

M E M O R A N D U M

TO: Andrew Rivera, Planning Commission Coordinator
Planning and Zoning Department

FROM: Eric J. Hammack, Real Estate Supervisor
Land Management Section
Office of Real Estate Services

DATE: April 18th, 2016

SUBJECT: F#9602-1510 - Vacation of a portion of City owned Rail
right-of-way at the intersection of Pedernales Street and
East 5th Street.

Attached are the departmental comments and other information pertinent to the referenced right of way vacation. **The area being requested for vacation will be used for property development.** All affected departments and private utility franchise holders have reviewed this request and recommend approval, subject to any required utility relocation to occur at developer expense.

The applicant has requested that this item be submitted for placement on the **April 26th, 2016 Planning Commission Agenda** for their consideration.

Staff contact: Eric Hammack at 974-7079 or landmanagement@austintexas.gov

Applicant: Kip McClanahan, of Pershing East, LLC

Property Owner: Pershing East, LLC

Mr. McClanahan or his delegate will be present at the meeting to answer any questions regarding the project and vacation request.

Eric Hammack, Real Estate Supervisor
Land Management Division

OFFICE OF REAL ESTATE SERVICES

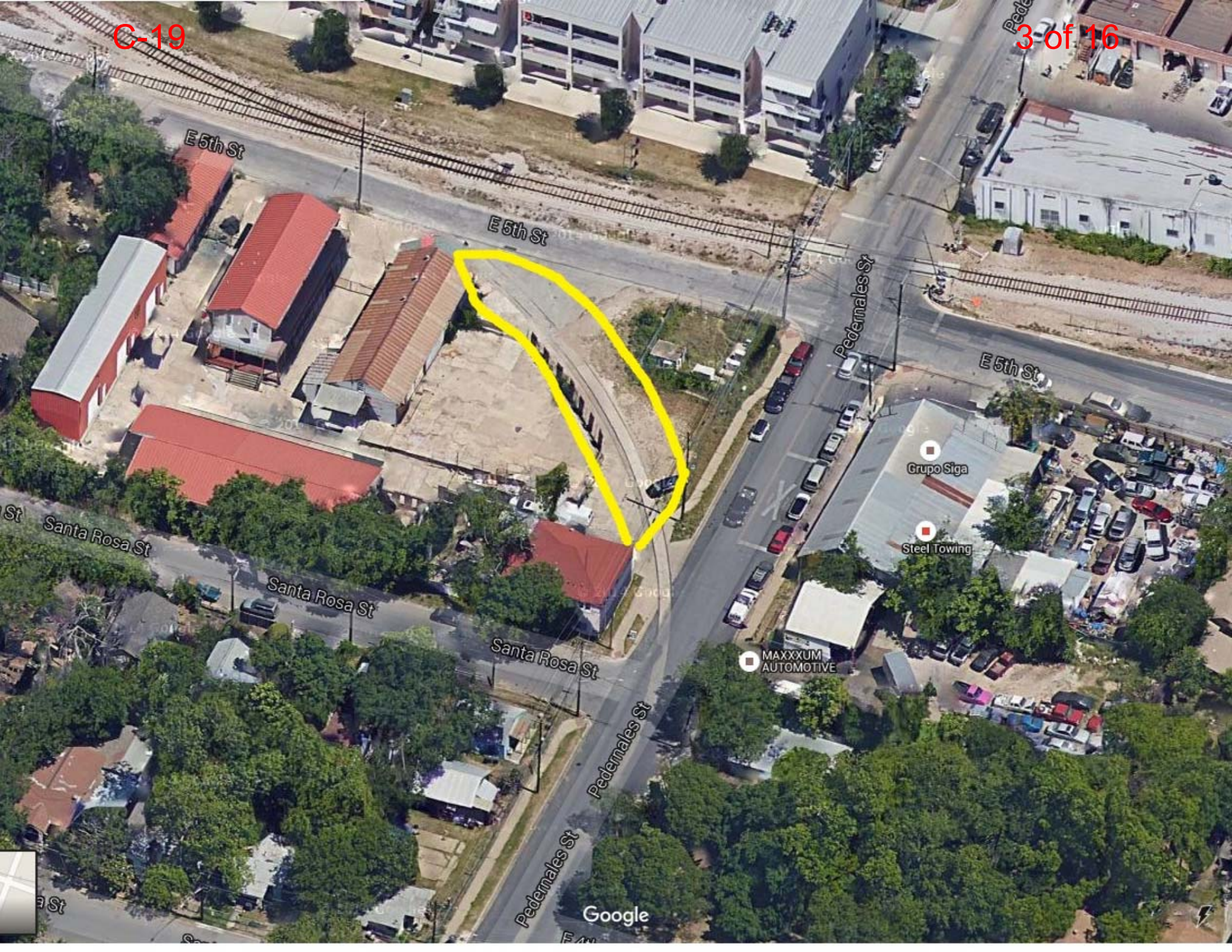
Attachments

DEPARTMENT COMMENTS FOR THE VACATION OF A PORTION OF
CITY OWNED RAIL RIGHT OF WAY AT THE SOUTHWEST CORNER OF
PEDERNALES STREET AND EAST 5TH STREET

AT&T	APPROVE
AUSTIN ENERGY	APPROVE
AUSTIN RESOURCE RECOVERY	APPROVE
AUSTIN TRANSPORTATION	APPROVE
AUSTIN WATER	APPROVE
CAPITAL METRO	APPROVE
CODE COMPLIANCE	APPROVE
CTM – GAATN	APPROVE
DEVELOPMENT SERVICES (Land Use Review-Engineering)	APPROVE
DEVELOPMENT SERVICES (Land Use Review-Transportation)	APPROVE
EMS	APPROVE
FIRE	APPROVE
GOOGLE	APPROVE
GRANDE COMMUNICATIONS	APPROVE
PARD	APPROVE
PLANNING & ZONING (Comprehensive Planning)	APPROVE / PLANNING COMMISSION
PLANNING & ZONING (Zoning Review)	APPROVE
PLANNING & ZONING (Urban Design)	APPROVE
PUBLIC WORKS	APPROVE
TEXAS GAS SERVICES	APPROVE
TIME WARNER	APPROVE
WATERSHED PROTECTION (Engineering)	APPROVE

C-19

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MEMORANDUM

Case No.: 9602-1510

Date: Oct. 9, 2015

SUBJECT:

STREET VACATION

() Lucy Cabading	AT&T	() Marilyn Lamensdorf	PARD
() Melody Giambruno	Austin Energy	() David Marquez	DSD (LUR-Engineering)
() Rob Spillar	Austin Transportation Director	() Sangeeta Jain	DSD (LUR-Transportation)
() Angela Baez	Austin Water	() Mark Walters	PDRD (N'borhood Planning)
() Roberto Gonzalez	Capital Metro	() Humberto Rey	PDRD (Urban Design)
() Carlos Dematos	CTM – GAATN	() Wendy Rhoades	PDRD (Zoning Review)
() Milissa Warren	EMS	() David Boswell	PWD – Office of City Eng'r
() Frank Alvarez	Fire	() Nadia Barrera	PWD (connectivity)
() Scott Cunningham	Google	() Scott Wratten	Time Warner
() Luis Mata	Grande Communication	() Katina Bohrer	WPD (Engineering)
() Mike Turner	Austin Resource Recovery	() Bruna Quinonez	Code Compliance
() Christian Barraza	Texas Gas		

A request has been received for the vacation of a .094 acre portion of rail right-of-way owned by the City of Austin (Adjacent to 2415 East 5th Street).

Please review this request and return your comments to Eric Hammack (974-7079), email address: landmanagement@austintexas.gov or Fax: 974-7088. Physical address: Office of Real Estate Services, 505 Barton Springs Road, Suite 1350. Due Date: **October 23rd, 2015.**

APPROVAL: _____ YES _____ Yes, Subj. to Req'm't _____ No

Comments: _____

Imagine Austin Comprehensive Plan - - - (CITY OF AUSTIN REVIEWERS ONLY):

Please also review the Vacation request based on the Priority Programs and policy directives set forth in the Imagine Austin Comprehensive Plan (page 186).

Comments: _____

Reviewed by: _____

Telephone: _____

Date: _____

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

Amanda Morrow
(512) 435-2368
amorrow@abaustin.com

August 24, 2015

VIA HAND DELIVERY

Eric Hammack
Office of Real Estate Services
City of Austin
505 Barton Springs Road, Suite 1350
Austin, Texas 787042415 E. 5th Street; Right-of-Way Vacation Application

Dear Eric:

This firm represents and this letter is written on behalf of PershingEast, LLC, owner of property located at 2415 E. 5th Street. Enclosed is an application to vacate approximately 0.0936 acres of right-of-way out of Outlot 10, Division "O" in the City of Austin, described in a deed to the City of Austin recorded in Volume 2056, Page 9, of the deed records of Travis County, Texas (the "ROW"). My client owns all of the land surrounding the ROW to be vacated.

The current proposal is to redevelop approximately 0.842 acres of land out of Outlot 10, Division "O" (the "Property") in the City of Austin for commercial or civic use. No site plan has been filed with the city. The current zoning of the Property is LI-CO-NP.

The purpose of this request is to allow a cohesive redevelopment of the Property which is segregated by the existing ROW. The ROW houses abandoned railroad tracks, which are barely visible today. The ROW is not used by the public, nor does it provide connectivity to the adjoining East Fifth Street or Pedernales Street. The ROW is not located within the Downtown Austin Plan area or UT boundaries. We do not believe there are utilities located within the ROW.

In accordance with the technical requirements of the application, Autumn Rich is the only tenant that occupies the property adjoining the ROW. The mailing address for Autumn Rich is 2415 E. 5th Street, Building E, Austin, Texas 78702.

ARMBRUST & BROWN, PLLC
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Should you have any questions, or require additional information please do not hesitate to contact me at 512-435-2368.

Thank you.

Respectfully,



Amanda Morrow
Land Development Consultant

Enclosures

cc: Richard T. Suttle, Jr.
Kip McClanahan

APPLICATION FOR STREET OR ALLEY VACATION

File No. 9602-1510
Department Use OnlyDATE: 10-9-15
Department Use Only

TYPE OF VACATION

Type of Vacation: Street: _____; Alley: _____; ROW X Hundred Block: _____
 Name of Street/Alley/ROW: Railroad facilities between E. 5th Street and Pedernales Is Is it constructed: Yes No
 Property address: 2415 E. 5th Street
 Purpose of vacation: Redevelop surrounding property and incorporate ROW into the overall project.

PROPERTY DESCRIPTION ADJACENT TO AREA TO BE VACATED

Parcel #: 0202101033
 Survey & Abstract No.: NA
 Lot(s): _____ Block: _____ Outlot: Qlt. 10, Division O
 Subdivision Name: Industrial Addition
 Plat Book 4 Page Number 194 Document Number _____

Neighborhood Association Name: Holly Neighborhood
 Address including zip code: hollyneighborhoodcoalition@gmail.com

RELATED CASES

	FILE NUMBERS
Existing Site Plan (circle one): YES <u>NO</u>	<u>NA</u>
Subdivision: Case (circle one): YES <u>NO</u>	<u>NA</u>
Zoning Case (circle one): <u>YES</u> NO	<u>C14-01-0166.002b</u>

PROJECT NAME, if applicable:

Name of Development Project: NA
 Is this a S.M.A.R.T. Housing Project (circle one): YES NO
 Is this within the Downtown Austin Plan Boundaries (circle one): YES NO

OWNER INFORMATION

Name: PershingEast, LLC (as shown on Deed)
 Address: C/O Silverton Partners, 1000 Rio Grande Phone: () Fax No.: ()
 City: Austin County: Travis State: Texas Zip Code: 78701
 Contact Person/Title: Kip McClanahan, Director Cell Phone: ()
 Email Address: kip@silvertonpartners.com
 (If multiple owners are joining in this request, complete names and addresses for each must be attached.)

APPLICANT INFORMATION

Name: Kip McClanahan
 Firm Name: PershingEast, LLC
 Address: 1000 Rio Grande
 City: Austin State: Texas Zip Code: 78701
 Office No.: () Cell No.: () Fax No.: ()
 EMAIL ADDRESS: please direct correspondences to amorrow@abaustin.com; 512-435-2368

The undersigned Landowner/Applicant understands: 1) This application will be handled in accordance with standard City policies and procedures. 2) No action will be taken without (a) payment of the nonrefundable application fee, or (b) necessary documentation. 3) The application and fee in no way obligate the City to vacate the subject area. 4) All documents related to this transaction and a certified check for the appraised value must be delivered to the City of Austin prior to placing the item on the Council Agenda for final approval.

Signed By: [Signature]
 Landowner/Applicant

OWNER:
CITY OF AUSTIN

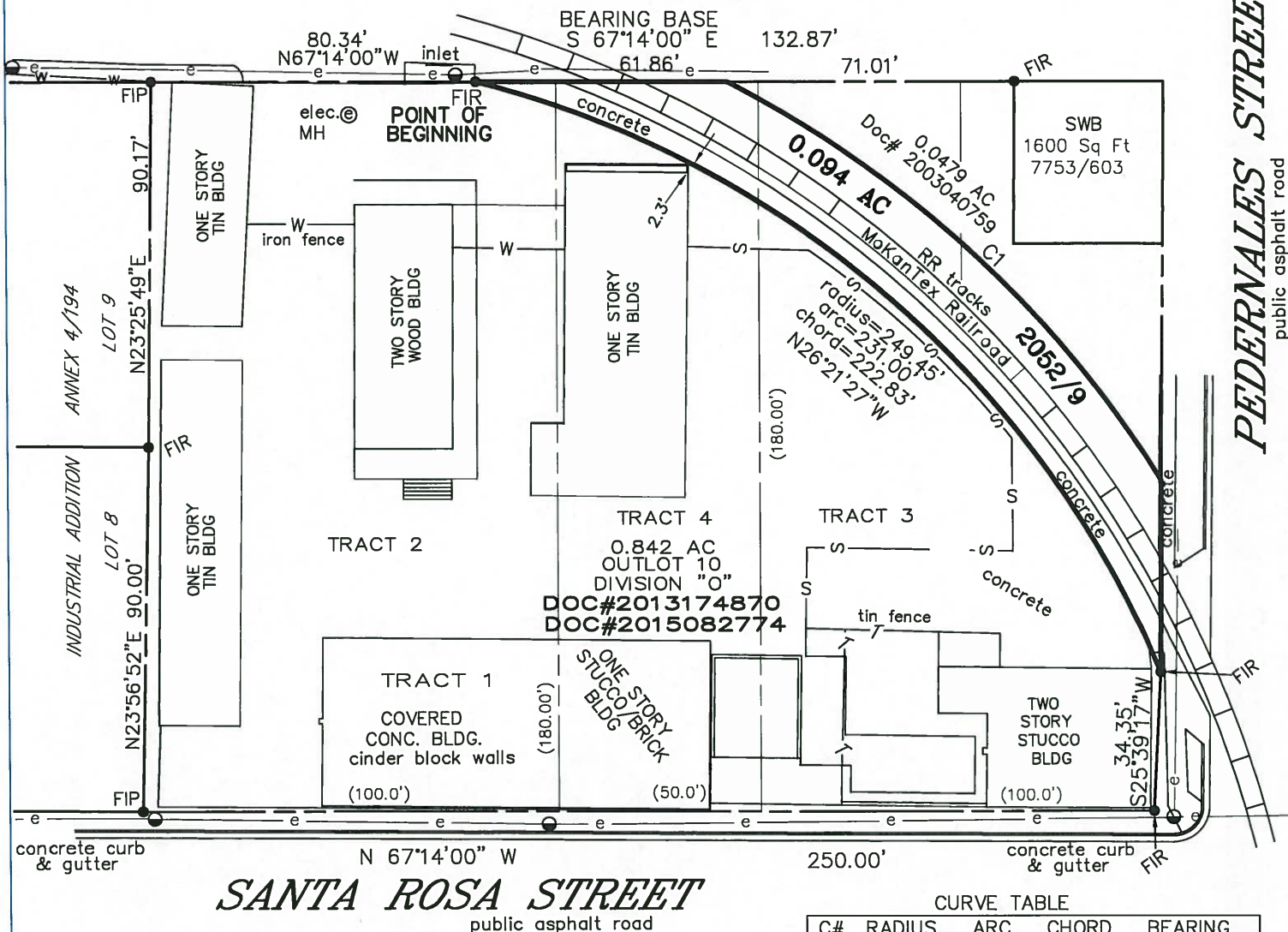
EXHIBIT "B"
R.O.W. VACATION

LEGAL DESCRIPTION:

BEING 0.094 ACRE EASEMENT OF INGRESS AND EGRESS OUT OF OUTLOT 10, DIVISION "O" IN THE CITY OF AUSTIN, DESCRIBED IN A DEED TO THE CITY OF AUSTIN IN VOLUME 2056, PAGE 9, DEED RECORDS, TRAVIS COUNTY, TEXAS, ALSO BEING OUT OF TRACTS 2, 3 AND 4 AS DESCRIBED IN A SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NOS. 2013174870 AND 2015082774, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, AND FURTHER BEING A CITY OF AUSTIN METRO TRAIN RIGHT OF WAY.

EAST FIFTH STREET

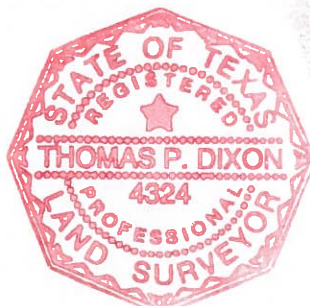
public asphalt road



I, Thomas P. Dixon, licensed to practice Land Surveying in the State of Texas, hereby certify that the foregoing metes and bounds legal description and sketch were based on an on the ground survey, that all protrusions and encroachments into the easement area are accounted for including but not limited to, building footprint, eaves and roof overhangs and all visible improvements whatsoever.

Thomas P. Dixon R.P.L.S. 4324

Waterloo Surveyors, Inc.
P.O. Box 160176
Austin, Texas 78716-0176
Ph. (512) 481-9602
J10947ROW



590430.02

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THE STATE OF TEXAS
COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

That we, Bernie O. Willhoite and wife, Irene Willhoite, of Travis County, State of Texas, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to us in hand paid by the City of Austin, Texas, the receipt and sufficiency of which is hereby acknowledged and confessed, and for which no lien is retained, have this day granted, sold and conveyed, and by these presents do hereby grant, sell and convey, subject to the easement of ingress and egress hereinafter retained, unto the said City of Austin, a municipal corporation situated in Travis County, Texas, the following described property, to wit:

0.094 of one acre of land, same being out of and a part of that certain portion of Outlot 10, Division O of the Government Outlots adjoining the Original City of Austin, Travis County, Texas, according to a map or plat of said Government Outlots on file in the General Land Office of the State of Texas; which was conveyed to B. O. Willhoite et ux Irene Willhoite by the following three (3) warranty deeds:

- (1) Dated February 11, 1943, of record in Volume 707 at page 624 of the Deed Records of Travis County, Texas.
- (2) Dated March 18, 1942, of record in Volume 694 at page 284 of the Deed Records of Travis County, Texas.
- (3) Dated August 17, 1942, of record in Volume 706 at page 347 of the Deed Records of Travis County, Texas; said 0.094 of one acre of land being more particularly described by metes and bounds:

590430.02

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BEGINNING at a galvanized pin set at the point of intersection of the south line of East 5th Street, same being the north line of the said B. O. Willhoite et ux tract of land, with the curving northeast line of the herein described tract of land said curve having an intersection angle of $90^{\circ} 12'$ a radius of 271.45 feet and a tangent distance of 272.40 feet and from which point of beginning the northeast corner of the said B. O. Willhoite et ux tract of land bears $S 67^{\circ} 14' E 107.80$ feet;

THENCE, with the said curving northeast line of the herein described tract of land along a curve to the right an arc distance of 147.34 feet the subchord of which arc bears $S 24^{\circ} 35' E 145.50$ feet to a galvanized pin set in the east line of the said B. O. Willhoite tract of land same being the west line of Pedernales Street;

THENCE, with the east line of the said B. O. Willhoite tract of land $S 23^{\circ} 14' W 47.25$ feet to a galvanized pin set in the curving southwest line of the herein described tract of land said curve having an intersection angle of $90^{\circ} 12'$ a radius of 249.45 feet and a tangent distance of 250.32 feet;

THENCE, with the said curving southwest line of the herein described tract of land, along a curve to the left an arc distance of 231.05 feet the subchord of which arc bears $N 26^{\circ} 21' W 222.87$ feet to a galvanized pin set in the north line of the said B. O. Willhoite tract of land same being the south line of East 5th Street;

THENCE, with the north line of the said B. O. Willhoite tract of land $S 67^{\circ} 14' E 61.86$ feet to the point of beginning.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said City of Austin, its successors and assigns, forever, and we do hereby bind ourselves, our heirs, executors and administrators to warrant and forever defend all and singular the said premises unto the said City of Austin, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, it being expressly understood that there is excepted and reserved to the grantors, their heirs

590430.02

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and assigns, a perpetual easement for free ingress and egress on, along
and across the above described premises.

WITNESS our hands this 3rd day of June,
1959.

\$22.00

U.S. INT. REV. STAMPS CANCELLED

Bernie O. Willhoite
Bernie O. Willhoite

Irene Willhoite
Irene Willhoite

THE STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally
appeared Bernie O. Willhoite and his wife, Irene Willhoite, both known to
me to be the persons whose names are subscribed to the foregoing instru-
ment, and the said Bernie O. Willhoite acknowledged to me that he executed
the same for the purposes and consideration therein expressed. And the
said Irene Willhoite, wife of the said Bernie O. Willhoite, having been
examined by me privily and apart from her husband and having the same fully
explained to her, she, the said Irene Willhoite, acknowledged such instru-
ment to be her act and deed, and declared that she had willingly signed the
same for the purposes and consideration therein expressed, and that she
did not wish to retract it.

GIVEN UNDER MY HAND AND SEAL of office this 3rd day of
June, 1959.

Notary Public
Notary Public in and for Travis
County, Texas

10 JUNE 59
DF:vj

Filed June 24 1959 at 9:30 AM
Recorded July 1 1959 at 5:00 PM

590430-01
RESOLUTION

WHEREAS, the City Council of the City of Austin has found that public necessity requires the expansion of the electric generating facilities of the City of Austin by the construction of a 100,000 kilowatt steam generating plant on the north bank of the Colorado River west of Pedernales Street; and,

WHEREAS, the City Council has found and determined that the construction and operation of said 100,000 kilowatt steam generating plant necessitates the creation, construction, and maintenance of a railroad track extending from a point in East 5th Street in the City of Austin west of its intersection with Pedernales Street southerly on Pedernales Street to the location of said steam generating plant; and,

WHEREAS, the City Council has found and determined that the hereinafter described land must be acquired in order to provide right of way necessary for the construction of such railroad track; and,

WHEREAS, the City of Austin has negotiated with the owners of such land and has been unable to agree with such owners as to the fair cash market value thereof; Now, Therefore,

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

That the City Manager be and he is hereby authorized and directed to file or cause to be filed against the owners and lienholders of such land, a suit in eminent domain to acquire fee simple title for said purposes to the

following described tract of land:

0.095 of one acre of land, same being out of and a part of that certain portion of Outlot 10, Division O of the Government Outlots adjoining the Original City of Austin, Travis County, Texas, according to a map or plat of said Government Outlots on file in the General Land Office of the State of Texas; which was conveyed to B. O. Willhoite et ux Irene Willhoite by the following three (3) Warranty Deeds:

(1) Dated February 11, 1943 of record in Volume 707 at page 624 of the Deed Records of Travis County, Texas.

(2) Dated March 18, 1942 of record in Volume 694 at Page 284 of the Deed Records of Travis County, Texas.

(3) Dated August 17, 1942 of record in Volume 706 at Page 347 of the Deed Records of Travis County, Texas; said 0.095 of one acre of land being more particularly described by metes and bounds as follows:

BEGINNING at a galvanized pin set at the point of intersection of the south line of East 5th Street, same being the north line of the said B. O. Willhoite et ux tract of land, with the curving northeast line of the herein described tract of land said curve having an intersection angle of $90^{\circ} 12'$ a radius of 271.45 feet and a tangent distance of 272.40 feet, and from which point of beginning the northeast corner of the said B. O. Willhoite et ux tract of land bears $S 67^{\circ} 14' E 108.80$ feet;

THENCE, with the said curving northeast line of the herein described tract of land along a curve to the right an arc distance of 149.24 feet the sub-chord of which arc bears $S 24^{\circ} 24' E 147.36$ feet to a galvanized pin set in the east line of the said B. O. Willhoite tract of land same being the west line of Pedernales Street;

THENCE, with the east line of the said B. O. Willhoite tract of land $S 23^{\circ} 14' W 48.04$ feet to a galvanized pin set in the curving southwest line of the herein described tract of land said curve having an intersection angle of $90^{\circ} 12'$ a radius of 249.45 feet and a tangent distance of 250.32 feet;

THENCE, with the said curving southwest line of the herein described tract of land along a curve to the left an arc distance of 233.66 feet the sub-chord of which arc bears $N 26^{\circ} 04' W 225.20$ feet to a galvanized pin

set in the north line of the said B. O. Willhoite tract of land same being the south line of East 5th Street;

THENCE, with the north line of the said B. O. Willhoite tract of land S 67° 14' E 61.86 feet to the point of beginning.

ADOPTED: *April 30 1959*

APPROVED: *April 30 1959*

Jon Miller
Mayor

ATTEST:

Grace Monroe
Assistant City Clerk

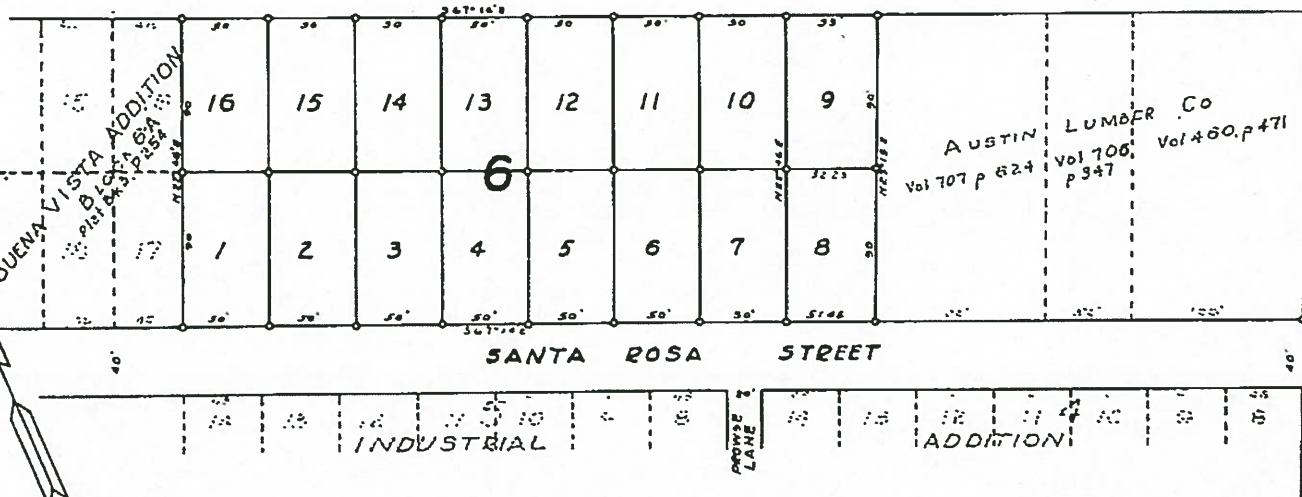
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INDUSTRIAL ADDITION ANNEX

EAST 5th STREET



THE STATE OF TEXAS COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:
That we, Josephine Edwards and F.W. Pease, owners of the hereon subdivided tract of land hereby adopt this map or plat as our subdivision of a 1.66 acre tract of land being out of Outlot 10, Division 0, in the City of Austin, Travis County, Texas; said 1.66 acre tract of land consisting of the property conveyed to Josephine Edwards by deed recorded in Volume 742, pages 144 to 145 of the Deed Records of Travis County, Texas; and also a portion of the property conveyed to the N.F. Pease Estate by deed recorded in Volume 374, page 369 of the Deed Records of Travis County, Texas, and we do hereby adopt this map or plat to be known as INDUSTRIAL ADDITION ANNEX, and we do hereby dedicate and set apart for public use as streets, the streets shown thereon as far as our interest may appear.

Josephine Edwards
Josephine Edwards (Owner)
F.W. Pease
F.W. Pease (Owner)

THE STATE OF TEXAS
COUNTY OF TRAVIS } Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Josephine Edwards, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under My Hand and Seal of Office this the 10th of May A.D. 1944.

Ida Belle Prouse
Notary Public in and for Travis County, Texas

THE STATE OF TEXAS
COUNTY OF TRAVIS } Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared F.W. Pease, 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 this the 10th of May A.D. 1944.

Ida Belle Prouse
Notary Public in and for Travis County, Texas

EASEMENTS

An easement of five feet (5') on the rear of all lots on the East side of Lots 649 is reserved for Public Utilities.

APPROVED BY CITY PLAN COMMISSION

Date May 11, 1944
Date
Date
Date
Chairman
Secretary
Member
Member

APPROVED FOR ACCEPTANCE

Date May 11/44
J.E. Motheral, City Engineer
Austin, Texas

THE STATE OF TEXAS
COUNTY OF TRAVIS } I, Miss Emilie Limberg, Clerk of the County and State aforesaid, do hereby certify that the within and foregoing instrument of Writing with its Certificate of Authentication was filed for Record in my office on the 12th day of May A.D. 1944 at 11 o'clock A.M. and duly recorded on the 12th day of May A.D. 1944 at 11:20 o'clock P.M. in the Plat Books of said County in Book 4, page 194.
Witness My Hand and Seal of the County Court of said County the date last written above.

Emilie Limberg
Miss Emilie Limberg
Clerk County Court Travis County, Texas
By: Carol Pruitt
Deputy

FILED FOR RECORD

At 11 o'clock P.M. 12th day of May 1944

Emilie Limberg
Miss Emilie Limberg
By: Carol Pruitt
Deputy

Scale: 1" = 60'

Surveyed by: O.P. Schofield
O.P. Schofield
(SEAL) Licensed State Land Surveyor

Filed for Record May 12, 1944 at 4:00 PM
Recorded May 13, 1944 at 1:00 PM