

ZONING CHANGE REVIEW SHEET

CASE: C14-75-085(RCT) Wells Fargo – Enfield #1
C14-84-056(RCT) Wells Fargo – Enfield #2

P. C. DATE: 02/12/13

C 748
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ADDRESS: 605 W. 15th St.

AREA: 0.12 acres & 0.616

APPLICANT: Wells Fargo Bank, N.A. (Joe Zafareo)

AGENT: Brown McCarrol, L.L.P. (Jerry Harris)

NEIGHBORHOOD PLAN AREA: Downtown

CAPITOL VIEW: No

T.I.A.: Waived

HILL COUNTRY ROADWAY: No

WATERSHED: Town Lake

DESIRED DEVELOPMENT ZONE: Yes

CURRENT ZONING: CBD – Central Business District.

SUMMARY STAFF RECOMMENDATION:

Staff recommends termination of the Restrictive Covenants.

PLANNING COMMISSION RECOMMENDATION:

DEPARTMENT COMMENTS:

The subject property is developed with a six lane drive through banking facility. The owner of the property at the time (1975) requested a zone change from "O", Office, Second Height & Area to "LR", Local Retail for all of Lots five, six and seven of Block 178 under case number C14-75-085. The zone change request was granted and the owner entered into a public restrictive covenant in conjunction with the zone change request that limited the development of the property to "any use of the land in question more permissive than "O" Office zoning.....such use shall be limited to a drive-in banking facility as shown on the site plan therefor and filed with the Planning Commission of the City of Austin." Extensive research by city staff did not locate any site plan attached to an ordinance or restrictive covenant. The covenant goes on to state that "it is the purpose of this instrument to restrict the "LR" Local Retail use of the property in question to a drive in banking facility." This restrictive covenant is odd in that it is applicable to only a portion of a city lot, lot five. This area, five thousand two hundred twenty five (5,225) square feet is obviously not big enough to accommodate even the smallest drive-in bank. Approximately ten years later (1984) the owner requested another zone change under case number C14-84-056 from "LR", Local Retail to "C", Commercial, Fourth Height & Area. ("C", Commercial, Fourth Height & Area eventually converted to Central Business District, CBD zoning). The zone change request was granted and the owner entered into another public restrictive covenant that encumbered all of Lot five that was in the original restrictive covenant and added Lots six and seven. The area covered by the new restrictive covenant is twenty six thousand eight hundred thirty two (26,832) square feet. This area is obviously large enough to accommodate a drive-in banking facility as one exists there today. This new restrictive covenant extended the aforementioned restrictions onto the remainder of Lot five and onto Lots six and seven. The owner of the property, Wells Fargo Bank, has indicated that they would like to redevelop the property to construct a modern banking facility that would include a lobby for walk in bank customers. However the two existing restrictive covenants would prohibit the inclusion of a lobby for walk in customers. This lot is zoned Central Business District (CBD) and fronts on a major thoroughfare, 15th Street and is located in the Downtown Core. Staff is of the opinion that this property should be allowed to develop to its maximum potential under the zoning that it has today. Therefore staff is recommending the termination of both restrictive covenants.

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BASIS FOR RECOMMENDATION:

1. *Zoning should allow for reasonable use of the property.*

Granting the restrictive covenant terminations will allow the property to develop to its full potential under Central Business District (CBD) zoning.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
SITE	CBD	Drive-in bank
NORTH	GO	Church
SOUTH	GO	Office
EAST	CBD	Office
WEST	GO	Office

CASE HISTORIES:

CASE NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-2008-0143	From CBD to CBD-CURE	Approved CBD-CURE [Vote: 7-0]	Approved CBD-CURE [Vote: 7-0]
C14-2008-0144	From CBD-CURE to CBD-CURE	Approved CBD-CURE [Vote: 7-0]	Approved CBD-CURE [Vote: 7-0]
C14-00-2208	From CBD to CBD-CURE	Approved CBD-CURE [Vote: 6-1-1]	Approved CBD-CURE [Vote: 7-0]

NEIGHBORHOOD ORGANIZATION:

- Downtown Austin Neigh. Coalition
- Pecan Street Owner's Association
- Downtown Austin Alliance
- Austin Warehouse District Association
- Old Pecan Street Association
- Sentral Plus East Austin Koalition
- Austin Neighborhood Council
- Downtown Austin Neighborhood Assoc.
- Original Austin Neighborhood Assoc.

SCHOOLS:

Matthews Elementary School, O' Henry Middle School, Austin High School

CITY COUNCIL DATE: March 7th, 2013

ACTION:

ORDINANCE READINGS: 1ST 2ND 3RD

ORDINANCE NUMBER:

CASE MANAGER: Clark Patterson
Clark.patterson@ci.austin.tx.us

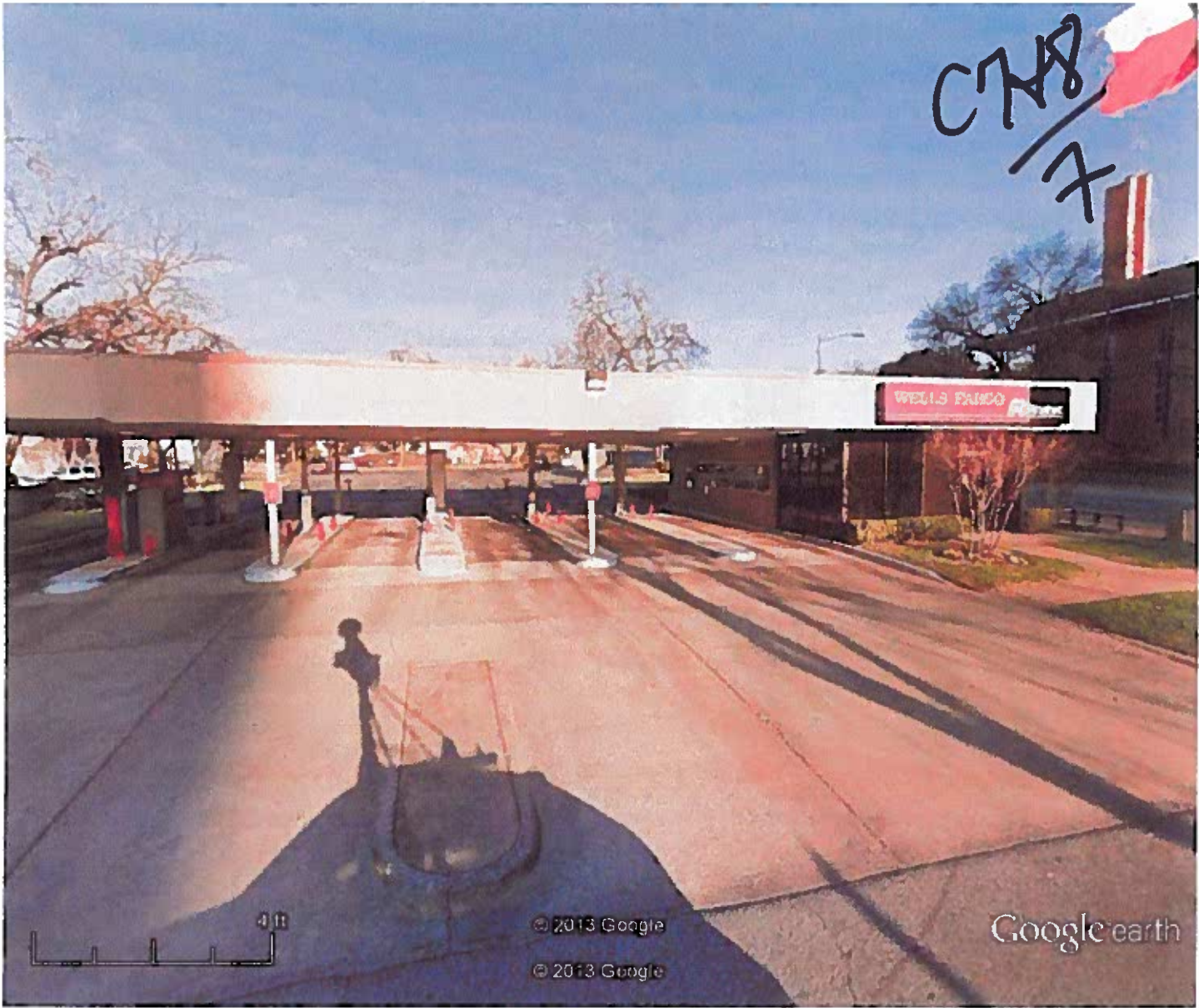
PHONE: 974-7691





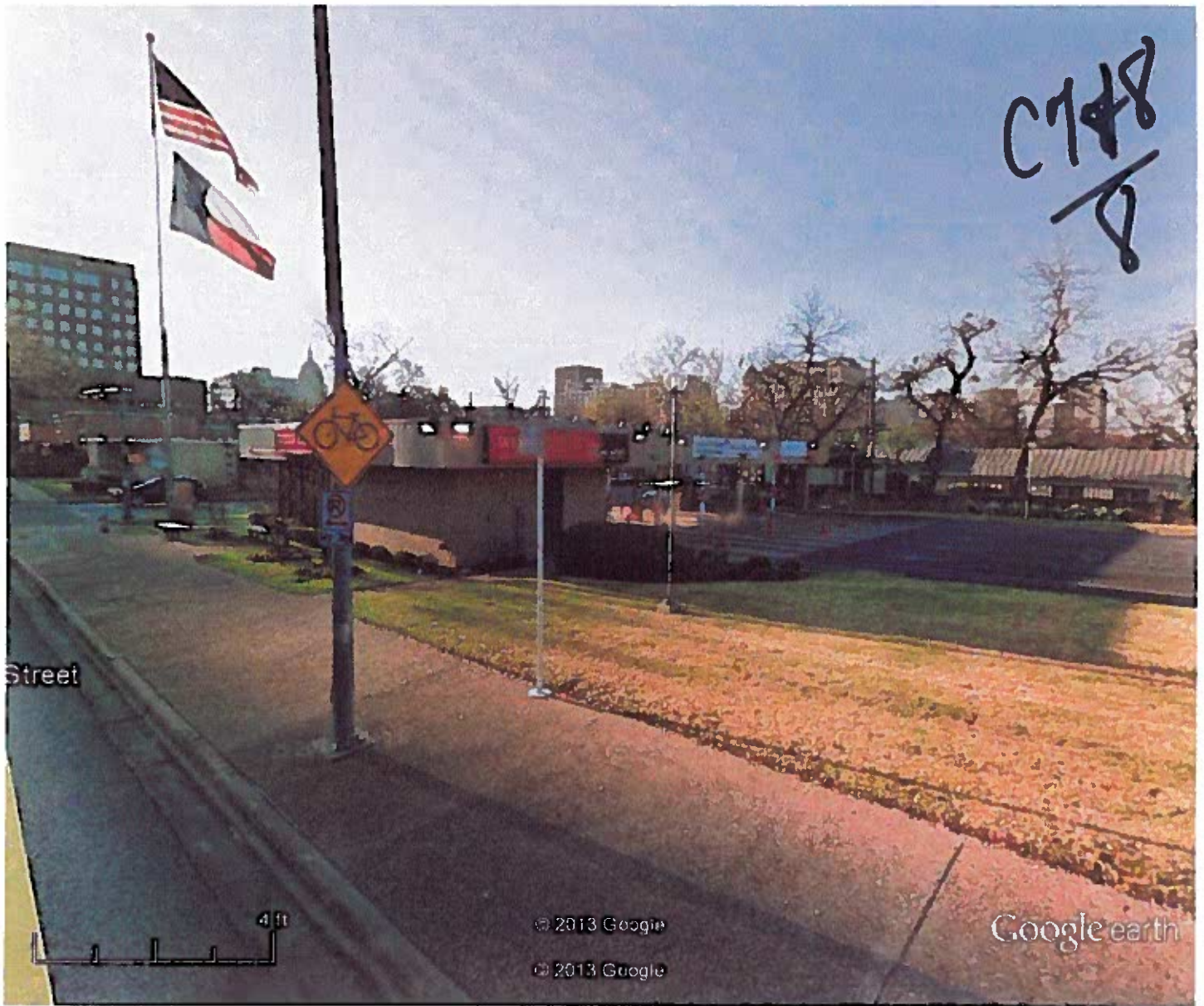
1" = 400'





Google earth





Google earth

feet 9
meters 2



ORDINANCE NO. 751030-B

J-23

C14-75-085/9

AN ORDINANCE ORDERING A CHANGE IN USE AND CHANGING THE USE MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:
LOTS 5, 6 AND 7, BLOCK 178, ORIGINAL CITY OF AUSTIN, LOCALLY KNOWN AS 601-607 WEST 15TH STREET AND ALSO BOUNDED BY NUECES STREET, FROM "O" OFFICE DISTRICT TO "LR" LOCAL RETAIL DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

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 designation from "O" Office District to "LR" Local Retail District on the property described in File C14-75-085, to-wit:

Lots 5, 6 and 7, Block 178, Original City of Austin, Travis County, Texas, according to the map or plat on file in the General Land Office of the State of Texas, and as recorded in Volume 3909, at Page 700, of the Deed Records of Travis County, Texas,

locally known as 601-607 West 15th Street, and also bounded by Nueces Street, in the City of Austin, Travis County, Texas.

PART 2. It is hereby ordered that the USE 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.

PART 3. The rule requiring that ordinances shall be read on three separate days is hereby suspended and the necessity to allow expedient development of the land herein affected creates an emergency requiring that this ordinance become effective immediately; therefore, upon the final passage of this ordinance as required by law, this ordinance shall become effective immediately.

PASSED AND APPROVED

October 30, 1975

APPROVED:

City Attorney

ATTEST

Mayor

City Clerk

28OCT75

NOV 20 1975

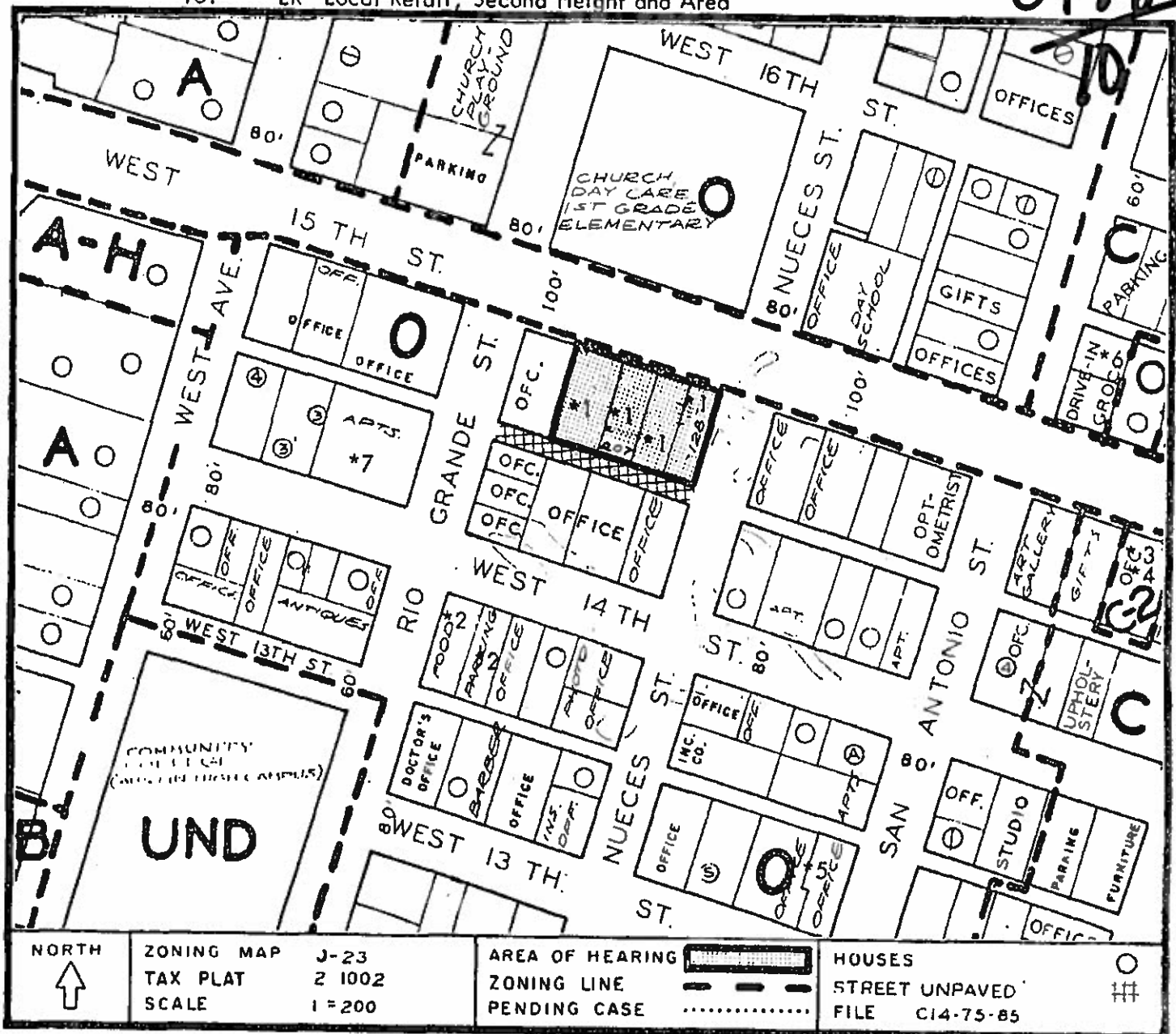
PLANNING DEPT.

APPLICANT: RUBEN H. JOHNSON
(by Tom Curtis)
ADDRESS: 601-607 West 15th Street, also
bounded by Nueces Street
REQUEST: From: "O" Office, Second Height and Area
To: "LR" Local Retail, Second Height and Area

FILE: C14-75-085

AREA: 26,880± square feet

C788



STREET	R.O.W.	SURFACING	CAR COUNT	CLASSIFICATION
West 15th Street	100 feet	2 @ 26 feet	16,570	Major Arterial
Nueces Street	80 feet	40 feet	4,860	Commercial Collector
HISTORY	REQUEST	PLANNING COMM.	CITY COUNCIL	
*1 C14p-73-01	7 townhouse units	Approved (expired)	--	
*2 C14-73-078	O 2nd to GR 2nd	Withdrawn	--	
*3 C14-73-237	C 3rd to C-2 3rd	Grant	Granted	
*4 C14p-73-52	Mixed drink bar	Approved	--	
*5 C14-71-240	O 2nd to GR 2nd	Deny	Withdrawn	
*6 C14-68-299	O 2nd to C 2nd	Grant	Granted	
*7 C14-67-201	O 2nd to C 3rd	Deny	Denied	

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THE STATE OF TEXAS §
COUNTY OF TRAVIS §

WHEREAS, Ruben H. Johnson is the owner, of the following described tract of land in Austin, Travis County, Texas, to-wit:

The East Forty-six Feet (E 46') of Lot No. Five (5), Block One Hundred Seventy-eight (178), in the Original City of Austin, Travis County, Texas, according to the map or plat on file in the General Land Office of the State of Texas.

WHEREAS, the City of Austin and the Owner 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 Owner, for and in consideration of the sum of One Dollar (\$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, do 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) It is agreed that with respect to any use of the land in question more permissive than "O" Office zoning, as that term is currently defined in the Zoning Ordinance of that city now and as hereafter amended, such use shall be limited to a drive-in banking facility as shown on the site plan therefor and filed with the Planning Commission of the City of Austin. It is the purpose of this instrument to restrict the "LK" Local Retail use of the property in question to a drive-in banking facility in accordance with the site plan previously mentioned. It is not the purpose of this instrument to restrict the use of the land for any more restrictive uses such as those contained in "O" Office zoning and more restrictive, should the owner desire to do so.

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(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 nowise 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 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 actions 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 Owner of the above described property at the time of such modification, amendment or termination.

EXECUTED this the 16th day of October, 1975.


ROBERT H. JOHNSON

1-21-4850

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THE STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared RUBEN H. JOHNSON 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 on this the 16th day of October, 1975.

Lena Mae Abalocker
Notary Public in and for
Travis County, Texas.

NOTARY SEAL

My Commission Expires:

June 1, 1977

STATE OF TEXAS
I hereby certify that the instrument was filed on the
day and at the time stamped herein by me and was duly
recorded, or the instrument was duly recorded
at such County, Texas, as stamped herein by me, on

NOV 4 1975



Lena Mae Abalocker
Notary Public
Travis County, Texas

NOV 4 8 00 AM '75

Lena Mae Abalocker
COUNTY CLERK
TRAVIS COUNTY, TEXAS

5311 1397

ORDINANCE NO. 840726-QQ

C748
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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 13-2 OF THE AUSTIN CITY CODE OF 1981 AS FOLLOWS:
26,496 SQUARE FEET OF LAND OUT OF LOTS 5, 6 AND 7, BLOCK 178, ORIGINAL CITY OF AUSTIN, LOCALLY KNOWN AS 601-615 WEST 15TH STREET AND 1410-1418 NUECES STREET, FROM "LR" LOCAL RETAIL, SECOND HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL, FOURTH 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 DECLARING AN EMERGENCY.

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

PART 1. Chapter 13-2 of the Austin City Code of 1981 is hereby amended to change the USE and HEIGHT and AREA designations from "LR" Local Retail, Second Height and Area District to "C" Commercial, Fourth Height and Area District on the property described in File C14-84-056, to-wit:

26,496 square feet of land out of Lots 5,
6 and 7, Block 178, Original City of
Austin,

locally known as 601-615 West 15th Street and 1410-1418 Nueces 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 13-2 of the Austin City Code of 1981 and made a part thereof shall be changed so as to record the change ordered in this ordinance.

PART 3. WHEREAS, an emergency is apparent for the immediate preservation of order, health, safety and general welfare of the public, which emergency requires the suspension of the rule providing for the reading of an ordinance on three separate days, and requires that this ordinance become effective immediately upon its passage; therefore, the rule requiring the reading on three separate days is hereby suspended and this ordinance shall become effective immediately upon its passage as provided by the Charter of the City of Austin.

PASSED AND APPROVED

July 26



, 1984

X
X
X
X

APPROVED:


Paul C. Isham
City Attorney

ATTEST:


Ron Mullen
Mayor

James E. Aldridge
City Clerk

WMC:saf

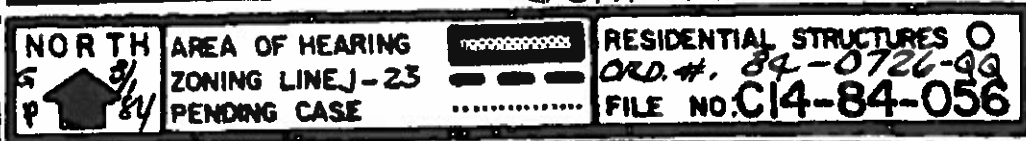
THE STATE OF TEXAS }

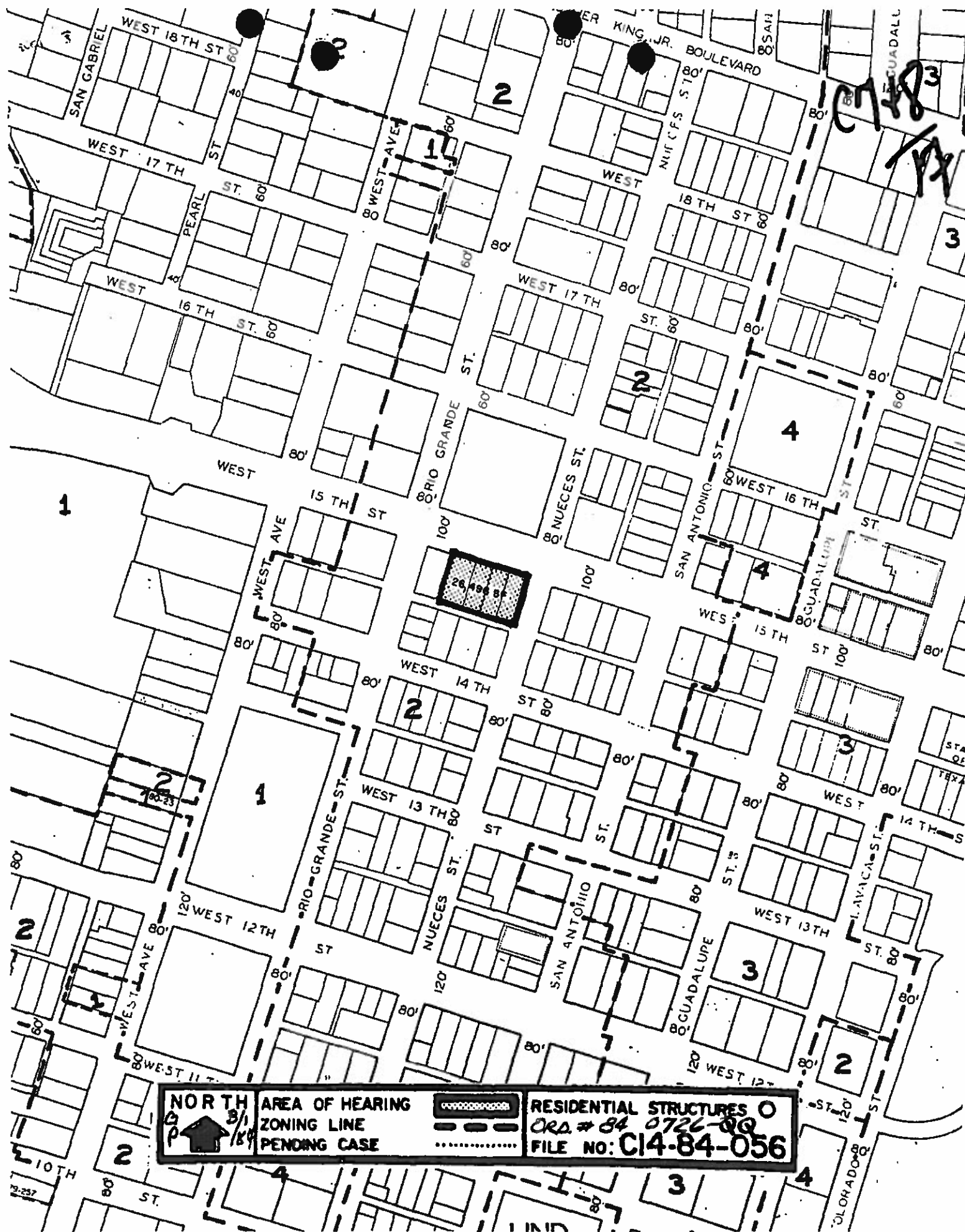
COUNTY OF TRAVIS }

I, Betty G. Brown, Deputy City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of Ordinance No. 840226-QQ, consisting of 1 page(s), passed by the City Council of Austin, Texas, at a regular meeting on the 26th day of July, 1984.

Betty G. Brown
BETTY G. BROWN
DEPUTY CITY CLERK, CITY OF
AUSTIN, TEXAS

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West 15th Street

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RESTRICTIVE COVENANT

STATE OF TEXAS APR 19-85 3962 * 5.00
COUNTY OF TRAVIS NO. C14-84-056

03902486

WHEREAS, the Ruben H. Johnson Company ("Owner") is the owner of Lots 5, 6 and 7, Block 178, out of the Original City of Austin, Travis County, Texas (the "Property"); and

WHEREAS, the City of Austin, Travis County, Texas ("City"), and Owner have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW THEREFORE, Owner for and in consideration of One and No/100ths Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City, the receipt of which is hereby acknowledged, do hereby agree with respect to the Property, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding upon Owner, its successors and assigns in interest, as follows, to wit:

1. Owner agrees that with respect to any use of the Property more permissive than "LR" Local Retail Use, Second Height and Area zoning, as such terms are currently defined in the Zoning Ordinance of the City now and as hereafter amended, such use shall be limited to residential purposes consistent with the site plan approved by the Planning Commission of the City of Austin on May 22, 1984, or any amended, modified or substituted site plan as may be approved by the Planning Commission (or its then legal equivalent). Owner further agrees that with respect to any use of the Property consistent with "LR" Local Retail zoning, such use shall be limited to a drive-in banking facility as shown on the site plan therefor and filed with the Planning Commission of the City of Austin. It is not the purpose of this instrument to restrict the use of the Property for uses such as those allowed by "O" office zoning and more restrictive uses, should Owner desire to do so.
2. The restrictions and covenants contained herein shall be covenants running with the Property and shall be binding upon Owner, its successors and assigns in interest as to any part or all of the Property and shall be for the benefit of and shall be enforceable by the City.
3. The failure to enforce this Agreement by the City, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.
4. If any part or provision of this Agreement shall be declared invalid by judgment or court order, the same shall in nowise affect any of the other provisions of this Agreement and such remaining portion of this Agreement shall remain in full force and effect.
5. The provisions of this Agreement may be modified, amended or terminated only by joint actions of both (a) a majority of the members of the City Council of the City of Austin (or its then legal equivalent) and (b) by the Owner of the Property at the time of such modification, amendment or termination.

Executed this 6th day of December, 1984.

Ruben H. Johnson Company

By: [Signature]
Ruben H. Johnson, President

CITY OF AUSTIN

By: [Signature]
Title: Sa. Asst. City Manager

REAL PROPERTY RECORDS
Travis County, Texas

09124 0547

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STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on December 6, 1984,
by Ruben H. Johnson, President of the Ruben H. Johnson Company,
a Texas corporation, on behalf of said corporation.

Stephen L. Poe
Notary Public in and for the
State of Texas
Stephen L. Poe
My Commission Expires: 6-18-88

NOTARY SEAL

STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on January 24, 1985
by Terry L. Childers, as Sr. Assistant City Manager
of the City of Austin, Travis County, Texas.

Brenda Darling Josselyn
Notary Public in and for the
State of Texas
Brenda Darling Josselyn
My Commission Expires: 8-7-85

NOTARY SEAL

FILED

1985 APR 19 AM 9:53

Doris L. Long
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this 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
named RECORDS of Travis County, Texas, on

APR 19 1985



Doris Long
COUNTY CLERK
TRAVIS COUNTY, TEXAS

City of Austin
Doris Long
F020410088
Notary
78767

SCANNED