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RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

CASE: C14-81-058(RCT)

Z.A.P. DATE: March 6, 2012

ADDRESS: 4317 Gillis Street and 1308 Casey Street

OWNER AND APPLICANT: Gillis Casey LLC (Simon Studd)

EXISTING ZONING: MF-2

AREA: 0.478 acres (20,812 s.f.)

SUMMARY STAFF RECOMMENDATION:

Staff recommends granting a Termination of the Restrictive Covenant.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

March 6, 2012:

ISSUES:

None at this time.

DEPARTMENT COMMENTS:

The subject property is comprised of two lots located at the northeast corner of Gillis and Casey Streets. The two lots are zoned multi-family residence – low density (MF-2) district zoning. 4317 Gillis, the lot located immediately at the corner, is currently occupied by a single family residence that first received City water service in 1950. 1308 Casey Street is undeveloped, and City records show no prior history of development. Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The subject property received “B” Residence zoning on July 9, 1981 (Ord. 810709-B), but this was corrected to “BB” Residence on March 11, 1982 (Ord. 820311-G). The BB designation was later converted to MF-2 by way of the 1984 Conversion Ordinance. Please refer to Exhibits B and C (1981 and 1982 Rezoning Ordinances).

A Restrictive Covenant (“RC”) created in conjunction with the 1981 rezoning case was processed as City File # C14-81-013, and recorded in Travis County Deed Record Volume 7512, Pages 146 and 149, on June 17, 1981. The RC specified that the development of any apartments on the subject property must match a site plan exhibit attached to the RC, and the total number of apartments could not exceed twelve (12) units. Please refer to Exhibit D (1981 Restrictive Covenant).

Staff supports the Termination request. The Restrictive Covenant was created in 1981, prior to the development of the modern Land Development Code. Site development and building code standards are all more stringent than in 1981. The 1981 site plan does not meet current

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design standards for many criteria. Most significantly, the site plan attached to the restrictive covenant appears to exceed MF-2 impervious cover limits by ten to twenty percent, and compatibility standards have not been applied. Compatibility standards would apply to all borders of the subject property due to adjacent property zoning and land uses. This would increase setbacks from 5 to 25 feet along the interior property lines, and would require screening along property lines. Waivers from compatibility standards may be requested by the subject property owner at the time of site plan application, and require notification of adjacent property owners.

In addition to improved development standards, the character of the area has evolved since 1981, and there is a wider mix of land uses than 31 years ago. Application of current development standards for a multi-family residential project at this location include many restrictions and standards that are designed to allow fair use of the subject property, and produce a development that reflects the character of the neighborhood.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	MF-2	Single family residence, Undeveloped
<i>North</i>	LO-MU-V-CO, GR	One single family residence; Automotive repair; Restaurant (limited)
<i>South</i>	LO, SF-3	Duplex; Single family residences; Undeveloped
<i>East</i>	SF-3	Religious assembly; Single family residences
<i>West</i>	GR, SF-3; GR-V	Multi-family; Religious assembly; Single family residences; Commercial and retail center which also includes a charter high school, gym and medical offices

AREA STUDY: N/A

TIA: Is not required

WATERSHED: Williamson Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

SCENIC ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

26 – Far South Austin Community Association
 498 – South Central Coalition
 627 – Onion Creek Homeowners Association
 742 – Austin Independent School District
 786 – Home Builders Association of Greater Austin
 950 – Southwood Neighborhood Association
 1037 – Homeless Neighborhood Association
 1200 – Super Duper Neighborhood Objectors and Appeals Organization
 1224 – Austin Monorail Project
 1236 – The Real Estate Council of Austin, Inc.
 1363 – SEL Texas

511 – Austin Neighborhoods Council
 1108 – Perry Grid 644
 1075 – League of Bicycling Voters
 1228 – Sierra Club, Austin Regional Group
 1340 – Austin Heritage Tree Foundation

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SCHOOLS:

Joslin Elementary School

Covington Middle School

Crockett High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-06-0062 – Malicoat – 4315 Gillis Street	SF-3 to GR-MU	To Grant LO-MU-CO, w/ the CO prohibiting medical office	Approved LO-MU-CO as ZAP recommended (06/08/06).

RELATED CASES:

The subject property received "B" Residence zoning on July 9, 1981, (City File C14-81-058, Ord. 810709-B), but this was corrected to "BB" Residence on March 11, 1982 (Ord. 820311-G). The BB designation was later converted to MF-2 by way of the 1984 Conversion Ordinance. Please refer to Exhibits B and C (1981 and 1982 Rezoning Ordinances).

CITY COUNCIL DATE: April 5, 2012**ACTION:****ORDINANCE NUMBER:****CASE MANAGER:** Wendy Rhoades**PHONE:** 974-7719

Wendy.rhoades@austintexas.gov

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AMENDED BY ORDINANCE

NO. 820311-G

ORDINANCE NO. 810709-B

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:

A TRACT OF LAND CONTAINED IN LOT 11, BLOCK 2, BANNISTER ACRES SUBDIVISION, LOCALLY KNOWN AS 4317 GILLIS STREET and 1302 CASEY STREET, FROM "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT TO "B" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1. Chapter 45 of the Austin City Code of 1967 is hereby amended to change the USE and HEIGHT and AREA designations from "A" Residence, First Height and Area District to "B" Residence, First Height and Area District on the property described in File C14-81-058, to-wit:

A tract of land contained in Lot 11, Block 2, Bannister Acres, a subdivision recorded in Volume 965 Page 104 and Volume 964, Page 266 of the Deed Records of Travis County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the southwest corner of Original Lot 11, Block 2, Bannister Acres Subdivision (This point being the northeast corner of the intersection of Gillis Street and Casey Street);

THENCE N. 30° 00' E 95.00 feet to a point establishing the Northwest corner of this tract;

THENCE S 60° 00' E 217.80 feet to a point establishing the Northeast corner of this tract;

THENCE S 30° W 95 feet to a point establishing the Southeast corner of this tract.

THENCE N 60° W 217.80 feet to the point of beginning.

locally known as 4317 Gillis Street and 1302 Casey Street in the City of Austin, Travis County, Texas.

PART 2. It is hereby ordered that the USE and HEIGHT and AREA maps accompanying Chapter 45 of the Austin City Code of 1967 and made a part thereof shall be changed so as to record the change ordered in this ordinance.

EXHIBIT B
1981 REZONING ORDINANCE

PART 3. The rule requiring that ordinances shall be read on three separate days is hereby suspended, and this ordinance shall become effective ten (10) days following the date of its passage.

PASSED AND APPROVED

July 9, 1981

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Carole Keeton McClellan
Mayor

APPROVED:

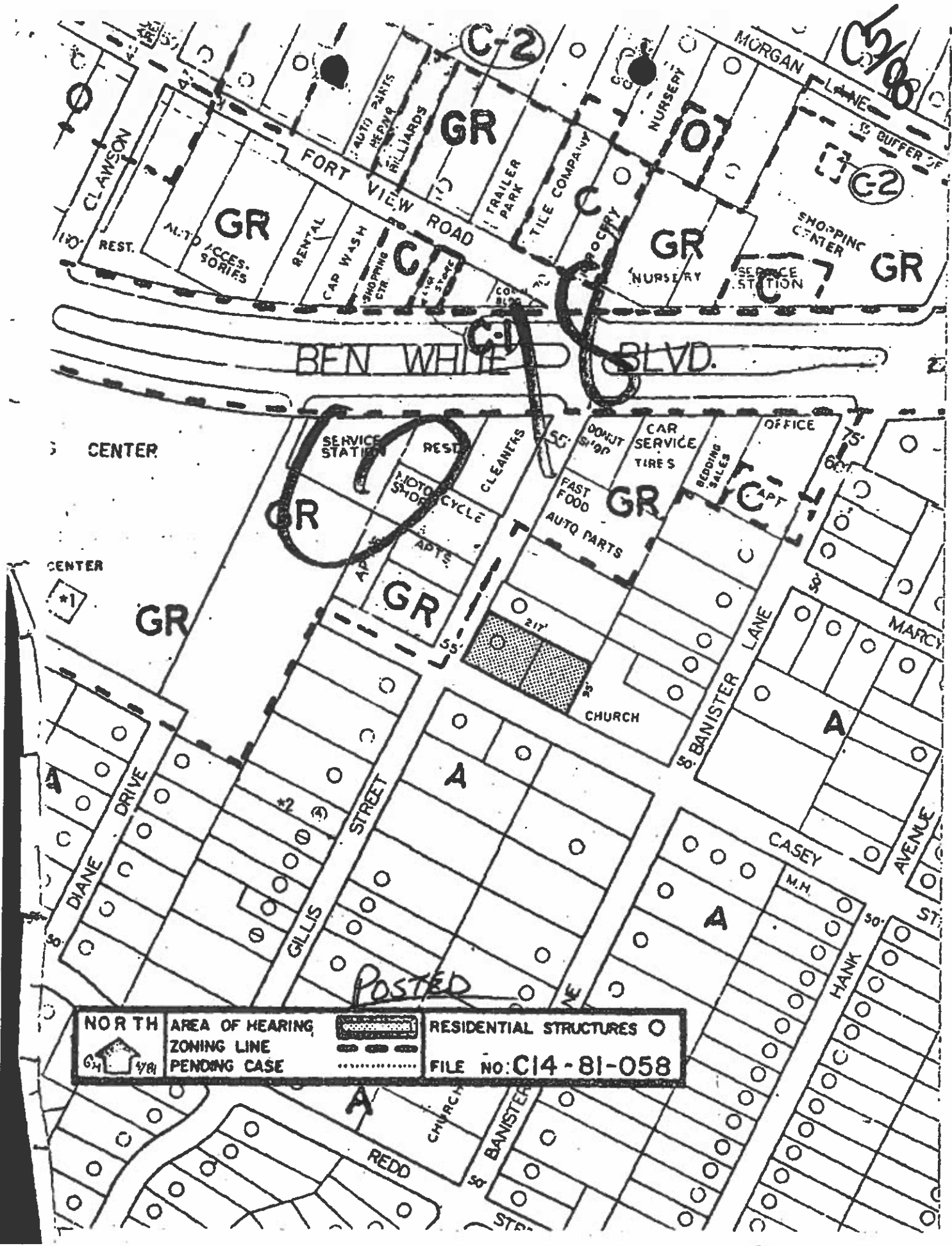
Albert De La Rosa
City Attorney

ATTEST:

Grace Monson
City Clerk

:sf

July 8, 1981



NORTH  **AREA OF HEARING ZONING LINE PENDING CASE**  **RESIDENTIAL STRUCTURES** 
FILE NO: C14-81-058

ORDINANCE NO. 820311-G

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AN ORDINANCE AMENDING ORDINANCE NO. 810709-B, ENACTED BY THE CITY COUNCIL ON JULY 9, 1981, BY CORRECTING THE USE DESIGNATION OF THE PROPERTY ZONED BY SAID ORDINANCE; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1. That the caption of Ordinance 810709-B, Zoning Case C14-81-058, enacted by the City Council on July 9, 1981, is hereby amended by deleting the words "B" RESIDENCE" and substituting in lieu thereof the words:

"BB" RESIDENCE.

PART 2. Part 1 of said ordinance is hereby amended by deleting the words "B" Residence" and substituting in lieu thereof the words:

"BB" Residence.

PART 3. The rule requiring the reading of ordinances on three separate days is hereby suspended, and 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

March 11, 1982

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Carole Keeton McClellan
Mayor

APPROVED:

Albert De La Riva
City Attorney

ATTEST:

Graeme Morrison
City Clerk

:saf

Posted

EXHIBIT C
1982 AMENDING
ORDINANCE

ORDINANCE NO. 810709-B

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AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:

A TRACT OF LAND CONTAINED IN LOT 11, BLOCK 2, BANNISTER ACRES SUBDIVISION, LOCALLY KNOWN AS 4317 GILLIS STREET and 1302 CASEY STREET, FROM "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT TO "B" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

See Amend.
PART 1. Chapter 45 of the Austin City Code of 1967 is hereby amended to change the USE and HEIGHT and AREA designations from "A" Residence, First Height and Area District to "B" Residence, First Height and Area District on the property described in File C14-81-058, to-wit:

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THENCE S 30° W 95 feet to a point establishing the Southeast corner of this tract.

THENCE N 60° W 217.80 feet to the point of beginning.

locally known as 4317 Gillis Street and 1302 Casey Street in the City of Austin, Travis County, Texas.

PART 2. It is hereby ordered that the USE and HEIGHT and AREA maps accompanying Chapter 45 of the Austin City Code of 1967 and made a part thereof shall be changed so as to record the change ordered in this ordinance.

RECEIVED

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PLANNING DEPT.

PART 3. The rule requiring that ordinances shall be read on three separate days is hereby suspended, and this ordinance shall become effective ten (10) days following the date of its passage.

PASSED AND APPROVED

July 9, 1981

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Mayor

APPROVED:

Albert De La Rosa
City Attorney

ATTEST:

Grace Monson
City Clerk

:sf

July 8, 1981

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RESTRICTIVE COVENANT

STATE OF TEXAS §
 § 22-81.25- 8439 * 9.00
COUNTY OF TRAVIS §

2-63-3852

9.00

WHEREAS, Chester H. and Evelyn Dorman of Travis County, Texas, are the owners of the following described property, to-wit:

Lot 11, Block 2, BANISTER ACRES SUBDIVISION, in the City of Austin, Travis County, Texas, recorded in Book 4, Page 178 of the Plat Records of Travis County, Texas;

WHEREAS, the City of Austin and Chester H. and Evelyn Dorman have agreed that the above described property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, Chester H. and Evelyn Dorman for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on them, their successors and assigns, as follows, to-wit:

1. If apartments are constructed on this property, there shall be no more than twelve (12) total apartment units. Further, if apartments are built on the site, the placement of improvements shall be located in accordance with the site plan heretofore approved by the Austin City Council, a copy of which is attached hereto and made a part hereof, marked Exhibit A.

2. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

3. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment or court order, the same shall in no wise

DEED RECORDS
Travis County, Texas

7512 146
EXHIBIT D
1991 RESTRICTIVE COVENANT

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affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

4. The failure at any time to enforce this agreement by the City of 2-63-3853 Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

5. This agreement may be modified, amended or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the above described property at the time of such modification, amendment or termination.

EXECUTED this the 17th day of June, 1981.

Chester H. Dorman
CHESTER H. DORMAN

Evelyn Dorman
EVELYN DORMAN

STATE OF TEXAS §

COUNTY OF TRAVIS §

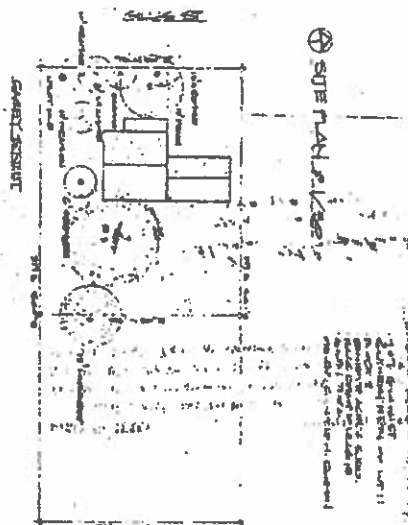
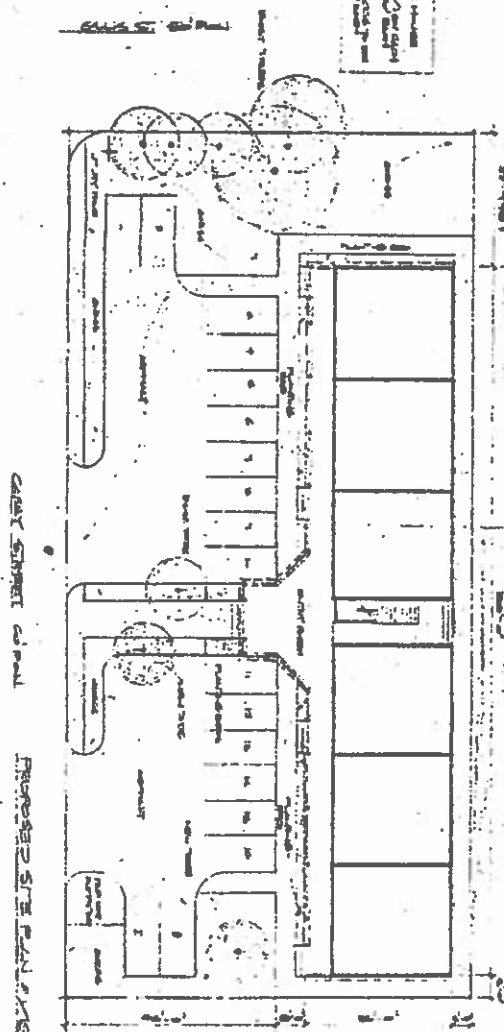
Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Chester H. and Evelyn Dorman, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 17th day of June, 1981.

NOTARY SEAL.

Isabella B. Allen
Isabella B. Allen
(Print or type name of Notary)
Notary Public in and for the State of
Texas. My commission expires: 12-30-84

2-63-3854

[illegible]

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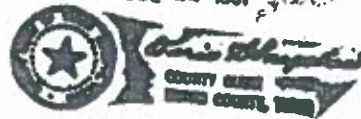
FILED

JUL 27 9 24 AM '81

Doris P. Fitzgerald
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS
I hereby certify that the instrument was FILED on the
date and at the time stamped herein by me, and was duly
RECORDED, in the Volume and Page of the record indicated
of Travis County, Texas, as stamped herein by me, on.

JUL 22 1981



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