

Zoning Ordinance Approval

CITY OF AUSTIN

RECOMMENDATION FOR COUNCIL ACTION



AGENDA ITEM NO.: 69

AGENDA DATE: Thu 03/03/2005

PAGE: 1 of 1

SUBJECT: C14H-04-0027 – Brown-Ledel-Silverman House - Approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 609 West Lynn Street from multi-family residence, neighborhood plan (MF-4-NP) district to multi-family residence, neighborhood plan - Historic (MF-4-H-NP) combining district zoning. Historic Landmark Commission Recommendation: To grant multi-family residence, neighborhood plan - Historic (MF-4-H-NP) combining district zoning. Planning Commission Recommendation: Forwarded to Council without a recommendation. Applicant: Historic Landmark Commission. City Staff: Steve Sadowsky, Historic Preservation Office, Neighborhood Planning and Zoning Department, 974-6454. Note: A valid petition has been filed by the property owner in opposition to this rezoning request.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

ZONING CHANGE REVIEW SHEET

CASE NUMBER: C14H-04-0027

H.L.C. DATE: November 15, 2004

P.C. DATE: January 11, 2005

January 25, 2005

AREA: 20,046 square feet

APPLICANT: Historic Landmark Commission

HISTORIC NAME: Brown-Ledel-Silverman House

WATERSHED: Town Lake

ADDRESS OF PROPOSED ZONING CHANGE: 609 West Lynn Street

ZONING FROM: MF-4-NP

ZONING TO: MF-4-H-NP

SUMMARY STAFF RECOMMENDATION: Staff recommends the proposed zoning change from multi-family residence, neighborhood plan (MF-4-NP) combining district to multi-family residence, neighborhood plan - Historic (MF-4-H-NP) combining district zoning under Historic Landmark Designation Criteria 1, 3, 6, 9, 11, and 12, but understands that there are serious concerns about the potential for preservation of the structure due to its advanced deterioration.

HISTORIC LANDMARK COMMISSION ACTION: Recommended the proposed zoning change from multi-family residence, neighborhood plan (MF-4-NP) combining district to multi-family residence, neighborhood plan - Historic (MF-4-H-NP) combining district zoning under Historic Landmark Designation Criteria 1, 3, 6, 9, 11, 12, and 13. Vote: 7-0 (Fowler absent).

PLANNING COMMISSION ACTION: January 11, 2005: Postponed case to January 25, 2005. January 25, 2005: Forwarded the case without a recommendation.

DEPARTMENT COMMENTS: The house is listed as a Priority 1 in the Comprehensive Cultural Resources Survey (1984). Evaluation of this house for historic landmark designation is proceeding under the old Historic Landmark Designation Criteria, which were in effect at the time the application was filed.

CITY COUNCIL DATE: January 27, 2005

ACTION: Postponed to February 10, 2005 at neighborhood's request.

February 10, 2005

ORDINANCE READINGS: 1ST 2ND 3RD

ORDINANCE NUMBER:

CASE MANAGER: Steve Sadowsky

PHONE: 974-6454

NEIGHBORHOOD ORGANIZATION: Old West Austin Neighborhood Association

BASIS FOR RECOMMENDATION:

The ca. 1893 Brown-Ledel-Silverman House meets Historic Landmark Designation Criteria 1, 3, 6, 9, 11, 12, and 13:

1. Character, interest, or value as part of the development, heritage or cultural characteristics of the City of Austin, State of Texas, or the United States. The house, a relatively ornate Queen Anne, represents the development of West Austin in the late 19th century as an upper middle class residential section. Timothy Brown, the first owner of the house, was a prominent Austin educator, and principal of the West Austin (Pease) School.

3. Embodiment of distinguishing characteristics of an architectural type or specimen.

The ca. 1893 Brown-Ledel-Silverman House embodies the Queen Anne style, an opulent expression of upper class taste in the late 19th century. Queen Anne houses were very popular throughout the country from the 1880s through the 1910s. The hallmarks of the style, all found on the Brown-Ledel-Silverman House, are an asymmetrical composition, decorative wall surfaces, such as patterned shingles, elaborate fenestration, such as bay or stained glass windows, a steeply-pitched roof, and a dominant front-facing gable.

6. Relationship to other distinctive buildings, sites, or areas which are eligible for preservation according to a plan based on architectural, historic, or cultural motif.

The house is associated with Mary R. Brown, the founder of Kirby Hall, a designated city historic landmark. The house is across West Lynn Street from the landmarked Sheeks-Robertson House, and has been identified as historic in the Old West Austin Cultural Resources Survey for the neighborhood plan (2000).

9. Exemplification of the cultural, economic, social, ethnic or historical heritage of the city, state, or the United States.

The house was built for a prominent Austin educator, and later was the home of Sol Silverman, a Jewish tailor.

11. Identification with a person or persons who significantly contributed to the culture and development of the city, state or United States.

The house is significantly associated with Timothy A. Brown (1856-1948), the principal of the West Austin (Pease) School. Born near Marion, Virginia, Brown moved to Texas in 1882, teaching school in Mineral Wells and Round Rock before moving to Austin in 1892 to

become principal of the West Austin (Pease) School, a position he held for 41 years. A noted local ornithologist, Brown encouraged his students to study nature as part of their education. His wife, **Mary R. Brown (1861-1954)**, is known as the "Mother of Kirby Hall," the UT dormitory for Methodist girls, opened in 1924 after Mrs. Brown raised the money for its construction. The Browns lived here from the time of the house was built in 1893 until 1916. Later occupants include Theodor Ledel, who operated a millinery and clothing store on Congress Avenue, and Sol Silverman, a tailor with a shop in the landmarked Bosche Building on Congress.

12. A building or structure that because of its location has become of value to a neighborhood, community area, or the city. The house is located on a prominent site on the West Lynn Street hill north of Sixth Street, and a focal point of the Old West Austin neighborhood.

13. Value as an aspect of community sentiment or public pride (added by the Historic Landmark Commission).

The Old West Austin Neighborhood Association circulated a petition to save this house in 2003, and attended the Historic Landmark Commission meeting in November, 2004 in support of preservation.

PARCEL NO.: 01080303010000

DEED RECORD: Vol. 8795, P. 618

LEGAL DESCRIPTION: 104 x 200 feet out of Outlot 3, Division Z

ANNUAL TAX ABATEMENT: \$2,004 (non-owner-occupied rate). City tax abatement: \$525

APPRAISED VALUE: \$287,278

PRESENT USE: Residence

CONSTRUCTION/DESCRIPTION: Two-story irregular-plan cross-gabled Queen Anne-styled wood-frame house with 2:2 fenestration, decorative shingling in the tympanum of the front gable, and a one-story boxed gabled independent porch with a scrollwork frieze.

CONDITION: Poor. The owner has submitted a structural engineer's report.

PRESENT OWNER

William Dolph Dildy
P.O. Box 1834
Winnie, Texas 77665

DATE BUILT: ca. 1893

ALTERATIONS/ADDITIONS: The porch has been modified with the removal of a support post; several historic and non-historic additions to rear.

ORIGINAL OWNER(S): Timothy A. Brown (1893)

OTHER HISTORICAL DESIGNATIONS:

NATIONAL REGISTER: No

RECORDED TEXAS LANDMARK: No

NATIONAL LANDMARK: No

LOCAL SURVEYS: Yes. The house is listed as a top priority for preservation in the Comprehensive Cultural Resources Survey.

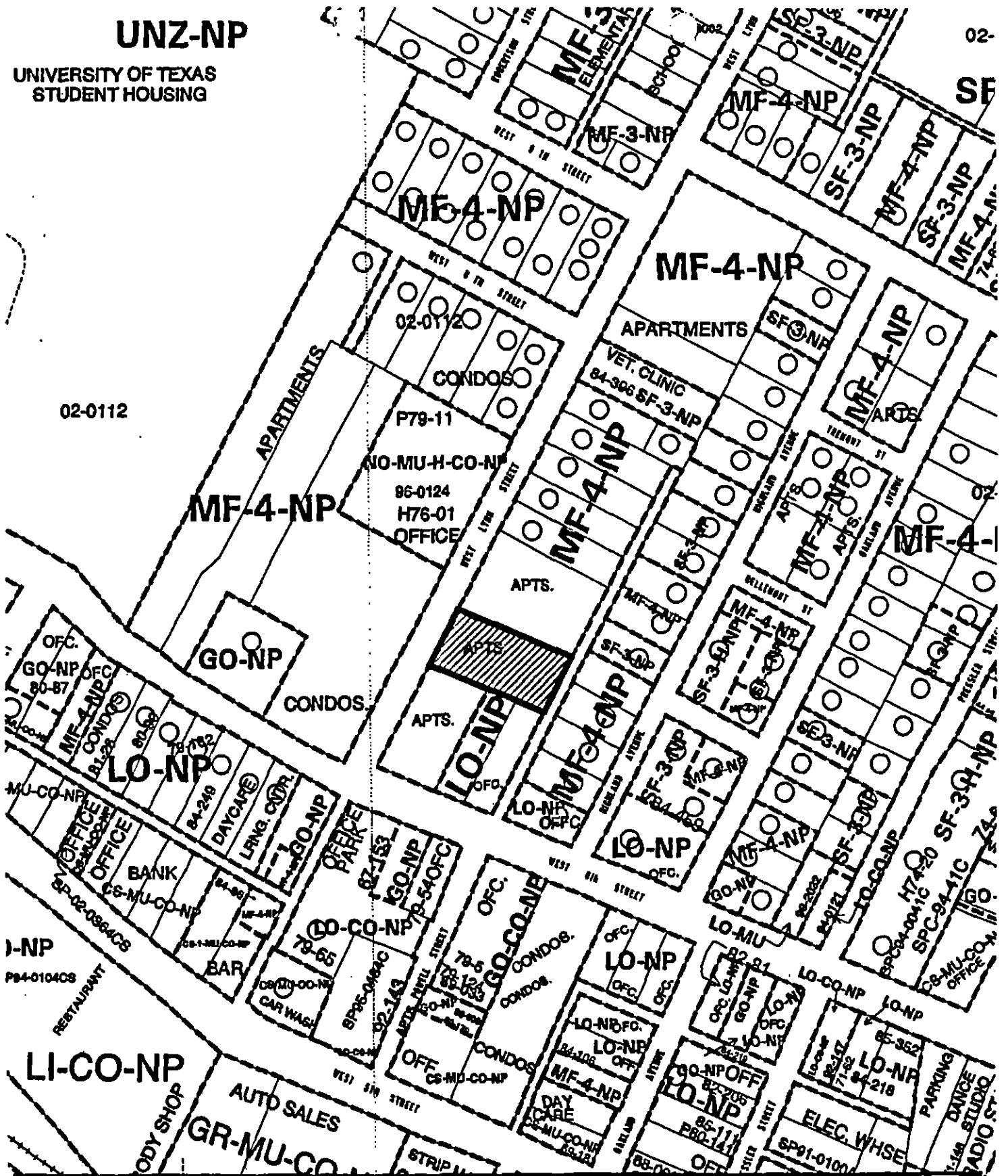
UNZ-NP

UNIVERSITY OF TEXAS
STUDENT HOUSING

02-

SF

02-0112



 1" = 200'	SUBJECT TRACT 	HISTORIC ZONING CASE #: C14H-04-0027 ADDRESS: 809 WEST LYNN STREET SUBJECT AREA (acres): N/A		DATE: 04-11 INTLS: SM	CITY GRID REFERENCE NUMBER H23
	PENDING CASE 				
	ZONING BOUNDARY 				
	CASE MGR: S. SADOWSKY				



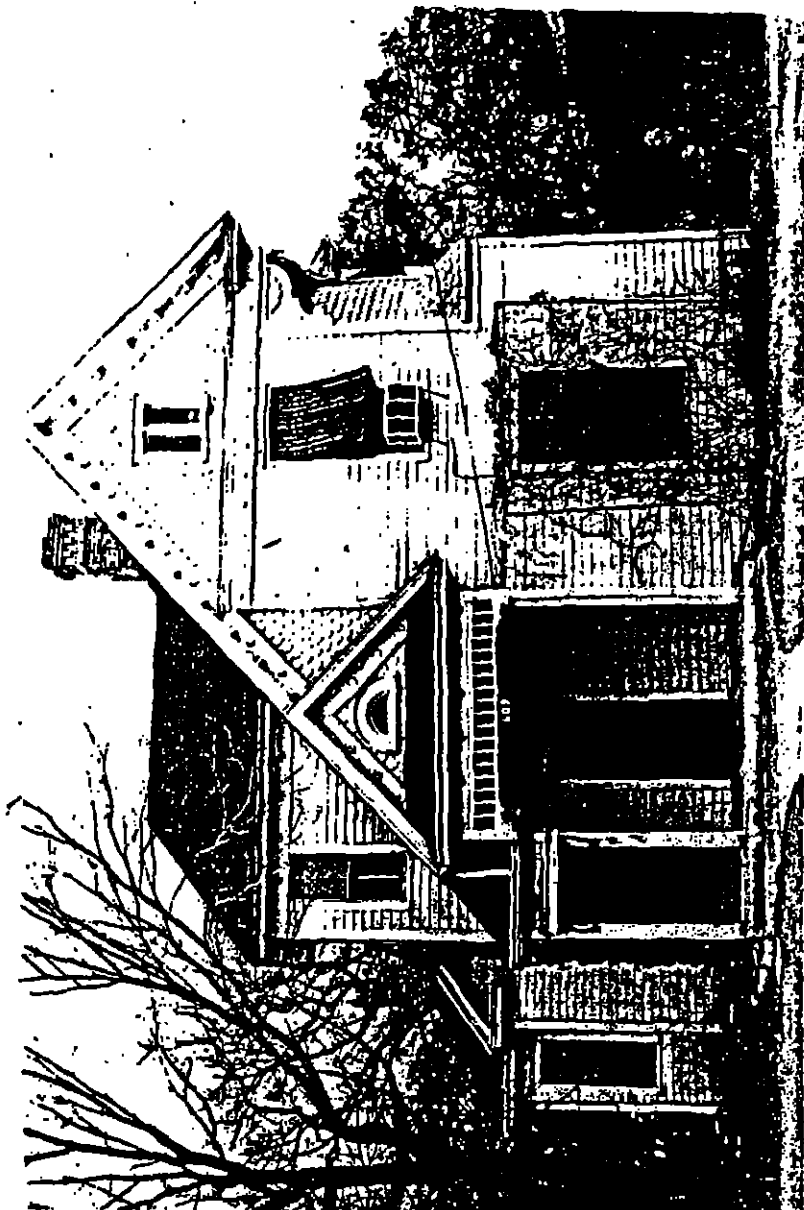
HISTORIC LANDMARK DESIGNATION CRITERIA

To be eligible for historic landmark status, a property must meet one or more of the following criteria:

1. Character, interest, or value as part of the development, heritage, or cultural characteristics of the City of Austin, State of Texas, or the United States.
2. Recognition as a Recorded Texas Historic Landmark, a National Historic Landmark, or entered into the National Register of Historic Places.
3. Embodiment of distinguishing characteristics of an architectural type or specimen.
4. Identification as the work of an architect or master builder whose individual work has influenced the development of the city.
5. Embodiment of elements of architectural design, detail, materials, or craftsmanship which represent a significant architectural innovation.
6. Relationship to other distinctive buildings, sites, or areas which are eligible for preservation according to a plan based on architectural, historic, or cultural motif.
7. Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style.
8. Archeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.
9. Exemplification of the cultural, economic, social, ethnic, or historical heritage of the city, state, or the United States.
10. Location of the site of a significant historic event.
11. Identification with a person or persons who significantly contributed to the culture and development of the city, state or United States.
12. A building or structure, which because of its location has become of value to a neighborhood, community area, or the city.
13. Value as an aspect of community sentiment or public pride.

Austin History Center Austin Public Library

1961



OCCUPANCY HISTORY

609 WEST LYNN STREET

From City Directories

Compiled by the City Historic Preservation Office

October, 2003

1963	Vacant
	Rear Tim Brown, student
609 ‡	Harold G. Ehrlich, construction worker, Steussy Construction Co.
1960	Mrs. Alma Potts, widow John J. Potts
	Rear Jerrell Archie, director of printer operations, Mason Reproduction Company
609 ‡	Tommie L. Cook, maintenance man, Texas State School
1957	Mrs. Alma Potts, widow John J. Potts
609a	Baxter Ware, no occupation listed
609 ‡	Mrs. Florence Alderman, floor manager, Tarry Town Cafeteria.
1954	John J. and Alma Potts, laborer, State Highway Department
609a	Herman H. and Anna Lockhart, mechanic, Dement and Petmecky Brake Service.
609 ‡	Mrs. Mary Hooper, telephone operator, Terrace Motor Hotel.
1949	Mrs. Cecile M. Silverman (owner), widow Sol Silverman
rear	John J. and Beatrice (?) Potts, watchman, Littlefield Building
609 ‡	Leroy and Lou Mundt, inspector.
1947	Mrs. Cecile M. Silverman (owner), widow Sol Silverman
rear	John J. Potts, no occupation listed
609 ‡	Leroy Mundt, no occupation listed
1944-45	Mrs. Cecile M. Silverman (owner), widow Sol Silverman
rear	Mrs. L.L. Rupert, no occupation listed
609 ‡	Robert Duhl, U.S. Army

1940	Mrs. Cecile M. Silverman (owner), widow Sol Silverman rear Lester L. and Adeline Rupert, clerk, Paradise Liquor Store 609 ½ Leroy and Mary Lou Mundt, no occupation listed
1937	Mrs. Cecile M. Silverman (owner), widow Sol Silverman No other addresses given
1935	Mrs. Cecile M. Silverman (owner), widow Sol Silverman
1932-33	Sol and Cecile Silverman (owner), no occupation listed
1929	Sol and Cecile Silverman (owner), tailor.
1927	Sol and Cecile Silverman (owner), tailor
1924	Sol and Cecile Silverman (owner), tailor at 1-3 Bosche Building, 804 Congress Avenue.
1920	Sol and Cecile Silverman (owner), tailor at 1-3 Bosche Building, 804 Congress Avenue.
1918	Vacant Sol Silverman resides at 701 Highland Avenue
1916	Theodor Ledel, mens' furnishings, 219 Congress Avenue
1914	Theodor Ledel, clothing, millinery, shoes, mens' furnishings, ladies' ready-to-wear, 311 East Sixth Street.
1912-13	Theodor Ledel, clothing, millinery, shoes, mens' furnishings, ladies' ready-to-wear, 503 Congress Avenue
1910-11	Theodor Ledel, clothing, millinery, shoes, mens' furnishings, ladies' ready-to-wear, 503 Congress Avenue.
1909-10	Timothy A. Brown, principal, Pease School.
1903-04	Timothy A. Brown, principal, Pease School.
1900-01	Timothy A. Brown, principal, Pease School.

- 1898-99 Timothy A. Brown, principal, West Austin School.
- 1897-98 Timothy A. Brown, principal, West Austin School.
- 1895-96 Timothy A. Brown, principal, West Austin Public School.
Note: Address is given as the east side of the first street
west of Blanco Street, $\frac{1}{4}$ block north of Sixth.
- 1893-94 Timothy A. Brown, principal, West Austin Public School.
- 1891-92 Neither Brown nor the address is listed.

CITY OF AUSTIN HISTORIC RESOURCE SURVEY

TEXAS HISTORIC SITES INVENTORY FORM — TEXAS HISTORICAL COMMISSION (rev. 8-82)

1. County Travis TRA
AU
 City/Rural Austin

2. Name _____
 Address 609 West Lynn

3. Owner _____
 Address _____

4. Block/Lot _____

10. Description 2½ story frame residence

5. USGS Quad No. 3097-231 Site No. H-23-173
 UTM Sector _____

6. Date: Factual _____ Est. 1890

7. Architect/Builder _____
 Contractor _____

8. Style/Type _____

9. Original Use _____
 Present Use _____

11. Present Condition _____

12. Significance _____

13. Relation to Site: Moved Date _____ or Original Site (describe) _____

14. Bibliography _____

15. Informant _____

16. Recorder HHM Date Jan-Mar 84

DESIGNATIONS

TNRIS No. _____ Old THC Code _____

☐ RTHL ☐ HABS (no.) TEX _____

NR: ☐ Individual ☐ Historic District
☐ Thematic ☐ Multiple-Resource
 NR File Name _____

Other _____

Tax Parcel # _____

Original Owner _____

PHYSICAL CONDITION:

	Good	Fair	Poor
Structure	_____	_____	_____
Grounds	_____	_____	_____
Neighborhood	_____	_____	_____

PRESERVATION INDEX:

_____ City Zoning

1 Priority Research

COMMENTS:

PHOTO DATA

B&W 4x5s _____ Slides _____

35mm Negs. _____

YEAR	DRWR	ROLL	FRME		ROLL	FRME
		20	30A	to	20	31A
				to		
				to		

ARCHITECTURAL SIGNIFICANCE:

Outstanding _____ Excellent _____

Significant _____ Contributory _____

(Photo)

**609 West Lynn Street
Austin,
Texas**

**Historical Research prepared for the October 27, 2003 Historical Landmark Commission
Public Hearing on Historic Demolition Permit**

File Number: HDP-03-0152

**Prepared by Paige Frederick-Pape
for OWANA
Resident: 1202 Shelley Ave
October 27, 2003**

Historical Narrative

Historical research for: 609 West Lynn Street, Austin, Texas

The most notable and historically significant resident of 609 West Lynn Street was Timothy Alvin Brown. From 1897-1916 Mr. Timothy A. Brown and his wife Mary Robertson Brown resided at 609 West Lynn Street.

Timothy Brown was born in 1856 near the town of Marion, Virginia. He received his early education at Marion High School and graduated in 1882 from Hiwassee College, Madisonville, Tennessee. In 1882 Brown traveled to Texas and was a school teacher in the following towns: Edom, McKinney, Weatherford, Minerals Wells, Cisco, Round Rock and Leander. He had a life membership in the Texas State Teachers Association.

(Letter prepared by: Miss Lillian Wester, AF-Biography-B, Austin History Center)

In 1885 he married a young lady also from Tennessee, Mary Rebecca Robertson. They were married in Leander and resided in Austin since 1892.

In the fall of 1892 Brown was hired from Round Rock to become principal of West Austin Public School (Pease School). As principal for 41 years, Mr. Brown made significant contributions to the community. Mr. Brown taught three generations of Austin youth. He was at Pease School for such a great length of time that he tended to the grandchildren of his first pupils.

He was known for his caring and concerned approach-keeping a watch over recess, walking children across the busy Rio Grande Street in the afternoon when school was dismissed. He followed his students and stayed involved in their lives as they became successful adult professionals contributing to community.

"He had an intimate knowledge of and a personal interest in every child. Such interest did not cease when the child left the school. He followed with interest the careers of his boys and girls as they became useful men and women of the community and he now looks with pleasure upon hundreds of prominent leaders in the city, state, and nation as former pupils of Pease School."

(From a clipping loaned by Eugenia Pillow: "Brown Praised For His Service" as drafted by a committee of Austin teachers headed by W. I. Darnell at Mr. Brown's retirement, AF Biography file, Austin History Center)

At his retirement from Pease School in 1933, his colleagues remarked of his character:

"His colleagues as principals will remember him for his courage in defending the principles in which he believes. He was never swayed by the passing opinions of others. Though careful of treading upon untried ground he was always interested in keeping abreast of the education advances that were being made.

He will be remembered also for his courteous regard for his associates in the principalship, his loyalty to the administration, and for the consideration which he always showed his teachers"

(From a clipping loaned by Eugenia Pillow: "Brown Praised For His Service" as drafted by a committee of Austin teachers headed by W. I. Darnell at Mr. Brown's retirement, AF-Biography file, Austin History Center)

After 19 years of residence at the 609 West Lynn Street house, in 1916 the Browns moved to a home at 903 West 23rd Street in Austin.

Timothy A. Brown passed away on September 12, 1948 aged 92 years. He was survived by his wife, Mrs. Mary R. and their son, Dr. William Roberston Brown. Pallbearers at the funeral were the Superintended of Schools and other school principals. He is buried at Oakwood Cemetery.

He is honored at the entrance to Pease School by a marker in memory of his many years of service. (see attached photograph)

Mrs. Mary R. Brown contributed significantly to the community through her involvement with University Methodist Church and the formation of Kirby Hall. She is known as the "Mother of Kirby Hall", a dormitory opened in 1924 and designed for Methodist girls attending the University of Texas. For over 20 years Mrs. Brown was Chairman of the Building Committee and petitioned statewide for funds to build the dormitory. As founder of Kirby Hall she has impacted thousand of young women's lives.

"She was an active church officer, holding numerous church positions in the missionary societies and teaching women's Sunday School classes for 25 years. She was made a life member in 1936" (Letter prepared by: Miss Lillian Wester, AF-Biography-B, Austin History Center)

Mrs. Brown passed away at the age of 93 in July 1954.



T. A. Brown

F-Brown.
BROWN, Timothy Alvin
BROWN, Mary Rebecca (Robertson) no. 46

A QUIET CELEBRATION

'Guardian Angel of Kirby Hall' Observes 90th Birthday

BY JOHNNIE GREENE
A gentle-faced lady, known throughout the state as the guardian angel of Kirby Hall at the University of Texas, is observing her 90th birthday Tuesday.

Any celebration of the occasion will of necessity be very quiet for Mrs. T. A. Brown has been an invalid nearly two years. She is fragile and delicate in appearance, somehow like an exquisite piece of Dresden china.

But even though she is physically inactive, Mrs. Brown still is mentally alert, interested in news of the many projects which formerly occupied her time. From her bed on the sun porch of her home, 909 West 23rd, she has an excellent view of her flower garden, a hobby in which she took much pride in other years.

In a long career of church work, Mrs. Brown's outstanding accomplishment was the founding of Kirby Hall. More than 2,500 girls who have stayed at the dormitory since its opening in 1924 can thank Mrs. Brown for her work in selling the idea of the hall to the Methodist women of Texas.

THE DORMITORY WAS named for Helen Marr Kirby, first dean of women at the University. Funds for the building were raised by Mrs. Brown, who at that time was president of the women's division of the local Methodist conference.

Mrs. Brown obtained part of the money from the Methodist board of home and foreign missions at Nashville, Tenn., and the remainder from contributors throughout Texas. She traveled to all parts of the state during the campaign, giving personal

appeals at each of the five Methodist conferences in the state.

After heading committees both for the fund-raising and construction of the building, Mrs. Brown also served more than 20 years as president of the local poultry-forming board for the hall.

In addition to her missionary work for the church, Mrs. Brown was teacher many years of a Bible class at University Methodist Church. She also held various

offices in local chapters of the Daughters of the American Revolution, the United Daughters of the Confederacy and the Daughters of 1812.

Because of her husband's failing health, she was forced to give up much of her outside activity in 1940. Mr. Brown, who died in 1944, was principal of Pease School 41 years, from 1892 to 1933.

Born in Rhine County, east Tennessee, Mrs. Brown was valedictorian of her graduating class at Vic-

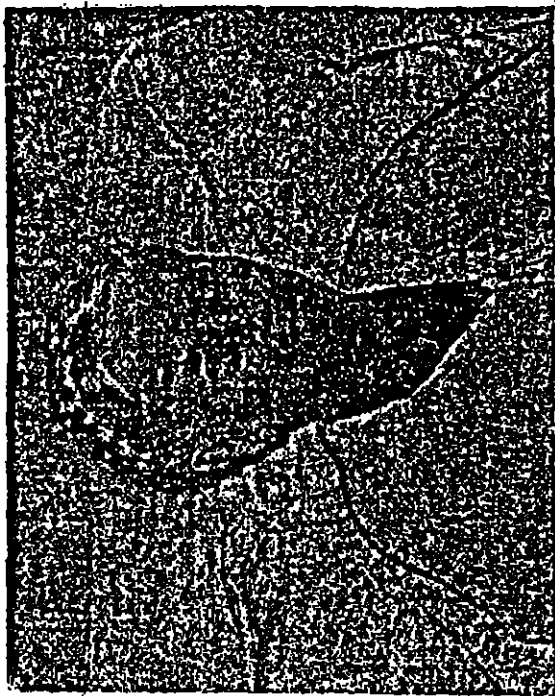
torie College, a young ladies finishing school similar to many others in the South of that area. It was while she was attending school that she met her future husband, who at that time was a student at Hiwassee College in nearby Madisonville, Tenn.

MRS. BROWN, THE former Mary Rebecca Robertson, came to Texas with the rest of her family in 1884. Four of her brothers became distinguished Texas lawyers. One sister, Mrs. Dan Moody of Taylor, was the mother of a former Texas governor. Another sister, Mrs. Margaret Robertson Wester, was the mother of Miss Lillian Wester of Austin, for many years on the Romance languages faculty at the University.

The Browns were married in 1885, and lived several years in Round Rock, where he was a teacher. They and their only child came to Austin in 1892, when he became Pease principal.

Their son, Dr. William R. Brown, now is head of the English Department at Western Michigan College in Kalamazoo. He and his wife now are in Austin on vacation, and will be here for his mother's birthday.

Mrs. Brown, always considered the trail member of her family, believes it is somewhat ironic that she managed to outlive her stronger brothers and sisters. Her blue eyes became misted with thoughts of other years as she says softly: "I saw the youngest of my mother's eight children—and was always believed the weakest. Now I am 90, and the only one still alive..."



MRS. T. A. BROWN
—Special Dispatch Photos.

Donor: Mrs. George Endress

**STRUCTURES**

JERRY GARCIA, P.E.
DANTE ANGELESI, P.E.

October 16, 2004

Mr. Steve Sadowsky
City of Austin
P.O. Box 1088
Austin, Texas 78767

RE: 609 W. Lynn - Structural Evaluation

Dear Mr. Sadowsky:

At the request of Ms. Sarah Crocker, on September 15th, I visited the above mentioned residence to observe and to provide a structural assessment of the existing structure. The residence can be described as a two level conventionally framed structure built in the late 1800's.

This observation is not a full code or compliance inspection. This office has performed a visual, practical and non-destructive observation of the properties present condition and provides in this report a list of observed items. Any area that was not readily accessible or visible is not included in this report. This office representative is not required to move such items as, but not limited to, panels, furniture, carpeting, siding, personal belongings, etc. in order to perform this observation.

NOTE: THIS OBSERVATION DOES NOT COVER ITEMS OR CONDITIONS THAT MAY BE DISCOVERED ONLY BY INVASIVE METHODS. IT IS NOT INTENDED TO BE TECHNICALLY EXHAUSTIVE, NOR IS IT INTENDED TO REVEAL ALL EXISTING OR POTENTIAL DEFECTS. NO REMOVAL OF MATERIALS OR DISMANTLING OF SYSTEMS WAS PERFORMED UNDER THIS OBSERVATION.

The following serves to describe notable items that may or may not be a result of structural performance. Items will be described and commented upon. For

1018 W. 11TH STREET
S U I T E 1 0 0
AUSTIN, TEXAS 78703
TEL: 512-499-0919
FAX: 512-520-8621

purposes of description, the left side of the building when faced from the West Lynn Avenue is considered the north side of the residence.

UPPER LEVEL

1. An observation of the upper level revealed the structure to be experiencing differential vertical movement throughout. With exception of the noted floor deflection, the upper level was structurally unremarkable.
2. A natural gas leak was evident at the time of my observation.
3. The stair access to the second level was unstable and did not meet current code criteria.

LOWER LEVEL

1. The first level was also noted to be undergoing dramatic foundation movement. Floor elevations throughout the residence were varied.
2. The modified screened in porch at the south side of the residence has experienced dramatic deterioration over the years. The decking has deteriorated to a degree of dramatic loss in structural integrity. It appears that extensive deterioration has occurred to the supporting foundation assembly below.
3. The bathroom enclosure at the rear of the structure has deteriorated in a similar fashion.

An observation of the exterior and under carriage of the house was the most telling. The exterior wall framing at the north side of the residence has experienced dramatic deterioration as a result of poor site and roof drainage coupled with a lack of general maintenance. Similarly, the north east corner of the residence has undergone a similar deterioration. The south side of the residence, as a result of foundation deterioration and neglect has begun to pull away from the main frame as well as experience dramatic settlement.

An observation of the underside of the residence has revealed that the foundation has undergone a series of "repairs" to offset the settlement that the residence has experienced over the years. Original brick piers have been rendered useless a result of excessive listing. New supports are random and

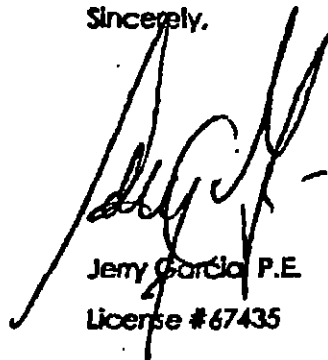
considered inadequate by current standards. A number of props were installed as piers that are not considered of adequate capacity. Additionally, excessive moisture was encountered beneath the residence indicating that further compromise of the foundation is underway.

It is the opinion of this office that the residence is structurally unfit for occupancy. Considering the extensive degree of repairs required, we feel that the cost of repairs would be unreasonable to satisfy the required structural standards of the building. Although not under the scope of this evaluation, it is recommended that a plumbing evaluation as well as a mold inspection be provided to further assess the level of deterioration of the structure.

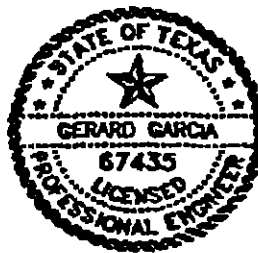
The inspection consisted of a visual observation only. Neither the inspection nor this report is intended to cover mechanical, electrical or architectural features. Furthermore, the owner agrees to limit Jerry Garcia, P.E.'s (Design Professional) liability to the owner due to the opinion such that the total aggregate liability of each Design Professional's liability to all those named shall not exceed the Design Professional's total fee for services rendered on this project. Please notify this office by registered letter within two weeks of this date stating objections to or questions regarding the information contained in this letter. If none are received, it is concluded that no exceptions are taken regarding the professional opinion rendered or this liability limitation statement.

If you have any questions, please feel free to contact this office at 499-0919.

Sincerely,



Jerry Garcia P.E.
License #67435





JASTER-QUINTANILLA & ASSOCIATES, INC.
CONSULTING ENGINEERS
1608 WEST SIXTH STREET SUITE 100 AUSTIN, TX 78703
V 512.474.9094 www.jaster-quintanilla.com F 512.474.9179

January 19, 2005

Mr. Steve Colburn
Old West Austin Neighborhood Association
P.O. Box
Austin, Texas 78703

Re: Structural Observation
609 West 6th Street
Austin, Texas

Dear Steve:

Pursuant to your request, I visited the residence at 609 West 6th Street to observe the condition of the structure and foundation and to evaluate the cost of leveling the foundation, and stabilizing and repairing the wood structure to a serviceable level of performance. My observations and conclusions follow.

General

The residence consists of a two story conventionally wood framed structure enclosing approximately 1,800 square feet on the ground level and 1,100 square feet on the second level. The roof has a relatively steep pitch with numerous dormers, valleys and hips and is covered with a metal roof membrane. The first floor is framed over a crawlspace and is supported on brick piers founded at a relatively shallow depth. The site slopes down from the north to the south approximately 18" to 2'-0" with the grade on the north side of the house very close to the finished first floor elevation. The exterior of the residence is clad in wood siding with the use of some shingles in the upper gable areas. (Photos P1 and P2.)

Observations

On the north side of the residence, I noted that the sill beam at the perimeter of the foundation was seriously deteriorated and while I could not visibly verify that this deterioration has extended up into the bottom of the stud framing for the walls, it is very likely that a number of the studs have been damaged near the bottom of the wall. This deterioration is a result of the high grade against the base of the wall framing that provides a constant source of moisture and a favorable environment for termite activity. These conditions normally require regular maintenance to ensure that storm drainage is maintained in a diverted manner around the structure and that debris does not build up against the base of the wall. (Photos P3 and P4.)

Along the rear of the residence is a more recently constructed one story addition that is likely not part of the original residence. This addition is pulling away from the remainder of the residence. Along the base of the rear wall, the exterior siding was again noted to be significantly deteriorated as a result of the close proximity of the grade to the floor. There is likely to be significant damage to the base of the wood studs as evidenced by the lean of this addition away from the original house. (Photos P5 and P6.)

The south face and downhill side of the residence has experienced a significant amount of settlement resulting from the gradual erosion of the supporting soils below the footings over the years. One room that now serves as a bath was originally constructed as a porch with a minimal amount of slope on the floor. The south edge of this bath has settled dramatically to the point where the function of the plumbing is highly suspect. The south wall of the residence, as a result of the settlement, appears to be bowing as a result of it's

lack of plumbness. This wall would require some stabilizing measures prior to leveling the foundation. (Photos P9 and P10.)

Observation of the crawlspace indicates that several minimal measures have been taken to essentially temporarily shore up areas of the floor that are experiencing the most severe deflection. These measures typically are in the form of slender wood props that have little to no lateral stability. There is indication of more substantial repairs in the form of concrete masonry unit piers at the southeast corner of the residence. The floor joists and sill beams that are located away from the north and east edge of the residence appear to be in reasonably sound condition, though they are severely distorted in their current position and there would likely be a relatively high replacement rate of these members when leveling operations are undertaken. (Photos P7 and P8.)

Many of the brick piers that are part of the original construction were noted to be significantly out of plumb. Several were no longer in contact with the floor framing and thus rendered useless. It would be a reasonable assumption that a leveling operation for this residence would require that all piers be replaced with new piers founded a minimum of 2'-0" below the crawlspace grade.

Observation of the interior of the residence yielded no unexpected results. There were very few to no wall finishes that are sensitive to foundation movements such as gypsum wall board. Many of the walls were stripped down to the one-by sheathing or were clad with siding or paneling. Floors on both the first and second floor were noted to have significant slope in the areas where settlement had been observed on the exterior of the residence.

Conclusions

The structural soundness of this residence, while an essential component of providing a residence that is fit for occupancy, may not be the most significant cost in the overall picture of restoring this property. Other factors that should be evaluated but are not in our realm of expertise include:

1. The plumbing that in some cases was noted to be suspect and will most certainly be affected by the large movements of the structure in any leveling operation.
2. Site drainage.
3. Roof Covering.
4. Restoration of building envelope -- exterior wall damp proofing and finishes.

Given the aforementioned conditions, a large portion of the structure for the residence remains salvageable and repairable, but there is substantial amount of structural repair required to achieve this.

Current Structural Integrity

The current structural condition of the residence is a concern and, while it may not be in a necessarily dangerous state at this time given that the second level is not occupied, some essential repairs must be undertaken in the very near future to ensure that it remains safe to inhabit. My primary concern is the bowing of the south wall in response to the severe settlement of this side of the residence. If the house is to remain occupied and no major repairs are to be undertaken, I would recommend that a whaler be erected on the south wall and near the second floor and secured to the remainder of the residence with tensioned cables that extend through the house to the north wall. This is a temporary measure that would likely be necessary if a leveling operation was undertaken.

Second, I would recommend that a foundation repair company be retained to survey the existing footings and provide shims in areas where existing piers do not contact the framing but remain reasonably sufficient to support the framing over the short term and to provide new footings where required. While this would ultimately be the Owner's decision, it would be prudent to compare the cost of a complete leveling operation with this minimal effort to only stabilize the residence over the short term so as to avoid paying two mobilization costs should the decision be to restore the current residence.

Costs of Long Term Structural Restoration

While the cost of merely stabilizing the structure over a short term may not be significant, a substantial structural restoration of this residence is an acute necessity if the residence is to remain. I have contacted a local and long standing foundation leveling company that we have worked with over the years to obtain unit prices for this work. In addition to the leveling and reconstruction of the foundation, some work will be required to reconstruct the bases of exterior walls, re-anchoring of the south wall to the second floor diaphragm and remedial work of the roof framing where moisture infiltration may have deteriorated the framing over the years. What is absent from these estimates, is the removal of architectural finishes, siding, etc. and replacement of those finishes that will be required to access the structure and make the repairs. My opinion of probable construction costs for restoring the structure follows:

<u>Item Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Extension</u>
New Foundation Piers	50	\$400.00	\$20,000.00
Replace Floor Joists	650 Lin. Ft. (\pm 50%)	\$8.50	\$5,525.00
Replace Sill Beams	200 Lin. Ft.	\$20.00	\$4,000.00
Level	Lump Sum	\$2,500.00	\$2,500.00
Clear Debris & Hall	Lump Sum	\$500.00	\$500.00
Repair Base of Studs *	75	\$60.00	\$4,500.00
Stabilize South Wall and Re-anchor to Floor	Lump Sum	\$3,000.00	\$3,000.00
Replace Roof Members	200 Lin. Ft.	\$5.00	\$1,000.00
Total Opinion of Probable Structural Cost			<u>\$41,025.00</u>

*A relatively high unit price has been assumed here to account for the cost of shoring the structure above to conduct these repairs.

Leveling the foundation will require substantial jacking and movement of the structure to achieve a reasonably level condition. This will most likely result in significant shifts in the wall finishes on the interior and exterior, distortion of window and door openings that may have been adjusted over the years to accommodate the foundation movement, and perhaps breaches in the roofing membrane at various locations where planes intersect. It may be prudent to count on replacing or repairing the majority of the doors and some percentage of the windows after the leveling operations are completed. These costs are not accounted for in this report.

Additionally, removal and replacement of the exterior or interior wall sheathing will be required to repair the base of the studs and re-anchor the south wall to the second floor. These cost are also beyond the scope of

this report. And, as mentioned previously, a substantial amount of plumbing repair and restoration will likely be required both as a result of the leveling and to provide a properly functioning and serviceable plumbing system for the residence.

It is conceivable that repairs that are ancillary to the structural repairs such as plumbing, interior finishes, doors and windows, roof and exterior sheathing/siding could easily amount to the cost of the structural repairs themselves without accounting for costs incurred for achieving a fully restored, aesthetically pleasing, genuine historical project. An exhaustive multi-disciplined report addressing an undertaking of this nature is beyond the scope of this report.

Summary

In summary, a significant portion of the structure for this residence appears at this time to be salvageable and repairable though it's deterioration will continue and at an accelerated rate. The associated cost of repairing the structure alone coupled with ancillary costs to access the structural components and to repair architectural damage resulting from the structural corrections could likely fall between \$60,000.00 and \$100,000.00 without addressing any aesthetic or site related issues.

My investigation included visual observation of the exterior perimeter of the building from grade level; primarily the wood siding veneer and exposed portions of the perimeter foundation sill beam, visual observation of a portion of the crawlspace below the building and visual observation of the wallboard and ceiling finishes on the building interior.

For my review, I did not have access to construction documents, shop drawings, as-built drawings or engineering calculations of any kind. Thus my review and conclusions are based upon the assumption was constructed according to normal construction techniques for small wood framed residences. Further, Jaster-Quintanilla & Associates, Inc. was not involved or present during the design or construction of the referenced project. For this reason, all conclusions and recommendations are based upon my review of the materials provided as noted previously and upon my interpretation of my site observations.

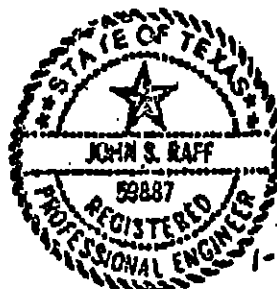
This observation consisted of visual observation only. Neither the inspection nor the report is intended to cover mechanical, electrical, plumbing or architectural features. Furthermore, the Owner agrees to limit Jaster-Quintanilla & Associates, Inc.'s (Design Professional) liability to the Owner and to all parties involved with the project, due to the Design Professional's negligent acts, errors, omissions or opinions such that the total aggregate liability to all those named shall not exceed the Design Professional's total fee for services rendered on this project.

Please notify this office by registered letter within two weeks of this date stating objections to or questions regarding the information contained in this letter. If none are received, it is concluded that no exceptions are taken regarding the professional opinion rendered or this liability limitation statement.

If you have any questions, or if we can be of further assistance to you on this project, please contact us.

Sincerely,


John S. Raff, P.E.
Jaster-Quintanilla & Associates, Inc.



1-19-05



Photo P1: Front West Elevation



Photo P2: Front West Elevation

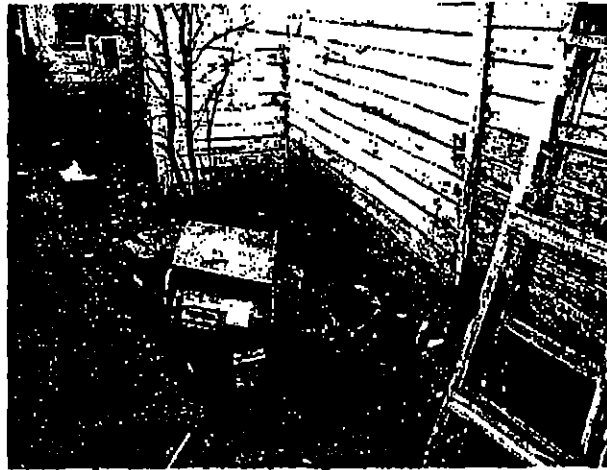


Photo P3: Left North Side of Residence



Photo P4: Left North Side of Residence



Photo P5: Northeast Corner of Residence



Photo P6: Rear and East Elevation at Addition



Photo P7: Crawlspace



Photo P8: Crawlspace



Photo P9: South Wall with Apparent Bow



Photo P10: Settlement of Original South Porch.

CITY OF AUSTIN HISTORIC LANDMARK COMMISSION

November 15, 2004

C14H-04-0027 – Brown - Ledel - Silverman House, 609 West Lynn Street

B. Public Hearing To Discuss And Take Action On Historic Zoning Cases (Continued)

2. C14H-04-0027 – Brown - Ledel - Silverman House

609 West Lynn Street

Historic Landmark Commission Initiated application for historic zoning

By: Historic Landmark Commission

Owner: William D. Dildy

City Staff: Steve Sadowsky, Historic Preservation Office, 974-6454

STAFF PRESENTATION

Mr. Steve Sadowsky, Historic Preservation Officer, informed the Commission that the case originated with an application to demolish this house and the house to the north of it, at 611 West Lynn, in October, 2003, when the Commission initiated historic zoning cases on both houses. At that time, the current owner had a power of attorney from his mother, the record owner of both houses. The mother revoked the power of attorney, and withdrew the application for demolition. The case has not returned to the Commission for a recommendation regarding historic zoning until now because the family has been working on putting together the application for historic zoning.

Since the time of the original Commission action, the properties have been divided between the applicant, who is now the record owner of 609 West Lynn Street, and his sister, who owns the house to the north. The applicant now requests demolition of the house at 609 West Lynn because of its structural deterioration.

Research shows that the first occupant of the house was Timothy A. Brown, principal of the West Austin, or Pease School. Brown was born in Virginia, educated in Tennessee, then came to Texas around 1882. He moved to Austin in 1892 to become the principal of the West Austin School, and held that position until his retirement in 1933. His wife, Mary Brown, founded

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the Kirby Hall dormitory for women at UT in 1924. The Browns lived here until 1916, followed by Theodor Ledel, a clothing merchant. Sol Silverman, a tailor, purchased the house in 1919. His widow remained in the house until 1949, and established two rental units on the property by 1940.

The house is an excellent example of the Queen Anne style of residential construction with its asymmetrical façade, ornate architectural decoration, prominent front gable, and gabled front porch with a spindlework frieze. It has been identified in the cultural resources survey of the West Austin Neighborhood Plan as a historically significant structure.

The Brown-Ledel-Silverman House was listed as a Priority 1 in the 1984 survey, and meets Historic Landmark Designation Criteria 1, 3, 6, 9, 11, and 12 for its associations with the Browns, its Queen Anne architecture, and its importance to the history of the development of West Austin.

Staff visited the property at the request of the owner and observed that the house is extremely deteriorated. While this house meets at least 6 of the criteria for landmark designation, it may be too deteriorated to preserve. The owner has submitted a structural engineer's report outlining the deterioration. With that in mind, staff very reluctantly recommends approval of the demolition permit. This is a very important house, not only for its architecture, but also for its associations with Timothy Brown, the principal of the West Austin School, and two early Austin merchants. Sadly, the house has suffered such extreme deterioration that, according to the structural engineer's report, rehabilitation is no longer feasible. If the Commission votes to release the demolition permit, then staff recommends that the owner provide archival photo-documentation of the exterior and

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C14H-04-0027 - Brown - Ledel - Silverman House, 809 West Lynn Street

significant interiors of the house, including architectural details for the Austin History Center.

IN FAVOR OF HISTORIC ZONING

Mr. Steve Colburn, chair of the Old West Austin Neighborhood Association Zoning Committee, requested a 4-week postponement to allow the neighborhood association to meet and discuss the issue.

Ms. Laura Labay stated that she is Mrs. Dildy's grand-daughter and Kathleen Labay's daughter. Her grandmother is 96 years old, and her mother has power of attorney, and is trying to carry out her grandmother's wishes to preserve the house. Her mother has a first right of refusal on the sale of the house, which is still in force. Ms. Labay requested a postponement of the case to allow them to meet with their attorney and work with the neighborhood association.

IN OPPOSITION

Ms. Sarah Crocker, representing the applicant, discussed the structural report performed by Jerry Garcia and the overall condition of the house. Ms. Crocker stated that she was retained in August to look at the house which is currently under contract for sale. She informed her client that there would probably be a historic zoning case, and hired Jerry Garcia, who has very strong feelings regarding the preservation of structures and has worked with neighborhoods against her when she wanted to tear a house down. Ms. Crocker stated that she has been to the house on four occasions to evaluate it, and informed the Commission that the house has been structurally compromised over the years, resulting in a lateral shift of the house, causing it to lean significantly to the south. Exterior pipes are pulling away from the house, and water pools in one corner due to the lack of a gutter system. At

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times, there is a lake under the house. There is a variety of items used to prop up the pillars, and the last time she went by the house, the tenant told her that the plumbing in the bathroom had broken, which made it impossible to use the bathroom. Ms. Crocker urged the Commission to release the demolition permit.

Commission Chair Laky asked Ms. Crocker if they would agree to a 30-day postponement. Ms. Crocker responded that her client was not in favor of a postponement, but that if the Commission released the demolition permit, they would wait 30 days to demolish the house.

Mr. William Dildy, the owner, stated that he grew up in the neighborhood and remembered many big houses which had been demolished to build apartments. Mr. Dildy wants to prevent further encroachments of apartment buildings in the neighborhood. He informed the Commission that his mother is currently in a nursing home in Austin which costs \$5,000 a month. Sale of this property will help him pay her bills.

Commission Chair Laky asked if the house had ever been placed on the market. Mr. Dildy responded that he had received calls from people interested in buying the property, and had been working on selling the house along with the house at 611 West Lynn, but the buyers were corporate and wanted to demolish the houses to build apartments. That had been a \$1.2 million deal. His mother was against selling the property but he was trying to raise funds for her.

Commissioner Hansen asked whether the house had ever been placed on the open market, as she had never seen a "For Sale" sign in the yard. Mr. Dildy responded that he had been working with Trey Garrison to sell the houses, and that Mr. Garrison had put together three or four different deals, which were contingent on a number of legal things happening.

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Commission Chair Laky asked if the house had been on the market since that time. Mr. Dildy responded that he would just about give the house away to anyone who wanted to move it.

Commission Chair Laky asked if Mr. Dildy planned to tear down the house before the property was sold. Mr. Dildy responded that the current sale of the property is contingent on getting the demolition permit. The prospective owner has studied the situation to try to make it livable for him and his wife. The house is a cedar post foundation, board and batten walls, no fire stops, and the post that is from the front porch is in the back holding up a part of the sleeping porch. A long time ago, the house was modified, adding roofs over roofs, with different levels of roofs butting up against other sections of roofs. He had to enclose two fire places because they had pulled away from the wall.

Commission Chair Laky asked about Mr. Dildy's sister's first right of refusal. Mr. Dildy responded that his sister did have a right of first refusal, which states that she can purchase the property for the same price as was quoted to the prospective owner, \$380,000, and that if she can get a check cut before November 23rd, then the house is hers.

PUBLIC HEARING WAS CLOSED (WEST/BUNTON).

The Commission stated that while they were sympathetic to the owner's desire to sell the house to pay his mother's bills, the house met 6 historic landmark designation criteria and had an important place in Austin's history and should be preserved. The Commission added Criteria 13 to their recommendation because of the support of the West Austin Neighborhood Association for preservation of the house.

CITY OF AUSTIN HISTORIC LANDMARK COMMISSION

November 15, 2004

C14H-04-0027 – Brown - Ledel - Silverman House, 609 West Lynn Street

COMMISSION ACTION: HANSEN/MATHER

MOTION: RECOMMEND A ZONING CHANGE FROM MULTI-FAMILY RESIDENCE, NEIGHBORHOOD PLAN (MF-4-NP) DISTRICT ZONING, TO MULTI-FAMILY RESIDENCE – HISTORIC – NEIGHBORHOOD PLAN (MF-4-H-NP) COMBINING DISTRICT, ZONING BASED ON CITY HISTORIC LANDMARK CRITERIA 1, 8, 7, 9, 11, 12, AND 13.

AYES: BUNTON, HANSEN, LAKY, LEARY, LIMBACHER, MATHER, AND WEST

ABSENT: FOWLER

MOTION CARRIED BY A VOTE OF 7-0

CITY PLANNING COMMISSION

January 25, 2005

CITY HALL – COUNCIL CHAMBERS

301 W. 2ND STREET

1st Floor

CALL TO ORDER – 6:00 P.M. COMMENCE 6:13PM; ADJOURN 1:45AM

_____ John-Michael Cortez	_____ Matthew Moore, Secretary
_____ Cid Galindo	_____ Jay Reddy
_____ Matt Hollon, Asst. Secretary	_____ Chris Riley, Chair
_____ Cynthia Medlin, Vice-Chair	_____ Dave Sullivan, Parliamentarian

A. REGULAR AGENDA

- 3. Rezoning: C14H-04-0027 - Brown-Ledel-Silverman House**
Location: 609 West Lynn Street, TOWN LAKE Watershed, Old West Austin NPA
Owner/Applicant: Applicant: Historic Landmark Commission; Owner: William Dolph Dildy
Agent: Sarah Crocker - agent for owner
Request: Rezone from MF-4-NP to MF-4-H-NP
Staff Rec.: Recommended
Staff: Rezoning, 974-6454, steve.sadowsky@ci.austin.tx.us
Neighborhood Planning & Zoning

Steve Sadowsky presented the staff recommendation. The sole issue is whether the house is salvageable. The Old West Austin Neighborhood Association requested postponement because they were expecting an engineering report. The engineering firm came up with similar conclusions regarding structural integrity of the house. In the neighbor-commissioned report, it states what could be done to improve the house. They approximate leveling of the house to cost \$41,000. The report also says costs for replacing exterior siding and possibly replacing windows and doors for total costs to be \$60,000-\$100,000, excluding finishing that needs to be done.

PUBLIC HEARING FOR HISTORIC ZONING

Steve Colburn, chair of OWANA zoning committee, and also neighbor three doors down from this property. There is not much dispute on the historic significance of the property. The report provided by the owner did not give much guidance on what it would take to repair the house so they requested engineering report to provide that information. It seems that the figure provided in the engineering report is certainly in the range of restorations and remodelings, particularly in regard to the value of the property when it is completed.

Commissioner Riley said that the estimate seems low based on his experience. Mr. Colburn said that the estimate is for making the house habitable, not for making the house at or better than original condition.

Linda MacNeillage said conservation and restoration is a very important part of their neighborhood plan. They are applying for National Register District nomination. The

significance of this building is important. It is a gateway residence. To lose this house would be a great loss. The application for historic zoning was initiated two years ago. The current owner bought this property with knowledge that it was under consideration for historic zoning. The neighborhood association felt this was important enough to acquire an alternate property. There have been other properties in the neighborhood that were labeled tear downs but have since been renovated.

Commissioner Moore asked why someone in the neighborhood did not step up to take on the house.

Commissioner Galindo asked who paid for the restorations of the houses labeled tear-downs. Ms. MacNeilage said that the house near her was labeled tear down but was restored by the owners and is now a City landmark.

Commissioner Riley asked how the case got initiated. Ms. MacNeilage said that in one weekend 400 people signed a petition when there was an application for a demolition permit. Mr. Sadowsky said that a demolition permit was requested in October 2003. He said there were difficulties within the family in determining who owned the house. One of the family members contracted with a real estate agent and then requested demolition permit. The case remained in limbo because of family struggles. The family indicated desire to file for historic zoning for 611. The son received the title to this house, 609, and was the one that filed the demolition permit. The family said they would voluntarily submit application for 611. Mr. Sadowsky said that the 611 house is not in great condition, but it is younger by about 30 years.

Rosemary Merriam- For historic zoning, did not speak.

AGAINST HISTORIC ZONING

Sarah Crocker, representing legal owner Hunter Goodwin, explained that there has been nothing preventing the City from moving forward with the historic zoning case. The problem is that the structural issues are not taken into consideration. She disagrees that it is a gateway to the community because it is set back from the street and the apartments are more visible. It is unfortunate that the house is in such poor condition. Her client did not know about the pending historic zoning case.

Jerry Garcia, a structural engineer and owner of Structures, said that walking through the building there are a tremendous amount of disrepairs. Water has gone through the building and under the building. The building is unsafe, and the building should be abandoned. The building itself has little redeeming structure because of the deterioration. The way the house is situated there is water damage, and the building is supported with props and the building is tearing itself apart. Perhaps about 15-20 years ago, could have been saved, but at this point the cost to restore is high.

Commissioner Hollon asked if he made an estimate of the costs to restore the house. Mr. Garcia said that because there are several ways to repair, they do not provide estimates. Commissioner Hollon said that the estimate seems low and Mr. Garcia said it is just for the foundation. Repairs do not stop at fixing the foundation. There could also be termite or mold damage.

Hunter Goodwin, the owner of the property, said that it has been a frustrating experience for him. He said that OWANA members did not show up when their engineer showed up and have never showed up to tour the property. On page 4, the neighbor's engineer limits his liability to the amount the neighborhood paid the engineer. Mr. Goodwin said that all the piers would have to be replaced, as well as all the joists, beams, the stud frames, the exterior siding, interior walls, doors and roof. The entire house has to be rebuilt so he has lost track of the point of historic zoning. He cannot fathom when human safety supersedes an agenda. He has a structure that could fall, and human life is at risk. He proceeded with purchasing the property despite this case because he already invested money into the house.

Danny Dishman, a contractor that has done custom homes and remodels. He has spent time on this project. He has been in and around this house a number of times. This house could have been saved 20 years ago, but the owner did not maintain it. This house has had at least 4 additions, and there is raw sewage in several areas. Just to bring it up to Code would be at least \$200,000. He thinks 611 could be saved and does have some value to the neighborhood. That house could serve as the gateway.

David Leboeuf- DID NOT SPEAK (AGAINST HISTORIC ZONING)

REBUTTAL

Steve Colburn said the house is in very bad shape, there is no dispute. But there is no dispute that it is of historic significance. The owner has taken this on, he did not have to buy the house. He knew of the conditions of the house and the pending historic zoning case. The \$100,000 is not just for the foundation, it is to make the house habitable. He did email the report to Sarah Crocker last week and he wished the owner had seen the engineering report requested by the neighborhood sooner.

MOTION: CLOSE PUBLIC HEARING.

VOTE: 7-0 (DS-1st, JR-2nd; CM-LEFT EARLY)

MOTION: APPROVE STAFF RECOMMENDATION.

VOTE: 4-3 (JMC-1st, DS-2nd; CM- LEFT EARLY; JMC, CR, DS, JR- FOR; CG, MH, MM- OPPOSED)

MOTION FAILED

FORWARDED TO COUNCIL WITH NO RECOMMENDATION.

Commissioner Cortez said this is a difficult case, but the house is historic.

Commissioner Sullivan said that he supports the motion based on principles. First, he stressed that it is historic regardless of condition. Secondly, he does not see why a second house could not be added to the lot. Thirdly, there are three other structures in the area that were in poor shape where the owners built at the back of the house and preserved the front of the house. It has not been explored with this site to construct multi-family.

Commissioner Galindo will not support the motion. The house will not be invested in and will just rot. It should just be accepted to focus on the houses that can be saved.

Commissioner Hollon agrees with Commissioner Galindo. The house is too far gone. He would hate to see this as a model of where the City of Austin. He cannot support the motion.

Commissioner Moore will not support the motion. The house could be saved, but it is just a matter of money. He thinks that the people that wanted to see it saved did not because it is just too expensive to do.

Commissioner Riley said it is a tough case. He sympathizes with the owner, however the owner knew the historic zoning case was on-going. He does not think it is a foregone conclusion that the house will not be saved.



City of Austin
Neighborhood Planning and Zoning Department
Alice Glasco, Director
P.O. Box 1088, Austin, Texas 78767
512-974-7668

Memorandum

February 17, 2005

To: Mayor and Council

From : Steve Sadowsky, Historic Preservation Officer

Re: Brown-Ledel-Silverman House
609 West Lynn Street
C14H-04-0027

CASE HISTORY:

- Staff evaluated and recommended historic zoning for this property to the Historic Landmark Commission upon application for a demolition permit in October, 2003.
- The Historic Landmark Commission initiated a historic zoning case on this property in October, 2003 with the support of the record owner of the property at the time, but took no further action when the demolition permit application was withdrawn.
- The owners were involved in legal disputes regarding the property, and then subject to a series of family illnesses which prevented them from pro-actively filing an application for historic zoning.
- Following resolution of the family legal disputes, the owner of 609 West Lynn Street (Dolph Dildy) filed an application for a demolition permit in November, 2004 in order to sell the property to Hunter Goodwin, the current owner.
- Staff visited the site with Goodwin, his agent, and structural engineer Jerry Garcia on October 20, 2004 and visually inspected the site, noting deterioration.
- Staff received Jerry Garcia's report detailing the deterioration of the house and reluctantly recommended approval of the demolition permit to the Historic Landmark Commission at their November 15, 2004 meeting. The Historic Landmark Commission recommended historic zoning for the property.
- The Old West Austin Neighborhood Association commissioned structural engineer John Raff of Jaster Quintanilla to provide a second opinion regarding the

structural problems and deterioration of the structure. Jaster Quintanilla's report contained a cost estimate to repair the structural deterioration, while Jerry Garcia's initial report did not. Jaster Quintanilla estimated that the structural problems identified by both structural engineers could be remedied for \$41,025, and estimated that the plumbing, electrical, site, and roof problems could be addressed for an additional \$60,000, for a total structural rehabilitation cost of approximately \$100,000.

- The case proceeded to the Planning Commission on January 11, 2005. Based upon the new information from Jaster Quintanilla regarding the cost to rehabilitate the house, staff reversed the recommendation to approve demolition in favor of a recommendation for historic zoning, with the caveat that staff recognized the deteriorated state of the property. The Planning Commission postponed action until January 25, 2005, when they voted to forward the case to Council without a recommendation due to lack of a quorum.

- Council held the public hearing on this case on February 10, 2005, and heard conflicting reports as to the cost to rehabilitate the structure from the owner's structural engineer and the neighborhood association. John Raff, the structural engineer hired by the neighborhood association, could not stay until such time as Council heard the case. Council closed the public hearing and postponed action on the case until February 17, 2005, requesting that staff meet with both structural engineers to determine the justification for the diverging cost estimates for rehabilitation. Council further requested that staff evaluate the house for its context within a potential National Register or local historic district in the area.

- Staff met with Jerry Garcia, John Raff, and contractor Danny Dishman at the offices of Jaster Quintanilla on February 14, 2005. Dishman presented a detailed cost estimate to rehabilitate the house, totaling \$872,000. Raff identified the structural work his report addressed for \$100,000. Dishman's estimate for the same work was \$144,700.

- Staff went through each item of Dishman's cost estimate with the engineers and identified those costs which were necessary specifically for the rehabilitation of this house versus those costs for professional fees, permit fees, interim insurance, and those costs dependent on the owner's aesthetics, determining that the structural, mechanical, and site rehabilitation of this property would involve approximately \$467,900, including a 25% contractor's profit of \$93,000. The engineers agreed that this cost appeared reasonable for the work required.

- Staff reviewed the market value appraisals of this property, other residential properties on West Lynn Street between West 6th and West 9th Streets, and other comparable properties in the neighborhood. The results are attached.

**EVALUATION OF SIGNIFICANCE
WITHIN A POTENTIAL WEST END HISTORIC DISTRICT**

The ca. 1893 Brown-Ledel-Silverman House would certainly be contributing to a potential West End historic district. Built before the area was platted, the Brown-Ledel-Silverman House represents the first phase of residential building in the neighborhood, characterized by large houses on large lots. This house, the house to the north, and the landmarked Sheeks-Robertson House directly to the west, are all located on relatively-large divisions of an early outlot. The remainder of the area was platted and subdivided into smaller bungalow-sized lots in the 1910s and 1920s. The majority of the houses in the neighborhood are modest wood-frame bungalows, with a high degree of architectural integrity.

The proposed Old West Line National Register Historic District encompasses the area roughly between Baylor Street on the east, Sixth Street on the south, Mo-Pac on the west, and Twelfth Street on the north. The proposed historic district contains a total of 985 buildings, sites, structures, and object, of which 639 (64.8%) are contributing to the historic character of the district. The Brown-Ledel-Silverman House at 609 West Lynn Street is listed as contributing to the proposed historic district as well as a property which is individually eligible for listing in the National Register of Historic Places.

If you have any questions concerning this information or need further information, please telephone Steve Sadowsky, Historic Preservation Officer, at 974-6454.

cc: Toby Hamett Futrell, City Manager

ATTACHMENT "A"

Contractor's estimate for rehabilitation of 609 West Lynn - February 14, 2005.

609 West Lynn

CONTRACTOR	REF	DESCRIPTION	RELIM. EST.	REMARKS	COST CHANGE	REMARKS
	700	LOT COSTS			0.00	
	701	LOT CC			0.00	
	702	ENGINEER	3,600.00		0.00	
		GEOTECHNICAL ENGINEERING			0.00	
	703	PLANS	0.00		0.00	
	704	APPRAISAL	0.00		0.00	
	705	PERMITS	900.00		0.00	
		lots			0.00	
	706	TAP FEES	6,000.00		0.00	water, gas, sewer
		GAS	0.00		0.00	
		ELECTRIC			0.00	
		WATER & SEWER			0.00	
	707	SITE WORK	5,000.00		0.00	ALLOWANCE
		drainage plan and french drains	12,000.00		0.00	
		site prep-m	0.00		0.00	ALLOWANCE
	708	SURVEY			0.00	
	709	foundation repair	8,700.00		0.00	
		plaster & beam repair	80,000.00		0.00	
		WATERPROOFING	0.00		0.00	
		FRENCH DRAIN	0.00		0.00	ALLOWANCE
		RETAINING WALLS	0.00		0.00	
		TERMITE TREAT	1,500.00		0.00	
		mold treatment	6,000.00		0.00	
		demo & removal of addition	10,000.00		0.00	
		PVC IN SLAB	0.00		0.00	
	710	FLATWORK			0.00	ALLOWANCE
		STEPS			0.00	
		WALKS			0.00	
	711	LUMBER	26,000.00		0.00	reframe structure
		KOOLPLY	0.00		0.00	
		TYVEK	0.00		0.00	
		DECORATIVE BEAMS			0.00	
		BEAMS			0.00	
		STEEL LINTELS	0.00		0.00	
	712	FRAMING	29,000.00		0.00	reframe new structure
		remove damaged siding	6,000.00		0.00	
		remove damaged lumber of	12,000.00		0.00	
		rebuild roof deck	6,000.00		0.00	
					0.00	
	713	remove & repair windows	16,000.00		0.00	
		WINDOWS-WOOD			0.00	
	714	EXTERIOR DOORS	3,000.00		0.00	
		FRONT DOOR			0.00	ALLOWANCE
		EXT SHUTTERS			0.00	
	715	FIREPLACE	10,000.00		0.00	repair fireplace
	716	MASONRY MATERIAL			0.00	
		MASONRY LABOR			0.00	
		INCREASE FOR 100% MASONRY			0.00	
		MAIL BOX	0.00		0.00	
		CASTSTONE			0.00	
		STUCCO			0.00	
		CUT STONE			0.00	
		COLUMNS			0.00	
		COLUMN INSTALLATION			0.00	
		INTERIOR MASONRY			0.00	
		FLAGSTONE			0.00	
		DROPPED MASONRY LEDGE			0.00	
	717	ROOFING	16,000.00		0.00	
		remove old roof	3,000.00		0.00	
		TORCH DOWN			0.00	
		VENTS & FLASHING	2,500.00		0.00	
	718	INSULATION	6,200.00		0.00	
	719	SHEET ROCK	16,000.00		0.00	repair and refinish
	720	PLUMBING	16,000.00	new plumb & serv	0.00	
		remove old plumbing & serv	6,000.00		0.00	
		replace and refinish bath fix	6,000.00		0.00	
	721	ELECTRIC	21,000.00	new wire & serv	0.00	
		removal of old wire & elec at	4,000.00		0.00	
		ADD FOR ALL ELECTRIC			0.00	
		DIMMERS	0.00		0.00	
		FAN CONTROLS	0.00		0.00	
	722	HEAT & A/C	12,000.00		0.00	
	723	PAINTING	16,000.00		0.00	
	724	TRIM MATERIAL	16,000.00		0.00	repair and refinish
		stair rail repair/replace	6,000.00		0.00	
	725	TRIM LABOR	13,000.00		0.00	

726 INTERIOR DOORS			0.00
727 GARAGE DOOR			0.00
728 CABINETS	25,000.00		0.00
CABINET INSTALL			0.00
729 APPLIANCES	12,000.00		0.00
HANG STOVE HOOD			0.00
730 MARBLE TUB			0.00
MARBLE			0.00
731 tile floors & tops	14,000.00		0.00
732 CARPET & VINYL	7,000.00		0.00 ALLOWANCE
733 LAMINATE			0.00
GRANITE			0.00
734 WALLPAPER	8,000.00		0.00
734 WALLPAPER LAB		see 734	0.00 ALLOWANCE
736 MIRRORS	2,000.00		0.00
737 FANS		SEE 738	0.00
738 LIGHTS	14,000.00		0.00 ALLOWANCE
739 HARDWARE	8,000.00		0.00 replace and refin
CAB PULLS	0.00		0.00 ALLOWANCE
740 SHELVING		SEE 724	0.00
741 trash/clean	8,000.00		0.00
ROUGH GRADE	1,000.00		0.00
742 FINAL GRADE	4,000.00		0.00
743 LANDSCAPING	12,000.00		0.00 ALLOWANCE
744 dumpster	8,100.00		0.00 dumpster fees
745 FENCE			0.00
SILT FENCE	3,000.00		0.00
IRON RAIL			0.00
746 UNDERPINNING	800.00		0.00
747 SEPTIC SYSTEM	0.00		0.00
SEPTIC ENGINEER	1,250.00		0.00
748 WATER WELL	0.00		0.00
749 INTERIOR DESIGN	3,800.00		0.00
750 C UPGRADES	0.00		0.00
751 INSPECTIONS	2,400.00		0.00
752 WARR FEE	2,000.00		0.00
753 UTILITIES	1,000.00		0.00
754 BLDG RISK	5,000.00		0.00
755 BANK CHARGES	800.00		0.00
756 INTERIM INTEREST	80,000.00		0.00
757 PUNCH	3,000.00		0.00
758 PROJECT MGT.			0.00
759 OVERHEAD			0.00
760 REALTOR	0.00		0.00
761 10 YR WARRANTY	2,000.00		0.00
762 DISCOUNT PTS	0.00		0.00
763 MARKETING	0.00		0.00
764 PLAN PRINTING	650.00		0.00
765 SEC SYSTEM	0.00		0.00
766 INTERCOM	0.00		0.00
CENTRAL VAC	0.00		0.00
fire system	2,500.00		0.00
SPEAKER WIRE	0.00		0.00
767 FL TRUSSES	0.00		0.00
768 GUTTERS	2,100.00		0.00
769 GARAGE OPENER	0.00		0.00
770 CITY SIDEWALKS	2,200.00		0.00 city & entry walk
771 LAWN SPRINKLER	0.00		0.00
772 REIM BUYER	0.00		0.00
773 DEBRIS CLEAN	700.00		0.00
774 PORT TOILET	1,500.00		0.00
775 EQUIP RENTAL	0.00		0.00
776 WOOD FLOORS	22,000.00		0.00 repair and refinish
777 POOL	0.00		0.00
			0.00
PERM CLOSE			0.00
HOA ARCH FEE			0.00
HOA & TAXES			0.00
CONST TOTAL	654,800.00		0.00
<hr/>			
SALES PRICE	872,800.00		
CONST TOTAL	654,800.00		
UPGRADE			
INCREASED COST	0.00		
BUILDER FEE	218,200.00		
UNDER/OVER+	0.00		
<hr/>			
LIVING AREA SQFT	3,200		
RETAIL PRICE PER FT	272.75		
MINUS LOT PER FT	272.75		

ATTACHMENT "B"

Staff's determination of specific necessary work items for rehabilitation of 609 West Lynn Street:

Work order numbers taken from contractor's cost estimate sheet.

NOTE: * items are those covered by Jaster Quintanilla estimate

707	SITE WORK	\$5,000
	Drainage plan and French drain	\$12,000
709	FOUNDATION REPAIR	\$8,700*
	Pier and beam repair	\$80,000*
	Termite treatment	\$1,500
	Mold treatment	\$6,000
	Demo and remove addition	\$10,000
712	FRAMING	\$29,000*
	Remove damaged siding	\$9,000*
	Remove damaged lumber	\$12,000*
	Rebuild roof deck	\$6,000*
713	Remove and repair windows	\$18,000
714	Exterior doors	\$3,000
715	Fireplace repair/removal	\$10,000
717	ROOFING	\$16,000
	Remove old roof	\$3,000
	Vents and flashing	\$2,500
718	Insulation	\$6,200
719	Sheet rock	\$16,000
720	PLUMBING	\$18,000
	Remove old plumbing	\$6,000
721	ELECTRIC	\$21,000
	Remove old wire	\$4,000
722	Heat and air conditioning	\$12,000
723	Painting	\$18,000
724	TRIM REPAIR/REPLACEMENT	\$15,000
	Stair rail repair/replacement	\$9,000
725	Trim labor	\$13,000
745	Silt fence	\$3,000
TOTAL		\$374,900
CONTRACTOR PROFIT	25%	\$93,000
GRAND TOTAL		\$467,900

ATTACHMENT "C"

LIST OF APPRAISED VALUES OF WEST LYNN AND COMPARABLE HOUSES



609 West Lynn Street
Condition: Poor
Use: Vacant
20,800 square foot lot
2,800 square foot building
Zoning: MF-4-NP
Land value: \$148,750
Improvement value: \$138,528
Total: \$287,278



611 West Lynn Street
Condition: Fair/Poor
Use: Vacant
28,200 square foot lot
3,352 square foot building
Zoning: MF-4-NP
Land value: \$457,300
Improvement value: \$279,439
Total: \$736,739



613 West Lynn Street
Condition: Good
Use: Single family residence
10,019 square foot lot
1,448 square foot building
Zoning: MF-4-NP
Land value: \$175,000
Improvement value: \$169,320
Total: \$344,320



615 West Lynn Street
 Condition: Good
 Use: Single family residence
 10,800 square foot lot
 2,126 square foot building
 Zoning: MF-4-NP
 Land value: \$175,000
 Improvement value: \$165,274
 Total: \$340,274



617 West Lynn Street
 Condition: Good
 Use: Single family residence
 11,220 square foot lot
 1,672 square foot building
 Zoning: MF-4-NP
 Land value: \$175,000
 Improvement value: \$150,092
 Total: \$325,092



705 West Lynn Street
 Condition: Good
 Use: Single family residence
 12,000 square foot lot
 1,484 square foot building
 Zoning: MF-4-NP
 Land value: \$175,000
 Improvement value: \$108,908
 Total: \$283,908



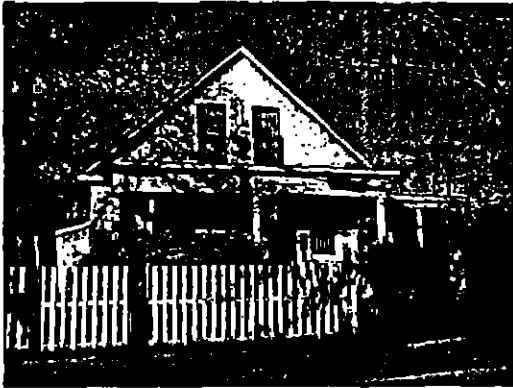
707 West Lynn Street
 Condition: Good
 Use: Single family residence
 8,580 square foot lot
 1,516 square foot building
 Zoning: MF-4-NP
 Land value: \$175,000
 Improvement value: \$79,662
 Total: \$254.662



1500 West Ninth Street
 Condition: Good
 Use: Single family residence
 22,220 square foot lot
 3,109 square foot building
 Zoning: SF-3-H-NP
 Land value: \$350,000
 Improvement value: \$212,538
 Total: \$562.538



702 Highland Street
 Condition: Good
 Use: Single family residence
 7,080 square foot lot
 2,550 square foot building
 Zoning: SF-3-NP
 Land value: \$175,000
 Improvement value: \$223,150
 Total: \$398.150



1510 West Tenth Street
 Condition: Good
 Use: Single family residence
 9,975 square foot lot
 2,545 square foot building
 Zoning: SF-3-NP
 Land value: \$227,500
 Improvement value: \$126,999
 Total: \$354,499



608 Blanco Street
 Condition: Fair/Good
 Use: Multi-family residence
 7,875 square foot lot
 2,895 square foot building
 Zoning: MF-4-NP
 Land value: \$210,000
 Improvement value: \$225,046
 Total: \$435,046



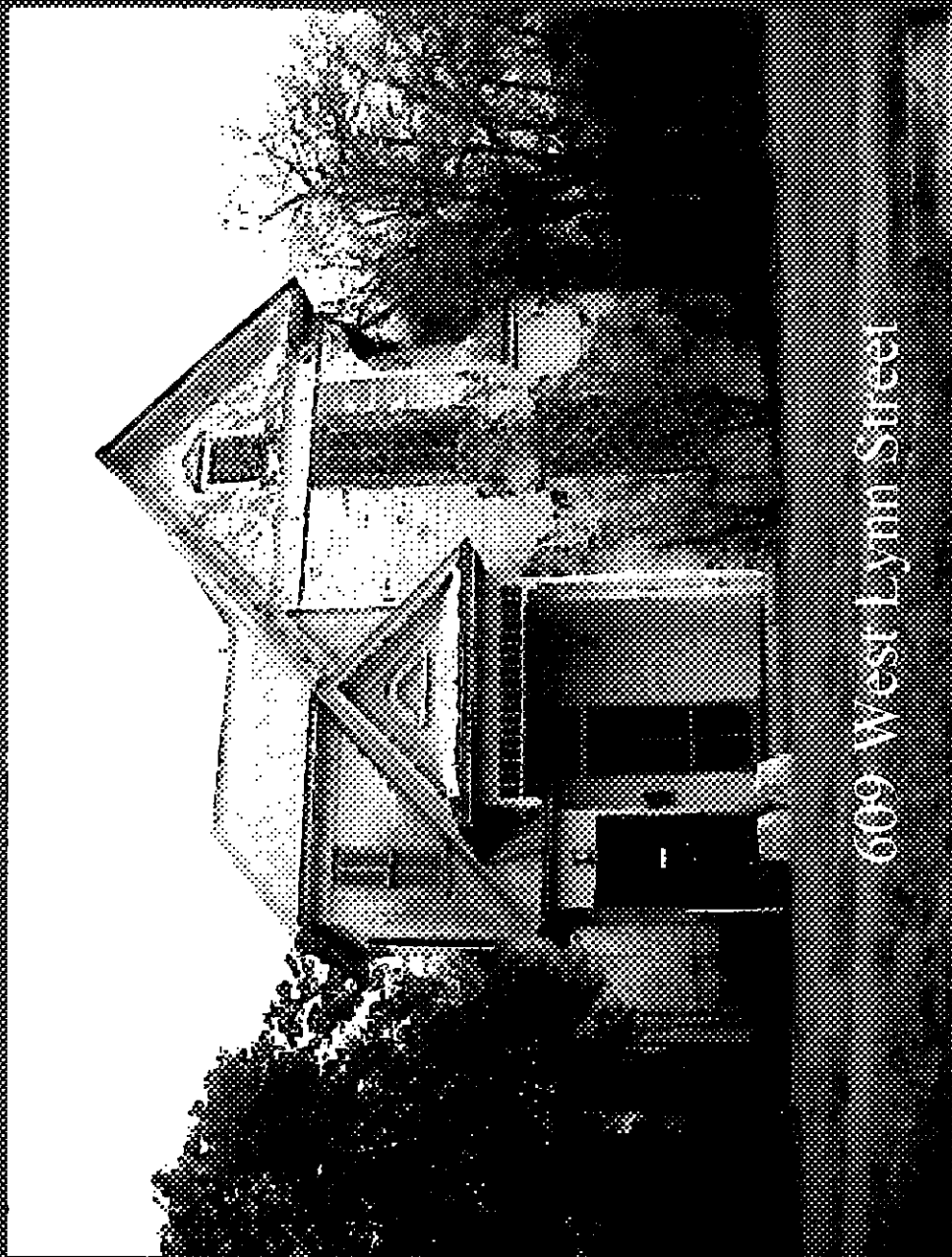
1201-07 W. 8th Street (8th & Blanco)
 Condition: Fair
 Use: Multi-family residence
 14,000 square foot lot
 1,488 square foot building
 Zoning: MF-4-NP
 Land value: \$192,500
 Improvement value: \$60,000
 Total: \$252,500



1112 West Ninth Street
Condition: Good
Use: Single family residence
15,000 square foot lot
2,040 square foot building
Zoning: MF-4-NP
Land value: \$306,250
Improvement value: \$270,583
Total: \$576.833



705 Oakland Street
Condition: Good
Use: Multi-family residence
6,120 square foot lot
2,672 square foot building
Zoning: MF-4-NP
Land value: \$175,000
Improvement value: \$192,500
Total: \$369.946



609 West Lynn Street

Built 1893

20,800 square foot lot

2,800 square foot building

Use: Vacant

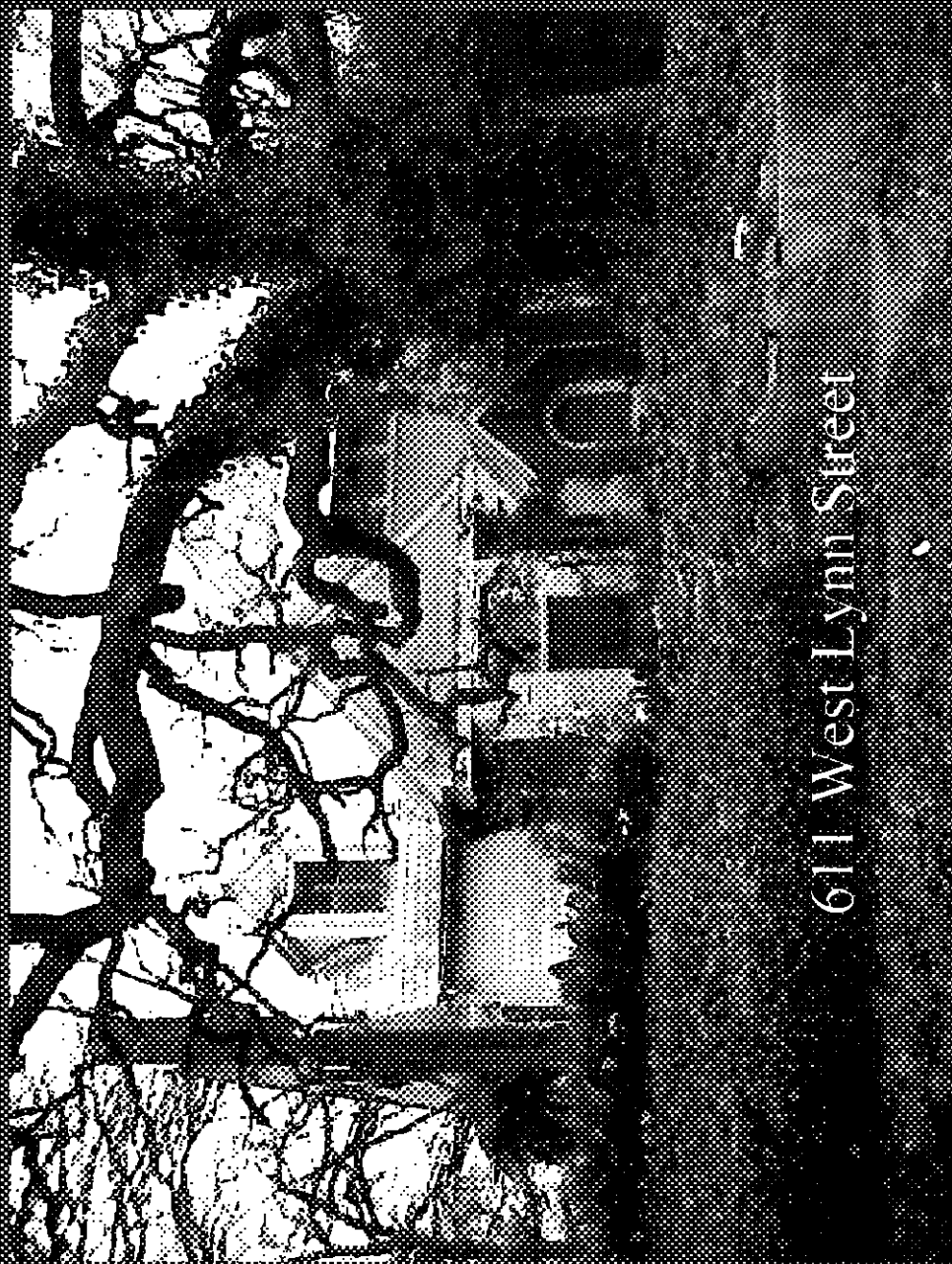
Zoning: MF-4-NP

Appraised value: \$287,278

Land value: \$148,750

Improvements value: \$138,528

Tax exemption:	\$3,984 (owner-occupied)	\$2,004 (income-producing)
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611 West Lynn Street

611 West Lynn Street

Built ca. 1910

28,200 square foot lot

3,352 square foot building

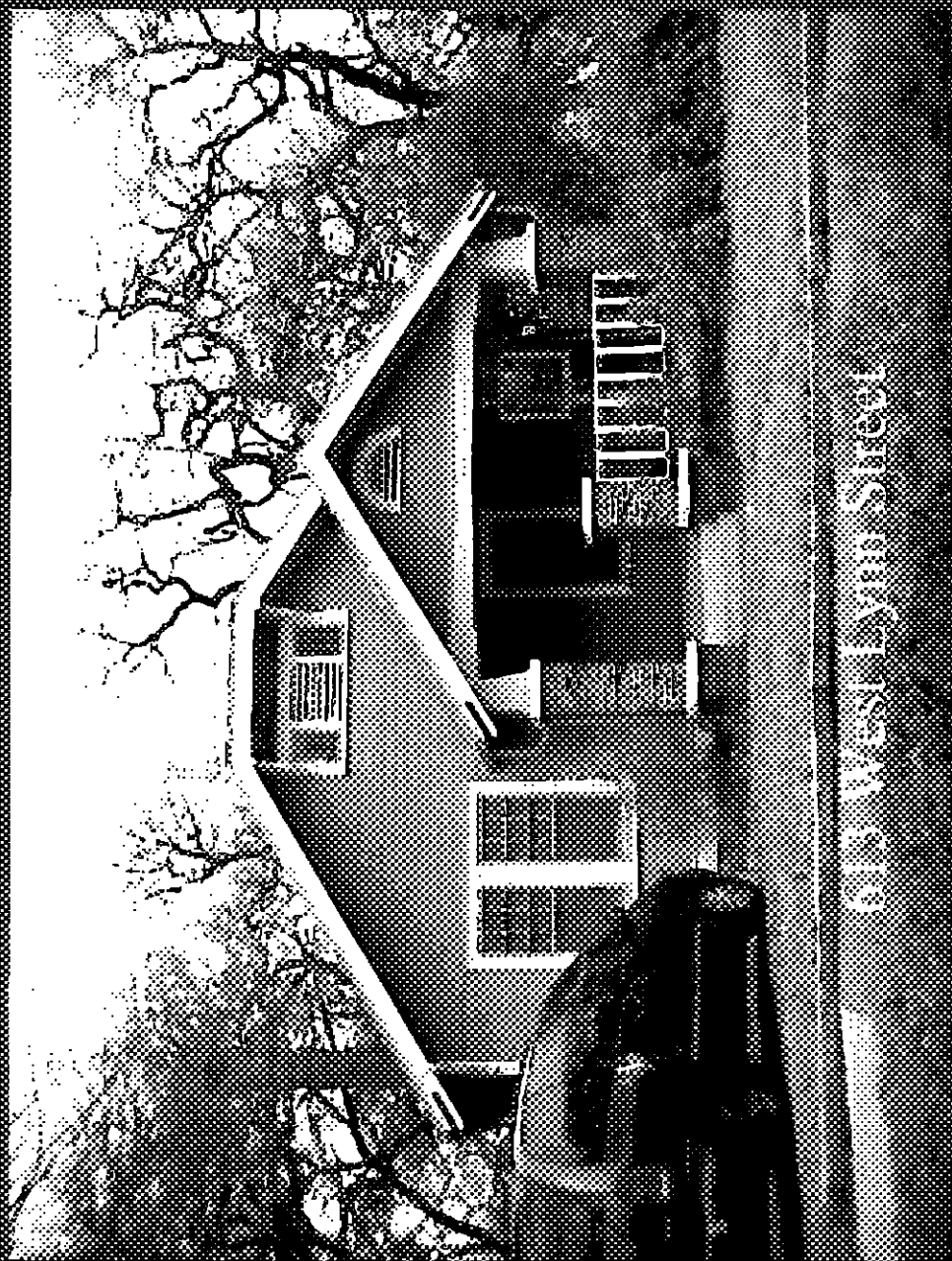
Use: Vacant

Zoning: MF-4-NP

Appraised value (2004): \$736,739

Land value: \$457,300

Improvements value: \$279,439



613 West Lynn Street

Built ca. 1924

10,019 square foot lot

1,448 square foot building

Zoning: MF-4-NP

Appraised value: \$344,320

Land value: \$175,000

Improvements value: \$169,320



613 West Lynn Street

615 West Lynn Street

Built ca. 1927

10,800 square foot lot

2,126 square foot building

Zoning: MF-4-NP

Appraised value: \$340,274

Land value: \$175,000

Improvements value: \$165,274



617 West Lynn Street

617 West Lynn Street

Built ca. 1920

11,220 square foot lot

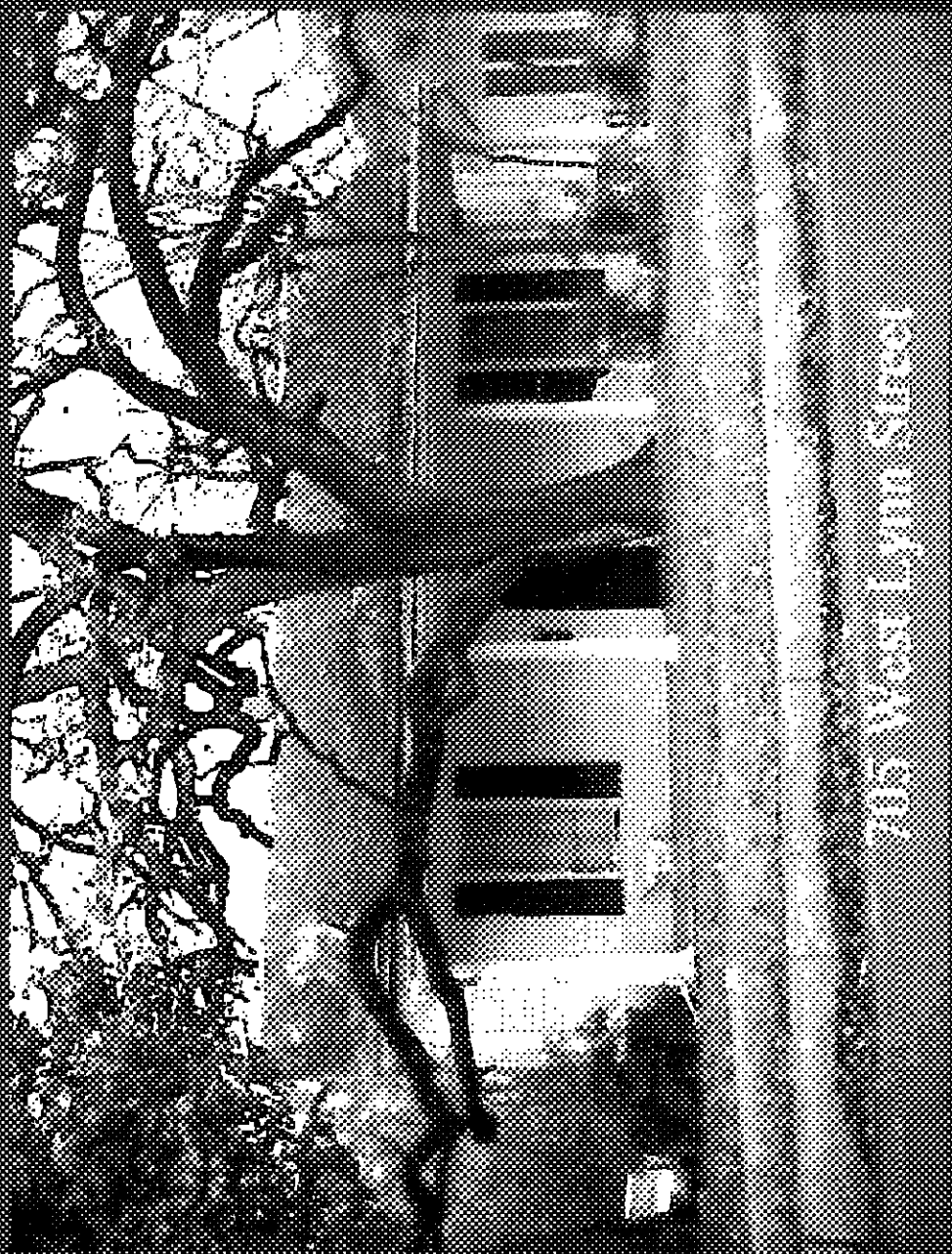
1,672 square foot building

Zoning: MF-4-NP

Appraised value: \$325,092

Land value: \$175,000

Improvements value: \$150,092



705 West Lynn Street

Built ca. 1895

12,000 square foot lot

1,484 square foot building

Zoning: MF-4-NP

Appraised value: \$283,908

Land value: \$175,000

Improvements value: \$108,908



707 West Lynn Street

Built ca. 1915

8,580 square foot lot

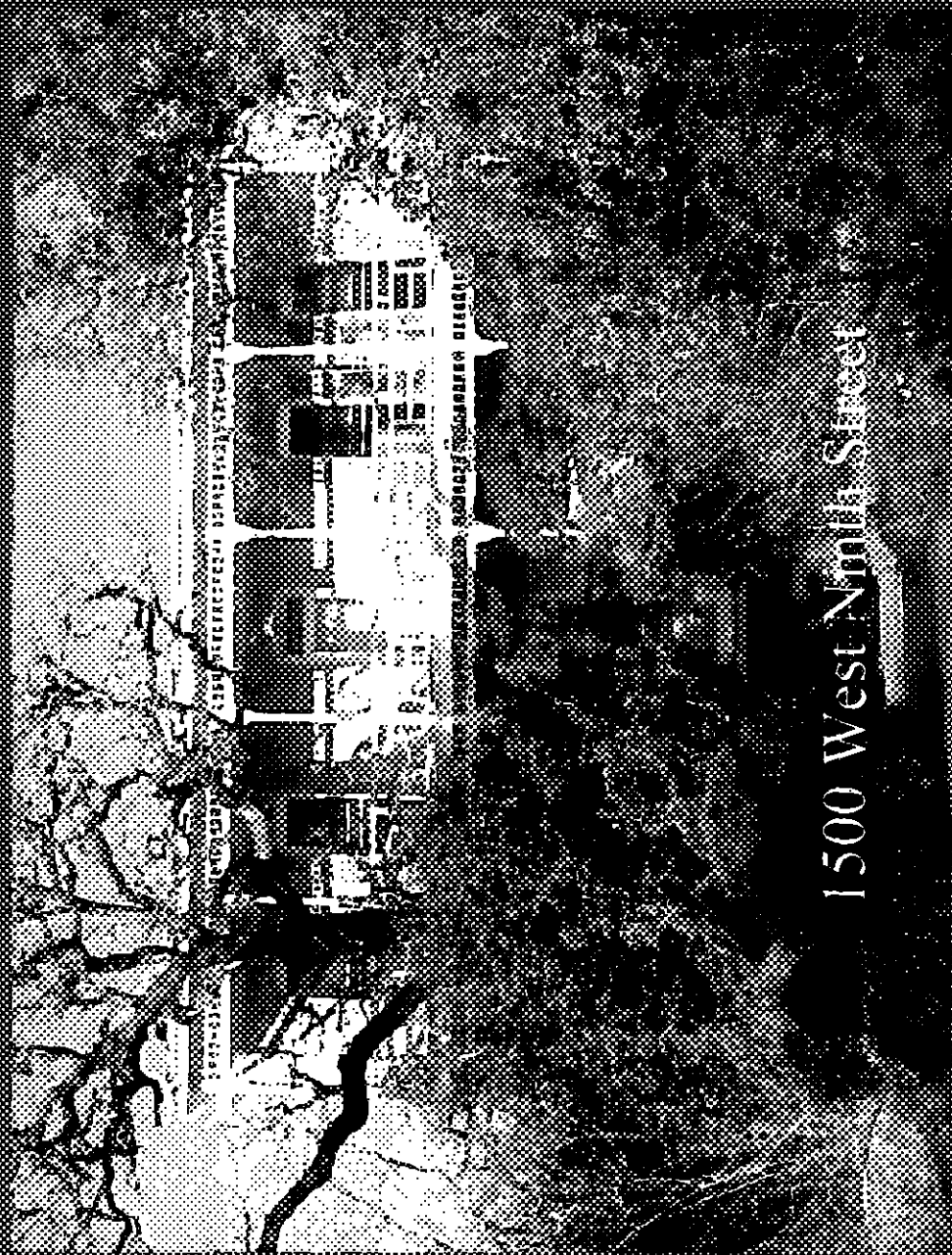
1,516 square foot building

Zoning: MF-4-NP

Appraised value: \$254,662

Land value: \$175,000

Improvements value: \$79,662



1500 West Ninth Street

1500 West Ninth Street

Built ca. 1857/1894

22,220 square foot lot

3,109 square foot building

Zoning: SF-3-H-NP

Appraised value: \$562,538

Land value: \$350,000

Improvements value: \$212,538



702 Highland Street

702 Highland Street

Built ca. 1920

7,080 square foot lot

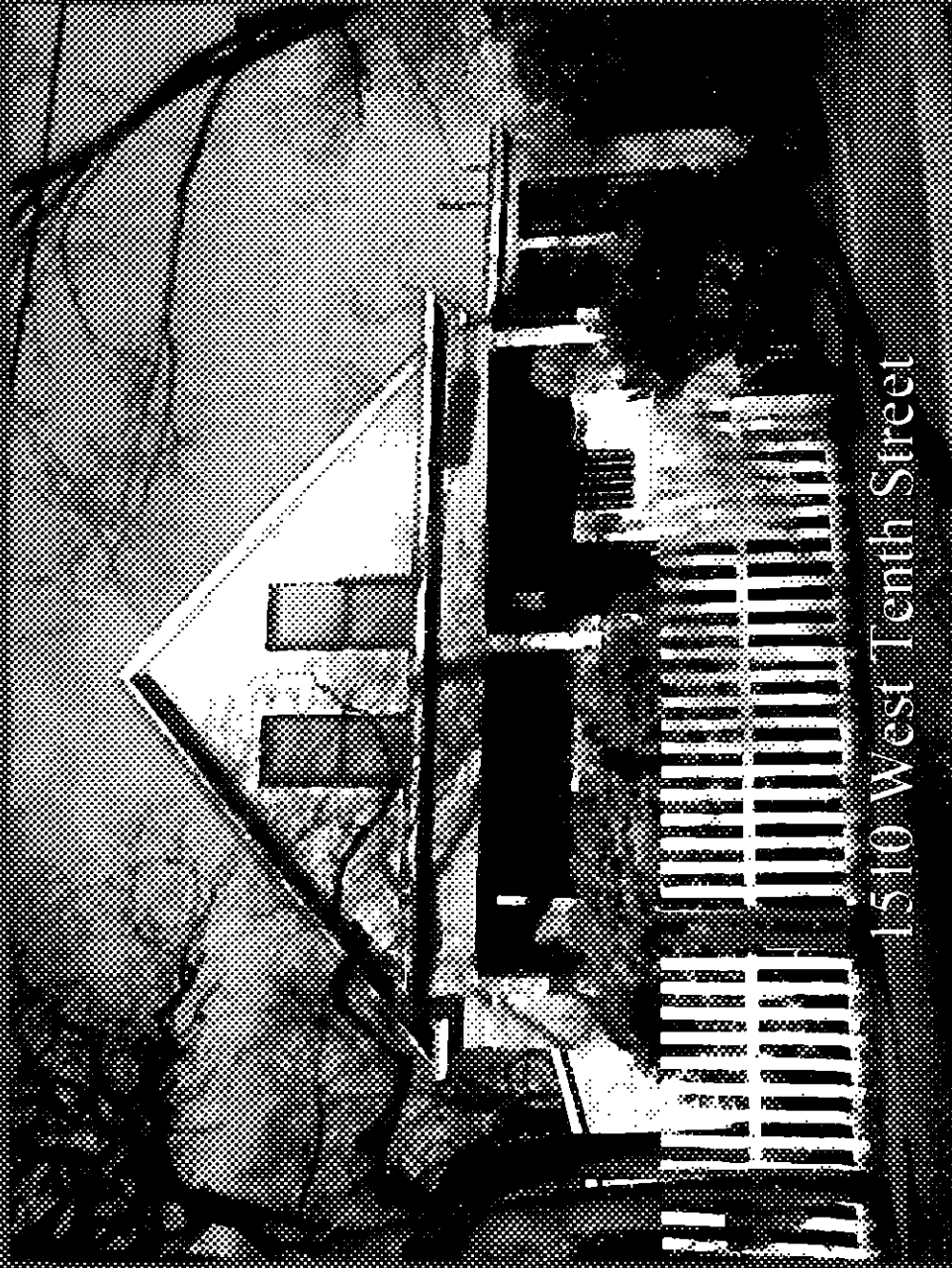
2,550 square foot building

Zoning: SF-3-NP

Appraised value: \$398,150

Land value: \$175,000

Improvements value: \$223,150



1510 West Tenth Street

Built ca. 1905

9,975 square foot lot

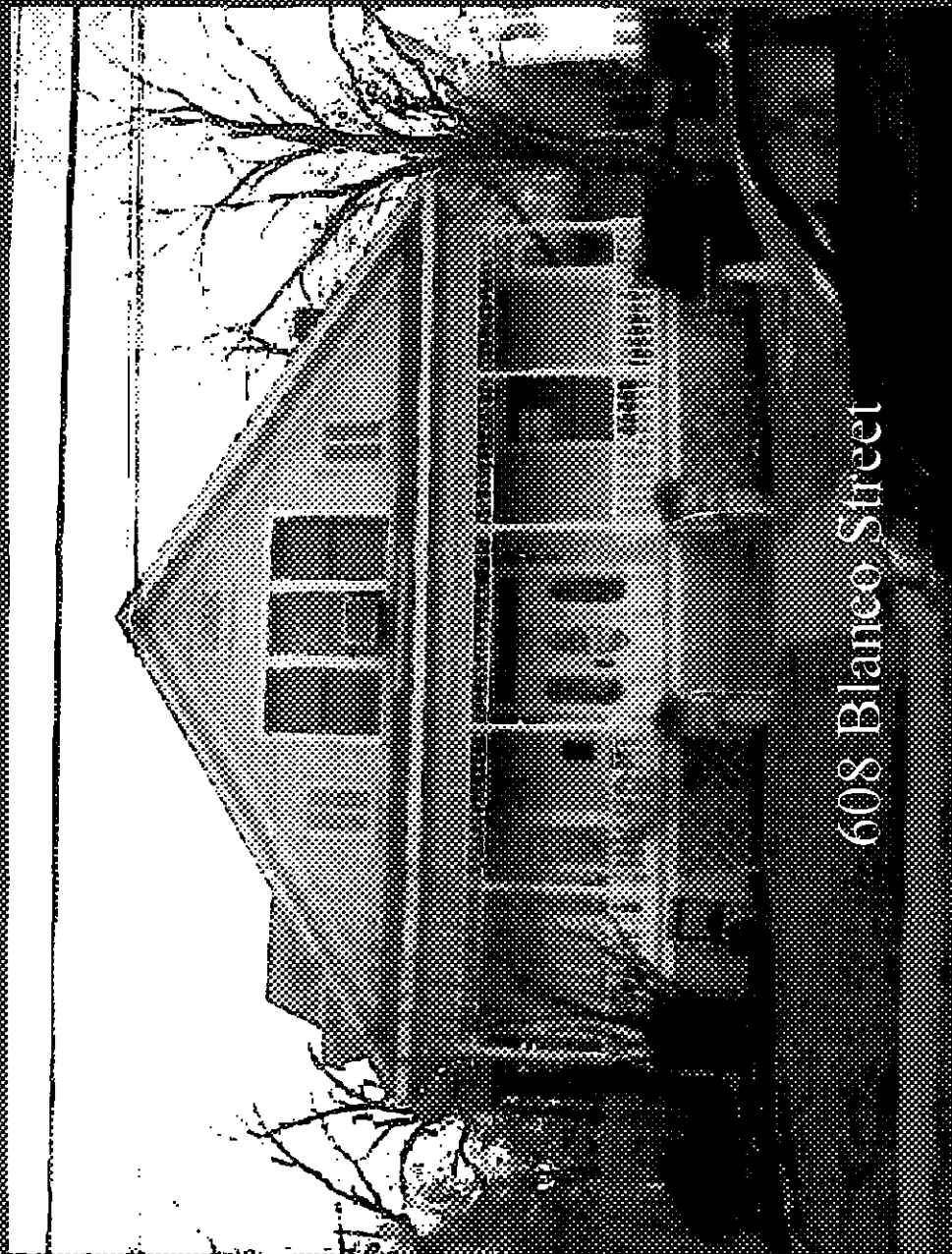
2,545 square foot building

Zoning: SF-3-NP

Appraised value: \$354,499

Land value: \$227,500

Improvements value: \$126,999



608 Blanco Street

608 Blanco Street

Built ca. 1905

7,875 square foot lot

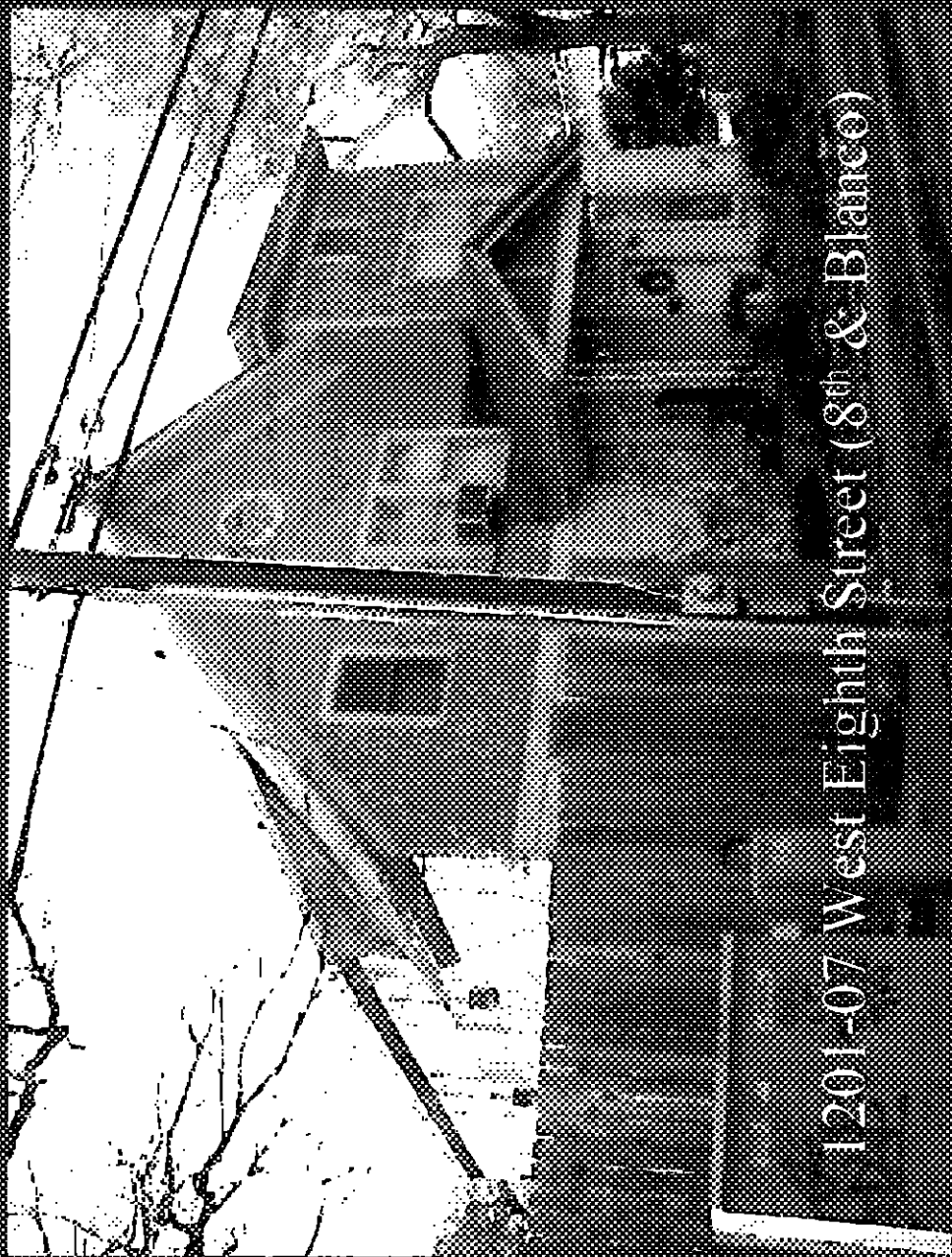
2,895 square foot building

Zoning: MF-4-NP

Appraised value: \$435,046

Land value: \$210,000

Improvements value: \$225,046



1201-07 West Eighth Street (8th & Blanco)

1201-07 West Eighth Street (Eighth and Blanco Streets)

Built ca. 1915

14,000 square foot lot

1,488 square foot building

Zoning: MF-4-NP

Appraised value: \$252,500

Land value: \$192,500

Improvements value: \$60,000



1112 West Ninth Street

1112 West Ninth Street

Built ca. 1900

15,000 square foot lot

2,040 square foot building

Zoning: MF-4-NP

Appraised value: \$576,833

Land value: \$306,250

Improvements value: \$270,583



703 CALHOUN STREET

705 Oakland Street

Built ca. 1920

6,120 square foot lot

2,672 square foot building

Zoning: MF-4-NP

Appraised value: \$369,946

Land value: \$175,000

Improvements value: \$194,946

January 23, 2005

**The Honorable Will Wynn
Mayor
City of Austin
P.O. Box 1088
Austin, Texas
78767**

RE: 609 West Lynn Case # C14H-04-0027

Dear Mayor Wynn,

Please allow this correspondence to serve as my official notice that I oppose any zoning change on my property at the above referenced address. It is my understanding that my opposition will constitute a valid petition should any zoning case be initiated. A valid petition requires six (6) votes at City Council to adopt a zoning change over my objections.

Please call my office should you have any questions or need anything further.

Sincerely,


Hunter Goodwin

FILED
In the Office of the
Secretary of State of Texas
NOV 05 2004

CERTIFICATE OF LIMITED PARTNERSHIP Corporations Section
OF
BIG DOG DEVELOPMENT, LTD.

The undersigned, who are the General Partners of BIG DOG DEVELOPMENT, LTD.
(the "Partnership"), pursuant to the terms of the Texas Revised Limited Partnership Act (the
"Act"), hereby execute this Certificate of Limited Partnership for the purpose of complying with
Texas law.

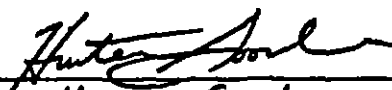
1. The name of the Partnership is " BIG DOG DEVELOPMENT, LTD.".
2. The address of the registered office of the Partnership is 7447 Bee Caves Road, Suite 50,
Austin, Texas 78746, and the name and address of the registered agent for service of process of
the Partnership required to be maintained by Section 1.06 of the Act is DAVID LEOEUF at
7447 Bee Caves Road, Suite 50, Austin, Texas 78746.
3. The address of the principal office of the Partnership in the United States where records of
the Partnership are to be kept or made available under Section 1.07 of the Act is 7447 Bee Caves
Road, Suite 50, Austin, Texas 78746.
4. The name, the mailing address, and the street address of the new General Partner of the
Partnership is

DUVAL PROPERTIES, LLC.
C/O DAVID LEOEUF
7447 Bee Caves Road, Suite 50,
Austin, Texas 78746

This Certificate of Limited Partnership is executed by the undersigned in its capacity as the
General Partner of the Partnership.

EXECUTED effective 11/4, 2004.

GENERAL PARTNER:
DUVAL PROPERTIES, LLC.

BY: 
NAME: Hunter Goodwin
TITLE: Partner

07 FNT 16948 TH

RETURN
FIDELITY NATIONAL TITLE
494-9600
Austin Corp office

After Recording Please Return To:
PlainsCapital Bank
8010 University Ave
Lubbock, Texas 79413



DT 2805310168
7 PGS

Space Above This Line For Recording Data

DEED OF TRUST

Notice of confidentiality rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your social security number or your driver's license number.

DATE AND PARTIES. The date of this Deed Of Trust (Security Instrument) is January 18, 2005. The parties and their addresses are:

GRANTOR:

BIG DOG DEVELOPMENT, LTD.
A Texas Limited Partnership
7447 Boes Caves Rd., Ste 50
Austin, Texas 78748

TRUSTEE:

DWIGHT I. OVERTON
8010 University
Lubbock, Texas 79413

LENDER:

PLAINSCAPITAL BANK
Organized and existing under the laws of Texas
919 Congress
Suite 100
Austin, Texas 78701

1. CONVEYANCE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debts and Grantor's performance under this Security Instrument, Grantor irrevocably grants, conveys and sells to Trustee, in trust for the benefit of Lender, with power of sale, the following described property:

FLDT on a part of Lot 8, OUTLOT NO. 3, DIVISION "2", in the City of Austin, Travis County, Texas, being the same tract of land conveyed in the Warranty Deed from Charles Bethes Dildy to William Dolph Dildy, recorded in Vol. 8795, page 618 in the Real Property Records of Travis County, Texas.

The property is located in Travis County at 809 West Lynn, Austin, Texas 78703.

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described (all referred to as Property). This Security Instrument will remain in effect until the Secured Debts and all underlying agreements have been terminated in writing by Lender.

2. MAXIMUM OBLIGATION LIMIT. The total principal amount secured by this Security Instrument at any one time will not exceed \$300,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

3. SECURED DEBTS. This Security Instrument will secure the following Secured Debts:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 1674399, dated January 18, 2005, from Grantor to Lender, with a loan amount of \$300,000.00, with an interest rate based on the then current index value as the promissory note prescribes and maturing on January 18, 2006.

B. All Debts. All present and future debts from Grantor to Lender, even if this Security Instrument is not specifically referenced, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Security Instrument, each agrees that it will secure debts incurred either individually or with others who may not sign this Security Instrument. Nothing in this Security Instrument constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing. In the event that Lender fails to provide any required notice of the right of rescission, Lender waives any subsequent security interest in the Grantor's principal dwelling that is created by this Security Instrument. This Security Instrument will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. This Security Instrument will not secure any debt for which a security interest is created in "margin stock" and Lender does not obtain a "statement of purpose," as defined and required by federal law governing securities.

C. Sums Advanced. All sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

4. PAYMENTS. Grantor agrees that all payments under the Secured Debts will be paid when due and in accordance with the terms of the Secured Debts and this Security Instrument.

5. WARRANTY OF TITLE. Grantor warrants that Grantor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to irrevocably grant, convey and sell the Property to Trustee, in trust, with power of sale. Grantor also warrants that the Property is unencumbered, except for encumbrances of record.

6. PRIOR SECURITY INTERESTS. With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Grantor agrees:

A. To make all payments when due and to perform or comply with all covenants.

B. To promptly deliver to Lender any notices that Grantor receives from the holder.

C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

7. CLAIMS AGAINST TITLE. Grantor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Grantor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Grantor's payment. Grantor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Grantor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Grantor may have against parties who supply labor or materials to maintain or improve the Property.

8. DUE ON SALE OR ENCUMBRANCE. Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 561), as applicable.

9. TRANSFER OF AN INTEREST IN THE GRANTOR. If Grantor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if:

A. A beneficial interest in Grantor is sold or transferred.

B. There is a change in either the identity or number of members of a partnership or similar entity.

C. There is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity.

However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Security Instrument.

10. WARRANTIES AND REPRESENTATIONS. Grantor makes to Lender the following warranties and representations which will continue as long as this Security Instrument is in effect:

A. **Power.** Grantor is duly organized, and validly existing and in good standing in all jurisdictions in which Grantor operates. Grantor has the power and authority to enter into this transaction and to carry on Grantor's business or activity as it is now being conducted and, as applicable, is qualified to do so in each jurisdiction in which Grantor operates.

B. **Authority.** The execution, delivery and performance of this Security Instrument and the obligation evidenced by this Security Instrument are within Grantor's powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which Grantor is a party or to which Grantor is or any of Grantor's property is subject.

C. **Name and Place of Business.** Other than previously disclosed in writing to Lender, Grantor has not changed Grantor's name or principal place of business within the last 10 years and has not used any other trade or fictitious name. Without Lender's prior written consent, Grantor does not and will not use any other name and will preserve Grantor's existing name, trade names and franchises.

11. PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Grantor will keep the Property in good condition and make all repairs that are reasonably necessary. Grantor will not commit or allow any waste, impairment, or deterioration of the Property. Grantor will keep the Property free of noxious weeds and grasses. Grantor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Grantor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Grantor will notify Lender of all demands, proceedings, claims, and actions against Grantor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Grantor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property of at least equal in value to the replaced personal property, free from any title retention device, security agreement or other

encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Grantor will not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender will give Grantor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property will be entirely for Lender's benefit and Grantor will in no way rely on Lender's inspection.

12. AUTHORITY TO PERFORM. If Grantor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Grantor appoints Lender as attorney in fact to sign Grantor's name or pay any amount necessary for performance. Lender's right to perform for Grantor will not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

13. DEFAULT. Grantor will be in default if any of the following occur:

A. **Payments.** Grantor fails to make a payment in full when due.

B. **Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against Grantor, Borrower, or any co-signer, endorser, surety or guarantor of this Security Instrument or any other obligations Borrower has with Lender.

C. **Business Termination.** Grantor merges, dissolves, reorganizes, ends its business or existence, or a partner or majority owner dies or is declared legally incompetent.

D. **Failure to Perform.** Grantor fails to perform any condition or to keep any promise or covenant of this Security Instrument.

E. **Other Documents.** A default occurs under the terms of any other document relating to the Secured Debts.

F. **Other Agreements.** Grantor is in default on any other debt or agreement Grantor has with Lender.

G. **Misrepresentation.** Grantor makes any verbal or written statement or provides any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.

H. **Judgment.** Grantor fails to satisfy or appeal any judgment against Grantor.

I. **Forfeiture.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.

J. **Name Change.** Grantor changes Grantor's name or assumes an additional name without notifying Lender before making such a change.

K. **Property Transfer.** Grantor transfers all or a substantial part of Grantor's money or property. This condition of default, as it relates to the transfer of the Property, is subject to the restrictions contained in the DUE ON SALE section.

L. **Property Value.** The value of the Property declines or is impaired.

M. **Material Change.** Without first notifying Lender, there is a material change in Grantor's business, including ownership, management, and financial conditions.

N. **Insecurity.** Lender reasonably believes that Lender is insecure.

14. REMEDIES. On or after default, Lender may use any and all remedies Lender has under state or federal law or in any document relating to the Secured Debts, including, without limitation, the power to sell the Property. Any amounts advanced on Grantor's behalf will be immediately due and may be added to the balance owing under the Secured Debts. Lender may make a claim for any and all insurance benefits or refunds that may be available on Grantor's default.

Subject to any right to cure, required time schedules or any other notice rights Grantor may have under federal and state law, Lender may make all or any part of the amount owing by the terms of the Secured Debts immediately due and foreclose this Security Instrument in a manner provided by law upon the occurrence of a default or anytime thereafter.

In the event of default, it will be the duty of the Trustee, at the request of Lender (which request is hereby conclusively presumed), to invoke power of sale as required by Section 51.002 of the Texas Property Code, as then amended. Trustee will advertise and sell the Property as a whole or in separate parcels at public auction to the highest bidder for cash and convey indefeasible title to the Property with covenants of general warranty. Trustee will give notice of sale including the time, terms and place of sale and a description of the Property to be sold as required by the applicable law in effect at the time of the proposed sale.

To the extent permitted by law, a mortgage servicer on behalf of Lender may manage information regarding Grantor's last known address, appoint a trustee or substitute trustee, including, without limitation, a perpetual substitute trustee, and administer all aspects of a foreclosure as authorized in this Security Instrument or by applicable law. The Lender may include, without limitation, a lock entry system to the extent permitted by law.

To the extent not prohibited by law, Trustee will apply the proceeds of the Property's sale in the following order: to all fees, charges, costs and expenses of exercising the power of sale and the sale; to Lender for all advances made for repairs, taxes, insurance, liens, assessments and prior encumbrances and interest thereon; to the Secured Debts' principal and interest; and paying any surplus as required by law. Lender or its designee may purchase the Property.

Upon sale of the Property and to the extent not prohibited by law, Trustee shall make and deliver a deed to the Property sold which conveys indefeasible title to the purchaser, without warranty or with covenants or special or general warranty. The recitals in any deed of conveyance shall be prima facie evidence of the facts set forth therein to the extent permitted by law.

All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debts after the balance is due or is accelerated or after foreclosure proceedings are filed will not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

15. FORECLOSURE. In the event a foreclosure under power of sale should be commenced by the Trustee, Lender may at any time before the sale of the Property direct the Trustee to abandon the sale, and may then institute suit for the collection of the Secured Debts and for the foreclosure of the lien of this Security Instrument. It is further agreed that if Lender should institute a suit for the collection of the Secured Debts, and for a foreclosure of the lien of this Security Instrument, that Lender may at any time before the entry of a final judgment in said suit discontinue the same, and require the Trustee to sell the Property in accordance with the provisions of this Security Instrument. Lender, if it is the highest bidder, will have the right to purchase at any sale of the Property, and to have the amount for which such Property is sold credited on the Secured Debts.

16. COLLECTION EXPENSES AND ATTORNEYS' FEES. On or after Default, to the extent permitted by law, Grantor agrees to pay all expenses of collection, enforcement or protection of Lender's rights and remedies under this Security Instrument or any other document relating to the Secured Debts. Grantor agrees to pay expenses for Lender to inspect and preserve the Property and for any recordation costs of releasing the Property from this Security Instrument. Expenses include, but are not limited to, reasonable attorneys' fees, court costs, and other legal expenses. These expenses are due and payable immediately. If not paid immediately, these expenses will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of the Secured Debts. In addition, to the extent permitted by the United States Bankruptcy Code, Grantor agrees to pay the reasonable attorneys' fees incurred by Lender to protect Lender's rights and interests in connection with any bankruptcy proceedings initiated by or against Grantor.

17. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substance," "hazardous waste," "hazardous substance," or "regulated substance" under any Environmental Law.

Grantor represents, warrants and agrees that:

A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

B. Except as previously disclosed and acknowledged in writing to Lender, Grantor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.

C. Grantor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Grantor will take all necessary remedial action in accordance with Environmental Law.

D. Except as previously disclosed and acknowledged in writing to Lender, Grantor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Grantor or any tenant of any Environmental Law. Grantor will immediately notify Lender in writing as soon as Grantor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Except as previously disclosed and acknowledged in writing to Lender, Grantor and every tenant have been, are and will remain in full compliance with any applicable Environmental Law.

F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

G. Grantor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

H. Grantor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Grantor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Grantor agrees, at Grantor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Grantor's obligations under this section at Grantor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Grantor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Grantor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.

L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section will survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

18. CONDEMNATION. Grantor will give Lender prompt notice of any pending or threatened action by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Grantor authorizes Lender to intervene in Grantor's name in any of the above described actions or claims. Grantor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds will be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

19. INSURANCE. Grantor agrees to keep the Property insured against the risks reasonably associated with the Property. Grantor will maintain this insurance in the amounts Lender requires. This insurance will last until the Property is released from this Security Instrument. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debts. Grantor may choose the insurance company, subject to Lender's approval, which will not be unreasonably withheld.

All insurance policies and renewals will include a standard "mortgage clause" and, where applicable, "loss payee clause." If required by Lender, Grantor agrees to maintain comprehensive general liability insurance and rental loss or business interruption insurance in amounts and under policies acceptable to Lender. The comprehensive general liability insurance must name Lender as an additional insured. The rental loss or business interruption insurance must be in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing.)

Grantor will give Lender and the insurance company immediate notice of any loss. All insurance proceeds will be applied to restoration or repair of the Property or to the Secured Debts, at Lender's option. If Lender acquires the Property in damaged condition, Grantor's rights to any insurance policies and proceeds will pass to Lender to the extent of the Secured Debts.

Grantor will immediately notify Lender of cancellation or termination of insurance. If Grantor fails to keep the Property insured Lender may obtain insurance to protect Lender's interest in the Property. This insurance may include coverages not originally required of Grantor, may be written by a company other than one Grantor would choose, and may be written at a higher rate than Grantor could obtain if Grantor purchased the insurance.

20. COLLATERAL PROTECTION INSURANCE. Property insurance is required. Grantor agrees to buy insurance on the Property in the amount Lender specifies, subject to applicable law. Grantor shall have the option of furnishing any required insurance either through existing policies of insurance owned or controlled by Grantor or procuring and furnishing the equivalent coverage through any insurance company authorized to do business in Texas or an eligible surplus line insurer to the extent permitted by law. Grantor will name Lender as loss payee under the policy. Grantor may be required to deliver to Lender a copy of the collateral protection insurance policy and proof of payment of premiums.

If Grantor fails to meet any of these requirements, Lender may obtain collateral protection insurance on Grantor's behalf. Lender is not required to purchase any type or amount of insurance. To the extent permitted by law, Lender may obtain insurance that will cover either the actual amount of unpaid indebtedness or the replacement cost of improvements, subject to policy limits. If Lender purchases insurance for the Property, Grantor will be responsible for the cost of that insurance, including interest and any other charges incurred by Lender in connection with the placement of collateral protection insurance to the extent permitted by law. Grantor understands that insurance Lender obtains may cost significantly greater than the cost of insurance Grantor could have obtained. Amounts that Grantor owes are due and payable upon demand or on such other terms as Lender requires to the extent permitted by law.

21. ESCROW FOR TAXES AND INSURANCE. Grantor will not be required to pay to Lender funds for taxes and insurance in escrow.

22. CO-SIGNERS. If Grantor signs this Security Instrument but does not sign the Secured Debts, Grantor does so only to convey Grantor's interest in the Property to secure payment of the Secured Debts and Grantor does not agree to be personally liable on the Secured Debts. If this Security Instrument secures a guaranty between Lender and Grantor, Grantor agrees to waive any rights that may prevent Lender from bringing any action or claim against Grantor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws.

23. SUCCESSOR TRUSTEE. Lender, at Lender's option, may from time to time remove Trustee and appoint a successor without any other formality than the designation in writing. The successor trustee, without conveyance of the Property, will succeed to all the title, power and duties conferred upon Trustee by this Security Instrument and applicable law.

24. WAIVERS. Except to the extent prohibited by law, Grantor waives all appraisal rights relating to the Property.

25. USURY SAVINGS. In no event shall any provision of this Security Instrument or any other instrument evidencing or securing the Secured Debts ever obligate Grantor to pay or allow Lender to collect interest on the Secured Debts at a rate greater than the maximum non-usurious rate permitted by applicable law.

In the event any portion of the sums intended to be secured by this Security Instrument cannot be lawfully secured hereby, payments in reduction of such sums shall be applied first to those portions not secured hereby. In the event that any law is interpreted so that any charge provided for in this Security Instrument and/or together with any instrument evidencing the Secured Debts, violates such law by reason of the acceleration of the Secured Debts or otherwise, such charge is hereby reduced to eliminate such violation. Any amounts paid to Lender in excess of the amounts permitted by applicable law shall be applied to reduce the principal of the Secured Debts, or, at Lender's option, be refunded.

26. APPLICABLE LAW. This Security Instrument is governed by the laws of Texas, except to the extent otherwise required by the laws of the jurisdiction where the Property is located, and the United States of America.

27. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS. Each Grantor's obligations under this Security Instrument are independent of the obligations of any other Grantor. Lender may sue each Grantor individually or together with any other Grantor. Lender may release any part of the Property and Grantor will still be obligated under this Security Instrument for the remaining Property. The duties and benefits of this Security Instrument will bind and benefit the successors and assigns of Lender and Grantor.

28. AMENDMENT, INTEGRATION AND SEVERABILITY. This Security Instrument may not be amended or modified by oral agreement. No amendment or modification of this Security Instrument is effective unless made in writing and executed by Grantor and Lender. This Security Instrument and any other documents relating to the Secured Debts are the complete and final expression of the agreement. If any provision of this Security Instrument is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

29. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Security Instrument.

30. NOTICE, FINANCIAL REPORTS, ADDITIONAL DOCUMENTS AND RECORDING TAXES. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Grantor will be deemed to be notice to all Grantors. Grantor will inform Lender in writing of any change in Grantor's name, address or other application information. Grantor will provide Lender any financial statements or information Lender requests. All financial statements and information Grantor gives Lender will be correct and complete. Grantor agrees to pay all expenses, charges and taxes in connection with the preparation and recording of this Security Instrument. Grantor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Grantor's obligations under this Security Instrument and to confirm Lender's lien status on any Property, and Grantor agrees to pay all expenses, charges and taxes in connection with the preparation and recording thereof. Time is of the essence.

SIGNATURES. By signing, Grantor agrees to the terms and covenants contained in this Security Instrument. Grantor also acknowledges receipt of a copy of this Security Instrument.

GRANTOR:

Big Dog Development, LTD.

By Hunter Goodwin
Duval Properties, LLC by Hunter Goodwin, Partner

ACKNOWLEDGMENT.

(Business or Entity)

State OF Texas, County OF Texas ss.

This instrument was acknowledged before me this 19 day of January, 2005 by Duval Properties, LLC by Hunter Goodwin - Partner of Big Dog Development, LTD. a Limited Partnership on behalf of the Limited Partnership.

My commission expires:

Tracey Hendrix
(Notary Public)



**EXHIBIT A
METES AND BOUNDS DESCRIPTION**

BEING PART OF LOT EIGHT (8), OUTLOT NO. 3, DIVISION "Z", IN THE ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AND BEING THE SAME TRACT OF LAND CONVEYED TO WILLIAM DOLPH DILDY IN VOLUME 8795, PAGE 618 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE in the southeasterly r.o.w. line of West Lynn (30' r.o.w.) at an "X" found cut in concrete at the northwest corner of that certain tract of land conveyed to Charles and Bertha Dildy in Volume 11460, Page 05 of the Travis County Real Property Records,

THENCE with the southeasterly r.o.w. line of West Lynn, S 34° 30' 00" W 143.60 feet to a 1/4" rebar capped "Grant - 1919" set at the southwest corner of said Charles Dildy tract of land, being also the northwest corner of said William Dildy tract of land for the northwest corner and PLACE OF BEGINNING hereof,

THENCE with the common line between said Dildy tracts of land, S 60° 07' 43" E 205.41 feet to a 1/4" rebar capped "Grant - 1919" set in the northwesterly line of a 20' alley, being also the common easterly corner of said Dildy tracts of land, for the northeast corner hereof, from which point a concrete nail found at the northeast corner of said Charles Dildy tract of land bears N 34° 08' 26" E 144.00 feet,

THENCE with the northwesterly line of said 20' alley, being also the southeasterly line of said William Dildy tract of land, S 34° 05' 50" W 104.00 feet to a 1/4" rebar capped "Grant-1919" set at the southeast corner of said William Dildy tract of land, being also the northeast corner of that certain tract of land conveyed to Thomas and Maryruth Wiley, Sophisticated Sounds, in Volume 12470, Page 640 of the Travis County Real Property Records, for the southeast corner hereof,

THENCE with the southerly line of said William Dildy tract of land, being also the northerly line of said Wiley tract of land that certain tract of land conveyed to Virginia Wiley, Thomas Wiley Jr. and Maryruth O. Wiley Life Estate, in Volume 12709, Page 977 of the Travis County Real Property Records, and that certain tract of land John Kirkpatrick and Lois Hull Villa Marquis in Volume 13342, Page 2810 of the Travis County Real Property Records, N 60° 57' 26" W 206.09 feet to a 1/4" rebar found in the southeasterly r.o.w. line of West Lynn at the southwest corner of said William Dildy tract of land, being also the northwest corner of said Kirkpatrick tract of land, for the southwest corner hereof,

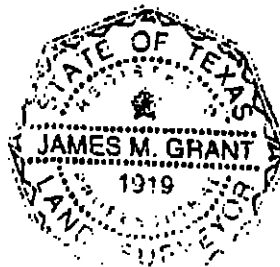
THENCE with the southeasterly r.o.w. line of West Lynn, being the northwesterly line of said William Dildy tract of land, N 34° 30' 00" E 103.45 feet to the PLACE OF BEGINNING and containing 0.488 acre of land, more or less.

NOTE: See plat prepared to accompany this metes and bounds description.

AS SURVEYED BY:
HARRIS-GRANT SURVEYING, INC.
1406 HETHER ST.
AUSTIN, TEXAS 78704
512-444-1781

James M. Grant
JAMES M. GRANT
R.P.L.S. 1919
SEPTEMBER 29, 2004

mhd:doc:m&b:40293



FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2005 Jan 20 02:05 PM 2005010160

KNOWLES \$25.00

DANA DEBEAUVOIR COUNTY CLERK
TRAVIS COUNTY TEXAS

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY GENERALLY KNOWN AS THE BROWN-LEDEL-SILVERMAN
3 HOUSE LOCATED AT 609 WEST LYNN STREET IN THE OLD WEST AUSTIN
4 NEIGHBORHOOD PLAN AREA FROM MULTIFAMILY RESIDENCE
5 MODERATE HIGH DENSITY-NEIGHBORHOOD PLAN (MF-4-NP)
6 COMBINING DISTRICT TO MULTIFAMILY RESIDENCE MODERATE HIGH
7 DENSITY-HISTORIC-NEIGHBORHOOD PLAN (MF-4-H-NP) COMBINING
8 DISTRICT.
9

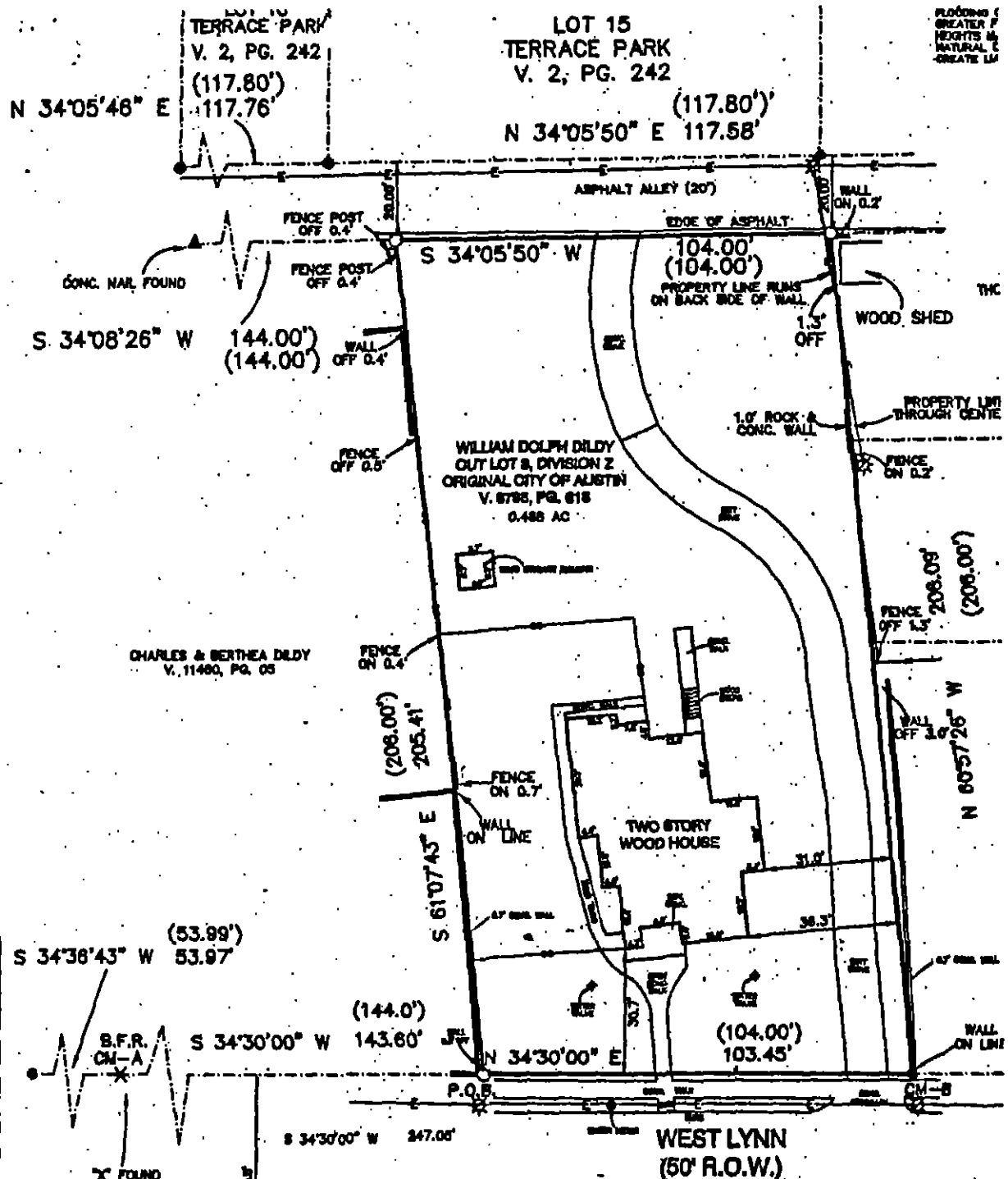
10 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

11
12 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to
13 change the base district from multifamily residence moderate high density-neighborhood
14 plan (MF-4-NP) combining district to multifamily residence moderate high density-
15 historic-neighborhood plan (MF-4-H-NP) combining district on the property described in
16 Zoning Case No. C14H-04-0027, on file at the Neighborhood Planning and Zoning
17 Department, as follows:
18

19 A parcel of land being 104 feet by 200 feet, more or less, out of Outlot 3, Division
20 Z, Original City of Austin, Travis County, Texas, as generally identified in the map
21 and survey sketch attached as Exhibit "A" (the "Property"); and
22

23 generally known as the Brown-Ledel-Silverman House, locally known as 609 West Lynn
24 Street, in the Old West Austin neighborhood plan area, in the City of Austin, Travis
25 County, Texas.
26

27 PART 2. Except as provided in this ordinance, the Property is subject to Ordinance No.
28 020926-26 that established the Old West Austin neighborhood plan combining district.
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THE UNDERSIGNED DOES HEREBY CERTIFY TO TITLE COMPANY, UNDERWRITER, BUYER, SELLER, AND LENDER ABOVE-NAMED THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY DESCRIBED HEREON AND IS ACCURATE, AND THAT THERE ARE NO VISIBLE DISCREPANCIES, CONFLICTS, OVERLAPPING OF IMPROVEMENTS, VISIBLE UTILITY EASEMENTS OR ROADWAYS, EXCEPT AS SHOWN HEREON, AND THE SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, EXCEPT AS SHOWN HEREON. THIS PLAT IS NOT VALID UNLESS ACCOMPANIED BY AN ORIGINAL SEAL.

RALPH HARRIS SURVEYOR INC. 1406 HETHER, AUSTIN, TEXAS 78704 (512) 444-1

James M. Grant
JAMES M. GRANT R.P.L.S. NO. 1919 SEPTEMBER 29, 2004
EXHIBIT A