

RESTRICTIVE COVENANT

DATE: 10/08, 2021

OWNER 1: 8401 VENTURE LP, a Texas limited partnership

ADDRESS 1: 3121 Eagles Nest Street, Suite 110
Round Rock, Texas 78665

OWNER 2: HARVEY KRONBERG

ADDRESS 2: 8405 South 1st Street
Austin, Texas 78748

PROPERTY: Approximately 8.87 acres of land, more or less, located at 8401, 8403, 8405, and 8407 South 1st Street, Austin, Travis County, Texas, as more particularly described on Exhibit "A" attached hereto and made a part hereof.

WHEREAS, Owner 1 and Owner 2 (collectively, "Owners") have filed with the City of Austin a zoning application No. C14-2020-0151 requesting a change in zoning from LR-MU-CO, SF-6-CO, DR, and SF-2 to MF-4-CO (the "Zoning Case").

WHEREAS, Owners have agreed that Property should be impressed with certain covenants and restrictions described herein to be established with respect to the Property, including that the Property shall be developed to include no more than 290 multifamily units ("Project").

NOW, THEREFORE, for good and valuable consideration, it is declared that Owners shall hold, sell and convey the Property, subject to the following covenants and restrictions (this "Restrictive Covenant"):

1. **Applicability.** Owners hereby acknowledge that the terms, covenants, conditions and provisions of this Restrictive Covenant shall only be binding on Owners and encumber the Property if (i) the City Council for the City of Austin has approved the Zoning Case with only those modifications that are accepted by Owners and contained in the final zoning ordinance to be approved on or around October 14, 2021, in form acceptable to Owners (the "Zoning Ordinance"), and (ii) the Property is developed and used as a multifamily project in accordance with the Zoning Ordinance.
2. **Zoning Development Standards.**
 - a. MF-4-CO zoning.
 - b. Maximum 50' height, and 4 stories must be located a minimum 170' from the north and east property line.
 - c. Maximum 40' height and 3 stories in the area within 170' from the north and east property line.
 - d. Maximum 290 dwelling units, and maximum 33 units/acre (Note: Maximum density of MF-3 = 36 units/acre).

- e. Vehicular access to Orr Drive is prohibited. Access to Orr Drive is limited to bicycle, pedestrian, and emergency ingress and egress.
- i. Section 2(e) above continues the existing Conditional Overlay (CO) established in the existing 2013 zoning ordinance (City code requires bicycle, pedestrian, and emergency access).

3. **Buffering.**

- a. North and east property line.
 - i. Minimum 45' wide dwelling unit setback along the north and east property line adjacent to single family zoned areas as generally shown on the attached Exhibit "B."
 - 1. Note: City Compatibility regulations requires minimum 25' building setback for maximum 30' height or 2 stories, and 50' building setback for maximum 40' height or 3 stories.
 - ii. Approximately 9' high screening (6' high solid wooden fence, on top of 3' high rock retaining wall system) along the north and east property line shall be included in site development permit application with modifications to the height subject to change in grade.
 - iii. A 25' wide vegetative buffer shall be located along the north and east property line ("Vegetative Buffer"). Vegetative Buffer shall include sidewalks and minimum 4" caliper evergreen trees planted every 30' along the north and east property lines ("Vegetative Buffer Trees"). Other provisions applicable to Vegetative Buffer Trees and the Vegetative Buffer include the following:
 - 1. Applicant will provide adjacent homeowners options for at least three varieties of trees from the City of Austin Grow Green Native and Adapted Landscape Plants booklet that applicant is willing to plant as Vegetative Buffer Trees. As information, applicant currently plans to plant Mexican Sycamore or Red Oak, or some combination thereof, subject to availability as Vegetative Buffer Trees.
 - 2. Applicant shall provide a two-year tree establishment plan for Vegetative Buffer Trees that includes irrigation and structural pruning by a certified arborist. If a Vegetative Buffer Tree is not properly established within 2 years following initial planting, the tree will be replanted. Two years after replanting the Vegetative Buffer Tree, it will be inspected again for establishment by a certified arborist and replaced as needed. For maximum 5 years following initial installation of Vegetative Buffer Trees, diseased trees will be replaced by a similar tree.
 - 3. Hackberries and other weed and/or invasive species currently growing along the fence line will be removed.
 - 4. A minimum of 75% of Heritage Trees currently existing on the property will be retained or relocated.
- b. West property line.
 - i. Minimum 45' wide dwelling unit setback along the west property line adjacent to single family zoned areas.

4. **Drainage.** At time of site plan application for the Project, applicant will take commercially reasonable efforts to incorporate the following four items to address onsite and offsite drainage issues in connection with the multifamily Project (see attached Exhibit "C").

- a. **Regrade.** Regrade the site along the north and east property lines and construct a retaining wall system at the perimeter to prevent water from sheet-flowing onto neighboring properties. The retaining wall system consists of a rock wall approximately 3' in height, with a 6' solid wood fence on top (approximate total of 9' high).

- b. Reroute. Provide a drainage easement along south and east property lines to redirect and slow sheet flows that are otherwise traveling unabated across the subject property.
 - c. Improve Orr Drive inlet. Rework existing inlet at Orr Drive and provide a level-spreader that will limit stormwater within the right-of-way, thereby mitigating against surges onto neighboring homeowners' properties during a 100-year flood event. A level-spreader is a stormwater dissipater that changes concentrated flow into sheet flow and outlets it at a velocity that will not cause erosion.
 - d. Over-detain. Construct a detention system onsite that is oversized to capture on-site flows, and reduce current off-site peak flow rates by 10%.
5. **Transportation.** At time of site plan application for the Project, applicant will take commercially reasonable efforts to incorporate the following transportation improvements at the new driveway connection located at Great Britain and S. 1st Street: new traffic signal, southbound left turn lane, and northbound left hand turn lane (see attached Exhibit "D"). Applicant agrees to coordinate with the City to direct any street impact fees for the project in excess of the new traffic signal improvements towards construction of sidewalk connections along the east side of S. 1st Street adjacent to the property, subject to City approval.
6. **Construction Management.**
- a. Contact information for the developer will be posted and available to neighbors to address questions and concerns. Such communications will be logged and tracked for effective followup. All followup will be provided within 2 business days following date of contact from a Beacon Ridge neighbor. If requested by Beacon Ridge neighbors, a representative from property management will be present at Beacon Ridge neighborhood meetings with reports of complaints by Beacon Ridge neighbors and status of resolving such complaints; provided, the property management representative shall not be required to attend more than one such meeting per month.
 - b. Project construction will be limited to 7am-7pm Monday through Saturday, and no Project construction will occur on Sundays.
 - c. All Project construction traffic will stay off Beaver Brook Lane.
 - d. Dust mitigation will include regular street sweeps.
7. **Connectivity with Beacon Ridge Neighbors.** The following areas on the property will be available to Beacon Ridge neighbors to provide connectivity with Beacon Ridge neighbors.
- a. Public recreational area within the 25' wide Vegetative Buffer along the north property line that includes benches, picnic tables, and dog waste stations; and
 - b. Open space with picnic tables located in the area within 25' of the S. 1st Street right of way at the grove of trees located at the southwest corner of the property.
8. **Binding Effect.** The terms and conditions of this Restrictive Covenant shall inure to the benefit of and be binding upon the respective heirs, successors and assigns of Owners. Nothing in this Restrictive Covenant, express or implied, is intended to confer upon any party other than Owners or its respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Restrictive Covenant, except as expressly provided therein. This Restrictive Covenant shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof.

9. **Severability.** If any part of this Restrictive Covenant shall be declared invalid, by judgement or court order, the same shall in no way affect any of the other provisions of this Restrictive Covenant, and such remaining provisions of this Restrictive Covenant shall remain in full effect.
10. **Modification, Termination, Amendment.** This Restrictive Covenant may be modified, amended, or terminated only by the owner(s) of the portion of the Property affected by such modification, amendment, or termination at the time of such modification, amendment, or termination.

EXHIBIT LIST

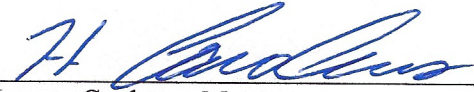
<u>Exhibit "A"</u>	--	Legal Description
<u>Exhibit "B"</u>	--	45' Setback Area Along North and East Property Line
<u>Exhibit "C"</u>	--	Proposed Drainage Improvements
<u>Exhibit "D"</u>	--	Great Britain Blvd. and S. 1 st Street – Proposed Intersection Layout

[Signature Pages Follow]

IN WITNESS WHEREOF, this Restrictive Covenant has been duly executed and delivered as of the date first above written.

OWNER 1:

8401 VENTURE LP,
A Texas limited partnership

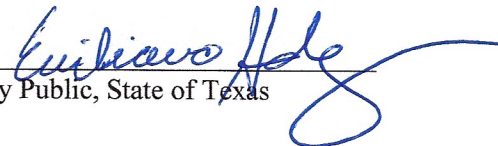
By: 
Herman Cardenas, Manager

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 8 day of October, 2021 by Herman Cardenas, Manager of 8401 Venture LP, a Texas limited partnership.




Notary Public, State of Texas

[Remainder of Page Blank]

OWNER 2:



Harvey Kronberg

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 7th day of October 2021 by Harvey Kronberg.



Notary Public, State of Texas

After Recording Return To:
David Hartman, Attorney
Smith Robertson
1717 West 6th Street, Suite 295
Austin, Texas 78703



[Remainder of Page Blank]

Exhibit A

Legal Description

Lots 1-A and 1-B, RESUBDIVISION OF LOT 1 OF THE P.F. ORR SUBDIVISION, a subdivision in Travis County, Texas, according to the map or plat of record in Volume 43, Page 25, of the Plat Records of Travis County, Texas.

Lot 1-C, RESUBDIVISION OF LOT 1 OF THE P.F. ORR SUBDIVISION, a subdivision in Travis County, Texas, according to the map or plat of record in Volume 43, Page 25, of the Plat Records of Travis County, Texas.

Lot 2, P.F. ORR SUBDIVISION, a subdivision in Travis County, Texas, according to the map or plat of record in Volume 20, Page 18, of the Plat Records of Travis County, Texas.

Exhibit B**45' Setback Along North and East Property Line**

Exhibit " "

Parcel

LEGAL DESCRIPTION

BEING a 0.8559-acre tract (37,282 sq. ft.) of land situated in the William Cannon Survey, Abstract No. 6, Travis County, Texas; being a portion of Lot 1-A of the Resubdivision of Lot 1 of the P.F. Orr Subdivision as shown on a plat recorded in Volume 43, Page 25 of the Plat Records of Travis County Texas, being a portion of Lot 1-A as described in a Special Warranty Deed to 8401 Venture, LP in Document No. 2015028648 of the Official Public Records of Travis County, Texas; said 0.8559-acres being more particularly described by metes and bounds as follows with bearings referenced to the Texas Coordinate System of 1983, Central Zone:

COMMENCING: at a 1/2-inch iron pipe found on the Southeastern right-of-way line of South First Street (R.O.W. varies) for the Northwestern corner of said Lot 1-A;

THENCE: South 62°39'15" East a distance of 104.68 feet along the northeastern line of said Lot 1-A, the southwestern line of Lot 1, Block A of the South First Addition Section One as shown on a plat recorded in Volume 49, Page 92 of the Plat Records of Travis County, Texas, to a calculated point for the southeastern corner of Lot 1, Block A of the said South First Addition, for the northwestern corner of this herein described tract;

THENCE: South 62°39'15" East a distance of 539.43 feet continuing along the northeastern line of said Lot 1-A, the southwestern line of Lot 1 & Lots 7 thru 9, Block K, the southwestern line of Orr Drive (50' Right-of-Way) and Lot 7, Block J of the Beaconridge III Subdivision as shown on a plat recorded in Volume 74, Page 92 of the Plat Records of Travis County Texas, to a 5/8-inch iron rod with cap stamped "JONES|CARTER" set for the northeastern corner of said Lot 1-A, the southeastern corner of said Lot 7, Block J, the northwestern corner of Lot 6, Block J of the said Beaconridge III Subdivision, for the northeastern corner of this herein described tract;

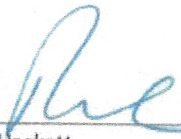
THENCE: South 00°24'21" West a distance of 315.96 feet along the eastern line of said Lot 1-A, the western line of Lots 1-6, Block J of the said Beaconridge III Subdivision to a 3/4-inch iron pipe found on the northern line of a called 9.95-acre tract of land as described in a Cash Deed to Roger Rich et al. in Volume 4400, Page 2037 of the Deed Records of Travis County, Texas for the southeastern corner of said Lot 1-A, the southwestern corner of Lot 1, Block J of the said Beaconridge III Subdivision, for the southeastern corner of this herein described tract;

THENCE: South 88°36'55" West a distance of 45.02 feet along the southern line of said Lot 1-A, a northern line of said 9.95-acre tract to a calculated point for the southwestern corner of this herein described tract;

THENCE: North 00°24'21" East a distance of 289.76 feet across said Lot 1-A to a calculated point for a corner of this herein described tract;

THENCE: North 62°39'15" West a distance of 511.83 feet continuing across said Lot 1-A to a calculated point for a corner of this herein described tract;

THENCE: North 27°20'45" East a distance of 45.00 feet continuing across said Lot 1-A to the POINT OF BEGINNING and containing 0.8559-acre tract (37,282 sq. ft.) of land.

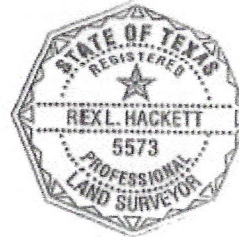


Rex L. Hackett
Registered Professional Land Surveyor No. 5573
rhackett@ionescarter.com

8401 South First Street
TCAD: 512935
City of Austin Grid: F-14

08-05-2021

Date:



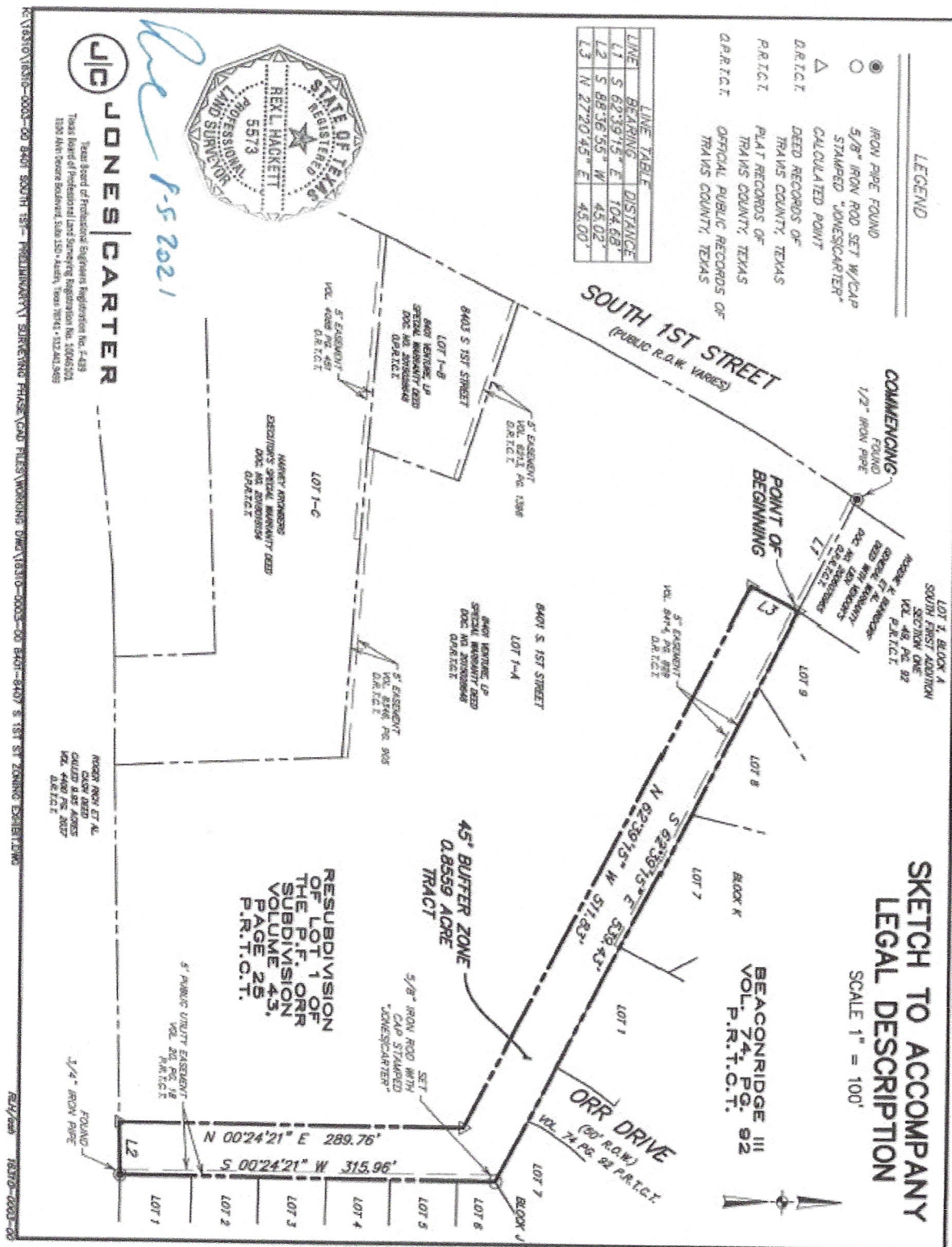


Exhibit C
Proposed Drainage Improvements

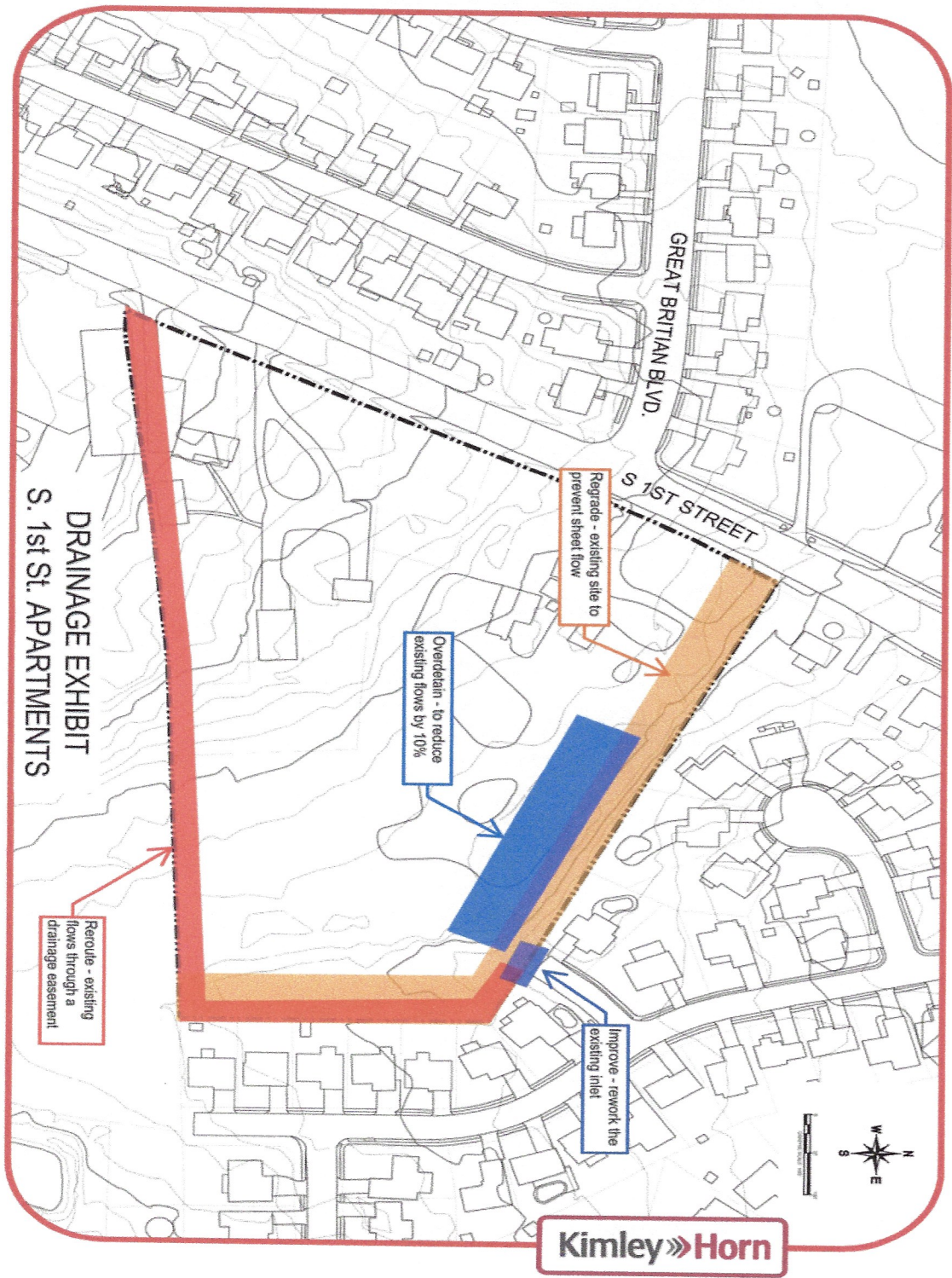


Exhibit D

Great Britain Blvd & S 1st St. Proposed Intersection Layout

