

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE

C15-2011-0054  
ROW-10575884  
TP-0100031622

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION  
MUST BE TYPED WITH  
ALL REQUESTED  
INFORMATION  
COMPLETED.

STREET ADDRESS: 1404 Bouldin Avenue

LEGAL DESCRIPTION: Subdivision     

Lot(s) 3A Block C Outlot Division South Heights Addition Amended plats of lots 1, 2, 3

I/We Aaron McIntyre on behalf of myself/ourselves as authorized agent for my wife,

Emily Burdett McIntyre affirm that on April 13, 2011

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

ERECT  ATTACH  COMPLETE  REMODEL  MAINTAIN

lot width - 50 → 38 ; Lot Size 5,750 → 4181.76

side yard <sup>along south p.l.</sup> attach - 5 → 3 ; front

Street 25 → 19.7 & 3.5' front

protrusion in order to add 2nd story  
in a SF-3 - hp district. add to one story and  
(zoning district) erect a two story addu.

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

**VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):**

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The lot is substandard in width (38') and size (4181.76SF). The current plat is from 1995 so it does not meet the requirements of 25-2-943 for SF-3 substandard lots. Also, the Bouldin Neighborhood Plan did not adopt a small lot amnesty. We are petitioning the Board of Adjustment for a variance that allows for an exception to the minimum size and the minimum width of this lot.

Secondly, we request a variance to build the foundation 16' from 24", 22", 24" protected Live Oak trees at the rear of the lot. The location of the trees on the lot severely constrict the buildable area.

Thirdly, I request a variance from a 5' sideyard setback to a 3' sideyard setback because that is the current placement of the existing house. This 3' sideyard setback sits adjacent to the 16' alley and, therefore, this request does not encroach on the next door neighbor.

Fourthly, I request a variance from the height limitation created by the tent in subchapter F only as it effects the projection of the second floor through the 45 degree angle on the south wall. This is not a request for an increase in overall height, just this corner. Therefore, I request that the top plate of the second floor of the south wall protrude 3.5' through this tent for the length of the building.

Lastly, I request a variance to the front street setback from 25' to 19.7' because this is the current placement of the existing structure and is in line with the average setback of the four houses on this block.

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

Lot 3A is one of three lots adversely effected by the city approval of the 1995 plat which the city now acknowledges was approved "in error." In 2005, the existing home was approved by the city despite the substandard size and width of the lot. In 2010, a variance was approved for new construction on Lot 2A, another substandard lot adversely effected

We face an additional hardship due to the location of the protected trees mentioned above. (See photos included in application.)

(b) The hardship is not general to the area in which the property is located because:

This is the only such substandard lot effected so adversely by this series of events and hardships.

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

My intent is to build a finished home consistent with all other zoning and building regulations and consistent with construction in the neighborhood.

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

**NOTE:** The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Aaron McIntyre Mail Address 1404 Bouldin Avenue  
City, State & Zip Austin, Texas 78704  
Printed AARON McINTYRE Phone 512-350-6974 Date 4/13/2011



**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Emily McIntyre Mail Address 1404 Bouldin Avenue  
City, State & Zip Austin, Texas 78704  
Printed Emily McIntyre Phone 512-296-6678 Date 4/13/2011



**BOARD OF ADJUSTMENTS**



-  SUBJECT TRACT
-  ZONING BOUNDARY

CASE#: C15-2011-0054  
 LOCATION: 1404 BOULDIN AVE  
 GRID: H21  
 MANAGER: SUSAN WALKER

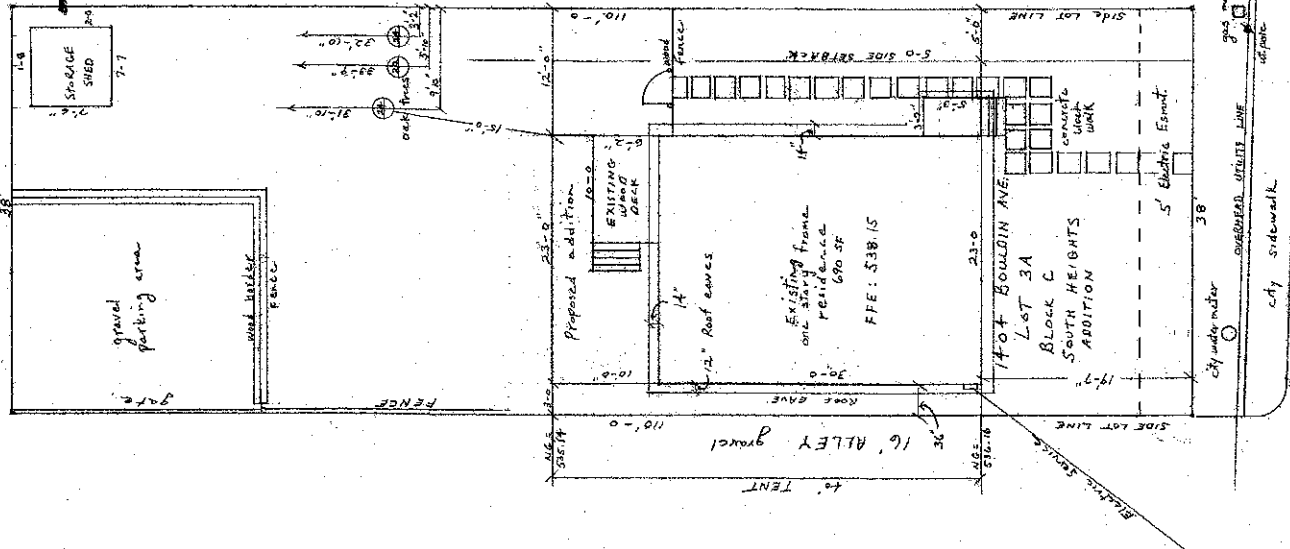


This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

→ to be removed

All structures etc. must maintain 7'6" clearance from AE energized power lines. Enforced by AE & NESC codes.

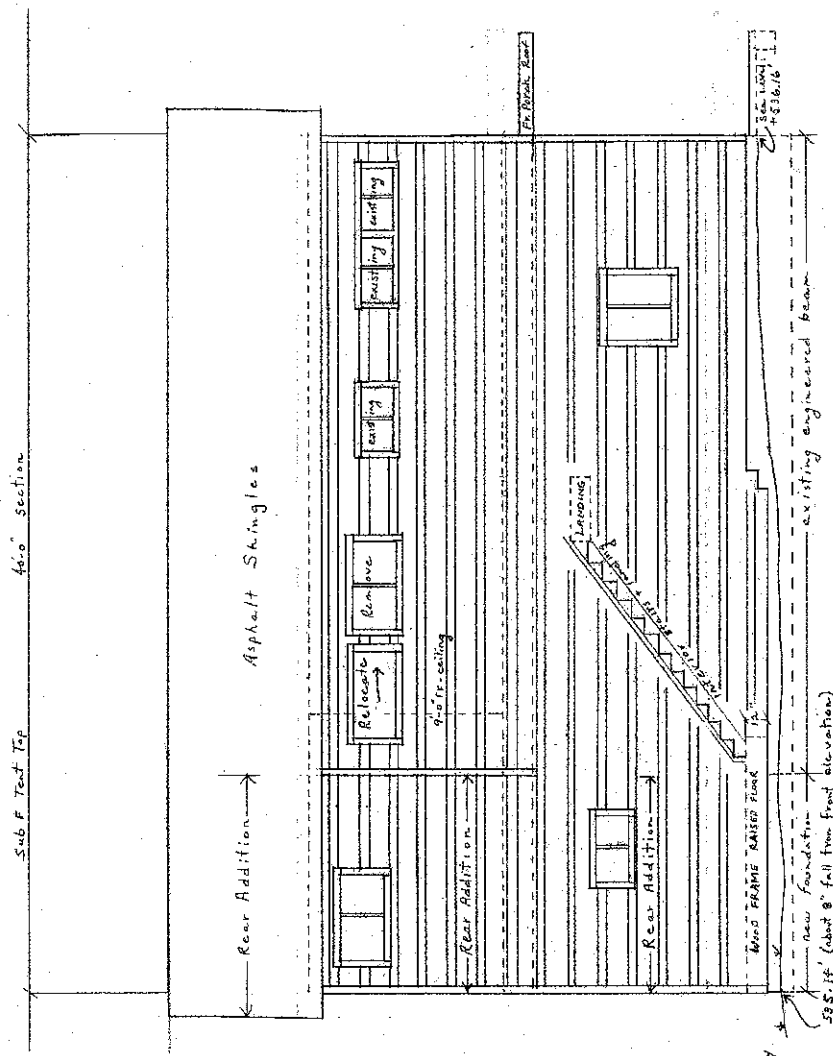
AE APPROVED  
 APR 08 2011  
 RLS 98-3



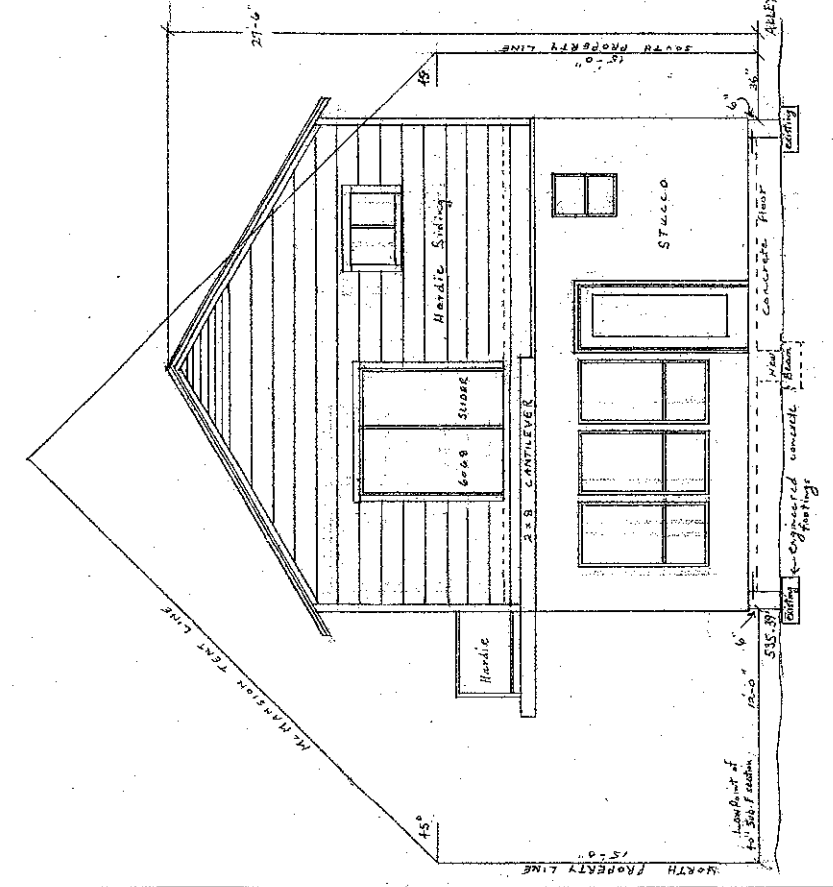
|  |                  |
|--|------------------|
| EMILY AND ARRON MCENTYRE<br>1404 BOULDIN AVE., AUSTIN, TX, 78704 |                  |
| SCALE: 1/8" = 1'   | DATE: 4-1-11     |
| APPROVED BY:   | DRAWN BY: R.M.C. |
|  | REVISED:         |
| DRAWING NUMBER:  |                  |

BOULDIN AVENUE 1/8" = 1'





SOUTH

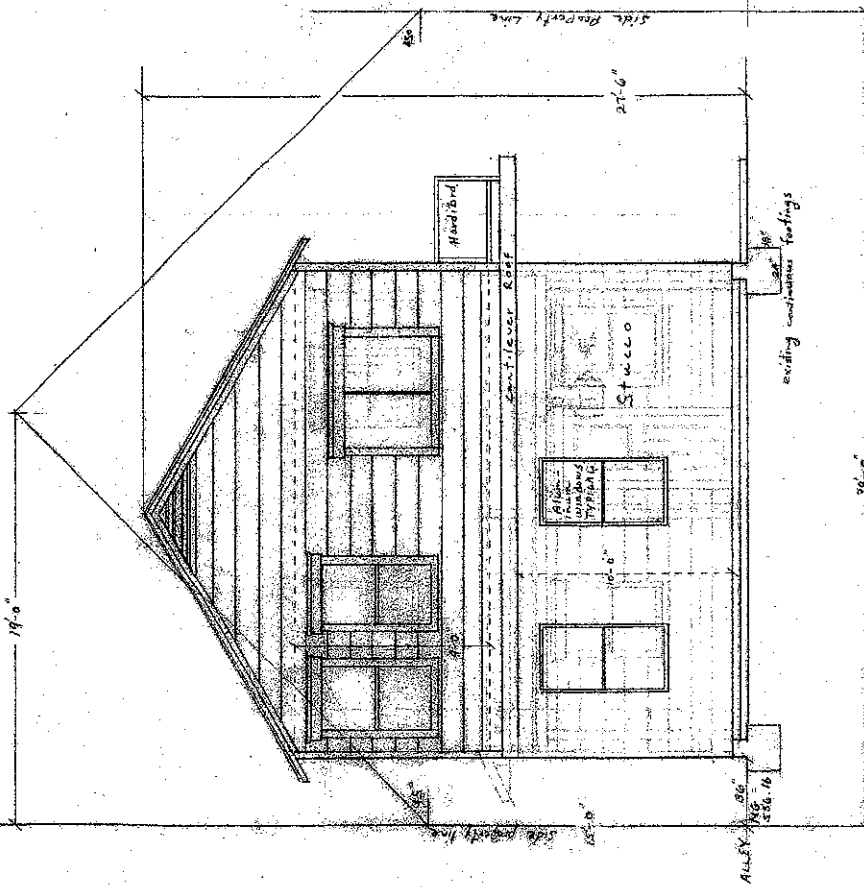


WEST

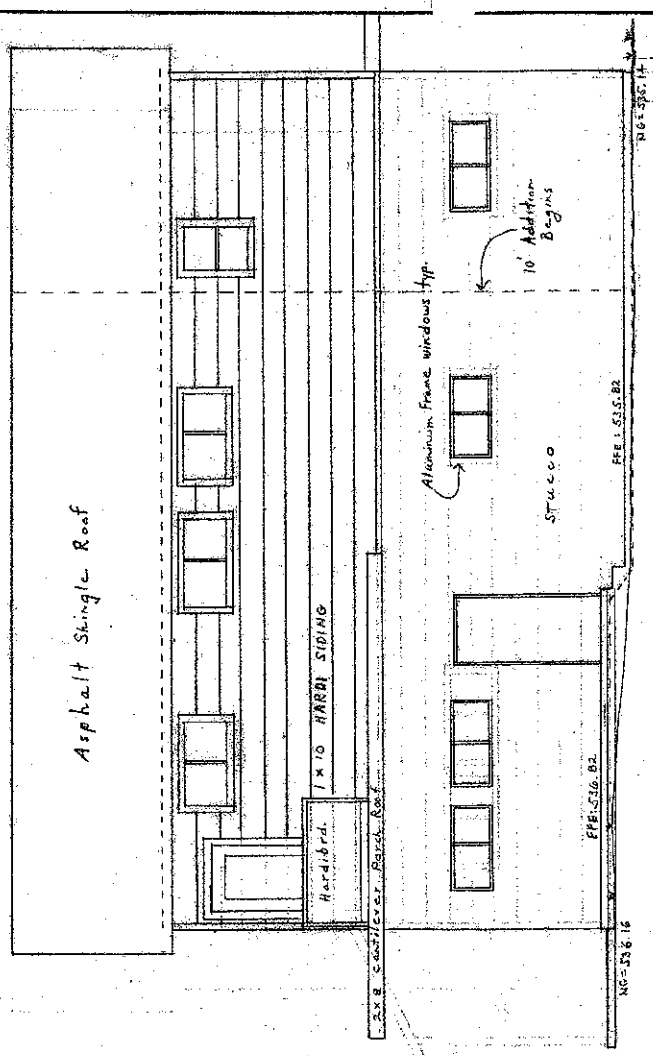
EMILY AND ARON MCINTYRE  
1404 BOULDER AVE., AUSTIN, TX 78704

|                  |              |
|------------------|--------------|
| SCALE: 1/4" = 1' | APPROVED BY: |
| DATE:            | REVISION:    |
| DRAWING NUMBER   |              |





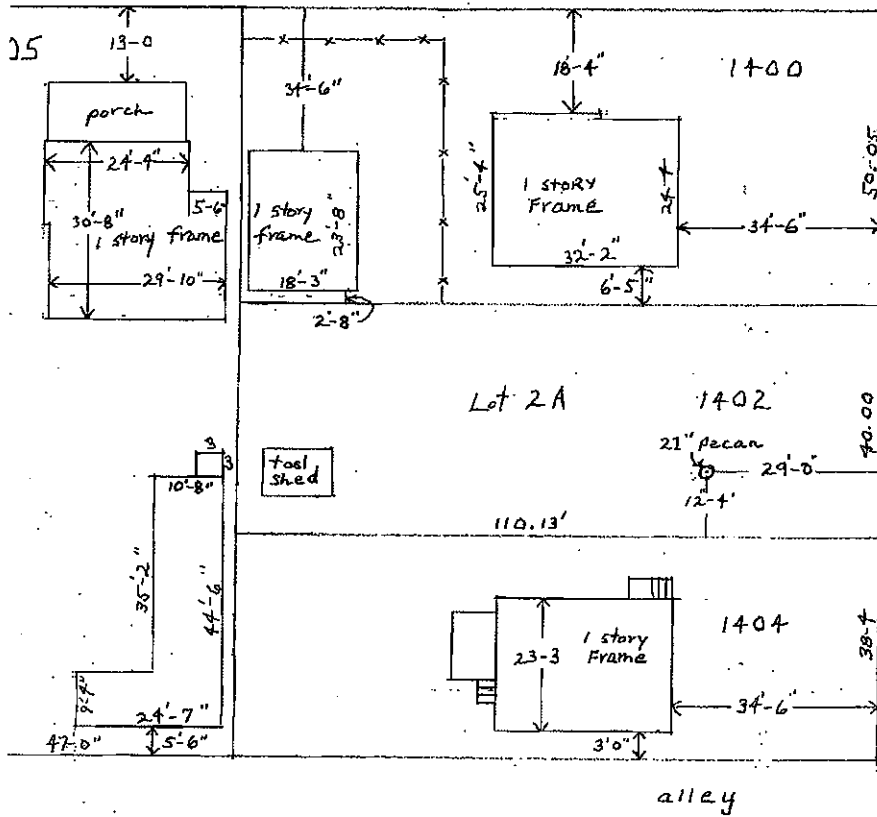
EAST



NORTH

|   |                 |
|---|-----------------|
| EMILY AND ARRON MCINTYRE<br>1402 BOULDER AVE. AUSTIN, TX. |                 |
| SCALE: 1/8" = 1'  | APPROVED BY:    |
| DATE:   | DRAWN BY:       |
|   | REVISED:        |
|   | DRAWING NUMBER: |

Elizabeth St.



Bouldin Ave.

130'

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE: Monday, May 12, 2008**

**CASE NUMBER: C15-2008-0059**

Y \_\_\_\_\_ Greg Smith (2<sup>nd</sup>)  
 Y \_\_\_\_\_ Michael Von Ohlen  
 Y \_\_\_\_\_ Barbara Aybar  
 Y \_\_\_\_\_ Bryan King  
 Y \_\_\_\_\_ Leane Heldenfels, Vice-Chairman (Motion to GRANT)  
 Y \_\_\_\_\_ Frank Fuentes, Chairman  
 Y \_\_\_\_\_ Yolanda Arriaga

**APPLICANT: Richard, McIntyre**

**ADDRESS: 1402 BOULDIN AVE**

*- lot next door*

**VARIANCE REQUESTED: The applicant has requested a variance to decrease the minimum lot width requirement of Section 25-2-492 (D) from 50 feet to 40 feet (existing) in order to erect a single-family residence in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district.**

**The applicant has requested a variance to decrease the minimum lot size requirement of Section 25-2-492 (D) from 5,750 square feet to 4399.8 square feet (existing) in order to erect a single-family residence in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district.**

**BOARD'S DECISION: GRANTED 7-0**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: amended plat 1995, lot created in error
2. (a) The hardship for which the variance is requested is unique to the property in that lot 2A is one of three lots which were adversely effected by the city approval of the 1995 plat, lot created in error  
  
(b) The hardship is not general to the area in which the property is located because: amended plat 1995 and lot created in error
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: SF home similar in character to rest of the homes.



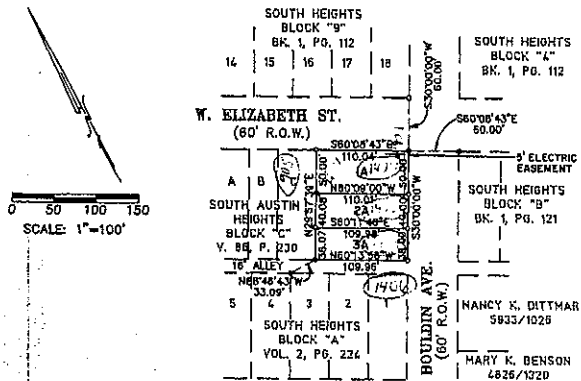
**Bobby Ray**  
Executive Secretary



**Frank Fuentes**  
Chairman

# AMENDED PLAT OF LOTS 1, 2 & PART OF 3 BLOCK "C", SOUTH HEIGHTS ADDITION

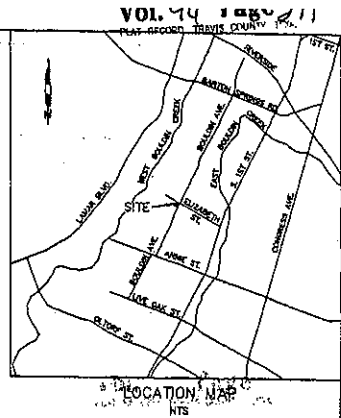
SUBMITTED 1-13-95



- LEGEND**
- 1/4" IRON ROD FOUND
  - IRON PIPE FOUND
  - 1/2" IRON ROD SET

**LOT TABULATIONS**

| LOT          | AREA (AC.)   | AREA (S.F.)      |
|--------------|--------------|------------------|
| 1A           | 0.126        | 5,488.56         |
| 2A           | 0.101        | 4,399.56         |
| 3A           | 0.095        | 4,181.76         |
| <b>TOTAL</b> | <b>0.323</b> | <b>14,069.88</b> |



STATE OF TEXAS  
COUNTY OF TRAVIS

THAT DAVID E. FILLMORE, BEING THE OWNER OF 0.096 ACRES OF LAND OUT OF LOTS 1, 2 AND 3, BLOCK C, SOUTH HEIGHTS ADDITION, A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, AS RECORDED IN BOOK 1, PAGE 121 OF THE PLAT BOOK RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING THAT SAME TRACT AS CONVEYED BY VOLUME 7061, PAGE 103 OF THE TRAVIS COUNTY DEED RECORDS; AND KIRK GRANDER, BEING THE OWNER OF 0.101 ACRES OF LAND OUT OF LOTS 1, 2 AND 3, BLOCK C, SOUTH HEIGHTS ADDITION, AS RECORDED IN BOOK 1, PAGE 121 OF THE PLAT BOOK RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING THAT SAME TRACT AS CONVEYED BY VOLUME 11645, PAGE 0921 OF THE TRAVIS COUNTY DEED RECORDS; AND GARY H. NEWTON, BEING THE OWNER OF 0.126 ACRES OF LAND OUT OF LOTS 1, 2 AND 3, BLOCK C, SOUTH HEIGHTS ADDITION, AS RECORDED IN BOOK 1, PAGE 121 OF THE PLAT BOOK RECORDS OF TRAVIS COUNTY, TEXAS AND BEING THAT SAME TRACT AS BEING A PORTION OF LAND CONVEYED BY VOLUME 7803, PAGE 819 OF THE TRAVIS COUNTY DEED RECORDS DO HEREBY AMEND SAID 0.323 ACRES OF LAND TO BE KNOWN AS AMENDED PLAT OF LOTS 1, 2 AND PART OF 3, BLOCK C, SOUTH HEIGHTS ADDITION IN ACCORDANCE WITH THE ATTACHED PLAT FOR THE PURPOSE EXPRESSED SUBJECT TO ANY RESTRICTIONS AND/OR EASEMENTS HERETOFORE GRANTED AND NOT RELEASED AND HEREBY DEDICATE STREETS AND EASEMENTS TO THE PUBLIC.

WITNESS MY HAND THIS 3rd DAY OF JAN. A.D. 1995.

*David E. Fillmore*  
DAVID E. FILLMORE  
2501 PRINCETON DR.  
AUSTIN, TEXAS 78741

WITNESS MY HAND THIS 6 DAY OF JAN. A.D. 1995.

*Kirk Grander*  
KIRK GRANDER  
P.O. BOX 3822  
AUSTIN, TEXAS 78764

WITNESS MY HAND THIS 4 DAY OF Jan. A.D. 1995.

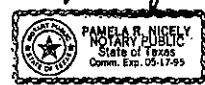
*Gary H. Newton*  
GARY H. NEWTON  
1400 BOULDIN AVE.  
AUSTIN, TEXAS 78704

STATE OF TEXAS  
COUNTY OF TRAVIS

BEFORE ME, THE UNDERSIGNED AUTHORITY A NOTARY PUBLIC IN AND FOR TRAVIS COUNTY, TEXAS ON THIS DAY PERSONALLY APPEARED DAVID F. FILLMORE KNOWN BY ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO IN THE FOREGOING INSTRUMENT OF WRITING, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY HEREIN STATED.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE 3rd DAY OF January A.D. 1995.

*Pamela R. Nicely*  
NOTARY PUBLIC IN AND FOR TRAVIS COUNTY, TEXAS



STATE OF TEXAS  
COUNTY OF TRAVIS

BEFORE ME, THE UNDERSIGNED AUTHORITY A NOTARY PUBLIC IN AND FOR TRAVIS COUNTY, TEXAS ON THIS DAY PERSONALLY APPEARED KIRK GRANDER KNOWN BY ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO IN THE FOREGOING INSTRUMENT OF WRITING, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY HEREIN STATED.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE 6th DAY OF January A.D. 1995.

*Pamela R. Nicely*  
NOTARY PUBLIC IN AND FOR TRAVIS COUNTY, TEXAS

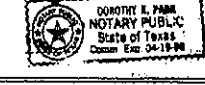


STATE OF TEXAS  
COUNTY OF TRAVIS

BEFORE ME, THE UNDERSIGNED AUTHORITY A NOTARY PUBLIC IN AND FOR TRAVIS COUNTY, TEXAS ON THIS DAY PERSONALLY APPEARED GARY H. NEWTON KNOWN BY ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO IN THE FOREGOING INSTRUMENT OF WRITING, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY HEREIN STATED.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE 4 DAY OF Jan A.D. 1995.

*Donnie E. Pann*  
NOTARY PUBLIC IN AND FOR TRAVIS COUNTY, TEXAS



STATE OF TEXAS  
COUNTY OF TRAVIS

**SURVEYOR'S CERTIFICATION:**

I, LEROY BUSH, AN AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING AND HEREBY CERTIFY THAT THIS PLAT COMPLEES WITH TITLE 13 OF THE AUSTIN CODE OF 1981, IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE BY ME OR UNDER MY SUPERVISION ON THE GROUND.

BUSH SURVEYING, Inc.

*Leroy Bush*  
L. LEROY BUSH, R.P.L.S., NO. 1823  
1904 FORT VIEW RD.  
AUSTIN, TEXAS 78704

2-15-95  
DATE



ACCEPTED AND AUTHORIZED FOR RECORD BY THE DIRECTOR, DEPARTMENT OF PLANNING AND DEVELOPMENT, THE CITY OF AUSTIN, COUNTY OF TRAVIS, TEXAS THIS THE 17th DAY OF February, 1995.

*Tracy Watson*  
TRACY WATSON, DIRECTOR  
PLANNING AND DEVELOPMENT DEPARTMENT

STATE OF TEXAS  
COUNTY OF TRAVIS

I, DANA DEBEAUVOIR, CLERK OF TRAVIS COUNTY, TEXAS DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING AND ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE 23rd DAY OF February, 1995, A.D. AT 8:15 O'CLOCK P. M., AND DULY RECORDED ON THE 23rd DAY OF February, 1995, A.D. AT 8:15 O'CLOCK P. M., PLAT RECORDS OF SAID COUNTY AND STATE IN PLAT BOOK 194, PAGE(S) 217.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK.

THE 23rd DAY OF February, 1995, A.D.,

DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS

*Deanna Gonzalez*  
DEPUTY Deanna Gonzalez

FILED FOR RECORD AT 8:15 O'CLOCK P. M. THIS THE 23rd DAY OF February, 1995.

DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS

*Deanna Gonzalez*  
DEPUTY Deanna Gonzalez

**NOTES:**

- ALL RESTRICTIONS AND NOTES FROM THE PREVIOUS EXISTING SUBDIVISION, SOUTH HEIGHTS ADDITION (BOOK 1, PAGE 121) SHALL APPLY TO THIS AMENDED PLAT.

CB-95-0013.0A

**ADDRESS PLATS**

SHEET 1 OF 1



**CONLEY ENGINEERING INC.**

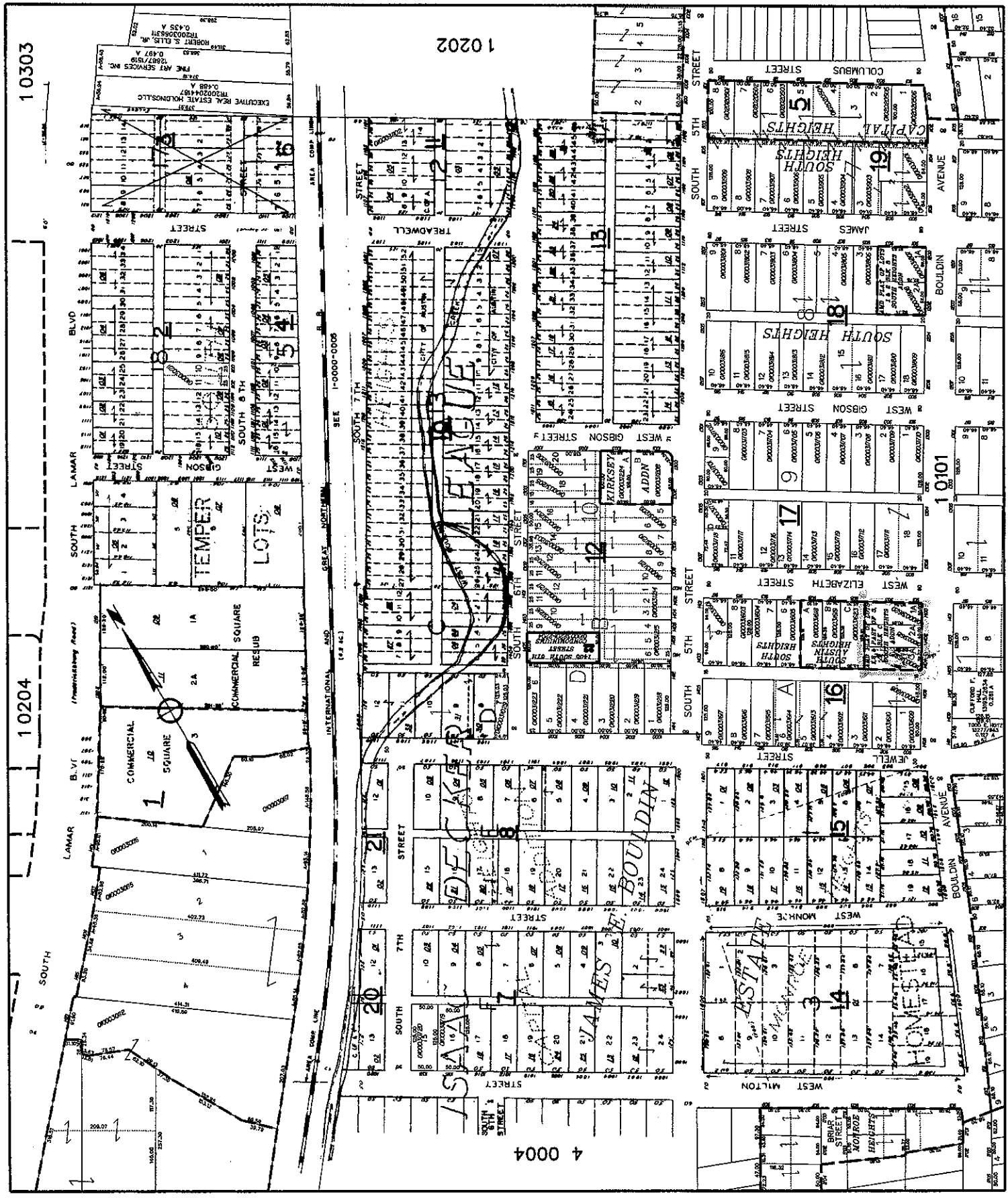
Civil Engineers Land Planners Development Consultants

1301 South Capital of Texas Highway, Bldg. A, Suite 230  
P.O. Box 182713 Austin, Texas 78716-2713. (512)328-3505

City of Austin Land Information Systems  
Plat Addressed by M.S. CB-95-0013.0A  
Completion Date 2/22/95  
Distribution Date 1  
Address Corrections, call 512-499-2797

JOB NO:  
197-01-01

ADD 9149



10303

10204

10202

4 0004

10101