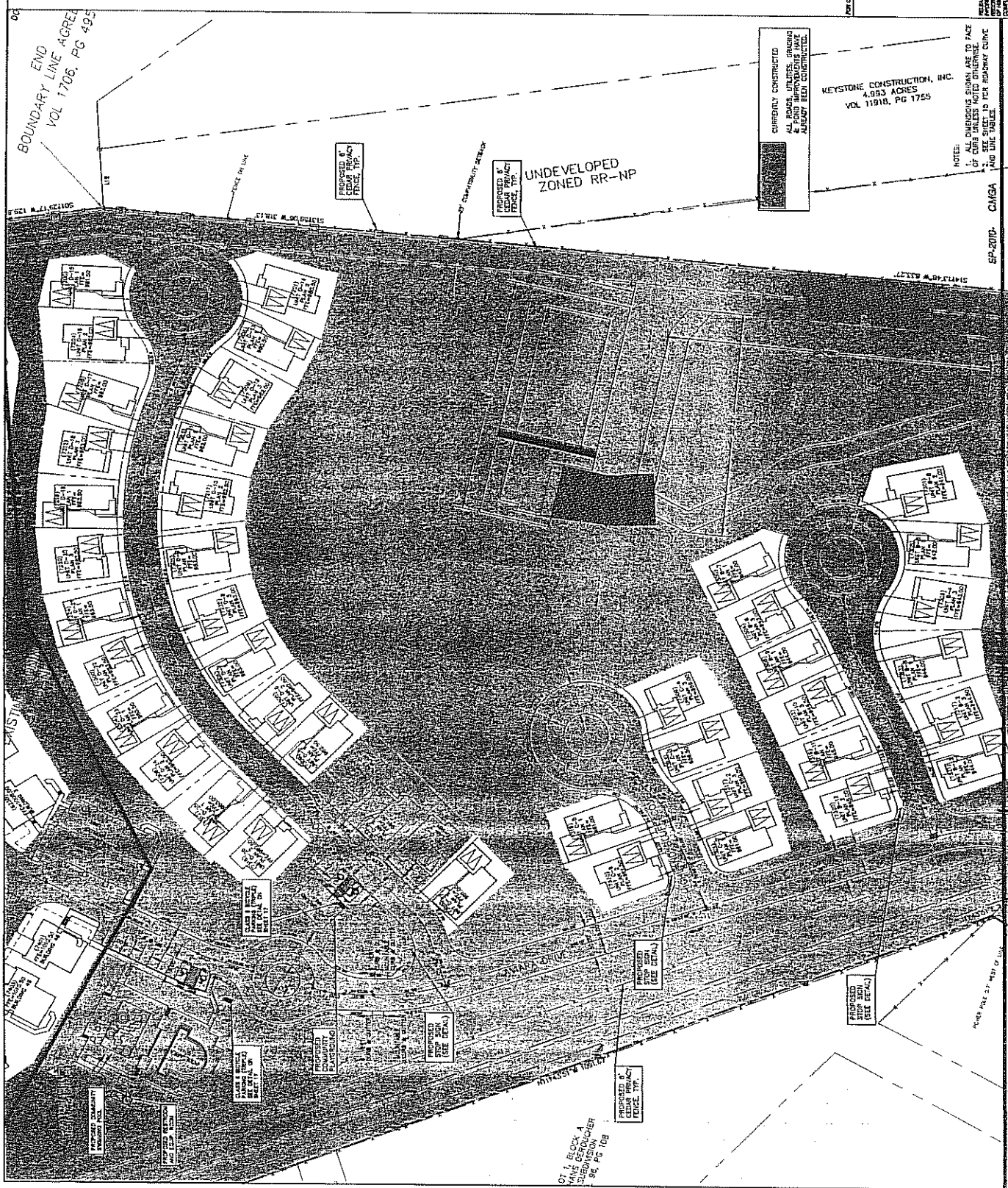
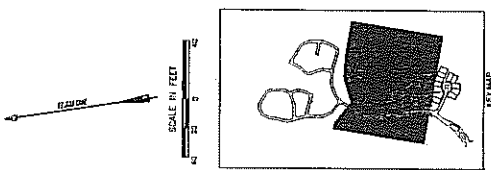
PERMITS AND APPROVALS

City of Austin: _____
County of Travis: _____
State of Texas: _____

NOTES:

1. ALL DIMENSIONS SHOWN ARE TO FACE UNLESS NOTED OTHERWISE.
2. SEE SPECIFICATIONS FOR DIMENSIONAL TOLERANCES AND TYPICAL DETAILS.

EXISTING	PROPOSED	LEGEND
1. EXISTING LOT LINES	1. PROPOSED LOT LINES	1. LOT LINES
2. EXISTING DRIVEWAYS	2. PROPOSED DRIVEWAYS	2. DRIVEWAYS
3. EXISTING SIDEWALKS	3. PROPOSED SIDEWALKS	3. SIDEWALKS
4. EXISTING CURBS	4. PROPOSED CURBS	4. CURBS
5. EXISTING PAVEMENT	5. PROPOSED PAVEMENT	5. PAVEMENT
6. EXISTING UTILITIES	6. PROPOSED UTILITIES	6. UTILITIES
7. EXISTING TREES	7. PROPOSED TREES	7. TREES
8. EXISTING FENCES	8. PROPOSED FENCES	8. FENCES
9. EXISTING WALLS	9. PROPOSED WALLS	9. WALLS
10. EXISTING POOLS	10. PROPOSED POOLS	10. POOLS
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12. EXISTING DECKS	12. PROPOSED DECKS	12. DECKS
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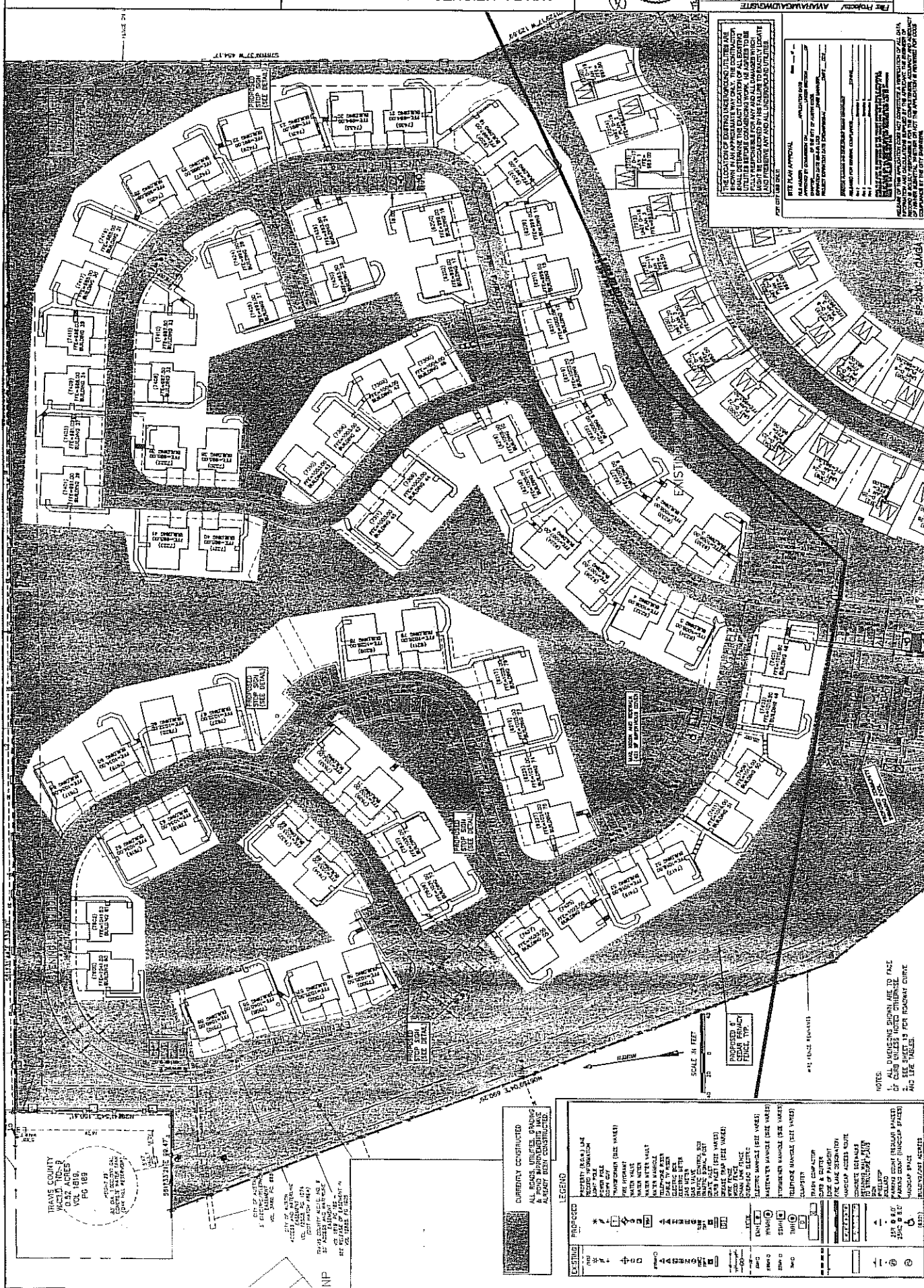


Figure 1

1. *Phylogenetic relationships*—Phylogenetic relationships among the 10 species were determined using the maximum parsimony method. The analysis was performed using the program PAUP 4.0 (Felsenstein 1999). The heuristic search was performed with 1000 random starting trees, 1000 iterations of tree-shrinking, and 1000 iterations of tree-building. The tree was collapsed to the shortest length possible. The support for the nodes was determined using the bootstrap method (1000 replicates). The results of the analysis are presented in the form of a phylogenetic tree.

100

THE NATIONALS OFFICE AND INSPECTOR FOR FINAL APPROVAL
VERTICAL CLEARANCE REQUIRED FOR FIRE APPARATUS IS 16 FEET FOR FULL WIDTH

VERTICAL CLEARANCE BETWEEN THE TOP OF THE WALL AND THE BOTTOM OF THE OVERHEAD POWER LINES SHALL BE NOT LESS THAN 10 FEET. THE MINIMUM CLEARANCE BETWEEN THE TOP OF THE WALL AND THE BOTTOM OF THE OVERHEAD POWER LINES SHALL BE NOT LESS THAN 10 FEET. THE MINIMUM CLEARANCE BETWEEN THE TOP OF THE WALL AND THE BOTTOM OF THE OVERHEAD POWER LINES SHALL BE NOT LESS THAN 10 FEET.

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LINE	LEADS	FT	READING
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DATE MM DD YY	TIME HH MM	LOCATION STREET ADDRESS, CITY, STATE, ZIP	TELEPHONE AREA CODE, NUMBER
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THE FOLLOWING LISTING OF BENEFITS IS SUBJECT TO THE BENEFICIAL PROVISIONS SET FORTH IN THE INSURANCE POLICY. THE BENEFITS ARE SUBJECT TO THE BENEFICIAL PROVISIONS SET FORTH IN THE INSURANCE POLICY. THE BENEFITS ARE SUBJECT TO THE BENEFICIAL PROVISIONS SET FORTH IN THE INSURANCE POLICY.

ZONING TABLE		PERCENTAGE	
TYPE	SIZE	AREA	UNIT
U-3	30' x 30'	100	100

THE FOLLOWING LISTING OF BENEFITS IS SUBJECT TO THE BENEFICIAL PROVISIONS SET FORTH IN THE INSURANCE POLICY. THE BENEFITS ARE SUBJECT TO THE BENEFICIAL PROVISIONS SET FORTH IN THE INSURANCE POLICY. THE BENEFITS ARE SUBJECT TO THE BENEFICIAL PROVISIONS SET FORTH IN THE INSURANCE POLICY.

INVEST	GRN	YR 2000
GRN	GRN	TOTAL

[illegible]

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DATE	10/21/81	BY	WFO
TIME	1400	FILE	100-441101
REPORT	10/21/81	FILE	100-441101

REVISED BUILDING DATA TABLE TO MATCH NEW BUILDING LAYOUTS
STREET PROJECT CHECKED
DATE 0-7-01 BY JAC

SP-2010- CMGA