

CITY OF AUSTIN, TEXAS
ORDINANCE NO. 900913- s

AN ORDINANCE ORDERING A REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1981 AS FOLLOWS: LOT 1, GOTHARD SUMMIT OAKS SUBDIVISION, FROM "SF-3" FAMILY RESIDENCE, "MF-2" MULTIFAMILY RESIDENCE (LOW DENSITY) DISTRICT AND "LO" LIMITED OFFICE DISTRICT TO "LI-PDA" LIMITED INDUSTRIAL SERVICE DISTRICT-PLANNED DEVELOPMENT AREA COMBINING DISTRICT, LOCALLY KNOWN AS 11675-11691 JOLLYVILLE ROAD IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; WAIVING THE REQUIREMENT OF SEC. 2-2-3 OF THE AUSTIN CITY CODE OF 1981 THAT ORDINANCES BE READ ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1. Chapter 13-2 of the Austin City Code of 1981 is amended to change the base zoning district from "SF-3" Family Residence, "MF-2" Multifamily Residence (Low Density) district and "LO" Limited Office district to establish "LI-PDA" Limited Industrial Service district-Planned Development Area combining district on the property described in File C14-90-0050, as follows:

Lot 1, Gothard Summit Oaks Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Book 85, Page 50D, of the Plat Records of Travis County, Texas,

said property being locally known as 11675-11691 Jollyville Road in the City of Austin, Travis County, Texas.

PART 2. The development and use of the Property shall conform with the Planned Development Area Agreement submitted and approved by both the City Planning Commission and the City Council, said Agreement being attached and incorporated as "Exhibit A" to this ordinance.

PART 3. It is ordered that the Zoning Map established by Sec. 13-2-22 of the Austin City Code of 1981 and made a part thereof shall be changed to record the amendment enacted by this ordinance.

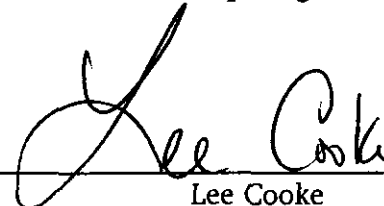
PART 4. The requirement imposed by Section 2-2-3 of the Austin City Code of 1981 that this ordinance be read on three separate days shall be waived by the affirmative vote of five members of the City Council to pass this ordinance through more than one reading on a single vote.

PART 5. This ordinance shall be effective ten days after the date of its final passage.

PASSED AND APPROVED:

_____, September 13, 1990

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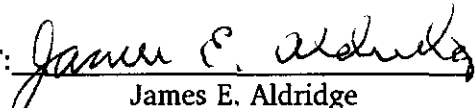
Lee Cooke

Mayor

APPROVED: _____


Iris J. Jones
City Attorney

ATTEST: _____


James E. Aldridge
City Clerk

13SEPT90

AFM/jj


PART 4. The requirement imposed by Section 2-2-3 of the Austin City Code of 1981, that ordinances be read on three (3) separate days shall be, and is hereby waived by the affirmative vote of at least five (5) members of the City Council to pass this ordinance through more than one reading on a single vote.

PART 5. This ordinance shall become effective ten (10) days following the date of its passage, as provided by the Charter of the City of Austin.

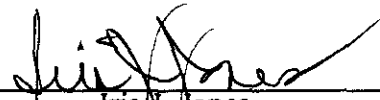
PASSED AND APPROVED

November 15, 1990

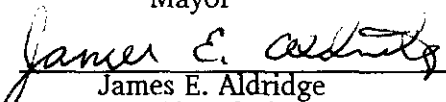
Ordinance


Lee Cooke
Mayor

APPROVED:


Iris J. Jones
City Attorney

ATTEST:


James E. Aldridge
City Clerk

15NOV90
RC/lw

PLANNED DEVELOPMENT AREA AGREEMENT

THIS PLANNED DEVELOPMENT AREA AGREEMENT ("Agreement") is by and between NCNB TEXAS NATIONAL BANK, a national banking association ("Owner"), and the CITY OF AUSTIN, a Texas municipal corporation situated in Travis and Williamson Counties, Texas ("City").

WITNESSETH:

WHEREAS, Owner owns that certain 1.6379 acres of land situated in the City of Austin, Travis County, Texas, as more particularly described in the attached Exhibit "A" (the "Property");

WHEREAS, Owner intends to develop the Property with certain improvements and for certain uses in accordance with the Conceptual Plan (defined below) for the Property; and

WHEREAS, the City and Owner deem it to be in the best interest of the City and Owner that the Property should be impressed with certain covenants and restrictions running with the land in the form of this Agreement, and desire to set forth such agreement in writing.

NOW, THEREFORE, in consideration of the covenants, conditions, and premises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, acting by and through its City Manager as authorized by the majority approval of its City Council, and Owner, as the owner of the Property, do hereby agree that the Property shall be developed in accordance with the following conditions and procedures, in addition to the other applicable City ordinance requirements or governmental regulations, such conditions and procedures to be deemed and considered as a covenant running with the land and to be binding on Owner, and Owner's successors and assigns as owner(s) of the Property, as follows:

ARTICLE I.

DEFINITIONS

Section 1.1 Defined Terms.

For all purposes of this Agreement, each of the following terms shall have the meaning assigned to it in this Section 1.1, unless the context in which it is used clearly requires otherwise:

- (a) "Agreement" means this Planned Development Area Agreement, and any amendments and supplements thereto.
- (b) "City Council" means the City Council of the City.
- (c) "Director" means the Director of the Planning Department of the City, or of any successor department responsible for the duties currently performed by that department.

"EXHIBIT A"

- (d) "Land Development Code" means the City's duly-adopted ordinances regulating zoning, subdivision, and land development, currently codified as Title 13 of the Austin City Code of 1981.
- (e) "Planning Department" means the Planning Department of the City, or any successor department responsible for the duties currently performed by that department.
- (f) "Project" means the proposed use and development of the Property. The Project consists of an existing building and related parking improvements as generally depicted on the Conceptual Plan.
- (g) "Conceptual Plan" means the general plan of the Project, a copy of which is attached as Exhibit "B" to this Agreement, and any amendments and supplements thereto.
- (h) "Site Plan" means the site plan previously approved by the City (SP-85-028) and any amendments thereto.

Section 1.2 Articles and Section Headings.

The headings or titles of the several articles and sections of this Agreement are solely for convenience of reference and shall not affect the meaning, construction, or effect of the provisions of this Agreement.

Section 1.3 Interpretation.

In this Agreement, the singular form of any word includes the plural, and vice versa, and the use of a word of any gender includes all genders, unless the context requires otherwise. This Agreement and all of its terms and provisions shall be construed to effectuate its intended purpose and to sustain its validity.

ARTICLE II.

PROJECT DEVELOPMENT

Section 2.1 Project Plan.

This Agreement is being executed as part of and in connection with Zoning Case C14-90-0050, and pursuant to the applicable PDA Planned Development Area combining district provisions set forth in the Land Development Code. Nothing in this Agreement shall be construed (i) to limit or prevent the right of Owner, or Owner's successors or assigns, to request rezoning of the Property or modifications to the Conceptual Plan or the Site Plan subject to

compliance with other applicable governmental regulations or applicable restrictive covenants, or (ii) to prevent the City Council from exercising its powers to regulate the development or use of the Property for purposes of health, safety, and the general welfare of the community. The City, in approving the zoning of the Property, the Conceptual Plan, and this Agreement, is exercising such power and has determined that such approval is in the general welfare of the community.

Section 2.2 Uses.

Uses permitted shall include those permitted, conditional and accessory uses allowed in the LO zoning district and the Light Manufacturing Uses allowed under the LI zoning district (as specified in Section 13-2-221 and subject to Article III, Division 4, Chapter 13-2 of the Land Development Code). No residential use shall be permitted on the Property except for the use of guards or custodians in conjunction with the Project.

Section 2.3 Improvements.

Buildings and other improvements related to the Project shall be constructed in accordance with the Site Plan and any amendments thereto. Any amendments to the Site Plan shall conform to the LO zoning district site development regulations and Landscape regulations.

Section 2.4 Off-Street Parking, Loading and Drives.

All off-street parking and off-street loading facilities shall be constructed within the areas depicted on the Site Plan, and driveways from abutting public streets in to the Property and within the Property shall be as depicted on the Site Plan. The number of off-street parking and off-street loading spaces shall not be less than the required number as set forth in the Land Development Code unless a variance is granted by the appropriate board or commission. Owner shall from time to time construct such facilities as are necessary to accommodate all such parking and loading. The design standards for all off-street parking and off-street loading and driveways shall comply with applicable provisions of the Land Development Code unless a variance is granted by the appropriate board or commission.

Section 2.5 Performance Standards.

The development and use of the Property shall comply with all applicable performance standards established by Sec. 13-2-269 of the Land Development Code, and all other applicable provisions of the Austin City Code of 1981. In addition to the performance standards established by Sec. 13-2-269 of the Land Development Code, no use within the project shall cause to be emitted or

discharged into the atmosphere or public storm or sanitary sewer any toxic or noxious matter, unreasonably excessive smoke, particulate matter, obnoxious odors or liquid or solid industrial wastes.

Section 2.6 **Base District Modifications.**

This Agreement modifies City regulations otherwise applicable in the LI Light Industrial base district approved for the Property with respect to uses permitted on the Property and as necessary to effectuate the provisions of this Agreement.

Section 2.7 **Development Matters.**

The Project, as depicted on the Site Plan, has been substantially developed. Subsequent Phase(s), if any, of the Project as may be set forth on the Site Plan (as amended from time to time), may be developed to the extent Owner determines that such Phase(s) are needed by Owner, provided that any subsequent phases shall conform to the LO site development criteria.

ARTICLE III.

MISCELLANEOUS PROVISIONS

Section 3.1 **Enforcement and Appeal.**

If any person, corporation, or entity of any other character shall violate or attempt to violate the foregoing agreements and covenants, it shall be lawful for the City or Owner or their respective successors and assigns to prosecute proceedings at law or in equity against said person, corporation, or entity violating or attempting to violate such agreements or covenants. If any decision or determination made by the Director or any other official of the City under the terms of this Agreement is adverse to Owner or Owner's successors or assigns, Owner or Owner's successors or assigns may appeal such decision or determination in accordance with the rights granted and procedures established by the Land Development Code. Nothing contained herein shall be deemed to limit any other rights or remedies available to the parties to this Agreement hereunder or under general principles of law and equity.

Section 3.2 **Amendment.**

This Agreement and any exhibits attached hereto may be modified, amended, or terminate (collectively, an "amendment") only in the following manner:

(a) Owner shall submit to the Director, in the form of an amendment to this Agreement, any proposed revisions or modifications.

(b) Revisions to the Site Plan and Conceptual Plan may be administratively approved by the Director provided any such amendments comply with the development criteria of the LO zoning district.

(c) Any amendment of the Agreement other than as described in subparagraph (b) may be made only by the joint action of (i) a majority of the members of the City Council, or such other governing body as may succeed the City Council; and (ii) all of the owners of the Property affected by the amendment at the time of the amendment, provided, however, this Agreement shall automatically terminate in the event the Property is rezoned to a zoning district more restrictive than LI-PDA as that district is defined in the Land Development Code.

(d) Upon approval of any amendment as provided herein, the amendment shall be executed by the pertinent parties and recorded in the Real Property Records of Travis County, Texas, and the terms and provisions of same shall become a part of this Agreement.

Section 3.3 Entire Agreement.

This Agreement contains the complete and entire agreement between the City and Owner respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations and understandings, if any, between the City and Owner respecting such matters. This Agreement may not be modified, discharged or changed in any respect whatsoever except as provided in Section 3.2.

Section 3.4 Survival.

Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of the City and Owner and all future owners of all or any portion of the Property.

Section 3.5 Notices.

Except as may be otherwise specifically provided in this Agreement, all notices required or permitted hereunder shall be in writing and will be deemed to be delivered and received when deposited in the United States mail (certified or registered mail, return receipt requested), delivered to Federal Express or similar carrier for courier delivery, delivery charges prepaid, properly addressed to the parties at their respective addresses set forth herein or at such other address as may be specified by written notice delivered in accordance herewith, provided that all notices to parties with

addresses outside the United States shall be by telegram or by International Federal Express.

Section 3.6 Other Instruments.

The City and Owner covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the purposes of this Agreement.

Section 3.7 Invalid Provision.

Any clause, sentence, provision, paragraph or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal or ineffective shall not impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph or article so held to be invalid, illegal or ineffective.

Section 3.8 Applicable Law.

This Agreement shall be construed under the laws of the State of Texas and all obligations of the parties hereunder are performable in Travis County, Texas.

Section 3.9 Exhibits.

All exhibits referred to and attached to this Agreement are incorporated into this Agreement by reference and shall be deemed part of this Agreement for all purposes as if fully set forth in the body of the Agreement.

Section 3.10 Counterparts.

This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument. The terms of the Agreement shall become binding upon each party from and after the time that it executes this Agreement or otherwise accepts the provisions hereof. In like manner, from and after the time that any party executes a consent or other document authorized or required by the terms of this Agreement, such consent or other documents shall be binding upon such party.

Section 3.11 Conditions Precedent; Effective Date.

This Agreement and all rights, duties and obligations hereunder are conditioned upon the final passage on third reading of the ordinance rezoning the Property to LI Light Industrial base district in combination with a Planned Development Area combining district (Zoning Case #C14-90-0050), as contemplated herein. The

effective date of such ordinance shall be deemed to be the effective date of this Agreement.

EXECUTED by the parties on the day and year appearing next to the respective signatures.

OWNER:

NCNB TEXAS NATIONAL BANK, a national banking association

By: Royce W. Reed

Printed Name: ROYCE W. REED

Title: VICE PRESIDENT

Address for Owner:

P.O. Box 908

AUSTIN, TEXAS 78781

CITY:

CITY OF AUSTIN

By: Joseph L. Lessard

Printed Name: Joseph L. Lessard

Title: ASSISTANT CITY MANAGER

Address for City:

Director, Planning and Development
Department

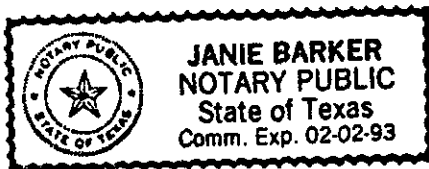
City of Austin

P.O. Box 1088

Austin, Texas 78767-1088

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

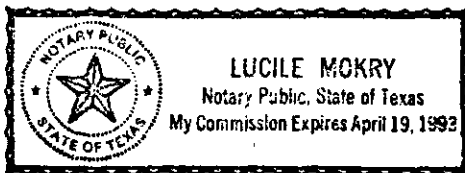
This PLANNED DEVELOPMENT AREA AGREEMENT was acknowledged before me on this the 25th day of September, 1990, by Raynew Reed, the Vice President of NCNB Texas National Bank, a national banking association, on behalf of said association.



Janie Barker
Notary Public, State of Texas
Printed Name: Janie Barker
Commission Expires: 2-2-93

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

Asst. City Manager This PLANNED DEVELOPMENT AREA AGREEMENT was acknowledged before me on this the 13th day of November, 1990, by Joseph W. Lissner the City Manager of the City of Austin, a Texas municipal corporation, on behalf of the City of Austin.



Lucile Mokry
Notary Public, State of Texas
Printed Name: LUCILE MOKRY
Commission Expires: 4-19-93

AFTER RECORDING, RETURN TO:

CITY OF AUSTIN LAW DEPARTMENT
P.O. BOX 1088
AUSTIN, TEXAS 78767-1088

ATTN: ANDREW F. MARTIN

990-21.4c

EXHIBIT A

LAND

Being a portion of Lot 1 of Jenkins-Summit Oaks Addition, a subdivision recorded in Book 23 at Pages 2144 and 2145 of the Plat Records of Travis County, Texas, being more particularly described by notes and bounds as follows:

BEGINNING at an iron stake found in the East right of way line of Bell Avenue said iron stake being the most northerly corner of the herein described tract, also being the most northerly corner of said Lot 1 of Jenkins-Summit Oaks Addition;

THENCE with the North property line of the herein described tract the following numbered courses: (1 through 4 inclusive)

- (1) South 58° 13' 00" East, 120.28 feet to an iron stake found,
- (2) South 58° 17' 00" East, 9.40 feet to an iron stake found,
- (3) South 58° 49' 38" East, 31.74 feet to an iron stake found,
- (4) South 58° 53' 58" East, 70.00 feet to an iron stake set, for the most Easterly corner of the herein described tract;

THENCE South 31° 06' 26" West, 335.44 feet to an iron stake set in the North right of way line of old U.S. Highway 183, also known as Jollyville Road, for the most southerly corner of the herein described tract;

THENCE with the North right of way line of old U.S. Highway 183 the following numbered courses: (1 through 4 inclusive)

- (1) North 44° 20' 26" West, 38.89 feet to an iron stake found,
- (2) North 44° 23' 44" West, 77.52 feet to an iron stake found,
- (3) North 45° 04' 46" West, 57.97 feet to an iron stake found,
- (4) THENCE with a curve to the right, North 42° 24' 28" West, a chord distance of 65.59 feet, said curve has a central angle of 1° 20' 06" with a radius of 2816.98 feet, to an iron stake found;

THENCE with a curve to the right, whose central angle is 86° 34' 20" with a radius of 28.17 feet and whose chord bears North 2° 43' 37" East, a distance of 38.63 feet to an iron stake found in the East right of way line of Bell Avenue;

THENCE with the East right of way line of Bell Avenue, North 46° 21' 26" East, a distance of 32.10 feet to an iron stake found;

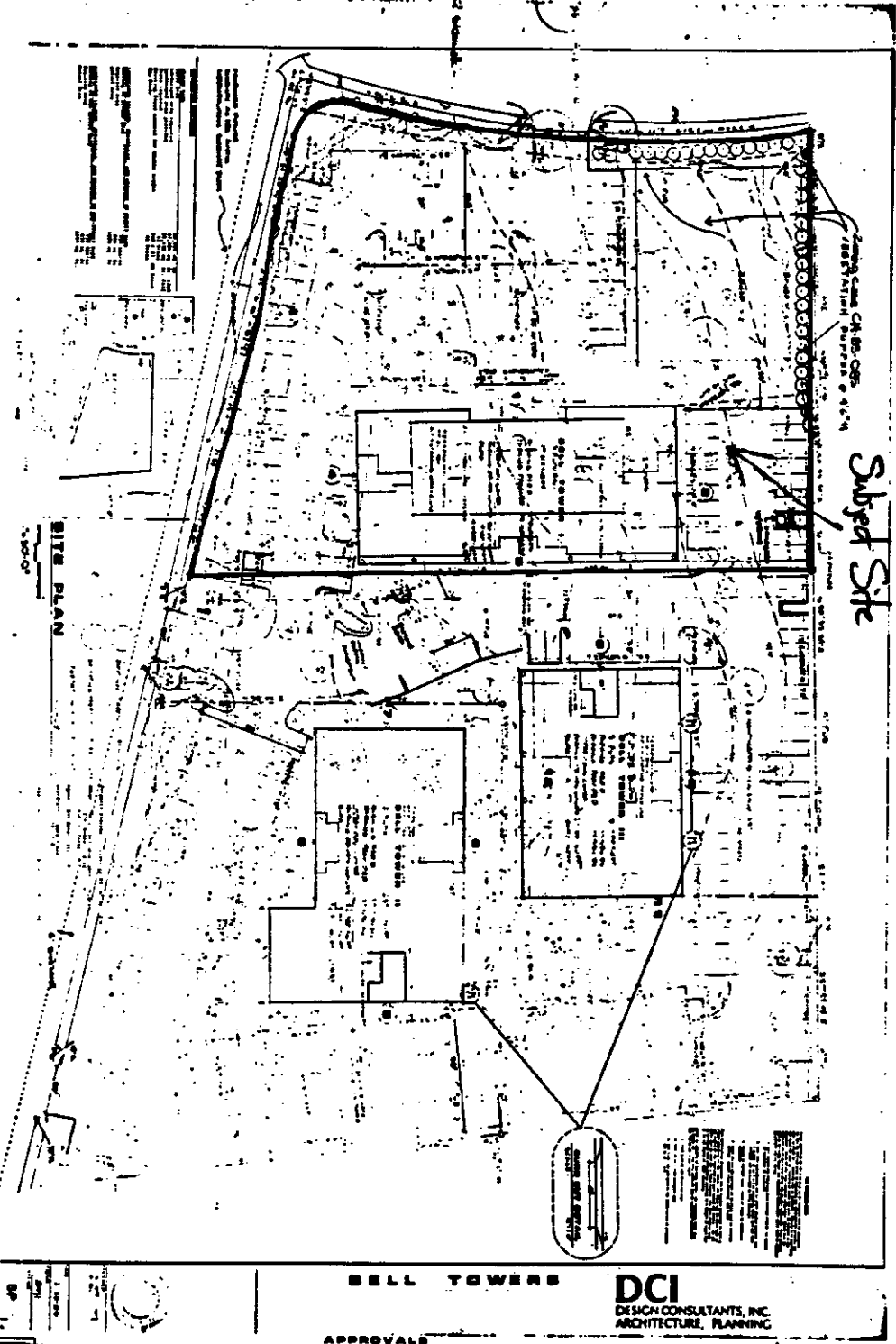
THENCE with the East right of way line of Bell Avenue, a curve to the left, whose central angle is 23° 31' 52" with a radius of 516.52 feet and whose chord bears North 33° 56' 02" East, a distance of 210.66 feet to the PLACE OF BEGINNING, containing 1.6379 acres of land.

"EXHIBIT A"

NOTES

NOTE: ALL GLASS NON-REFLECTIVE

(First Page Only)



BELL TOWERS SITE PLAN ADDENDA

C14-90-003

Summit Drive
Ex 7, Pg 163
Lot 2, 3, 4, 5

S 56° 57' 06" E 9.55'
(S 58° 17' E, 9.40')

S 59° 05' 55" E 91.85'
(S 58° 49' 38" E, 31.74')

S 58° 50' 14" E 69.65'
(S 58° 53' 38" E, 70.00')

S 56° 16' 24" E 120.55'
(S 58° 13' E, 120.28')

FRANKIE EDG
D Bldg. 22
VOL 917A PG 554

ASPHALT PARKING W/ CONC CURB

3 STORY BRICK BLDG.

LOT 1
1.64 ACRES.

ASPHALT PARKING W/ CONC CURB

LIGHT POLE

25' B.L. (PLAT)

N 43° 04' 46" W, 37.57'
N 46° 05' 46" W, 57.92'

N 44° 23' 44" W 77.52'
N 44° 19' 26" W 77.60'

N 44° 20' 26" W, 38.89'
N 44° 29' 19" W 88.50'

Approx B.O.C. Location

"EXHIBIT A"

JOLLYVILLE ROAD
(100' R.O.W.)

Survey Monument

SCALE 1"

AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS
COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the County of Travis, State of Texas, on this day personally appeared:

Nan Graham

Classified Advertising Agent of the Austin American-Statesman, a daily newspaper published in said County and State, who being duly sworn by me, states that the attached advertisement was published in said newspaper on the following dates, to wit:

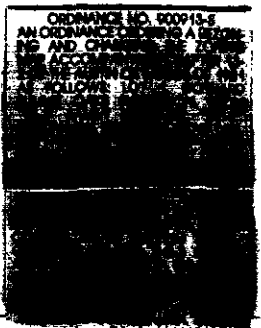
December 1st, 1990

and that the attached is a true copy of said advertisement.

Nan Graham

SWORN AND SUBSCRIBED TO BEFORE ME, this the 3rd

Day of December A.D. 199 0.



Jill Wallace
(Type or Print Name of Notary)

Jill Wallace

Notary Public in and for
TRAVIS COUNTY, TEXAS

9/26/94
(My Commission Expires:)

