

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> Floor (One Texas Center).

CASE # C15-2011-0098  
ROW # 10634207

CITY OF AUSTIN TP-0133040410  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE

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

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

| STREET ADDRESS: 5809 Westmont Drive

| LEGAL DESCRIPTION: Subdivision - Northmoor Park

| Lot(s) 10 Block A Outlot          Division         

| I/We Charles G Fisher on behalf of myself/ourselves as authorized agent for

| Self affirm that on Aug 1, 2011,

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

(check appropriate items below)

| X ERECT          ATTACH          COMPLETE          REMODEL          MAINTAIN

| A single family residence 25' → 15'

| in a SF3 district.  
(zoning district)

**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.**

7/27/11 (Aug 1)

**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:

2/3 of the lot is in the excavation of an old Quarry. 1/3 of the lot is located near

the street elevation and is rather shallow in depth

**HARDSHIP:**

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

the building lots along the Quarry edge on this street are compromised in buildable area. To build in the valley destroys the main assets of the lot

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

The hardship IS general to the lots along the quarry edge and is noted in Subdivision

Restrictions and allows for a 15 foot front setback with BOA approval. All lots in

Block A are allowed a 15 ft. setback if requested and BOA approved.

**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:

It is a condition of all lots in Block A and was addressed in the Subdivisions

Restrictions compiled in 1963 with the beginning of the Subdivision

**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:

NA

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:

NA

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

NA

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

NA

**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.**

**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 Charles L. Smith Mail Address 11504 Big Trail

City, State & Zip Austin, Texas 78759

Printed \_\_\_\_\_ Phone 512-346-4045 Date July 27, 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 Charles L. Smith Mail Address 11504 Big Trail

City, State & Zip Austin, Texas 78759

Printed \_\_\_\_\_ Phone 512-346-4045 Date July 27, 2011



## BOARD OF ADJUSTMENTS

CASE#: C15-2011-0098

LOCATION: 5809 WESTMONT DR

GRID: H28

MANAGER: SUSAN WALKER



SUBJECT TRACT



ZONING BOUNDARY



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.

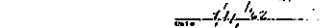
File: C15-63-81

Address: 5807 Westmont Drive

Applicant: Fielding Breeding, Jr.

Request: Variance to erect a residence providing a front setback of 15 feet instead of the required front setback of 25 feet.

Form No. 105-46



# NORTHMOOR PARK

For Restrictions, see this Pilot  
see Vol. 2601, page 157  
Woods Records

17172  
See page #1, Amendments, Item b

NORTHMOOR PARK  
J.C. Evans, et al  
TO

THE PUBLIC

RESTRICTIONS  
DATED MAY 20, 1963  
FILED MAY 20, 1963  
RECORDED VOL. 2601 PAGE 157  
TRAVIS COUNTY DEED RECORDS

THE STATE OF TEXAS)  
COUNTY OF TRAVIS)

WHEREAS, J. C. Evans is the legal owner of the following described property, to-wit:

All lots in Northmoor Park, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of said addition of record in Book 17, Page 73, of the Plat Records of Travis County, Texas, and to which said map or plat and the record thereof reference is here made for all pertinent purposes; and

WHEREAS, it is the desire of J. C. Evans, to impose and burden the afore described property with certain covenants, conditions and restrictions upon all of the same; and

WHEREAS, in order to accomplish such purpose this agreement is hereby executed, NOW, THEREFORE,

KNOW ALL MEN BY THESE PRESENTS: That I, J. C. Evans, of Travis County, Texas, do hereby impose and place upon the above described property so that hereafter said property shall be subject to, the following restrictions, covenants and conditions, to-wit:

1.

No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling, not to exceed two (2) stories in height, and a private garage or carport for not more than three (3) cars. Such private garage or carport shall be attached to the single family dwelling.

2.

No building shall be erected or placed on any of the above described lots or lot, nor shall any existing structure be altered until the building plans and specifications and plot plan have been submitted to and approved in writing by J. C. Evans, his heirs or legal representatives, or a representative designated in writing by J. C. Evans. If said building plans and specifications, and said plot plans be not approved or disapproved within thirty (30) days following the date on which the same are submitted for approval, or if no injunction suit shall have been commenced prior to completion of the work, the proper approval of the building plans and specifications, and of the plot plan shall be conclusively presumed to have been had and obtained.

3.

No dwelling, exclusive of open porches, attached garage, patios and attached carports, shall be permitted on any lot at a cost of less than \$15,000.00, based upon costs levels prevailing on the date these covenants are recorded, it being the intention and purpose of this covenan

to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size.

4. The ground floor area of the main structure of dwelling, exclusive of open porches, patios, garages or carports, shall contain not less than 1500 square feet of floor area, except that in the event any dwelling is two story or a story and a half, the ground floor area, exclusive of open porches, patios, attached garages or attached carports, may contain not less than 1200 square feet of floor area provided the total floor area of the dwelling shall not be less than 1500 square feet, exclusive of open porches, patios, attached garages or attached carports.

5. Thirty-three and one-third per cent ( $33\frac{1}{3}\%$ ) of the area of exterior walls of each dwelling to be erected on any of the above described lots shall be of masonry construction.

6. No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building set back lines shown on the recorded plat. In any event no building shall be located on any lot nearer than 25 feet to the front lot line, or nearer than 10 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for an attached garage located 50 feet or more from the minimum building set back line. No dwelling shall be located on any interior lot nearer than 15 feet to the rear lot line. For the purpose of this covenant eaves, steps and open porches shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

7. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear 5 feet of each lot.

8. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

9. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be placed on any lot at any time as a residence either temporarily or permanently. No separate structure from the dwelling, nor outbuilding of any type shall be erected on any lot for purposes of storage or otherwise, unless first approved as is provided herein for approval of original plans.

No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a building to advertise the property during the construction and sales period.

11. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall any oil wells, tanks, tunnels, mining excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected,



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#3 2601/157

maintained or permitted upon any lot.

12. No part or any of the said property shall ever be used for business or commercial purposes, or for carrying on any trade or profession except that J. C. Evans may erect and maintain sales offices and exhibit houses on any of the above described property.

13. No corner lot may be resubdivided, or used so as to permit the erection of an additional dwelling to face on the side street, nor shall any resubdivision be permitted so as to create two (2) lots from one (1) lot.

14. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for a commercial purpose.

15. No lot shall be used or maintained as a dumping ground for rubbish, and trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

16. No fence, wall, hedge or shrub planting which obstructs sightlines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The said sightline limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sightlines.

17. No fence, wall or hedge shall be built or maintained forward of the front wall line of any house erected on any lot.

18. These covenants are to run with the land, and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the above described property has been recorded agreeing to change said covenants, conditions and restrictions in whole or in part.

19. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

20. Invalidity of any one of these covenants by judgment or a court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

# Amendments

J. C. EVANS, ET AL

TO

THE PUBLIC

17/72  
AMENDMENT TO RESTRICTIONS  
DATED NOVEMBER 21, 1963  
FILED DECEMBER 9, 1963  
RECORDED VOL. 2694 PAGE 125  
TRAVIS COUNTY DEED RECORDS

THE STATE OF TEXAS)  
COUNTY OF TRAVIS) THIS is an amendment to those certain restrictions impressed upon all lots in Northmoor Park, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of said subdivision of record in Plat Book 17, page 73, of the Plat Records of Travis County, Texas. Said restrictions are set forth by instrument executed by J. C. Evans and of record in Volume 2601 page 157 of the Deed Records of Travis County, Texas. It is the purpose of this instrument to amend Paragraph 6 of said restrictions so as to truly reflect the original intent of the subdivider; NOW THEREFORE,

KNOW ALL MEN BY THESE PRESENTS: That we, J. C. Evans, William I. Zidell, David M. Cochran and wife, Maryann Cochran, P. Fielding Breeden and wife, Barbara J. Breeden, James D. McAlexander and wife, Dorothy McAlexander, and Pringle Bros., Inc., a Texas corporation, acting herein by and through its duly authorized President, Wiley D. Pringle, the owners of all of the lots in said Northmoor Park and L. E. McCarty and Viola McCarty the holder of a first lien on certain lots in said Northmoor Park, for and in consideration of the mutual covenants contained herein, do hereby amend Paragraph 6 of said restrictions of record in Volume 2601 page 157, Deed Records of Travis County, Texas so that said Paragraph 6 will hereafter read as follows:

"6

"No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building set back lines shown on the recorded plat; provided, however, that anything on said plat to the contrary notwithstanding, the following exceptions shall apply"

a. As to any corner lot, a building may be located so that its front is not nearer than 25 feet to the street it faces and its side is not nearer than 10 feet to the street adjacent to said side.

b. As to all lots in Block "A", the minimum set back line shall be 15 feet to the front lot line if the owner desiring to so build can obtain a variance from the Board of Adjustment (or similar authority) of the City of Austin allowing the construction of a building with a front set back line of less than 25 feet.

In all other cases, no building shall be located on any lot nearer than 25 feet to the front lot line, or nearer than 10 feet to any side street line.

No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for an attached garage located 50 feet or more from the minimum building set back line. No dwelling shall be located on any interior lot nearer than 15 feet to the rear lot line. For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of the building, provided,

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//2 2694/125

however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot."

The original restrictions will remain in full force and effect except as amended hereby.

Witness our hands this 21 day of November 1963.

J. C. Evans  
William F. Zidell  
David M. Cochran  
Maryann Cochran  
P. Fielding Breeden  
Barbara J. Breeden  
James D. McAlexander  
Dorothy McAlexander  
PRINGLE BROS., INC.  
By: Wiley D. Pringle, president  
L. E. McCarty  
Viola McCarty

ATTEST:

Howard D. Pringle, Secretary

THE STATE OF TEXAS)  
COUNTY OF TRAVIS) BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared J. C. Evans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 26th day of November A. D. 1963

Notary Seal

L. C. White

Notary Public, Travis County, Texas

THE STATE OF TEXAS)  
COUNTY OF TRAVIS) BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared William F. Zidell known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 6 day of December A. D. 1963.

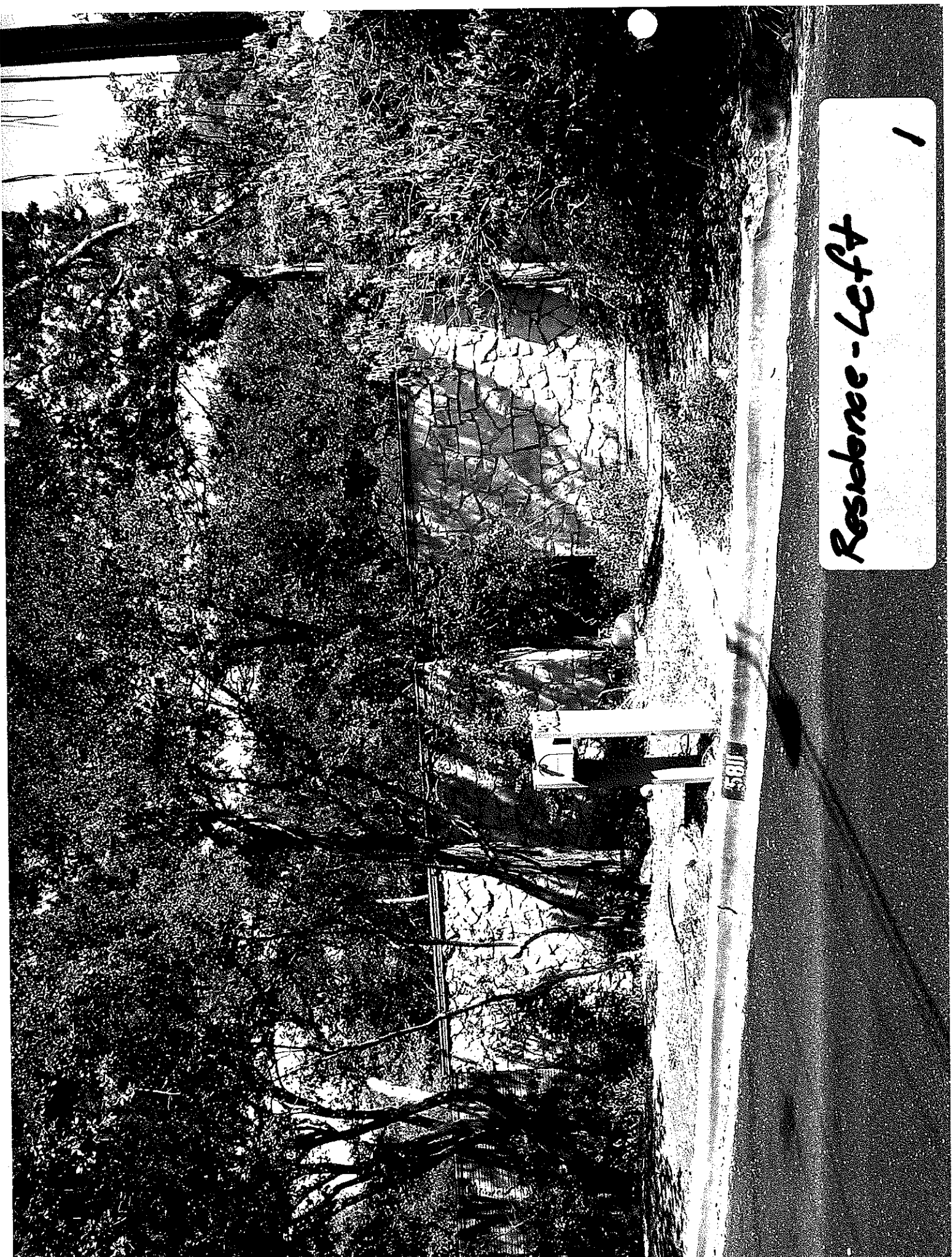
Seal.

Marvelene Swimme

Notary Public, Travis County, Texas.

THE STATE OF TEXAS)  
COUNTY OF TRAVIS) BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared David M. Cochran and Maryann Cochran, his wife, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they each executed the same for the purposes

1  
4737-2009589  
Residence Left



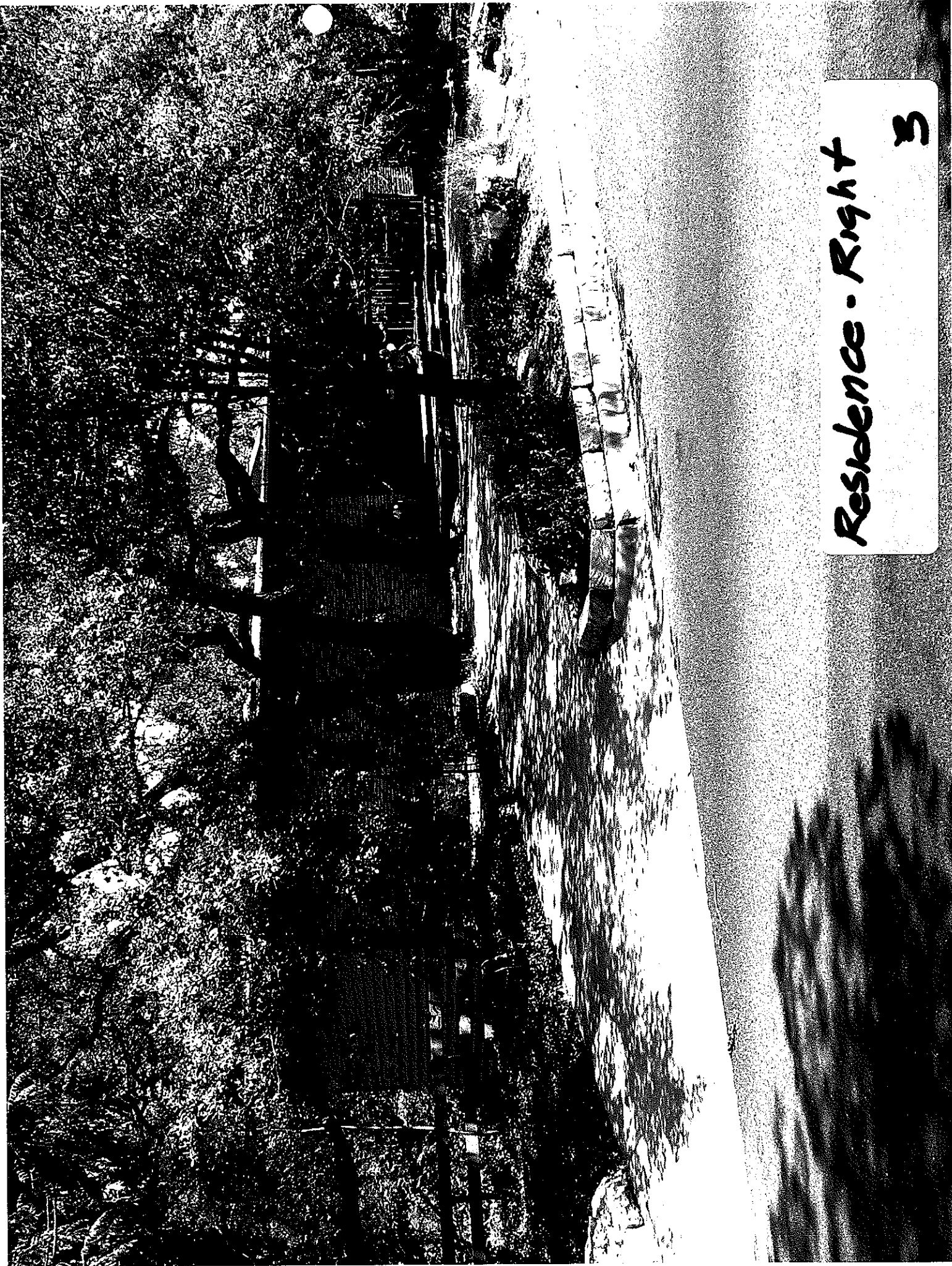
Residence. Left 2

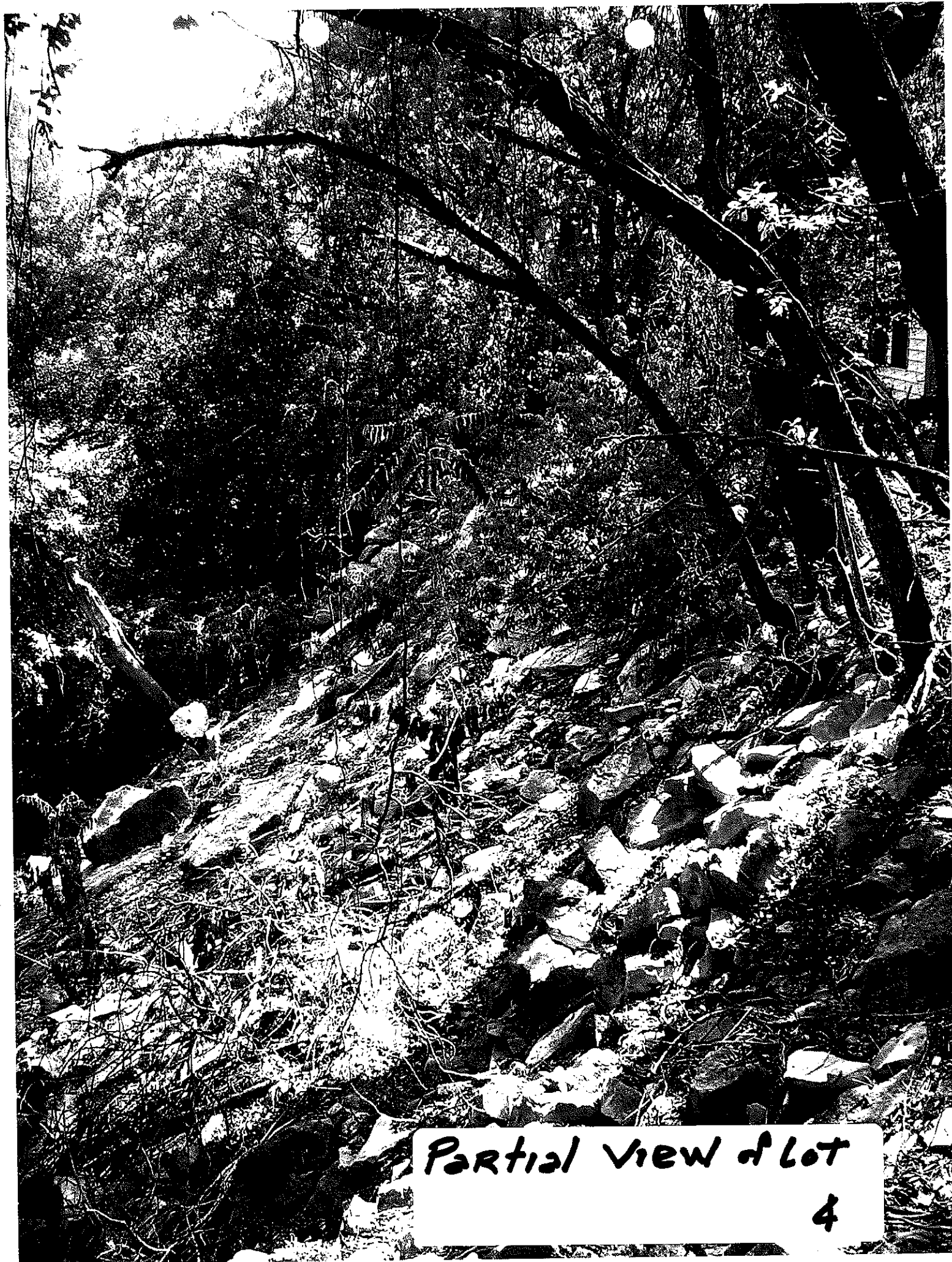




*Residence - Right*

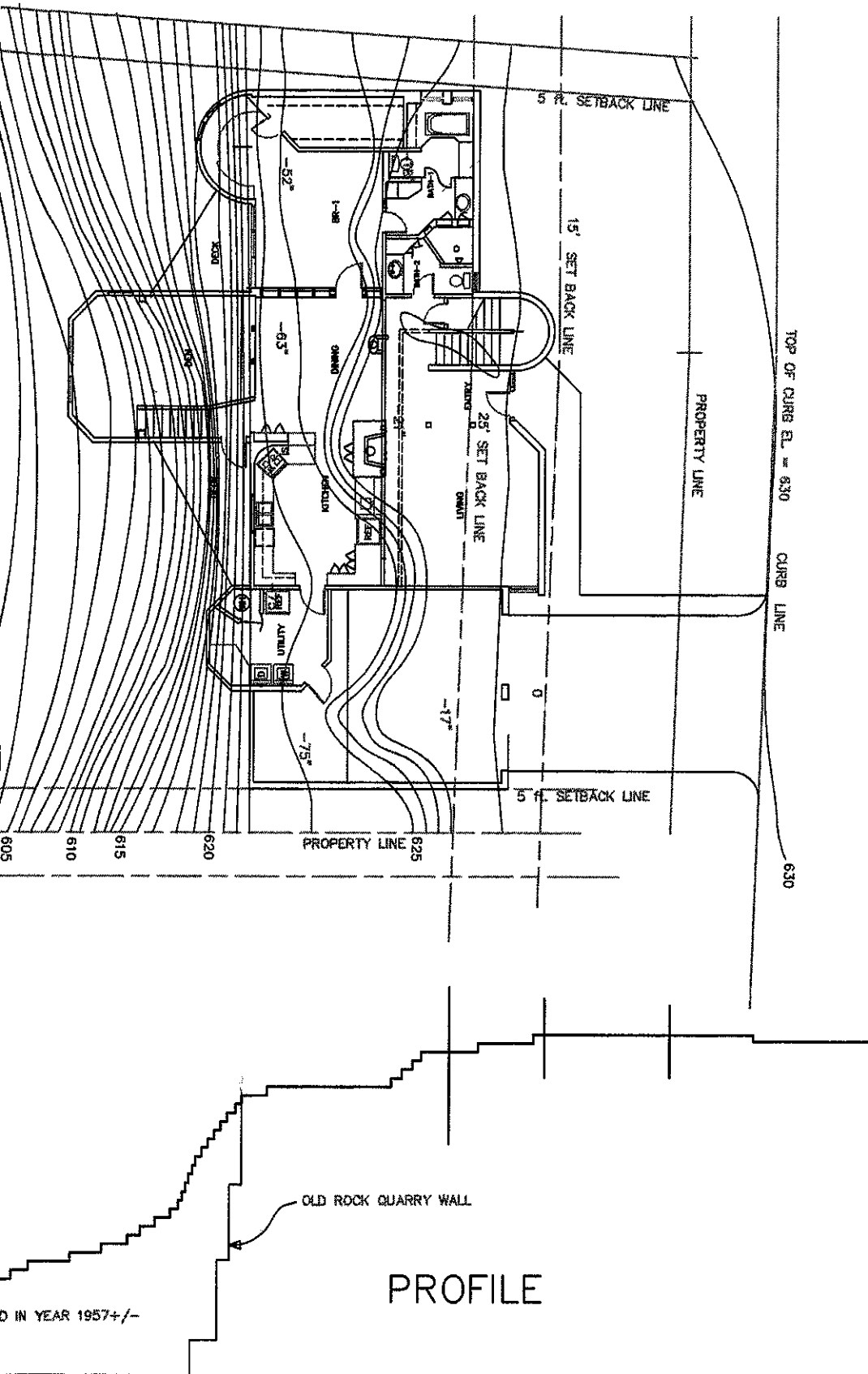
3





Partial view of lot

4



D IN YEAR 1957+/-

PROFILE

DATE:  
MAY 1, 2011

C.G. FISHER ARCHITECTS  
ARCHITECTURE + CONSTRUCTION MANAGEMENT  
11504 BIG TRAIL AUSTIN TEXAS 78759 (512)346-4045



P. & C. FISHER RESIDENCE

5809 WESTMONT  
AUSTIN, TEXAS 78731

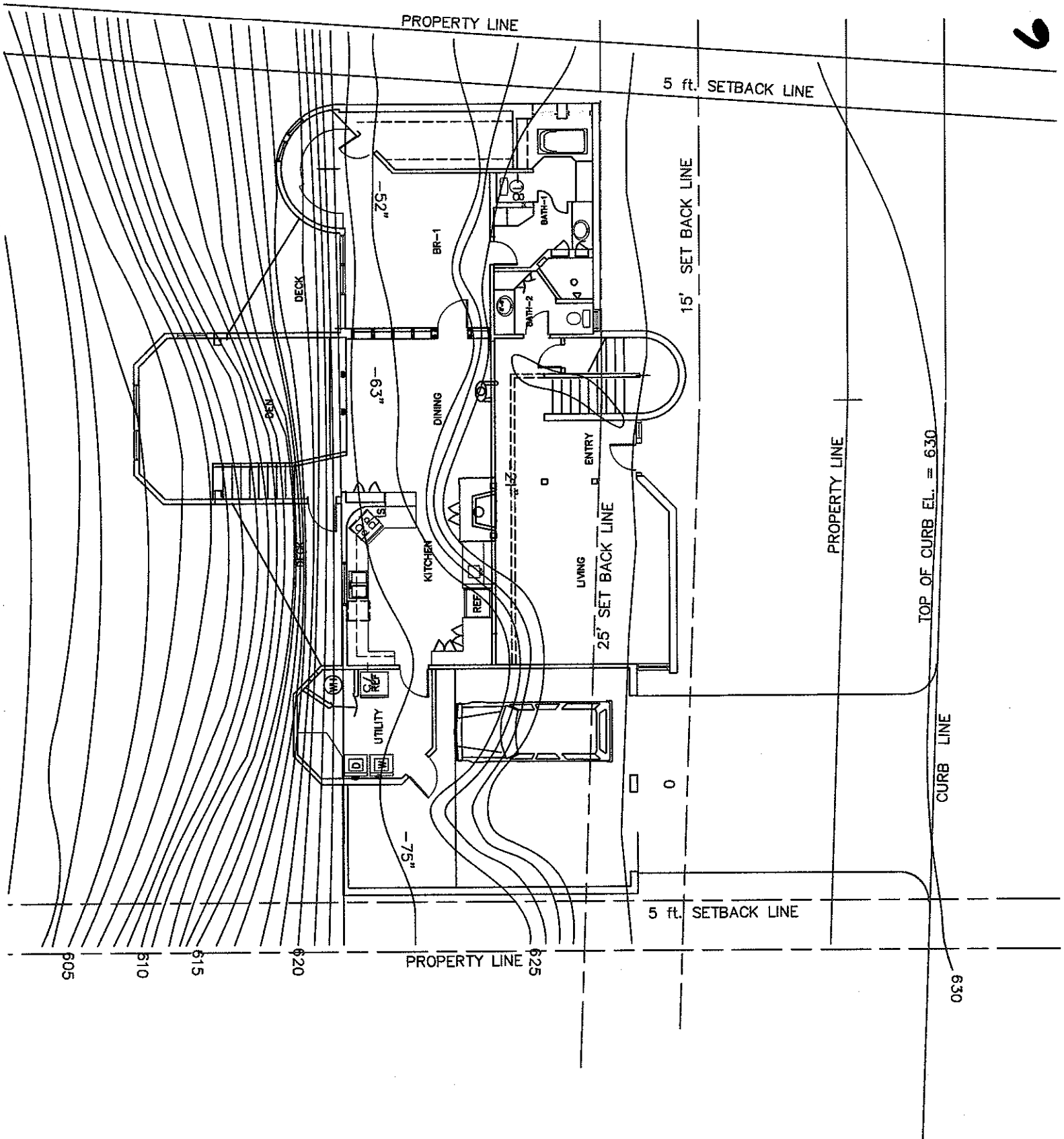
REVISED:

SHEET NO.:

A 1

5

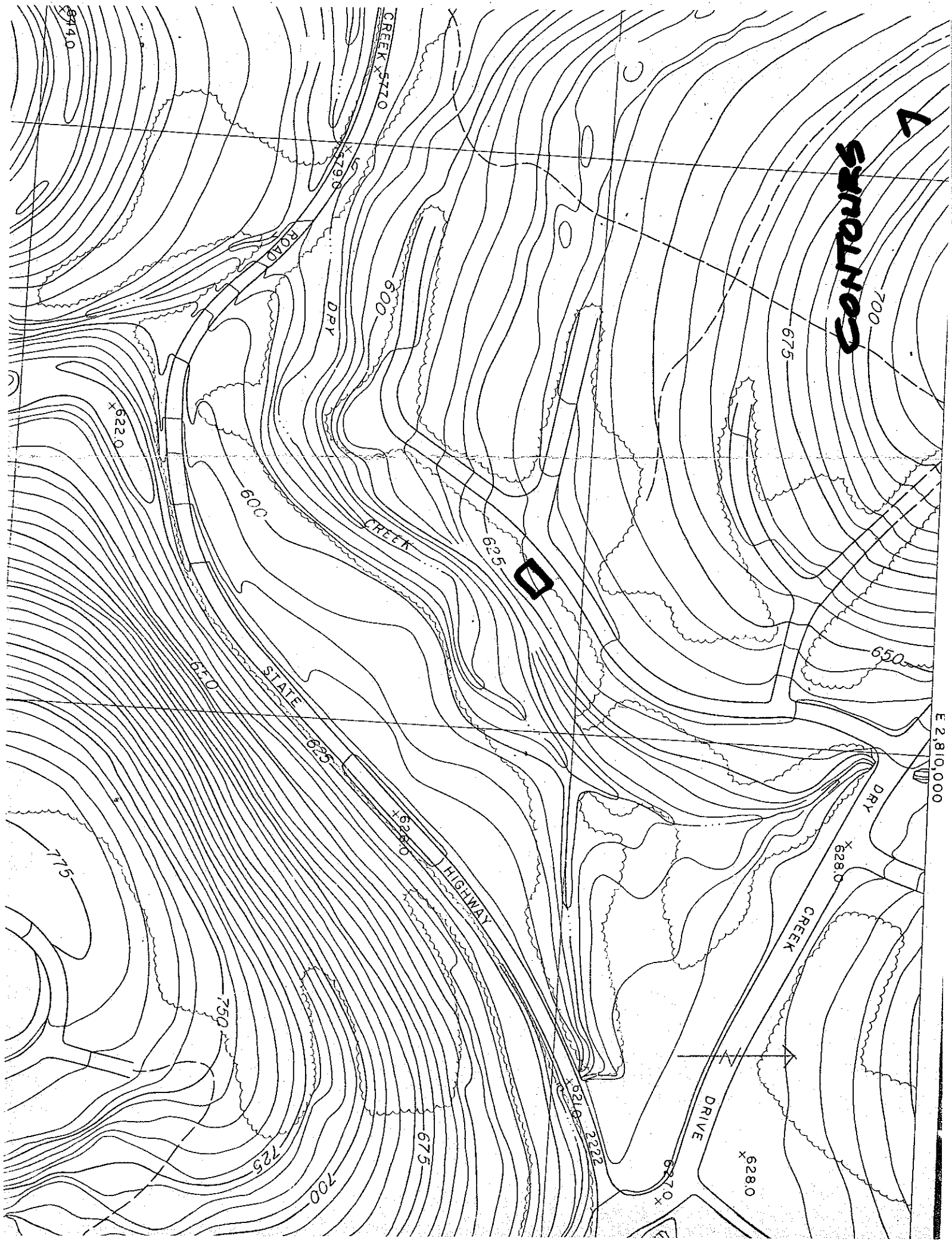




Contours

✓

E 2,810,000



# SPECIAL FLOOD HAZARD AREAS INUNDATED BY 100-YEAR FLOOD

**ZONE A** No base flood elevations determined.

**ZONE AE** Base flood elevations determined.

**ZONE AH** Flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations determined.

**ZONE AO** Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding; velocities also determined.

**ZONE A99** To be protected from 100-year flood by Federal flood protection system under construction; no base flood elevations determined.

**ZONE V** Coastal flood with velocity hazard (wave action); no base flood elevations determined.

**ZONE VE** Coastal flood with velocity hazard (wave action); base flood elevations determined.

## FLOODWAY AREAS IN ZONE AE

## OTHER FLOOD AREAS

**ZONE X** Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood.

## OTHER AREAS

**ZONE X** Areas determined to be outside 500-year floodplain.

**ZONE D** Areas in which flood hazards are undetermined.

## UNDEVELOPED COASTAL BARRIERS†



asial barrier areas are normally located within or adjacent to special flood and areas.

Floodplain Boundary

Floodway Boundary

Zone D Boundary

Boundary, Dividing Special Flood Hazard Zones, and Boundary Dividing Areas of Different Coastal Base Flood Elevations Within Special Flood Hazard Zones.

Base Flood Elevation Line: Elevation in Feet\*

Cross Section Line

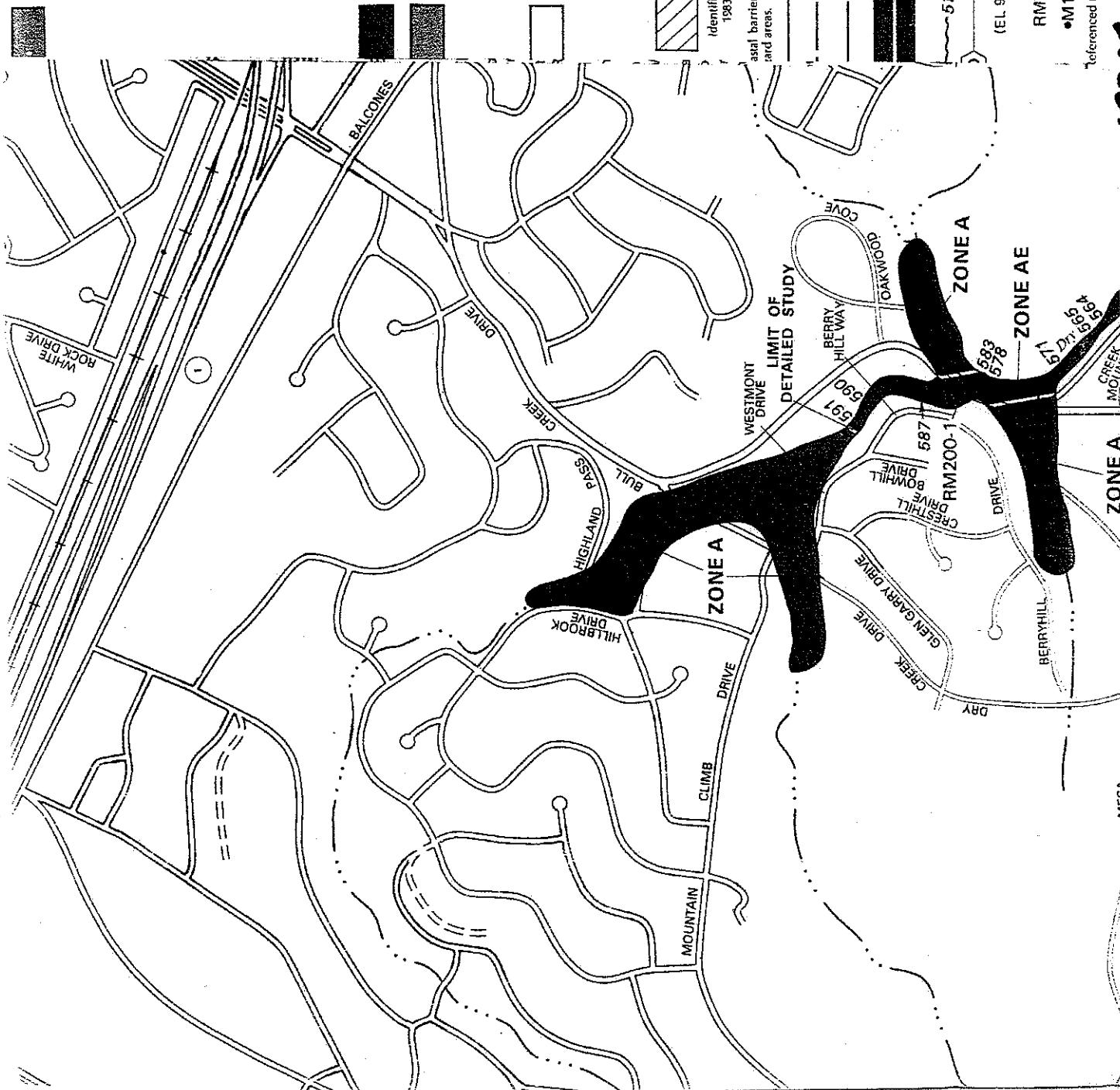
Base Flood Elevation in Feet Where Uniform Within Zone\*

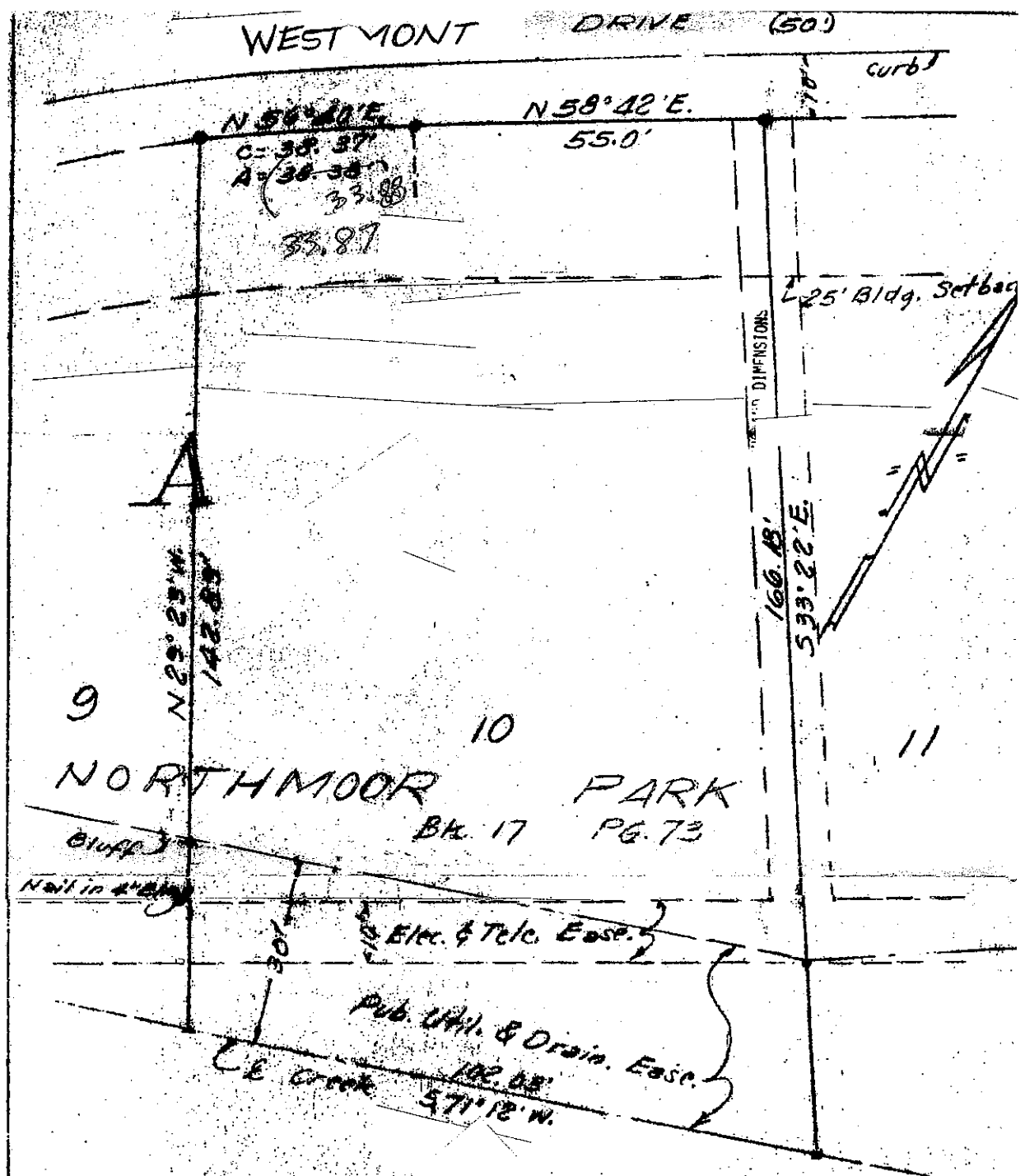
Elevation Reference Mark

River Mile

Referenced to the National Geodetic Vertical Datum of 1929

# 100 YR. FLOOD PLANE





THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this survey was this day made on the ground of the hereon designated property and is correct and that there are no discrepancies, boundaries, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility easements or roads in place except as shown and said property has access to and from a public roadway.

SURVEY PLAT OF  
LOT 10, BLOCK A, NORTHMOOR PARK, ACCORD-  
ING TO THE MAP OR PLAT OF SAID SUBDIVIS-  
ION RECORDED IN BOOK 17, PAGE 73 OF THE  
PLAT RECORDS OF TRAVIS COUNTY, TEXAS,  
LOCATED AT 5809 WESTMONT DRIVE IN THE  
CITY OF AUSTIN, TEXAS.

SCALE: 1" = 20'

RE: Jim Huescher

Date: December 13, 1976

By *J. Leroy Bush*  
J. Leroy Bush  
Reg. Public Surveyor #1828



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