

C15-2012-004
TP-0312020302
ROW-10735660

APPLICATION FOR BOARD OF ADJUSTMENT

CASE # _____
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: 2201 East Ben White Blvd.

LEGAL DESCRIPTION: Subdivision- ST. EDWARDS HEIGHTS

Lot(s): 1 section 6 _____ Outlot _____ Division _____

I/We Charlie Nohra on behalf of myself/ourselves as authorized agent for Rosemary Follis affirm that on February 15, 2012, hereby apply for a hearing before the Board of Adjustment for consideration to: (check appropriate items below)

 ERECT ATTACH COMPLETE REMODEL X MAINTAIN

ACQUIRE A CONDITIONAL USE PERMIT

IN A CS1 DISTRICT.
(ZONING DISTRICT)

25-2-801 (E) (2)

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 existing ordinance for a adult oriented business prohibits being located (2) ... within 1,000 feet of a lot on which a school, church, public park or playground, or licensed day care center is located; -section 25-2-801of land use and development code-zoning.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that: The property is located within 936.62' to 863.65' of Mabel Davis Park. The encroached area (63.38' to 136.35') of parkland is a creek bed located adjacent to a covered landfill. It has never been used as parkland, nor can ever be developed for park use.

Highway 71 separates the park from the property and the walking distance to the property is well over 1,000'.

The zoning ordinance as applied to this particular property creates a hardship since the literary application of the ordinance would be unreasonable in light of the general statutory purpose derived from the 1986 study in which the ordinance was created.

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

The surrounding area where the property is located is primarily industrial. The area which surrounds the parkland is commercial and residential. The property and the parkland are divided by Highway 71-a major highway also known as Ben White Blvd. There is no pedestrian traffic allowed to cross the road save and except the intersections. The property is not located at an intersection.

A hardship is as used in zoning ordinances as grounds for a variance;

It is a hardship because the 1000' feet requirement in this instance is an excessive use of authority, as the intended use of the ordinance based on the 1986 study used to create the 1,000' restriction was to dissuade foot traffic. The distance to travel by foot is well in excess of 1,000'. It is an arbitrary number (within 1000') in this instance because it is without consideration and regard for the particular topography and the facts and circumstances present. The encroachment area (63.38' to 136.35') of the parkland is a creek bed and adjacent covered landfill. The intended use of the ordinance was to divert and discourage foot traffic from the parkland to the site of the sexually oriented business. The distance to walk is well in excess of 1,000'. A hardship exists because it is condemning the property owner's right to acquire a conditional use permit which will not harm the public interest.

AREA CHARACTER:

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

The property is located across Highway 71 from Mabel Davis Park abutted by commercial buildings and vacant commercial property. The Texas Criminal Justice System Board of Pardons and Parole are housed in the office building to the west.

Highway 71 abuts to the north; storage units are to the east and railroad tracks lie to the south.

PARKING:

DOES NOT APPLY

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

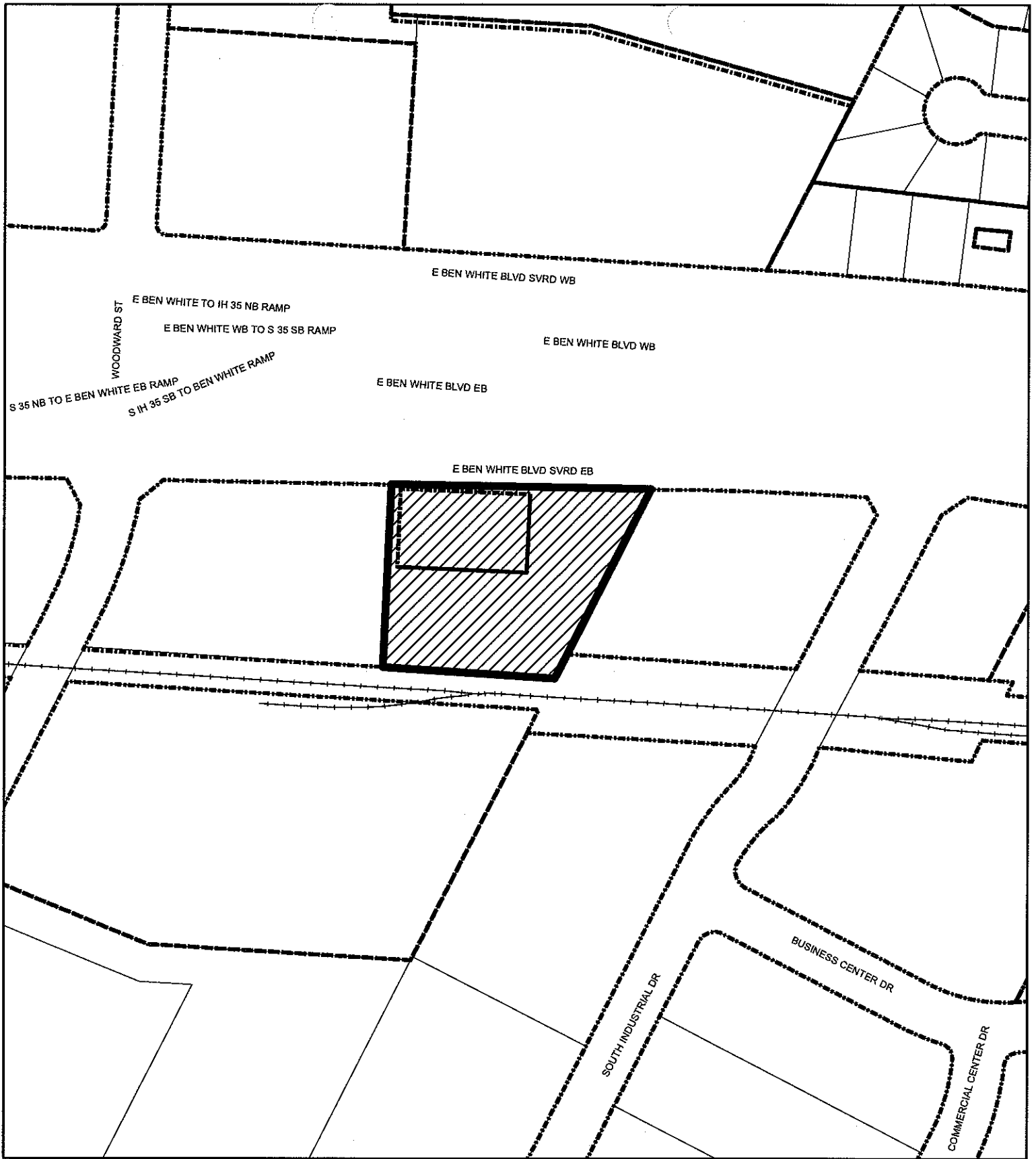
Signed: Charlie Nohra Mail address: 4213 Ave G Austin, TX 78751

Printed Name: Charlie Nohra Phone: (512) 659-0973 Date: 2/15/12

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: Rosemary Follis Mail address: 28 Reese Drive, Austin, Texas 78745

Printed name: Rosemary Follis Phone: (512) 659-0973 Date: 2/14/12



SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2012-0041
 LOCATION: 2201 E BEN WHITE BLVD



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

NOTES:

1. All improvements shall be made in accordance with the provisions of the City of Austin, Texas, and the applicable provisions of the Texas State Code.
2. Approval of this plan does not constitute approval of the proposed improvements by the City of Austin, Texas, or the State of Texas.
3. All signs and signs shall be constructed in accordance with the provisions of the City of Austin, Texas, and the applicable provisions of the Texas State Code.
4. All utility lines shall be shown on this plan and shall be located in accordance with the applicable provisions of the City of Austin, Texas, and the applicable provisions of the Texas State Code.
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LANDSCAPE PIR SITE TABLE:

ITEM	REQ'D CALCULATION	ACTUAL
AREA	10,000 sq ft	10,000 sq ft
PERCENTAGE AREA	20%	20%
TOTAL SQUARE YARDS	1,000 sq yd	1,000 sq yd
PERCENTAGE PER YARD	1/1000	1/1000
TOTAL PERCENTAGE	1/1000	1/1000

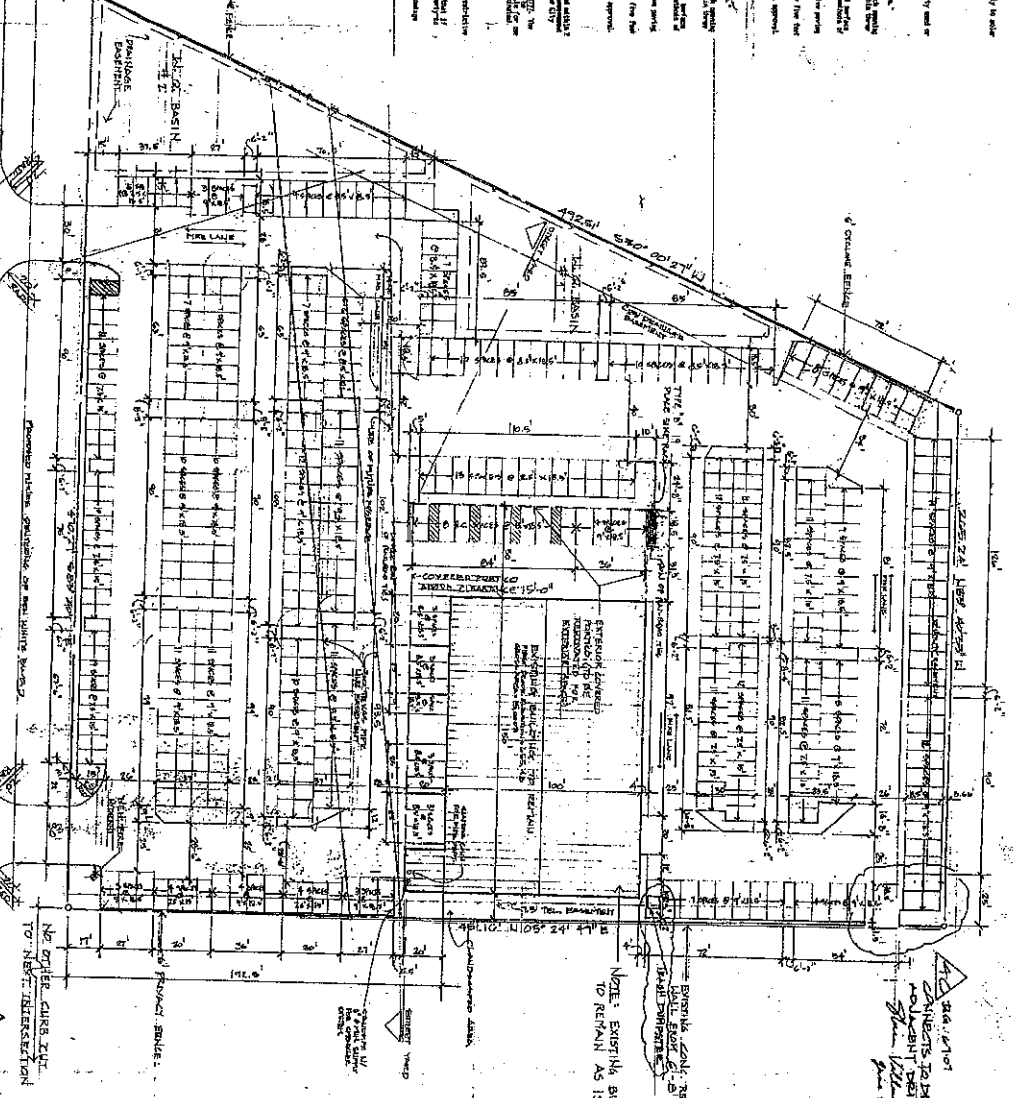
PARKING TABLE:

TYPE	PERCENTAGE	TOTAL
Handicapped	2%	20
Other	8%	80
TOTAL	10%	100

SITE PLAN

SCALE: 1" = 30'-0"

E. BEN WHITE
NORTH MEDIAN BREAKS WITHIN 300' OF EITHER PROP. LINE



SPC-90-0138C

APPROVED FOR THE CITY OF AUSTIN, TEXAS

DATE: 02/27/2004

BY: [Signature]

LEGAL DESCRIPTION: Lot 11, St. Andrew's Addition, Block 4, Subdivision 1, City of Austin, Texas, as shown on the plat for the same, recorded in the Public Records of the County of Travis, State of Texas, Book 11, Page 111.

PREPARED BY: [Signature]

DATE: 02/27/2004

PROJECT ADDRESS: 713 Burnet Road, Austin, Texas 78757

OWNER: [Signature]

DATE: 02/27/2004

REVISIONS:

NO.	DATE	DESCRIPTION
1	02/27/2004	Initial Design

REVISIONS:

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1	02/27/2004	Initial Design

REVISIONS:

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1	02/27/2004	Initial Design

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NO.	DATE	DESCRIPTION
1	02/27/2004	Initial Design

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NO.	DATE	DESCRIPTION
1	02/27/2004	Initial Design

SHEET

1

OF 1

JOB NO. 1003

DANCE ACROSS TEXAS

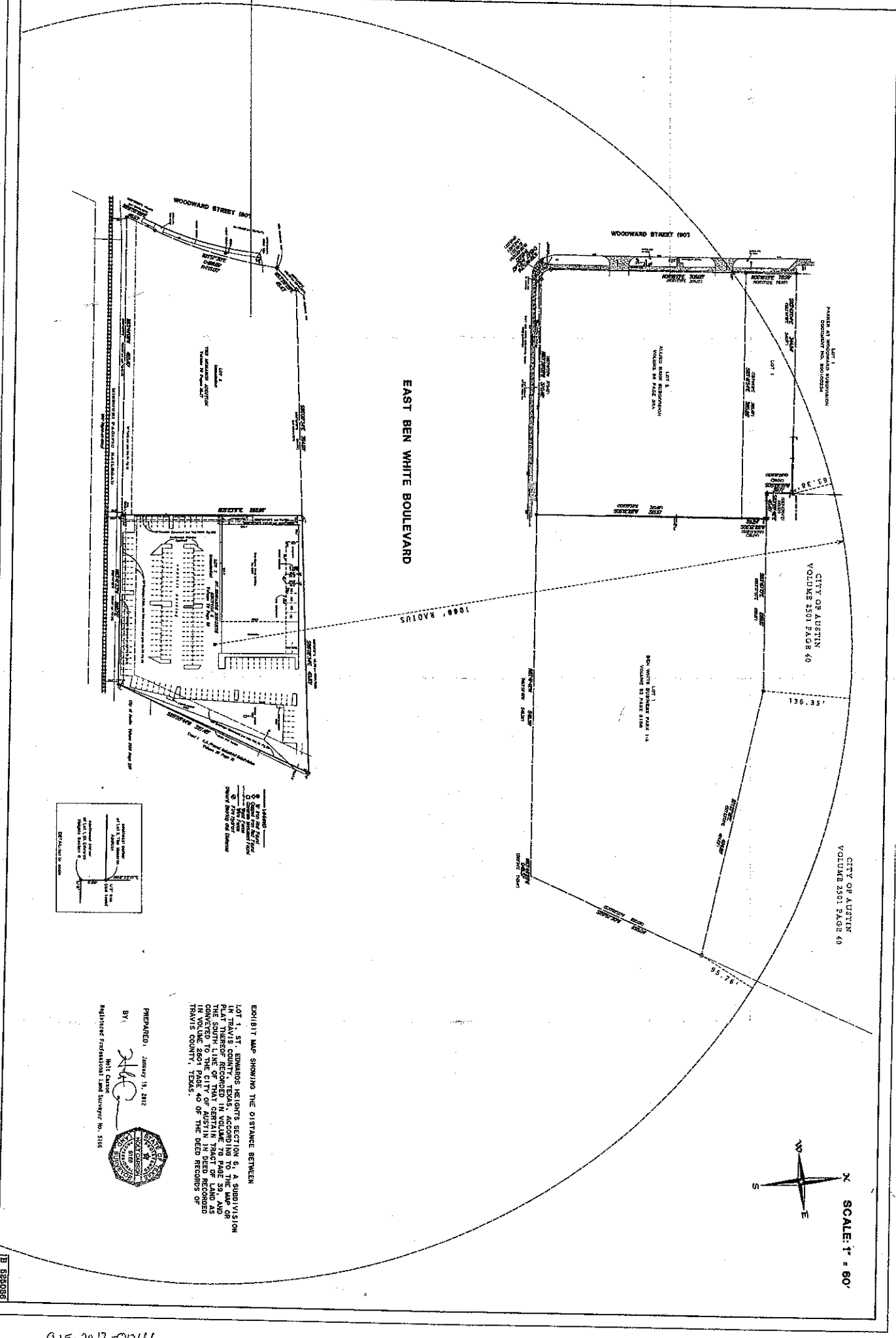
2201 E. BEN WHITE

VISION DESIGN GROUP

713 Burnet Rd. #206 Austin, Texas 78757 (512) 469-3800

VISION DESIGN GROUP

VISION DESIGN GROUP



EAST BEN WHITE BOULEVARD

LOT 1
 PART OF WOODWARD SUBDIVISION
 DEED BOOK NO. 20010224

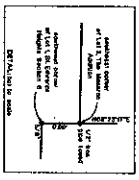
CITY OF AUSTIN
 VOLUME 2501 PAGE 40

CITY OF AUSTIN
 VOLUME 2501 PAGE 40

SCALE: 1" = 60'

EXHIBIT MAP SHOWING THE DISTANCE BETWEEN
 LOT 1, ST. EDWARDS HEIGHTS SECTION 6, A SUBDIVISION
 IN TRAVIS COUNTY, TEXAS, AND
 THE SOUTH LINE OF THAT CERTAIN TRACT OF LAND AS
 DESCRIBED IN DEED RECORDED
 IN VOLUME 2801 PAGE 40 OF THE DEED RECORDS OF
 TRAVIS COUNTY, TEXAS.

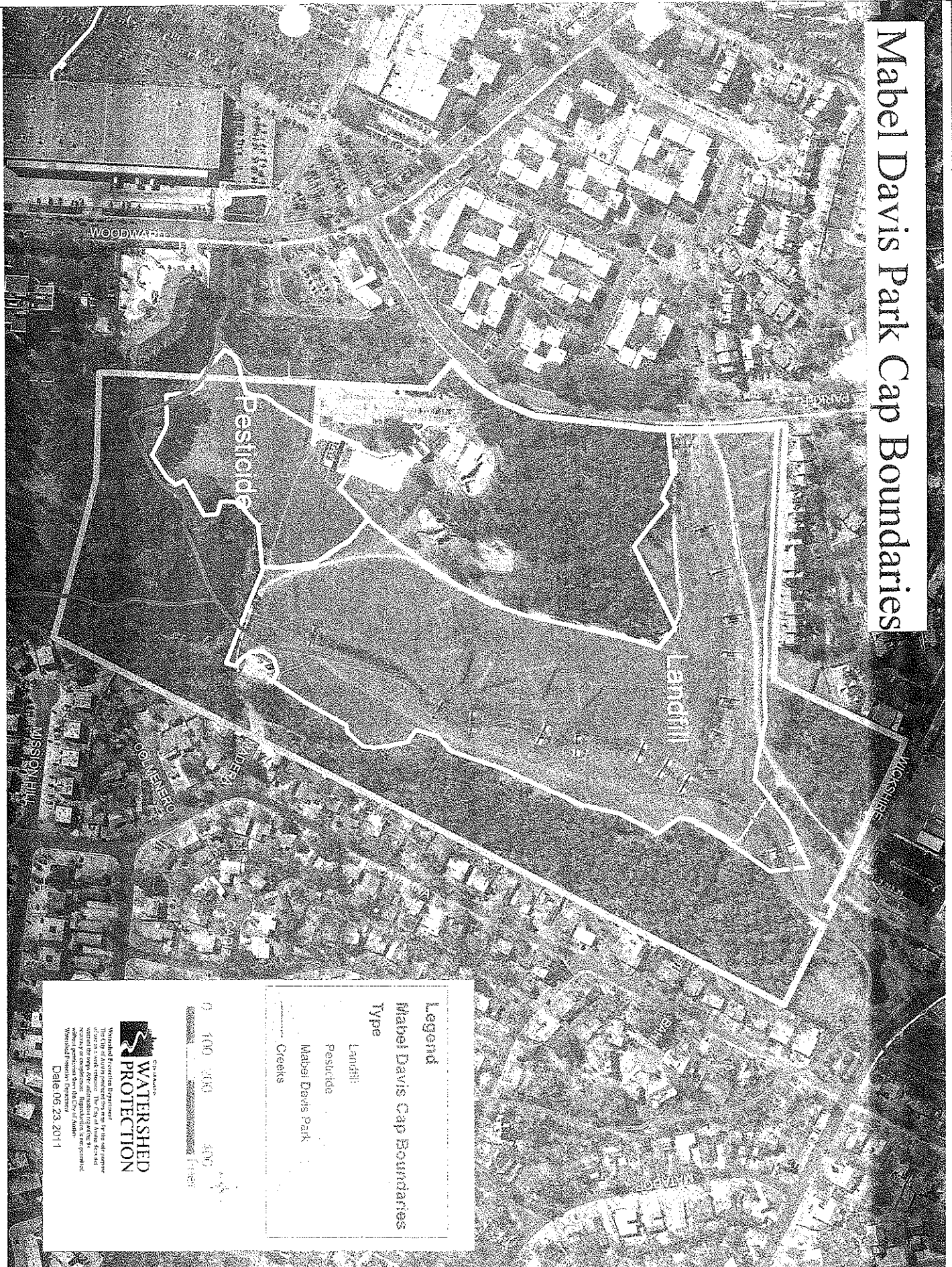
PREPARED: January 15, 2012
 BY: *[Signature]*
 Registered Professional Land Surveyor No. 5165



JE 838086

C15-2012-0041

Mabel Davis Park Cap Boundaries



Legend

Mabel Davis Cap Boundaries

- Type
- Landfill
 - Pesticide
 - Mabel Davis Park
 - Creeks



Watershed Protection Department
 The City of Austin
 1000 Red River Street, Suite 1000
 Austin, TX 78701
 Date: 05/23/2011