RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

CASE: C14-74-145(RCT)
500 South Third

WAPB DATE: December 10, 2012
January 14, 2013

ADDRESS: 500 South Third Street

PC DATE: November 27, 2012
December 11, 2012
January 22, 2013

AREA: 0.6940 acres (30,230 sq. ft.)

OWNER: Michael G. Martin

AGENT: Alice Glasco
(Alice Glasco Consulting)

CURRENT ZONING: MF-3-NP and SF-3-NP

NEIGHBORHOOD PLAN AREA: Bouldin Creek

REQUEST: Termination of a 1974 Public Restrictive Covenant

SUMMARY STAFF RECOMMENDATION:
Staff recommendation is to grant termination of the public restrictive covenant.

WATERFRONT PLANNING ADVISORY BOARD ACTION:
January 14, 2013 – To grant Termination of the Public Restrictive Covenant [Motion by Board Member Eric Schultz; Seconded by Board Member Tyler Zicker; Passed 5-1-1; Board Member Cory Walton Abstained; Board Member Roy Mann Absent]

December 10, 2012 – Postponed to January 14, 2013 at request of neighborhood.

PLANNING COMMISSION ACTION:
January 22, 2012 - To grant Termination of the Public Restrictive Covenant [Motion by Commissioner Hatfield; Seconded by Commissioner Chimenti; Passed 7-0]

December 11, 2012 - Staff requested postponement until January 22, 2012 in order to present the case to the Waterfront Planning Advisory Board on January 14, 2012. [Approved on Consent]

November 27, 2012 - Staff requested postponement until December 11, 2012 in order to present the case to the Waterfront Planning Advisory Board on December 10, 2012. [Approved on Consent]

PROCEDURAL NOTE:
Public restrictive covenants are a means to control use or development of a property and are enforced by the City. A public restrictive covenant (RC) differs from a private RC, which is not enforced by the City, and conditional overlays, which are conditions to the granting of zoning incorporated into a (zoning) ordinance. A public RC can only be amended or terminated with Council approval.

If a public RC has been adopted in conjunction with a zoning or rezoning case, then termination or modification of that public RC is subject to review by the Land Use Commission, as well as the Council. In this case, review of the termination request is the

purview of the Planning Commission. However, in preparing for Commission review, it was determined the property is within the Waterfront Overlay District.

Although not a rezoning application per se, if a public RC is adopted as part of a rezoning case the City treats RC termination applications as such with a public hearing at Planning Commission and Council. Per City Code, if an application includes property located within the Waterfront Overlay combining district, PDR staff will request a recommendation from the Waterfront Planning Advisory Board (WPAB) to be considered by the Land Use Commission at the associated public hearing. If the WPAB fails to make a recommendation, the Land Use Commission may act on the application without a recommendation from the WPAB.

DEPARTMENT COMMENTS:

The public restrictive covenant impacts a tract located at the northern end of South Third Street, immediately south of the old "Filling Station" site (please see Exhibits A to A-3).

In 1974, this tract was part of a parcel comprising 1.514 acres that was rezoned by the Planning Commission and Council. The result of the rezoning was "C-2" Commercial, 2nd H&A for the northern 150 feet abutting Barton Springs Road, "C" Commercial, 2nd H&A (from "A" Residence 1st H&A) on the middle of the property, and "B" 1st H&A (from "A" and "B" Residence 1st H&A) on the southern tract (see Exhibit B). The southern tract, Tract 3, is the subject of the restrictive covenant. The 1974 rezoning was approved with the condition that the southernmost 10' adjacent to the single-family residential on South Third Street remain "A" Residence, 1st H&A. Additionally, the Commission required – and the applicant agreed – to restrict the tract to vehicular parking only without a special permit, the provision of a privacy fence north of the "A" residence strip, and a prohibition of access to South Third Street.

Council approved the rezoning request as recommended by the Commission, and a public RC was adopted incorporating those recommendations. The RC executed at the time of the 1974 rezoning (see Exhibit C) thus mandated four things:

1) Required a 10-feet wide (then "A" now "SF-3") residential zoning strip along the southern property line;
2) Required a 6-feet high privacy fence along the northern edge of that 10-feet wide strip;
3) Limited the tract to no other purpose than vehicle parking without an approved special permit; and
4) Prohibited access from the (parent) tract to South Third Street, and required its closure at the owners' expense.

With adoption of the Zoning Conversion Ordinance in 1984, the property converted into a combination of CS-1, CS, MF-3, and a 10-feet wide SF-3 strip along the southern boundary. When the Bouldin Creek Neighborhood Plan was adopted in May 2002, the property was rezoned again, to CS-1-NP, MF-3-NP, and SF-3-NP; this rezoned the middle area CS to CS-1 and appended all districts with "NP," reflecting a neighborhood plan combining district.

In 2005 the property was subdivided, with the entirety of the undeveloped subject tract becoming Lot 2 of a 2-lot subdivision (see Exhibit D); the Filling Station building and parking area comprised Lot 1. At the time, a variance was granted by the Planning Commission to not extend South Third Street, as required by subdivision code, although additional right-of-way dedication was required. Each of the two new Lots was sold to different buyers shortly after the subdivision plat was recorded.

Lot 1 (the Filling Station site), was assigned Vertical Mixed-Use Building (V) zoning overlay in 2007. In 2011, The Park PUD was approved by the Council for that Lot. Meanwhile, a 2006 proposal to vacate and replat Lot 2 (the subject tract) was unsuccessful. The primary reason for this was that the variance request to not extend South Third Street was denied this time by the Planning Commission. The applications were subsequently withdrawn.

Consequently, today the subject property remains an undeveloped tract with MF-3-NP zoning, save for the 10' SF-3-NP zoning along the southern edge. A plat restriction limits development of the property to 4 residential units, and conditions of the 1974 public RC still apply. Despite this storied background, the request for consideration at this time **only involves termination of the restrictive covenant** from 1974. The request does not involve a zoning change or a modification in the number of allowed residential units.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	MF-3-NP & SF-3-NP	Undeveloped
North	PUD; P-NP; CS-1-V-NP	Park for Mobile Food Vendors; Offices (COA and Other)
East	MF-3-NP	Apartments
South	SF-3-NP	Single-family residential
West	SF-3-NP	Religious Assembly, Single-family residential

The subject tract is also within the Auditorium Shores subdistrict of the Waterfront Overlay District. However, it is outside the limits of both the primary and secondary setbacks. There is no additional setback identified in the subdistrict for the creek which crosses the property, nor are there any additional development standards for this subdistrict.

AREA STUDY: N/A
WATERSHED: Town Lake Creek
CAPITOL VIEW CORRIDOR: No
NEIGHBORHOOD ORGANIZATIONS:

TIA: Not Required
DESIRED DEVELOPMENT ZONE: Yes
HILL COUNTRY ROADWAY: No

Bouldin Creek Neighborhood Assn.	127
South Central Coalition	498
Austin Neighborhoods Council	511
Perry Grid	614
Austin Independent School District	742
Home Builders Association of Greater Austin	786
Save Town Lake	1004
Homeless Neighborhood Organization	1037
Bouldin Creek Neighborhood Planning Team	1074
League of Bicycling Voters	1075
Austin Parks Foundation	1113
Super Duper Neighborhood Objectors and Appealers Organization	1200
Austin Monorail Project	1224
Sierra Club, Austin Regional Group	1228
The Real Estate Council of Austin, Inc.	1236
Austin Heritage Tree Foundation	1340
SEL Texas	1363

RELATED CASES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-74-145	Original Request: C-2, 2nd H&A to C-2, 3rd H&A; A, 1st H&A to C, 3rd H&A; and A and B, 1st H&A to B, 1st H&A Amended Request: C-2, 2nd H&A to C-2, 2nd H&A; A, 1st H&A to C, 2nd H&A; and A and B, 1st H&A to B, 1st H&A, excluding southern 10' to remain A, 1st H&A	Approved amended request with additional conditions	Adopted amended request as approved by Commission with conditions
C8-05-0029.0A	Approve 1.502-acre, 2-lot Subdivision w/variance to Not Extend S 3rd Street	Approved; 05/24/2005	N/A
C8-05-0029.0A(VAC) and C8-06-0101.0A	Approve Vacation of Lot 2; and Approve new 0.694-acre, 1-lot Subdivision w/variance to Not Extend S 3rd Street	Denied Variance and Application for Vacation withdrawn; 10/24/2006	N/A

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
East 640 S 1st Street C8s-72-177	Subdivision Approval (Paragon Addition)	Approved; 07/13/1972	N/A
CP14-71-060	Site Plan/Special Permit Approval (The Timbercreek)	Approved; 07/18/1972	
West 501-515 Bouldin C14-83-016	From "A" to "C-2", 2nd Height & Area	Approved "C-2", 2nd Height & Area	Approved "C-2", 2nd Height & Area
601 Bouldin Ave C14-2007-0097	SF-3-NP to NO-CO-NP (City as Applicant)	Expired without Public Hearing	N/A
Northwest/North 811 & 801 Barton Springs C14-02-0031	CS, CS-1, & LO to CS-1-NP	Approved; 03/27/2002	Approved; 05/23/2002
C14-2007-0220	Addition of Vertical Mixed Use zoning to selected tracts (City	Approved; 11/13/2007	Approved; 12/13/2007

C814-2008-0145	as Applicant) CS-1-V-NP to PUD-NP	Approved staff recommendation to deny PUD-NP; 02/09/2010	Approved PUD-NP; 03/03/2011
Northeast 721-723 Barton Springs Road C14-02-0031	CS & CS-1 to P-NP	Approved; 03/27/2002	Approved; 05/23/2002

In addition to any base district changes noted above, all tracts were appended with the NP designation in 2002, reflecting the tracts' inclusion in the neighborhood plan combining district. No other recent (since 1984) rezoning cases have been identified along South Third Street, Post Oak, or Bouldin Avenue, and so are not listed above.

ABUTTING STREETS:

Street Name	ROW Width	Pavement Width	Classification	Bicycle Plan	Capital Metro	Sidewalks
South Third Street	50 Feet	Approximately 28 Feet	Local	No	No	No

CITY COUNCIL DATE:
December 13, 2012 Granted postponement at request of staff to accommodate consideration by Waterfront Planning Advisory Board and Planning Commission. Postponed until January 31, 2013.

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Lee Heckman **PHONE:** 974-7604
e-mail address: lee.heckman@austintexas.gov

SUMMARY STAFF RECOMMENDATION

Staff recommendation is to grant termination of the public restrictive covenant.

BASIS FOR RECOMMENDATION

The request is for termination of the existing public restrictive covenant only.

This is not a request to change the existing zoning or remove restrictions set forth in the plat, such as the limitation of development to no more than four residential units.

Staff believes two of the four restrictive covenant requirements, namely, that 10' of (then A, now SF-3) residential zoning remain along the southern property line and that a privacy fence be erected on the northern edge of that (single) family residential strip, reflects a desire by the Commission and Council to provide an appropriate setback and buffer between the then existing single-family homes along South Third Street and the proposed multifamily and commercial zoning. In 1974, the City did not have the compatibility requirements that are in place today.

Today, any new development of this tract is subject to Subchapter E. Design Standards and Mixed Use. These standards include:

1) setbacks (no structure may be built within 25 feet of the property line; no structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line; and no structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line);
2) landscaping (an area at least 15 feet wide is required along the property line);
3) screening (a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection); and
4) site layout (an intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property), among other requirements.

Staff believes the suite of compatibility requirements in place today, and that would apply to development of the tract, adequately protects the abutting single-family residences.

Termination of the covenant would remove the requirement of a privacy fence at the northern edge of the 10' SF-3-NP strip. The result is that the property owner could erect a fence or gate on the property line. Termination would not change the underlying zoning of the 10' SF-3-NP strip. It would, however, allow the owner to submit an application to rezone the property from SF-3-NP. Such an application for rezoning would be subject to all normal rezoning procedures, including public hearings, and positive recommendations by the Waterfront Planning Advisory Board and the Planning Commission, as well as adoption by the City Council.

Requirement that the tract be used only for vehicular parking without a special permit while simultaneously rezoning it multifamily may reflect willingness on the part of the Commission and Council for flexibility. At the time this tract was rezoned to multifamily, zoning maps indicate it abutted multifamily to the east, and single family to the west and south; the remainder of the parent tract was rezoned commercial, extending northward to Barton Springs. One can reasonably presume the tract could be used as parking for any commercial endeavors to the north, or developed as a multifamily project.

At this time in the 1970s, all site plans for apartments and condominiums were reviewed by the Planning Commission as special permits. Moreover, at this time multifamily projects could be developed on commercially zoned tracts, if they were approved as a special permit by the Commission. Clearly, the Council was not attempting to prohibit multifamily uses of the property. Rather, the Council simultaneously granted multifamily zoning to the southern tract and took steps to ensure that the site plan for any permitted use – other than parking - was reviewed and approved by the Planning Commission, via the special permit process. Planning Commission consideration of such special permits necessarily meant public notice to nearby residents and a hearing on the proposed site plan.

Today, multifamily projects are common and may be approved administratively unless they involve a variance – in which case site plan approval by the relevant Boards and Commission is required. In addition, today the City notifies property owners and residents within 500 feet of a property when a site plan application is filed. Those residents so inclined may register as interested parties. The covenant's requirement of a special permit for any use other than vehicular parking is procedural, and not a substantive prohibition against uses otherwise allowed under the multifamily zoning. Given the notice and review provisions of today's Land Development Code, staff believes the absolute requirement for Commission review of a site plan on this tract is an unnecessary requirement, unless some sort of variance is requested.

Lastly, the covenant's prohibition against access to and from South Third Street from this property effectively makes this tract land-locked and therefore undevelopable. At the time the RC was adopted, this tract was part of a larger parcel that extended to Barton Springs Road. Preventing cut-through traffic or shortcuts across the property from Barton Springs to South Third Street was likely seen as an appropriate protection for residents along South Third Street. Such a prohibition of access to South Third Street also reflects the idea this southern tract was seen as likely to be incorporated and developed with commercial and/or multifamily activities to the north, fronting Barton Springs Road.

Today, incorporation seems infeasible. There is an approximate six-foot drop in elevation from this tract to the old Filling Station parking lot; there is a creek and ravine crossing the eastern part of the property that ostensibly separates the buildable area of this tract from the area to the north and apartments to the east. Drainage easements and critical water quality zones also encumber the property. In addition to these physical and regulatory constraints, the property to the north of this tract is under separate ownership and development as the Park PUD; staff is unaware of any provision for access to Barton Springs Road for this tract.

Conditions on the property have changed since 1974. The potential for cut-through traffic from Barton Springs to South Third no longer exists; this tract abuts South Third Street and does not have vehicular access to Barton Springs. The reality is that without access to South Third Street, this tract is effectively land-locked and will likely not be developed. While staff acknowledges access to and from this tract to South Third Street may have an impact on the abutting single-family neighborhood, staff believes the request for access, which would allow the owner to develop up to four residential units, is a reasonable one; given the changes since 1974, it also seems a justifiable one.

In sum, staff believes the three substantive prohibitions in the covenant (no access to South Third Street, provide a single-family residential buffer/setback, and build a fence), as well as the procedural requirement (no multifamily or other allowed use without Planning Commission approval), were intended to protect the then abutting and existing single-family residential, and to keep residents and owners informed of the proposed development of the

site. These conditions were also adopted when the parent rezoning parcel stretched from Barton Springs Road to South Third Street. While much has changed along Barton Springs Road, including approval of The Park PUD on the northern portion of this tract's parent parcel, the immediate neighborhood along South Third Street remains single-family residential. As such, any development on this tract must comply with today's compatibility standards and other current land development provisions. Area residents and owners will be notified of any proposed site development.

Staff believes the protections adopted by Council in 1974 when adopting the rezoning ordinance and restrictive covenant are still appropriate, but that these protections are well provided (or even exceeded) with current Code and application requirements. Furthermore, staff does not believe the Council would restrict access on this isolated tract today, thus rendering it undevelopable. Given the recent adoption of a comprehensive plan that encourages both infill and neighborhood protection, maintaining a prohibition against access, and thus precluding a residential development that would be comparable to typical and nearby single-family density, seems contrary to those goals. For these reasons, staff recommends termination of the public restrictive covenant.

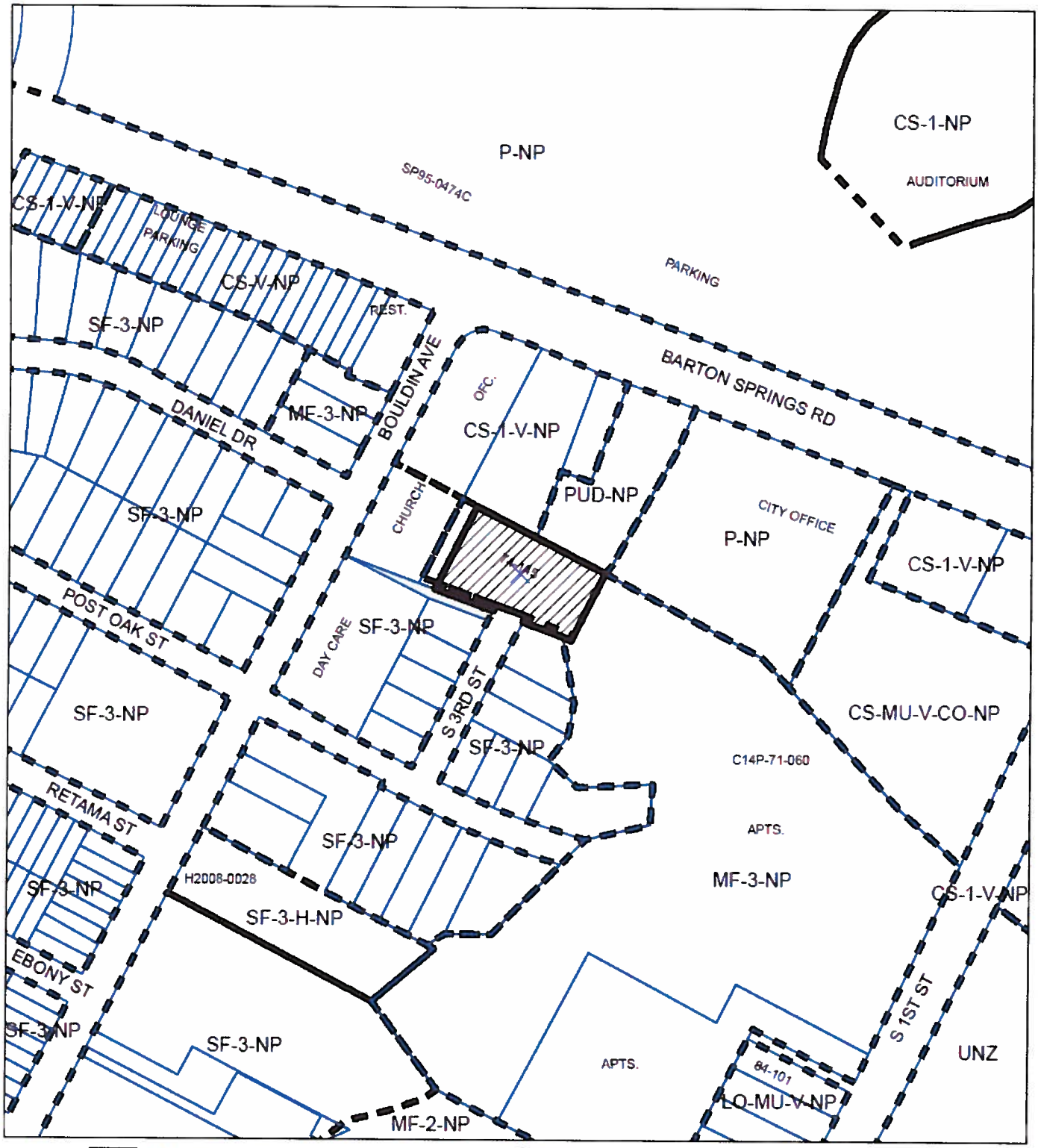
It should be noted the owner, neighborhood residents, and the neighborhood association have discussed the proposed restrictive covenant termination. The Bouldin Creek Neighborhood Association and residents immediately adjacent to the subject tract on South Third Street have documented their support for the request (see Exhibit D).

EXISTING CONDITIONS

Site Characteristics

The site is an undeveloped tract currently zoned MF-3-NP and SF-3-NP at the northern terminus of South Third Street. It is heavily wooded, although it is unknown if any of the trees are considered protected under the Code. The site is topographically constrained, falling from west to east, and with a sharp drop to the north; East Bouldin Creek separates the eastern portion of the tract from the western. The site is further constrained by floodplain and easements. The property is encumbered with FEMA and Austin's fully developed floodplain, and nearly the entire eastern third of the tract remains in a Drainage Easement and Critical Water Quality Zone.

A plat restriction limits development of the tract/Lot to a maximum of 4 residential units.



ZONING

ZONING CASE#:C14-74-145(RCT)

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1" = 200'

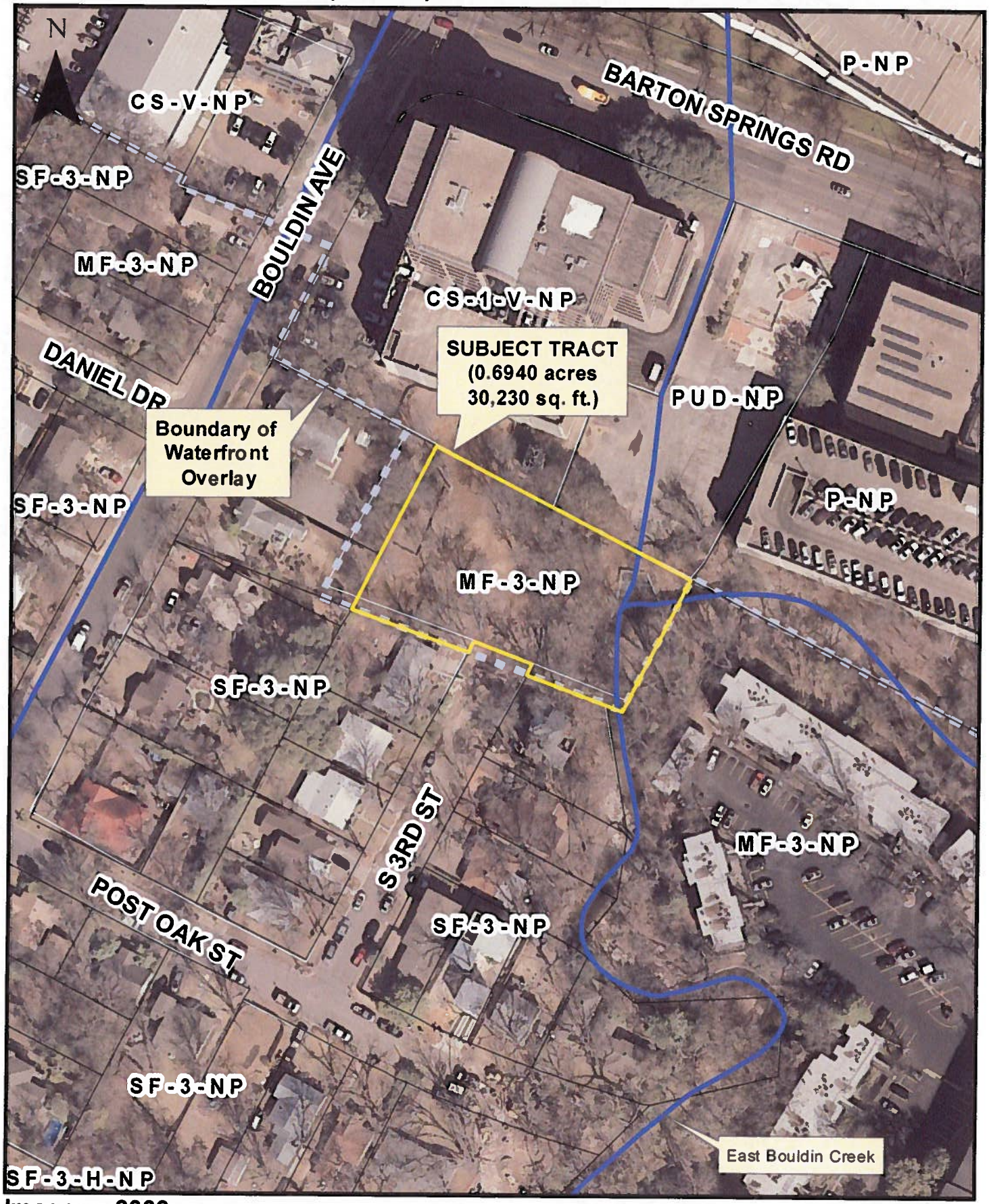
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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

CITY OF AUSTIN FOUNDED 1839

Exhibit A

C14-74-145(RCT) / 500 South Third Street



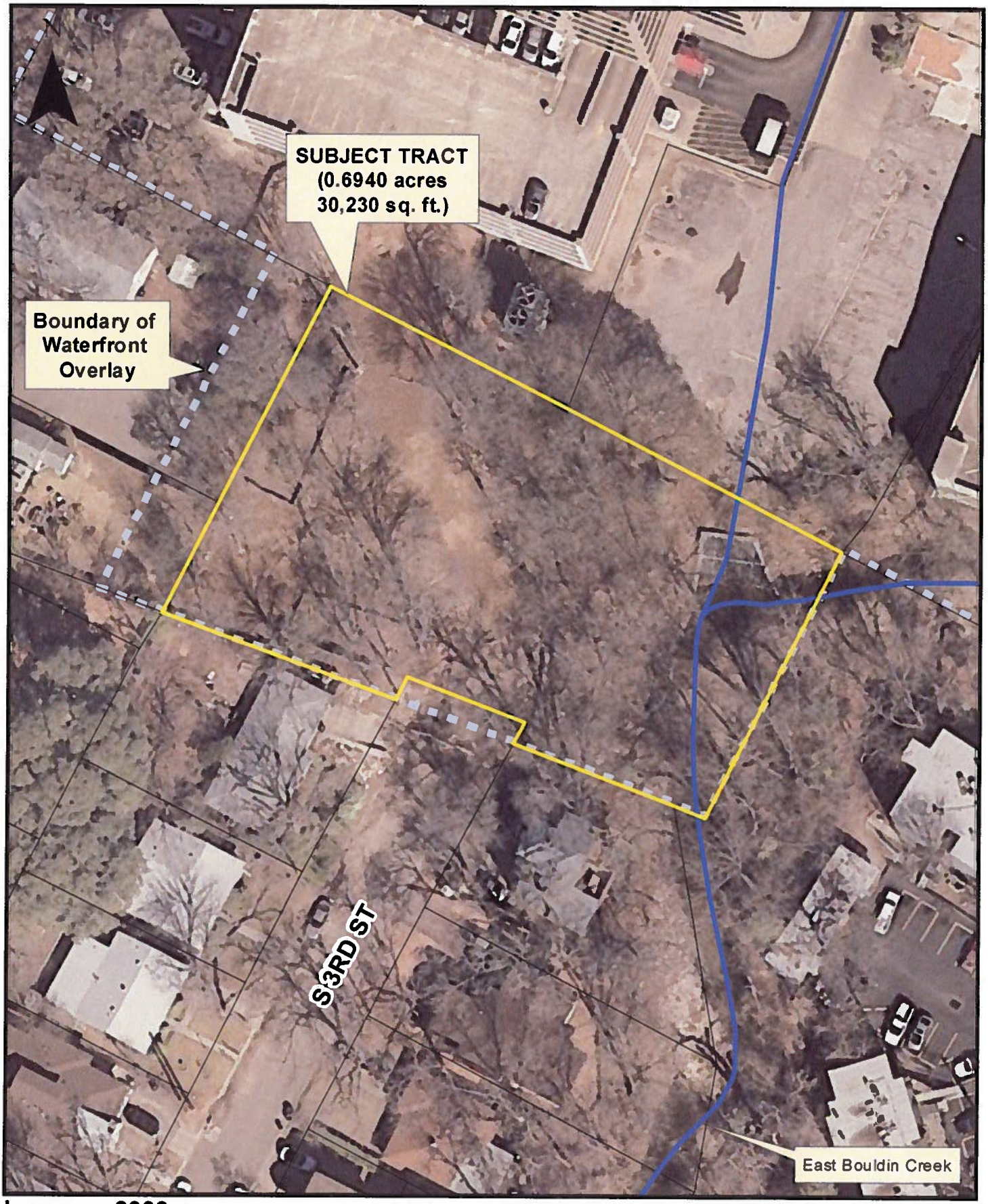
Imagery: 2009

Exhibit A-1

0 50 100 200 Feet

1 inch = 100 feet

C14-74-145(RCT) / 500 South Third Street



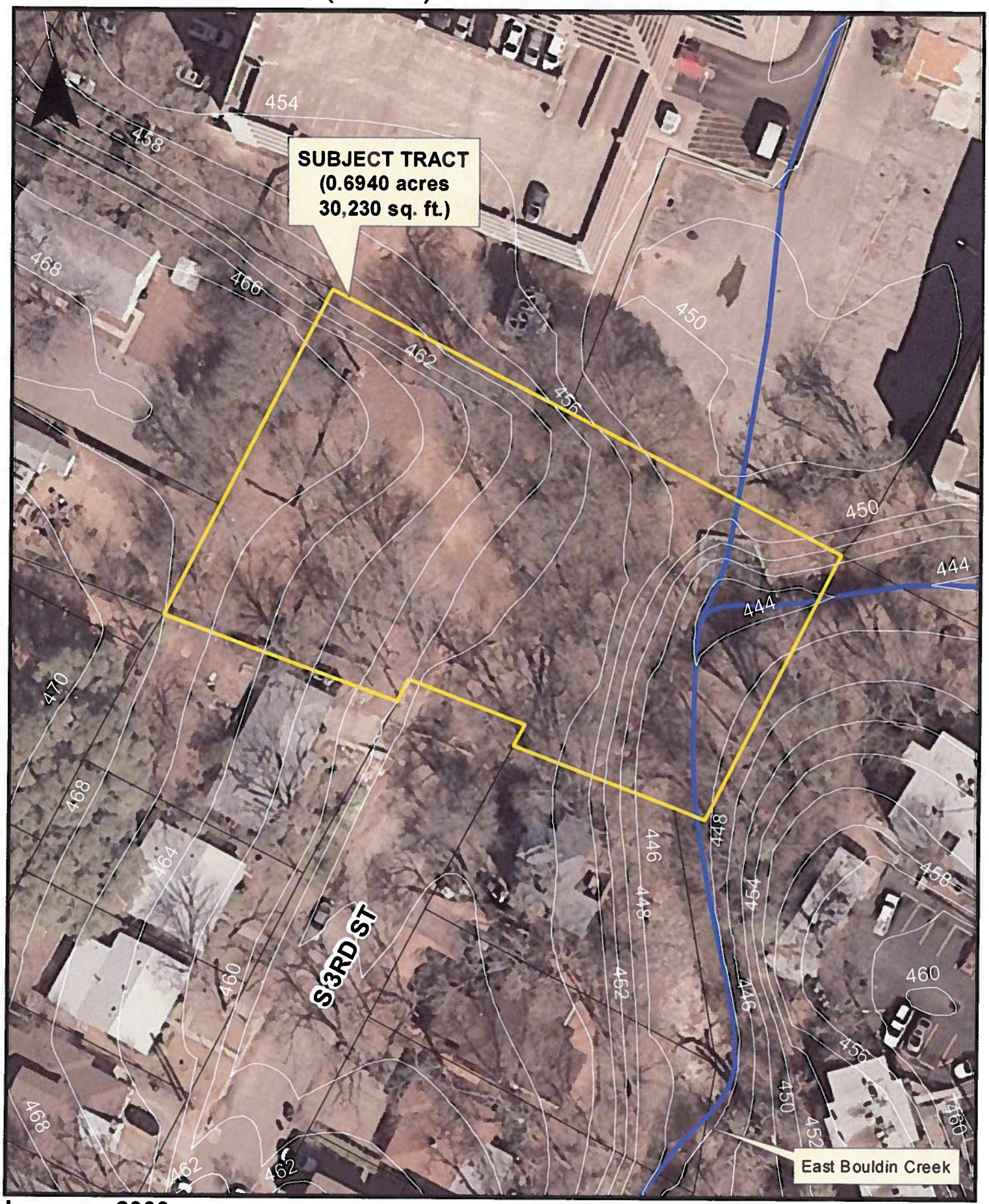
Imagery: 2009

Exhibit A-2

0 25 50 100 Feet

1 inch = 50 feet

C14-74-145(RCT) / 500 South Third Street



Imagery: 2009
Contours: 2003

Exhibit A-3

0 25 50 100 Feet

1 inch = 50 feet

C O V E N A N T

1-06-6583

STATE OF TEXAS § 87-7485- 5146 * 6.50
§
COUNTY OF TRAVIS §

WHEREAS, Forest S. Pearson, Trustee, acting on behalf of the beneficiaries therein concerned, being the owners of approximately 1.514 acres of land described in Exhibit "A" attached hereto and made a part hereof for all purposes, and,

WHEREAS, the City of Austin and the owner of the land mentioned above 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, THE UNDERSIGNED OWNER of said property located in the City of Austin, Travis County, Texas, for and in consideration of the sum of ONE DOLLAR ($1.00) cash and other valuable consideration to him in hand paid by the City of Austin, a municipal corporation, 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 him, his successors and assigns, as follows, to-wit:

1. This ~~Contract~~ Covenant affects only the southern most portion of the 1.514 acre tract described in Exhibit "A" and said portion herein concerned is shown as Tract 3 on Exhibit "B" attached hereto and incorporated herein for all purposes.

Therefore, with respect to Tract 3, the following covenant shall apply:

(a) "A" Residence zoning shall exist on the southern most ten (10) feet of Tract 3 in a strip paralleling the southern most line of Tract 3.

(b) At the northern perimeter of said ten (10) foot strip of "A" zoned land, a six (6) privacy fence shall be constructed by the owner of said property at the time

permanent construction may commence on any portion of the 1.514 acre tract.

(c) Tract 3 shall be used for no purpose other than the parking of vehicles unless pursuant to an approved special permit.

(d) There shall be no access to South 3rd Street where same abuts Tract 3, and it shall be closed at the expense of the owner at such time as permanent construction may commence on any portion of the 1.514 acre tract.

If any person, persons, corporations 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, as well as any adjoining property owner, his 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.

If any part of the provision of this agreement or covenant herein contained shall be declared invalid by judgment or court order, the same shall in no wise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

The failure at any time to enforce this agreement by the City of 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.

This agreement may be modified, amended or terminated only by joint action of both (1) 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 (2) by the owners of the above described property at the time of such modification, amendment, or termination, or, upon change of designation of zoning of lots adjoining the subject property to such an extent that the character of the neighborhood has thereby been substantially changed, thereby rendering the protection for the surrounding property owners created herein, no longer meaningful.

EXECUTED this 26 day of November, 1974.

Forest S. Pearson, Trustee

THE STATE OF TEXAS $
$
COUNTY OF TRAVIS $

Before me, the undersigned authority, on this day personally appeared Forest S. Pearson, Trustee, 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 and in the capacity therein stated.

Given under my hand and seal of office on this the 26 day of November, A.D. 1974.

NOTARY SEAL

Notary Public in and for
Travis County, Texas.

5179 705

Exhibit B - 3

Exhibit "A"

1-05-6586 97-8660

FIELD NOTES FOR 1.514 ACRES OF LAND OUT OF THE ISAAC DECKER LEAGUE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, SAME BEING ONLAND CERTAIN TRACTS OF LAND CONVEYED TO ROY SEEKATZ, BY DEEDS OF RECORD IN VOLUME 710 AT PAGE 71, VOLUME 723 AT PAGE 5, VOLUME 734 AT PAGE 273, AND VOLUME 909 AT PAGE 58 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 1.514 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pin found on the south line of Barton Springs Road, which point of beginning is the northeast corner of Vernon's Addition, a subdivision of record in Book 62 at Page 62, of the Plat Records of Travis County, Texas, same being the northerly northwest corner of this tract, and from which point of beginning an iron pin found at the northwest corner of Vernon's Addition, bears N66° 54'W 50.00 feet;

THENCE, with the south line of Barton Springs Road, S66° 54'E 120.47 feet to an iron pin found at the northeast corner of this tract;

THENCE, in a southerly and westerly direction with the following eight (8) courses;

(1) S28° 39'W 49.70 feet to an iron pin set;
(2) S31° 56'W 49.70 feet to an iron pin set;
(3) S32° 10'W 51.30 feet to a bolt found;
(4) S33° 48'W 55.80 feet to a nail in concrete;
(5) S23° 18'W 47.87 feet to an iron pin set;
(6) S58° 37'W 7.93 feet to an iron pin set;
(7) S30° 18'W 30.50 feet to an iron pin found; and
(8) S30° 02'W 133.91 feet to an iron pin set at the southeast corner of this tract, which point is in the easterly prolongation of the north line of Convenient Courts, a subdivision of record in Book 4 at Page 28 of the Plat Records of Travis County, Texas;

THENCE, with the north line and its easterly prolongation of Convenient Courts, in a northwesterly direction with the following two (2) courses;

(1) N66° 57'W at 83.57 feet passing an iron pin found at the northwest corner of Lot 6, Convenient Courts, in all a distance of 133.91 feet to an iron pin found at the northeast corner of Lot 15, Convenient Courts; and

(2) N67° 00'W 100.42 feet to an iron pin found at the southwest corner of this tract, same being the southeast corner of that certain tract of land conveyed to Rudie B. Williams by deed of record in Volume 776 at Page 234 of the Deed Records of Travis County, Texas;

THENCE, with the east line of the Williams tract, N30° 15'E 46.93 feet to an iron pin found at the southeast corner of that certain tract of land conveyed to John Woody by deed of record in

4030 4054

FIELD NOTES
PAGE TWO

1-C6-6587 ~~87 0661~~

Volume 584 at Page 87 of the Deed Records of Travis County, Texas;

THENCE, with the east line of the Woody tract, N30° 02'E 100.05 feet to an iron pin found at the northeast corner of the Woody tract, and which point is in the south line of that certain tract of land conveyed to Minelma Brown Lockwood by deed of record in Volume 1822 at Page 350 of the Deed Records of Travis County, Texas;

THENCE, with the south line of the Lockwood tract, S60° 03'E 106.67 feet to an iron pin found at the southeast corner of the said Lockwood tract;

THENCE, with the east line of the Lockwood tract, N23° 06'E 113.88 feet to an iron pin found at the southwest corner of the aforesaid Vernon's Addition;

THENCE, with a chain link fence, S66° 54'E 50.00 feet to an iron pin found at the southeast corner of Vernon's Addition;

THENCE, N23° 07'E 167.50 feet to the POINT OF BEGINNING, and containing 1.514 acres of land.

FIELD NOTES BY B.F. Priest DATE 6-7-74
B.F.Priest, Reg. Public Surveyor

B. F. P.
823

ALL OR PARTS OF THE TEXT ON THIS PAGE WERE NOT LEGIBLE FOR SATISFACTORY MICROFILMING

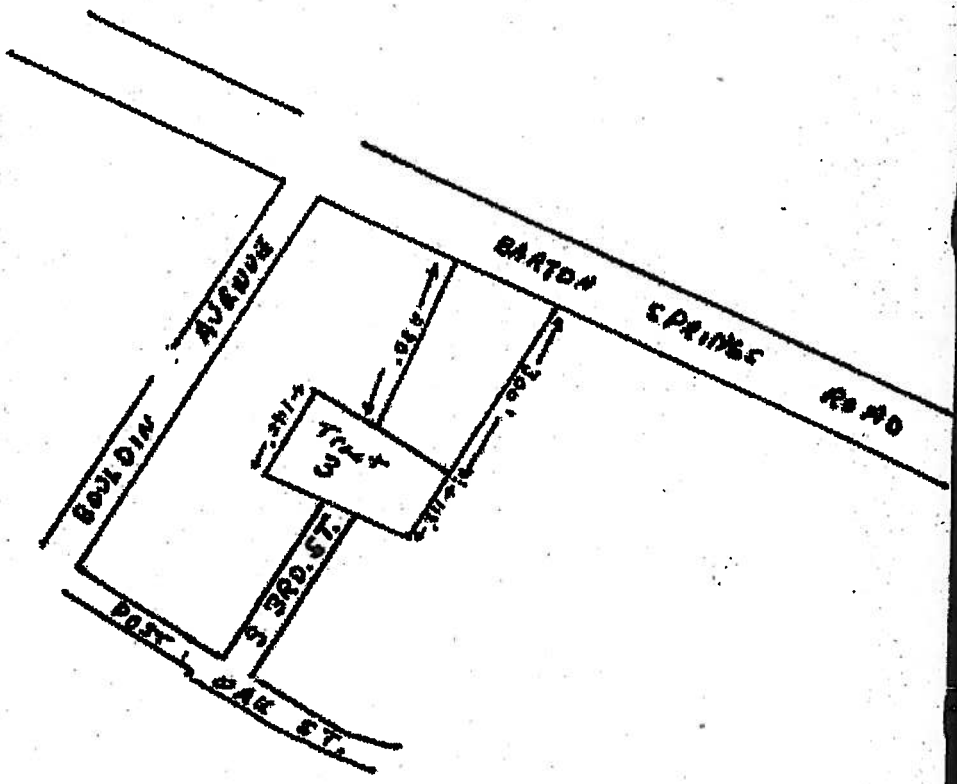
~~5070 737~~

~~4302 2305~~

Exhibit B - 5

Exhibit "B"

1-06-5588



NORTH

STATE OF TEXAS COUNTY OF TRAVIS

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Travis County, Texas, as stamped hereon by me, on

DEC 17 1974

COUNTY CLERK
TRAVIS COUNTY, TEXAS

FILED

Dec 17 8 09 AM '74

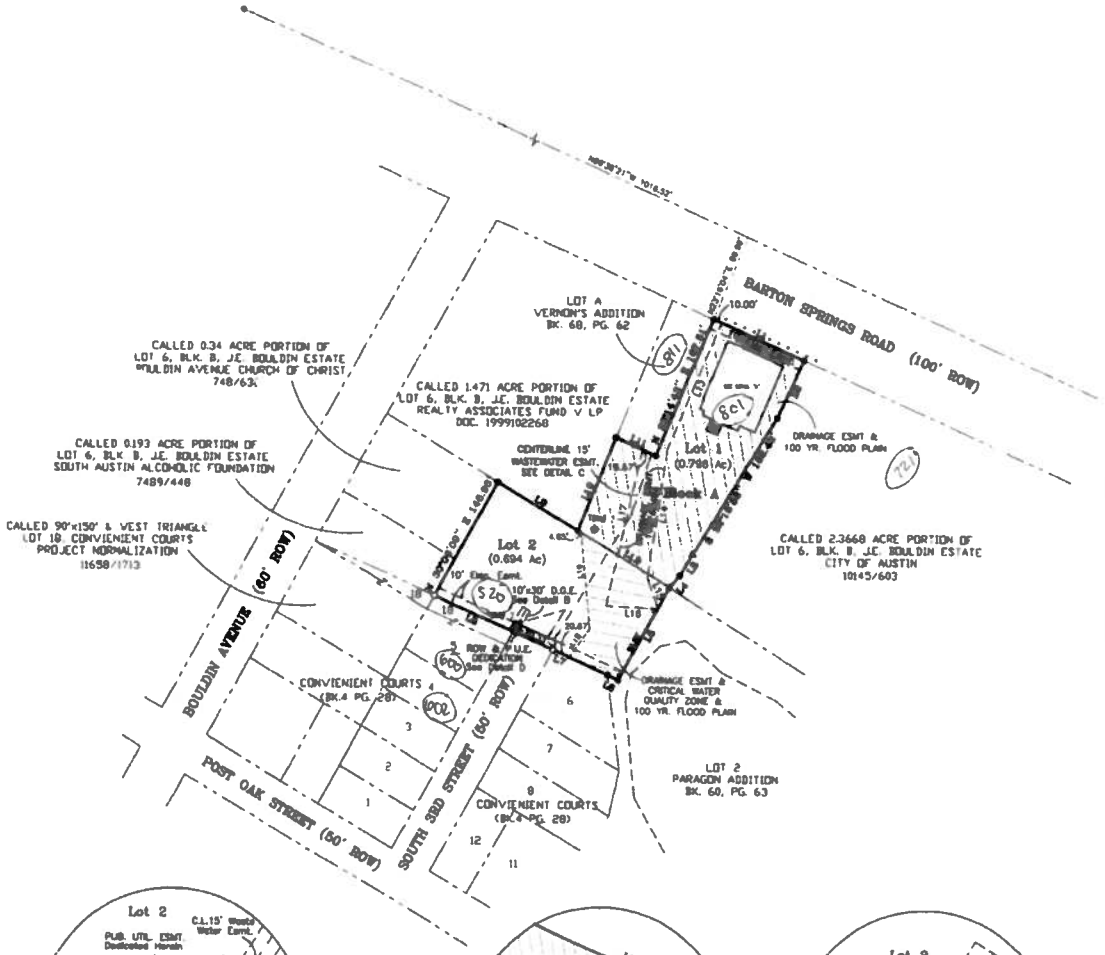
COUNTY CLERK
TRAVIS COUNTY, TEXAS

5076 - 738

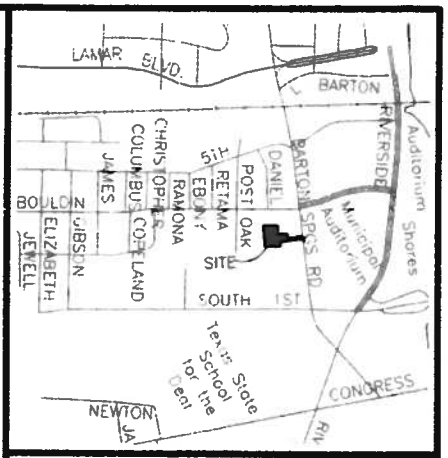
Exhibit B - 6

THE CRESCENT ON BOULDIN CREEK

SCALE 1"= 100'



NUMBER	DIRECTION	DISTANCE
L1	S68°43'41"E	114.84'
L2	S29°34'02"W	71.68'
L3	S32°10'54"W	27.76'
L4	S42°42'07"W	17.56'
L5	S29°48'48"W	119.75'
L6	N64°21'59"W	13.14'
L7	N68°40'05"W	119.56'
L8	N68°54'33"W	100.11'
L9	S80°02'60"E	108.87'
L10	N23°14'00"E	113.17'
L11	S67°01'37"E	49.95'
L12	N56°48'09"W	123.90'
L13	S23°14'43"W	154.98'
L14	S09°05'19"W	145.98'
L15	S19°27'40"E	36.83'
L16	N67°38'01"W	58.74'
L17	N13°22'01"E	179.21'
L18	N38°28'16"E	40.00'
L19	N09°49'48"W	107.34'
L20	S70°01'45"W	24.02'
L21	S23°32'54"W	83.46
L22	N68°38'21"W	18.80'
L23	S23°21'39"W	8.30'
L24	N68°38'21"W	19.50'
L25	S23°21'39"W	14.00'
L26	N68°38'21"W	14.10'
L27	N23°21'39"E	14.00'
L28	N68°38'21"W	11.00'
L29	N23°21'39"E	4.90'
L30	N68°38'21"W	5.60'
L31	N23°21'39"E	12.80'
L32	N68°38'21"W	1.07'
L33	N23°32'54"E	70.36'
L34	S68°38'21"E	72.00



VICINITY MAP
(NOT TO SCALE)

LEGEND

●	1/2-INCH IRON ROD FOUND (UNLESS OTHERWISE NOTED)
○	1/2-INCH IRON ROD W/ PLASTIC CAP STAMPED "McANGUS SURVEY" SET
□	CONCRETE MONUMENT SET
◆	BENCHMARK
D.G.E.	DOWN GUY EASEMENT
.....	SIDEWALK

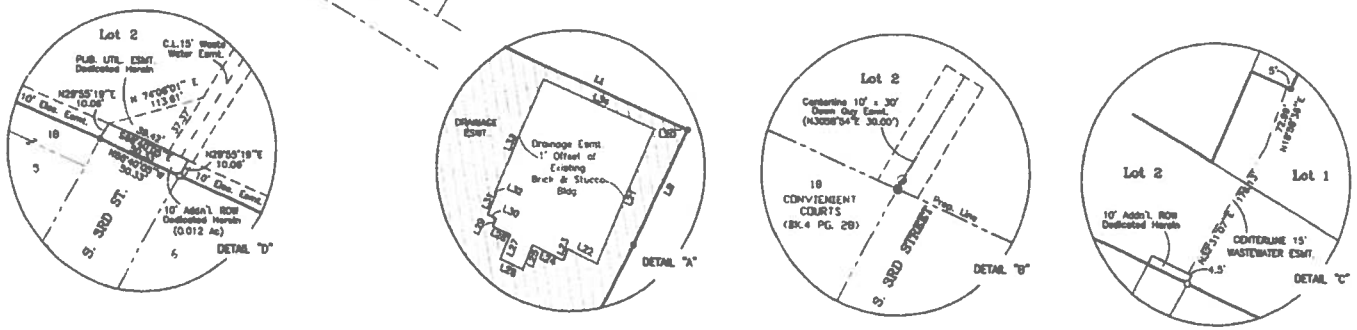
PROJECT DATA

TOTAL ACREAGE	1.502 Acres
TOTAL LOTS =	2 Lots

BENCHMARKS

TBM #1: C.G.S. SET IN POWER POLE +/- 20 EAST OF THE SOUTHWEST CORNER OF LOT 1, BLK. A
Elev = 459.50

TBM #2: TBM #2: C.G.S. SET IN POWER POLE +/- 2 NORTH OF THE PROJECTED WESTERLY R.O.W OF SOUTH 3RD STREET
Elev = 451.28



McANGUS SURVEYING CO., INC.
1101 HIGHWAY 360 SOUTH
BUILDING H, SUITE 100
AUSTIN, TEXAS 78746
(512) 328-9302

Plat of Subject Tract

Exhibit C - 1

PHOTOGRAPHIC MYLAR

Plat – Close-up of Lots

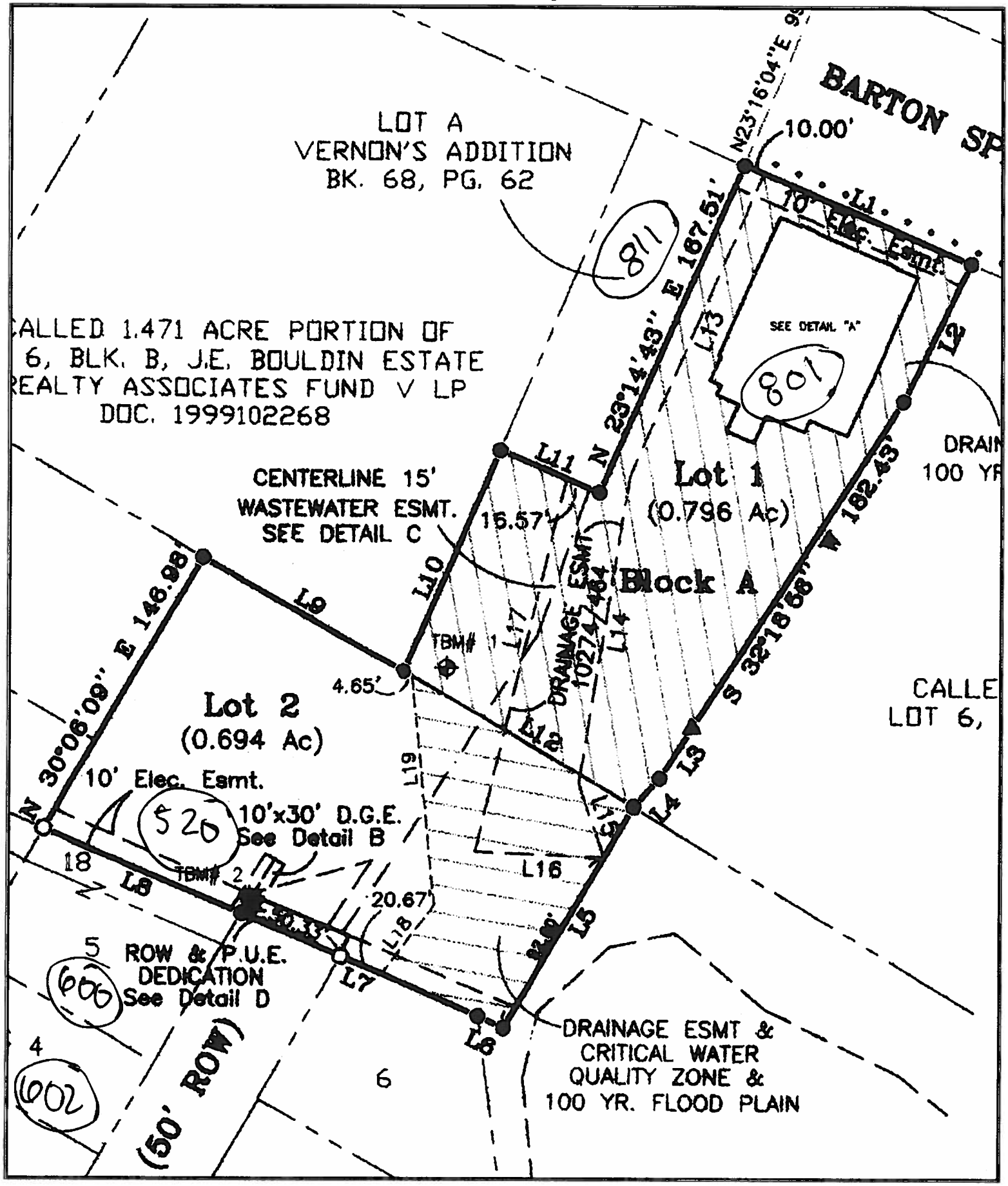
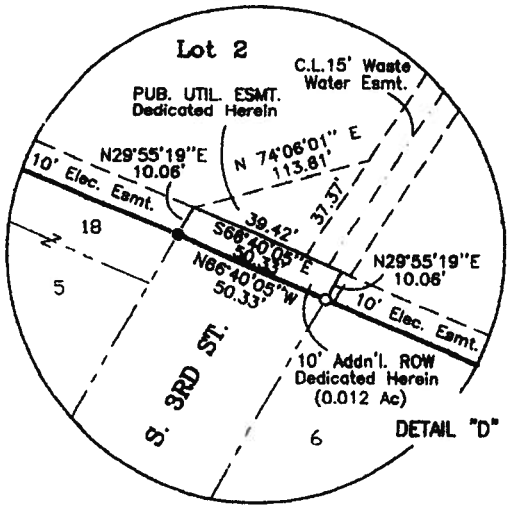


Exhibit C - 2

Plat Restrictions and Easements

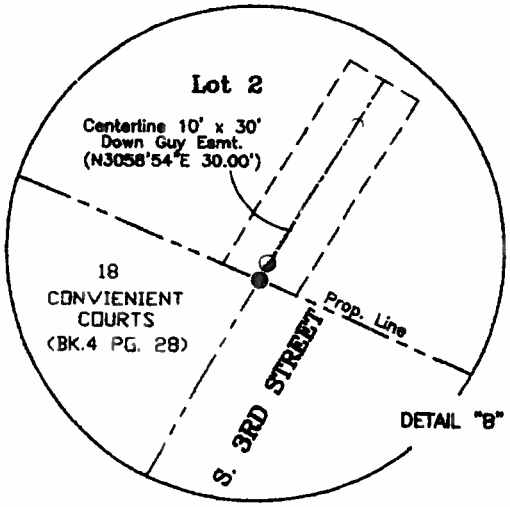
Plat Note Regarding Use of Subject Tract (Lot 2)

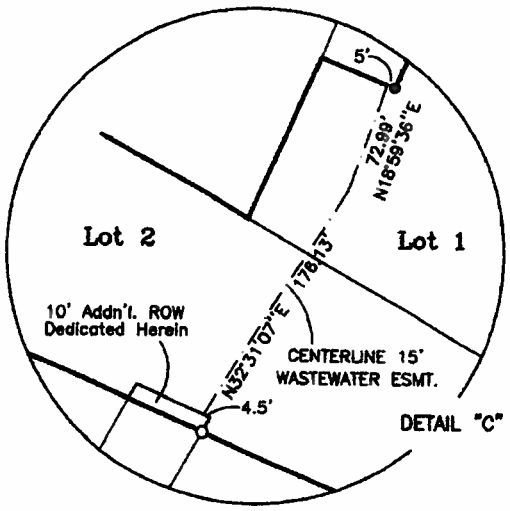
22. DEVELOPMENT OF LOT 1, BLOCK A, IS RESTRICTED TO USES OTHER THAN RESIDENTIAL AND DEVELOPMENT OF LOT 2, BLOCK A, IS RESTRICTED TO 4 RESIDENTIAL UNITS.



Plat Note Dedicating Right-of-Way

Other Easements Dedicated by Plat





January 22, 2013

Planning Commission
City of Austin

Re: C14-74-145(RCT)
500 South Third / Michael Martin
Restrictive Covenant Termination

Dear Planning Commission:

Please be advised that the undersigned, on behalf of the Bouldin Creek Neighborhood Association, by this letter express our support of the termination of the above-referenced Restrictive Covenant. Thank you.

By: Kevin Lewis V-P of Neighborhood Issues
Date: 1-22-2013

By: Treasurer
Date: 1-22-2013

January 22, 2013

Planning Commission
City of Austin

Re: C14-74-145(RCT)
500 South Third / Michael Martin
Restrictive Covenant Termination

Dear Planning Commission:

Please be advised that the undersigned by this letter express our support of the termination of the above-referenced Restrictive Covenant. Thank you.

Nina J. Fantl / 601 South Third Street

Candace D. Burns / 603 South Third Street

Russell Jeffrey Burns / 603 South Third Street