

Revised

CASE # C15-2011-0106
ROW # _____

**CITY OF AUSTIN
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: 5400 North Lamar Boulevard Austin, Texas 78751

LEGAL DESCRIPTION: Subdivision – Bednar Addn III / Bednar Addn II
Lot(s) 1-2 / A less S 1086.83 SF Block A / - Outlot - / - Division - / -

I/We Michele Rogerson Lynch on behalf of myself/ourselves as authorized agent for
Camden Property Trust affirm that on September 12, 2011,

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

X ERECT _____ ATTACH _____ COMPLETE _____ REMODEL _____ MAINTAIN

A vertical mixed use (VMU) building providing for a three to five story building.

The specific variances requested are:

1) Allow for a 45' 4" or 4 story building (instead of 30 feet or 2 stories) that is less than 50 feet away (ranges from 37' to 43' 6 1/2") from property zoned CS-MU-CO-NP on which a use permitted in an SF-5 or more restrictive zoning district (duplex/condo) is located (25-2-1063(C)(1)(b). The variance area is shown in green on the attached exhibits and represents a variance need of 15' 4"; and

2) Allow for a 45' 4" or 4 story building (instead of 40 feet or 3 stories) that is more than 50 feet and less than 100 feet away (ranges from 50' to 77' 9") from property zoned CS-MU-CO-NP on which a use permitted in an SF-5 or more restrictive zoning district (duplex/condo) is located (25-2-1063(C)(2)(b). The variance area is shown in yellow on the attached exhibits and represents a variance need of 5' 4"; and

3) Allow for a retaining wall structure to be located within 25 feet or less from property zoned CS-MU-CO-NP on which a use permitted in an SF-5 or more restrictive zoning district (duplex/condo) is located (25-2-1063(B)(2).

in a CS-MU-V-CO-NP 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.

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 Property is located along a major core transit corridor (North Lamar) that is bounded by single family zoning and uses to the west as well as a recently developed duplex/condo use within a CS-MU-CO-NP zoning district, which trigger compatibility. The Property is exceeding compatibility setbacks (i.e. has greater setbacks than required) from the true single family zoning and uses (50 foot no build setback) and is in need of a compatibility variance from the newly developed duplex/condo use that is located within a commercial zoning district. The duplex/condo project was built after the VMU was proposed to, and supported by, the neighborhood. The compatibility regulations created by this duplex/condo use within a commercial zoning district (CS-MU-CO-NP) hinder the desired VMU development on the site. A rezoning of the Property to allow for a VMU was unanimously approved by City Council on November 20, 2008. Negotiations with the Brentwood Neighborhood Association and adjacent homeowners resulted in obtaining support for the VMU with the restriction of increased building/landscape setback areas, prohibition of balconies adjacent to single family residences, enhanced compatibility lighting and prohibiting any exposed parking structure.

HARDSHIP:

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

The hardship of the Property pertains to the physical limitations of an urban site bounded by standard single family uses triggering compatibility as well as newly developed duplex/condo uses that are located within a commercially zoned tract. In working with the Brentwood Neighborhood, the owner agreed to honor all compatibility setbacks and heights on the Property, while increasing the setback for an increased landscaped area. The project was designed and ready to be developed, but was put on hold during the recent economic downturn. In that time period an adjacent property zoned CS-MU-CO-NP was redeveloped to a duplex/condo use, which now results in a need for compatibility variances that were not anticipated. The project was carefully designed to be placed as far away from traditional single family homeowners as possible and thus it was pushed closer to the tract that is now triggering compatibility. The change of use on the adjacent property did not require notification and was not discovered until a recent site visit was conducted prior to site plan submittal.

The Property is also constrained by additional right-of-way (ROW) requirements on North Lamar and by development of the City's desired Commercial Design

Standards streetscape improvements for Core Transit Corridors (15 feet). A waiver to reduce the ROW width was recently approved by the City, but still requires a total of 57 feet of ROW for the side of North Lamar on which the project is located, which pushes the project closer to the duplex/condo.

Lastly, the purpose of VMU developments is to increase density on urban corridors while respecting compatibility from traditional single family homes in adjacent neighborhoods. The allowance of a higher level residential use within a commercial zoning category such as the duplex/condo in a CS-MU-CO-NP district is more closely suited to a VMU and intended to be more in line with the densification of urban areas and should not be treated as strictly for compatibility purposes. For example, the triggering duplex/condos are two stories and of an urban industrial design that gives more of a multifamily warehouse feel.

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

The hardship is not general to the area because this Property in particular is one of a few along this stretch of North Lamar that has the necessary depth for a VMU that enables the VMU to comply with compatibility standards. The duplex/condo is located in an area set for more intense commercial and higher density mixed use development.

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:

The variance will not alter the character of the area adjacent to the Property as the size and scale of the building will be residential in character for those portions adjacent to the single family homes as well as the duplex/condo on the CS-MU-CO-NP tract. As noted above, restrictions agreed to with the neighborhood prohibit balconies facing the single family homes as well as wrapping the parking structure with residential units and increase compatibility setbacks. The duplex/condo lot specifically in question is developed as a more urban industrial design and is not of a standard duplex single family home style that would be more out of scale with the VMU. The commercial aspect of the project will be located on North Lamar (a Core Transit Corridor). Further, the community will be enhanced by providing a commercially design standards compliant structure and streetscape that will encourage increased pedestrian activity around the site.

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:

N/A

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:

N/A

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

N/A

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

N/A

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 _____ Mail Address 301 Congress Ave., Ste 1075

City, State & Zip Austin, TX 78701

Printed Michele Rogerson Lynch, Metcalfe Williams, LLP Phone 512.467.4559 Date _____

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 _____ Mail Address 3 Greenway Plz, Ste. 1300

City, State & Zip Houston, Texas 77046-0391

Printed _____ Phone _____ Date _____

**GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST
TO THE BOARD OF ADJUSTMENT**

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

VARIANCE REQUIREMENTS:

General Requirements:

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

Required Findings:

The Board of Adjustment is also required to make findings discussed below in order to grant a variance. Applicants must provide the Board with proposed findings.

SUBMITTAL REQUIREMENTS: (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)

- (1) A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
- (2) A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
- (3) A tax plat with subject property clearly marked indicating property within a 300-foot radius. These are available from the Travis Central Appraisal District at 8314 Cross Park Drive (834-9138).
- (4) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning - \$360. All other zonings - \$660.)
- (5) Other Information – Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s) etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a packet with all information that has been submitted on the Thursday prior to the meeting.

Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

REQUIRED FINDINGS: All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

Reasonable Use:

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. [Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.]

Hardship:

- a. Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested. (For example, topography, lot configuration, or any physical constraint that would limit the placement of the structure or prevent compliance with required site development regulations, etc.) A strictly financial or personal reason is not a valid hardship.

- b. Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

Area Character:

Application must demonstrate to the Board how 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 zoning regulations of the zoning district in which the property is located.

NOTE: Parking variances require additional findings to be made. The additional findings are listed on the application and must also be completed for submittal of the application.

Board of Adjustment Staff:

**Susan Walker, Planner
974-2202**

**Diana Ramirez, Administrative Specialist, Board Secretary
974-2241**

Fax #974-6536

**Watershed Protection and Development Review Department
One Texas Center
505 Barton Springs Road, 2nd Floor**

**Mailing Address:
P. O. Box 1088
Austin, TX 78767-1088**

September 30, 2011

Todd Triggs
Camden Property Trust
Three Greenway Plaza, Suite 300
Austin, Texas 77046

Re: Compatibility Variance Request for redevelopment of approximately 4.843 acres located at 5400 North Lamar.

Dear Mr. Triggs:

Thank you for meeting with me to discuss your proposal for a vertical mixed use development that requires a compatibility variance from my property located at 814 West North Loop. As we discussed, I am in favor of the proposed project and requested variance with the commitment to work together on the design of fencing and screening along the east and north property lines of my property, which border the proposed project. Additionally, we have agreed to screening and fencing along the west property line of my property that is adjacent to an existing apartment complex. Acceptable fencing and screening measures are described below:

Landscaping

Landscaping along the north and east property line shall be a mixture of evergreens, native or drought resistant plants, a green vine wall with steel plates or cables and trees (such as, but not limited to, Arizona Cypress and Italian Cypress). The landscaping shall be at least fifteen to twenty feet in height at installation to provide shade and privacy from the adjacent development.

Fencing

Replace existing fencing along the north and east property line with an eight (8') foot wood privacy fence.

Timing

Landscaping and Fencing shall be completed after demolition of the existing buildings.

Cost

Camden will cover all expenses for landscaping and fencing.

Page 2

Thank you again for explaining the proposed variance request to me. I believe the proposed project as designed will greatly enhance the area and I support the needed variances.

Sincerely,

Honor Guiney 9/30/2011

Honor Guiney
814 West North Loop
Austin, Texas 78756

AGREED TO AND ACCEPTED BY:

CAMDEN PROPERTY TRUST
A TEXAS REAL ESTATE INVESTMENT TRUST

By: *William W. Sengelmann*
Name: William W. Sengelmann
Title: SVP
Date: 10-3-11



City of Austin

Austin's Community-Owned Electric Utility

www.austinenenergy.com

Town Lake Center • 721 Barton Springs Road • Austin, Texas • 78704

September 12, 2011

Camden Property Trust
3 Greenway Plaza, Ste 1300
Houston, Texas 77046-0391

Via email to Michele Rogerson Lynch at: mlynch@metcalfewilliams.com

Re: 5300, 5304 & 5400 N. Lamar Blvd.
Lot A less 1086.83 sq ft Bednar Addn II & Lots 1-2 Bednar Addn III

Dear Michele,

Austin Energy (AE) has reviewed your application for the above referenced property requesting to increase the allowed height to 45 feet. Austin Energy has no conflicts with this application as requested and shown on the attached red-stamped sketch provided owner/applicant meets AE clearance criteria requirements as well as be in compliance with the National Electric Safety Code and OSHA with any existing or future improvements including landscaping.

Thank you for checking with us in advance. Should you have any questions, please feel free to contact me at 322-6587.

Sincerely,

A handwritten signature in black ink, appearing to read "Lena Lund".

Lena Lund
Public Involvement/Real Estate Services

Cc: Diana Ramirez and Susan Walker

[illegible]

25 FIRELANE

PROJECT DATA
TITLE: SHORE, INK
VOL. 1980-1-300
1

AUSTIN, TX - CAMDEN REAL ESTATE INVESTMENTS

REPORT

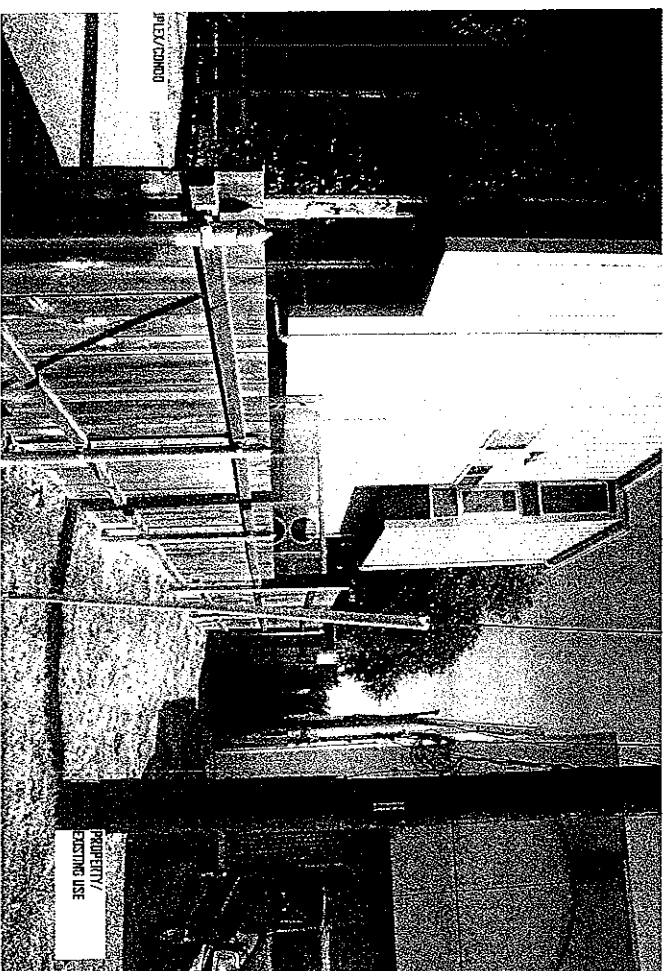
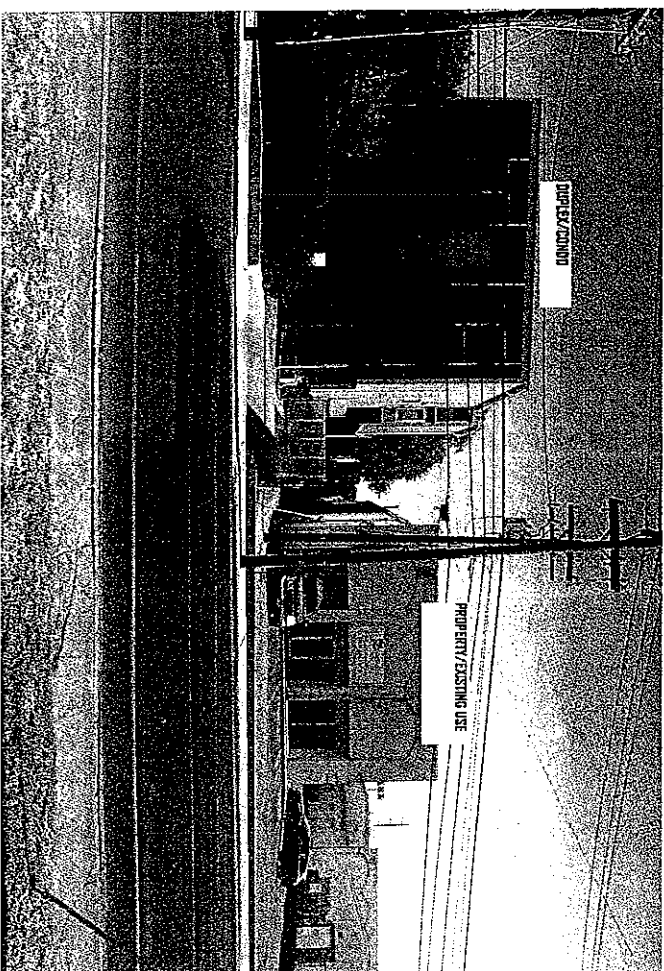
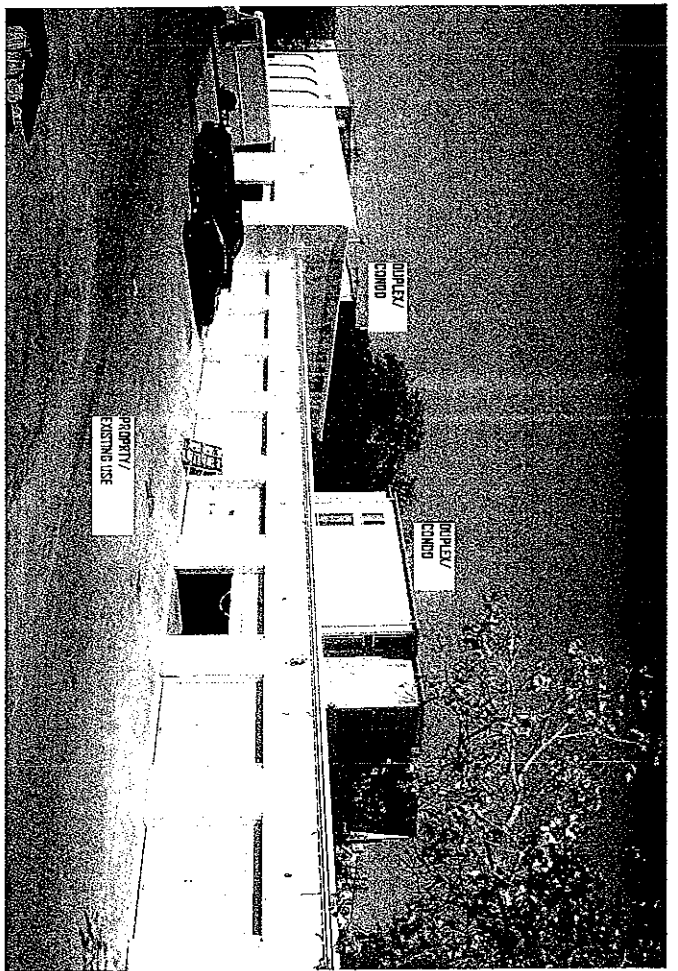
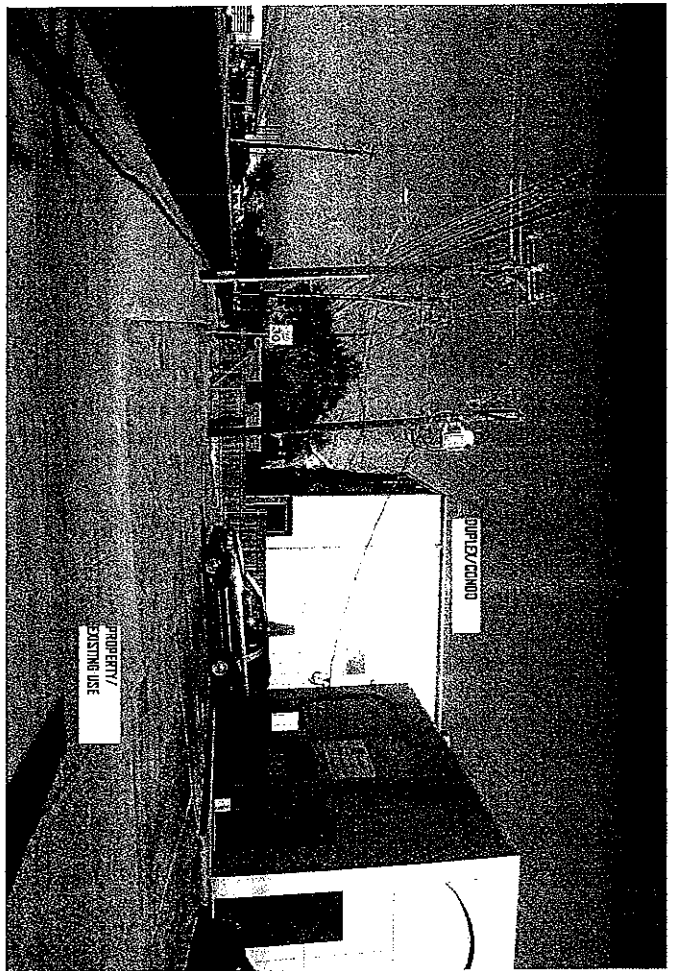
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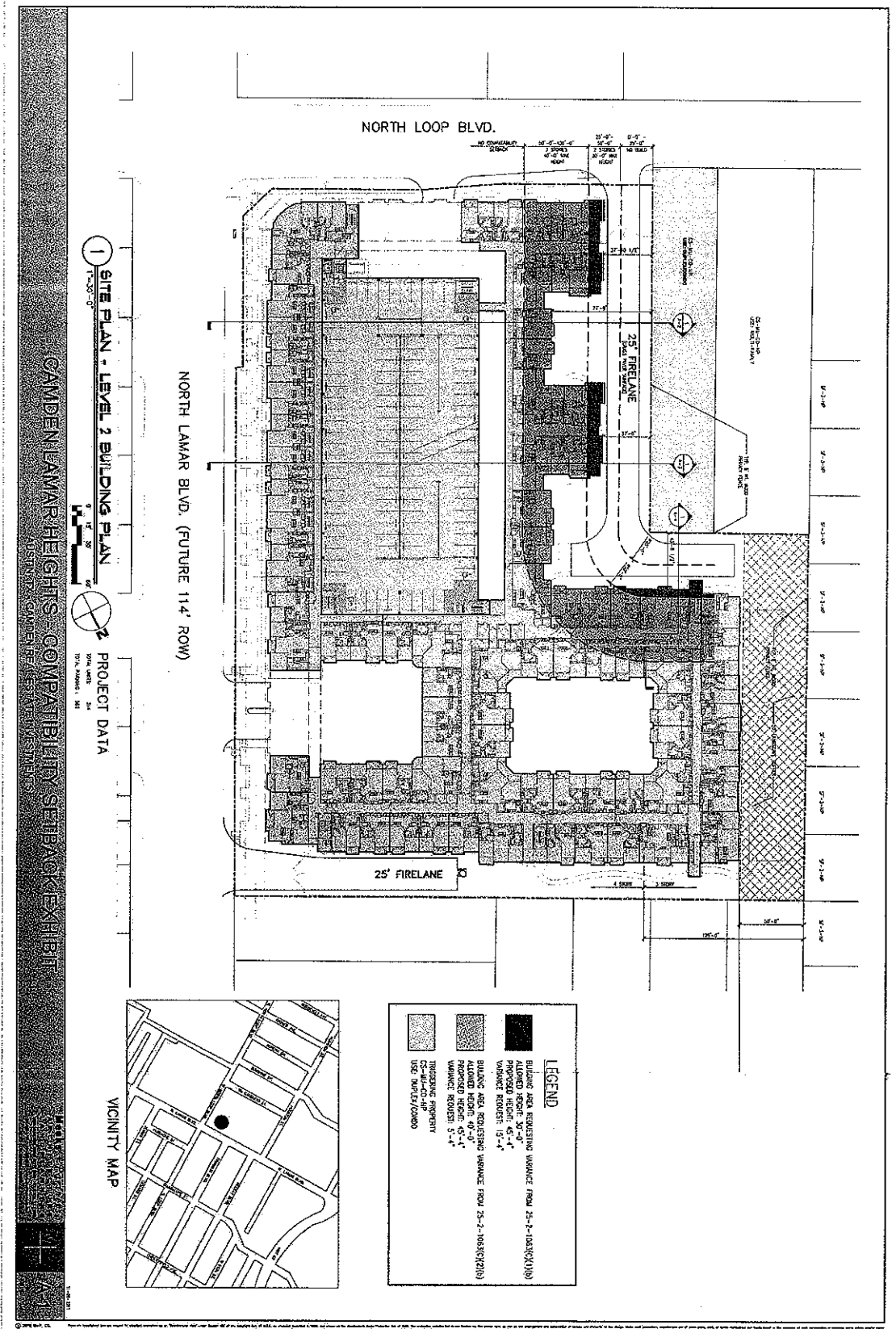
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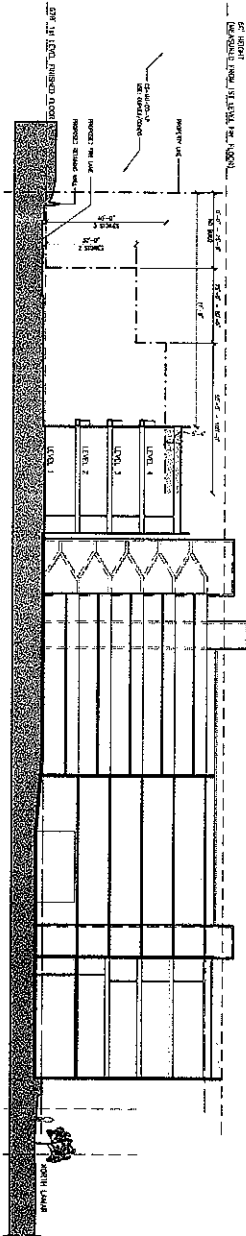
9/12/2011

There has been no change in the plan for \$300, \$304 & \$400 NL amounts.

MOORE & PIERCE
ACCOUNTANTS
LAND PLANNING



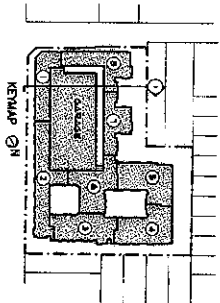




SECTION - A-2

LEGEND

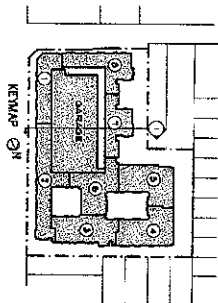
[Solid Black Box]	BUILDING AREA REQUESTING VARIANCE FROM 25-2-106(C)(1)(b)
[Stippled Box]	ALLOWED HEIGHT: 40'-0"
[Cross-hatched Box]	PROPOSED HEIGHT: 45'-4"
[Dotted Box]	VARIANCE REQUEST: 15'-4"
[Stippled Box]	BUILDING AREA REQUESTING VARIANCE FROM 25-2-106(C)(2)(b)
[Cross-hatched Box]	ALLOWED HEIGHT: 40'-0"
[Dotted Box]	PROPOSED HEIGHT: 45'-4"
[Dotted Box]	VARIANCE REQUEST: 5'-4"



CAMDEN LAMAR HEIGHTS COMPATIBILITY SETBACK EXHIBIT

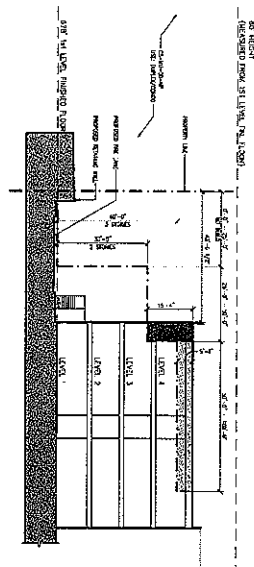
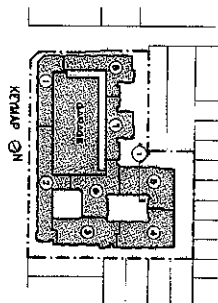
ARTIST: CAMDEN PLANNING DEPARTMENT

MAP A-2











AUSTIN, TX - CAMDEN, REAL ESTATE INVESTMENT

B-12-231



1 SECTION - A-A
1/16" = 1' - 0"

LEGEND	
	BUILDING AREA EXISTING
	ALTERED HEIGHT: 45'-0"
	PROPOSED HEIGHT: 45'-0"
	HEIGHT: REDUCED 15'-0"
	IMMEDIATE AREA PROTECTING WAREHOUSE FROM 75'-0" TO 100'-0" (75'-0")
	ALTERED HEIGHT: 45'-0"
	PROPOSED HEIGHT: 45'-0"
	HEIGHT: REDUCED 3'-0"