CITY OF AUSTIN Board of Adjustment Decision Sheet

DATE: Monday, April 10, 2017	CASE NUMBER: C15-2017-0018
YBrooke Bailey	
YWilliam Burkhardt	19
YEric Goff	
YMelissa Hawthorne	
YBryan King	
Don Leighton-Burwell Abstained	
Y Rahm McDaniel	
YVeronica Rivera	
James Valadez Absent	
YMichael Von Ohlen	
YKelly Blume (Alternate)	
YMartha Gonzalez (Alternate)	
YPim Mayo (Alternate)	

APPLICANT: David Hartman

OWNER: Hardeman Family Joint Venture, Ltd.

ADDRESS: 1301 West KOENIG Lane

VARIANCE REQUESTED: The applicant has requested variance(s) from Article 10, Compatibility Standards, Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*):

- A. (B) to decrease the required setback from a property in an urban family residence (SF-5) or more restrictive zoning district or on which a use permitted in SF-5 or more restrictive zoning district is located from 25 feet (required) to 5 feet (requested, to allow for potential 8 foot concrete sidewalk within 12 foot Public Sidewalk, Recreational and Trail Easement required by Parks and Recreation Department); and to
- B. (C) (2) to increase the allowed height of a structure more than 50 feet and not more than 100 feet from property in an SF-5 or more restrictive zoning district or on which a use permitted in an SF-5 or more restrictive zoning district is located from 3 stories and 40 feet (required) to 4 stories and 45 feet (requested); and to
- C. (C) (3) to increase the allowed height of a structure more than 100 feet but not more than 300 feet from property zoned SF-5 or more restrictive, 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive (required) to 45 feet (requested); and to
- D. Section 25-2-899 (Fences as Accessory Uses) (D) to increase the height of a solid fence constructed along a property line from an average height of six feet or maximum height of seven feet (required/permitted) to eight feet average (requested)

in order to erect an apartment in a "CS-MU-CO-NP", General Commercial Services – Mixed Use – Conditional Overlay – Neighborhood Plan zoning district. (Brentwood)

Note: subject tract is undergoing rezoning approval to a multifamily designation by Council at their late April, May meetings, the pending zoning designation requires the fence variance #D above.

BOARD'S DECISION:

The public hearing was closed on Board Member Rahm McDaniel motion to Postpone to May 8, 2017, Board Member Bryan King second on an 11-0 vote (Board member Don Leighton-Burwell abstain); POSTPONED TO MAY 8, 2017.

FINDING:

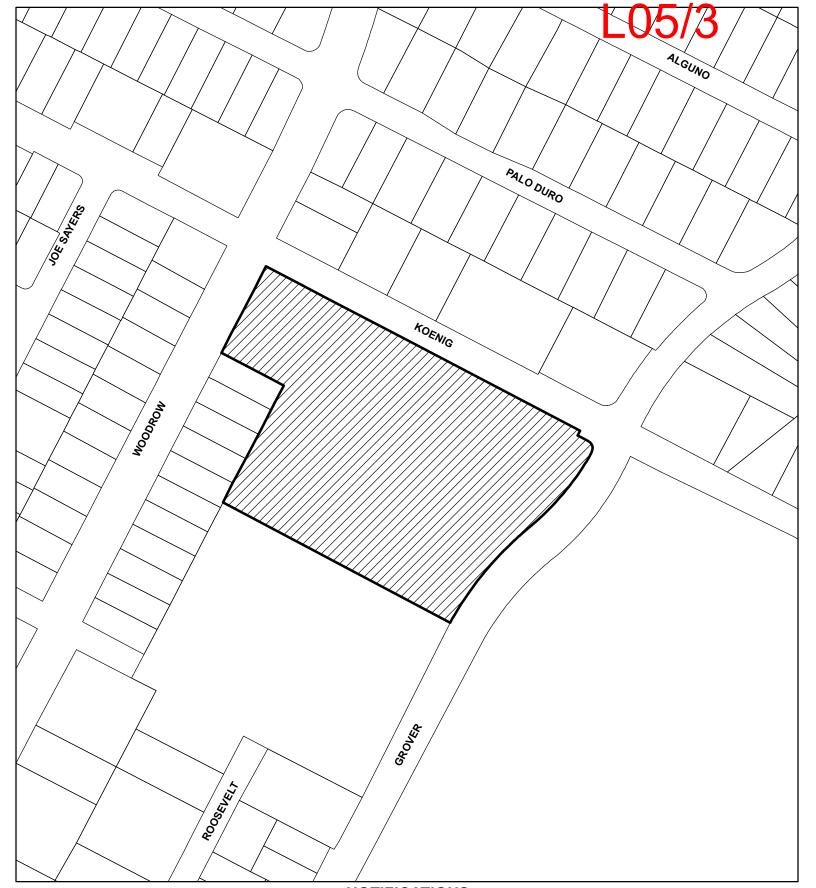
- 1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
- 2. (a) The hardship for which the variance is requested is unique to the property in that: (b) The hardship is not general to the area in which the property is located because:
- 3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

Leane Heldenfels

Executive Liaison

William Burkhardt

Chairman





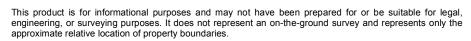


PENDING CASE

ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2017-0018 LOCATION: 1301 W Koenig Lane









David Hartman PARTNER

Direct Line 512.225.1704 • Direct Fax 512.225.1714 Email: dhartman@smith-robertson.com

March 27, 2017

Leane Heldenfels
Board of Adjustment Liaison
City of Austin
1st Floor – Development Assistance Center
505 Barton Springs Road
Austin, TX 78704

Re:

1301 Koenig Lane, comprising approximately 5.416 acres (the "Property") – Board of Adjustment General Variance Application (Case C15-2017-0018, the "Variance Application)

Dear Ms. Heldenfels:

On behalf of the applicant, owner of the Property in the above-referenced matter, we submitted the Variance Application.

The Property is located on the south side of West Koenig Lane, between Woodrow Avenue and Grover Avenue, and was previously occupied by an automotive sales and repair use. Property zoned SF-3 adjacent to the subject tract -- McCallum High School to the east, and SF-lots to the west – trigger Article 10 (Compatibility Standards) of Subchapter A, Chapter 25-2, of the Austin Land Development Code with respect to the subject tract. (See Exhibits 6-8 of the Variance Application).

The Property is currently zoned CS-MU-CO-NP, and a conditional overlay to the Brentwood Neighborhood Plan approved May 2004 limits height of the Property to 40 feet and 3 stories. The applicant filed a zoning application Case C14-2016-0071 to rezone the 5.04 Tract 1 MF-6 for proposed apartments, and contemplated Tract 2 (0.37 acres) as proposed retail use per existing zoning. The zoning application also requested modifying the existing CO to authorize a maximum of 4 stories on the Property (the zoning application otherwise did not propose to modify the 40' maximum height limitation per the existing CO). The Planning Commission unanimously approved the rezoning request, with conditions, on December 14, 2016, and it is scheduled for first reading by the City Council on 4-20-17.

In early 2017, City floodplain staff informed the Property project team of City staff's interpretation of City Code provisions that required raising the proposed apartment buildings slightly higher than initially contemplated. This recent floodplain staff interpretation necessitates a slight increase of the proposed maximum height for the proposed apartment buildings from 40' as initially contemplated, to a maximum 45'. This height increase required by City floodplain staff's interpretation requires (1) the requested variances, as described in more detail in the Variance Application, and (2) modifying the rezoning case to authorize a maximum height of 45'. The project team continues discussions with the Brentwood Neighborhood Association regarding the variances requested in the Variance Application, and we are optimistic based on discussions to date that BNA will support these requests.

We look forward to providing additional detail to Board of Adjustment Commissioners at their April 10, 2017, meeting.

Regards,

David Hartman

L05/5

09/11/2015 | Page 4 of 8

CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000 505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment General/Parking Variance Application

WARNING: Filing of this appeal stops all affected construction activity.

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, <u>click here to Save</u> the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. *If more space is required, please complete Section 6 as needed.* All information is required (if applicable).

For Offic	e Use Onl	y						
Case # ROW #				Tax #	Tax #			
Section 1	: Applica	nt Statemen	t					
Street Addres	s: <u>1301 W. k</u>	Koenig Lane, A	ustin, Texas 7	<u>8756</u>				
Subdivision Le	gal Description	on:						
15, Wilder Add recorded in Vo	ition Section lume 5, Page 1	1, a subdivision 9 in the Plat Rec	in Travis County, cords of Travis Co	Texas, accord unty, Texas	ling to the	and Lots 13, 14, and map or plat thereo		
Zoning District	: <u>CS-MU-CO</u>	<u>NP</u>						
		h Robertson, L				ourselves as		
authorized age	ent for <u>Harde</u>	man Family Jo	int Venture, Ltd	<u>l.</u>	affirm t	hat on		
MARCH	14	,	2017 , I/w	e hereby app	ly for a hea	aring before the		
Board of Adjus	tment for con	sideration to (se	elect appropriate	option below):			
X Erect	Attach	Complete	Remodel	Maintain	Other:	3		
Type of Str	ucture: Apart	ment – Max. 4 s	stories and 45 ft					

ប៉ាស៊ូលិទីNAនិនីតិកា Board of Adjustment General/Parking Variance Application

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

- 1. Section 25-2-1063(B) to decrease the distance that a structure can be constructed from property on which a use permitted in an SF-5 or more restrictive zoning district is located from 25 feet (required) to 5 feet (requested) to allow for an 8' wide concrete sidewalk and 12' wide easement for a public Sidewalk, Recreational, and Trail Easement pursuant to Onsite Parkland Dedication Requirements required by PARD
- 2. Section 25-2-1063(C)(2) to increase the allowed height of a structure more than 50 feet but not more than 100 feet from property in an SF-5 or more restrictive zoning district or on which a use permitted in an SF-5 or more restrictive zoning is located, from 3 stories and 40 feet (required/permitted) to 4 stories and 45 feet (requested). [Note: Applicant is limiting development to maximum 4 stories and 45 feet height in connection with this variance application, and related rezoning case.]; and
- 3. Section 25-2-1063(C)(3) to increase the allowed height of a structure more than 100 feet but not more than 300 feet from property in an SF-5 or more restrictive zoning district, from 40 feet plus one foot for each 10 feet of distance in excess of 100 feet from the property zoned SF-5 or more restrictive (required/permitted by LDC), to a maximum 45 feet (requested). [Note: Applicant is limiting development to maximum 4 stories and 45 feet height in connection with this variance application, and related rezoning case.]
- 4. Section 25-2-899(D)&(E)(Fences as Accessory Uses) to increase the fence height permitted from an average of 6 feet or a maximum of 7 feet (required/permitted) to 8 feet average height (requested).

Section 2: Variance Findings

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 supporting documents.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

The property is located along primary arterial (Koenig Lane, a 4 lane undivided arterial) that is bounded by single-family uses to the west/southwest part of the property, and McCallum High sport field zoned SF-3 to the east which triggers compatibility limitations thereby hindering redevelopment of the property. A rezoning of the Property to allow for modification to the zoning height/story limit is currently on file. The Brentwood Neighborhood Association supports the zoning application including the proposed height/story modification, with conditions.

Hardship

a) The hardship for which the variance is requested is unique to the property in that:

Existing topography, Heritage Trees, easements, and floodplain constraints uniquely encumber the property and reduce the geometric footprint for the proposed apartment development. Multiple easements exist along the southern property line, including an approx. 16,760 s.f. (0.4 acre) drainage easement. These multiple site constraints are not common to other properties, and limit the ability for an alternative configuration of the proposed apartment building. The variance request results from recent City floodplain staff interpretation requiring slightly elevating the proposed apartment building.

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

Some existing tracts in the vicinity are zoned multifamily with frontage on Koenig Lane, a principal arterial road (as well as Lamar Blvd., and Burnet Rd., which are both also principal arterial roads), but are not affected by McCallum High zoned SF-3 to the east, and the immediately adjacent existing residential to the west. The property is uniquely constrained by floodplain, easements, Heritage Trees, and other on-site constraints not general to the area. Shifting the proposed building footprint could result in the undesirable removal of Heritage Tree(s).

Area Character

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

- (i) <u>Will not alter character of area adjacent to the property</u>: The proposed development is similar to other "peer" proposed apartments in the area that are also located adjacent to single family.
- (ii) Will not impair the use of adjacent conforming property: The proposed development incorporates screening per agreement with Brentwood Neighborhood Association, and buffering per LDC compatibility requirements. The proposed variance to increase height of fence along the property line of single family residences adjacent to Woodrow Ave. provides additional buffering/screening.
- (iii) Will not impair the purpose of the regulations of the zoning district in which the property is located: The maximum height of both the existing CS and proposed MF-6 zoning district are higher than under the proposed development as authorized pursuant the variance. The proposed development, with the approved variance, would be far less intense than allowed pursuant to development intensity authorized pursuant to development standards under the existing or proposed zoning category.

The character of the area will be preserved and strengthened by adequate screening, and other requirements set forth in the zoning case as requested by Brentwood Neighborhood Association.

Parking (additional criter	ria for par	rking varia	nces onl	V)
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Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

Neither present nor anticipated future traffic volumes generated by the use of the site or the

•	uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:
N/A	Α
2.	The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:
N/A	4
3.	The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:
N/A	Α
4.	The variance will run with the use or uses to which it pertains and shall not run with the site because:
N/	A

L05/9

Section 3: Applicant Certificate		
I affirm that my statements contained in the complet my knowledge and belief.		
Applicant Signature:	Date: March <u>//</u> , 2017	
Applicant Name (typed or printed): David Hartma Applicant Mailing Address: 221 West 6th Street, S u City: Austin State: TX Zip: 78701		
Phone (will be public information): (512) 225-5800		
Email (optional – will be public information): dhart	man@smith-robertson.c	com
Section 4: Owner Certificate		
I affirm that my statements contained in the complet my knowledge and belief.	e application are true and	correct to the best of
Owner Signature:		_ Date: March , 2017
Owner Name (typed or printed): Hardeman Family	Joint Venture, Ltd.	
Owner Mailing Address: 6757 Airport Blvd.		
City: Austin	State: TX	Zip: 78752
Phone (will be public information): (512) 454-6821		
Email (optional – will be public information):		
Section 5: Agent Information		
Agent Name: David Hartman Agent Mailing Address: 221 West 6th Street, Suit e City: Austin State: TX Zip: 78701	1100	
Phone (will be public information): (512) 225-5800		
Email (optional – will be public information): dhartı	man@smith-robertson.c	om
Section 6: Additional Space (if applied	able)	
Please use the space below to provide additional information and the proper item, include the Section and the section are section.		

June 29, 2016

City of Austin
Development Review and Inspection Department
Post Office Box 1088
Austin, Texas 78767

Dear Ladies and Gentleman:

The undersigned, owner of land located at 1301 West Koenig Lane, in Austin, Texas, 78756 as more particularly described in Exhibit A attached hereto and made a part hereof (the "Property"), hereby authorize Smith, Robertson, Elliott & Douglas, L.L.P., to act as my agent in connection with any application to zone, subdivide, amend public restrictive covenants or neighborhood plans, and/or develop all or any portion of the Property, and any related matters.

HARDEMAN FAMILY JOINT VENTURE, LTD.,

a Texas limited partnership

Bryan Hardeman, its General Partner

EXHIBIT A

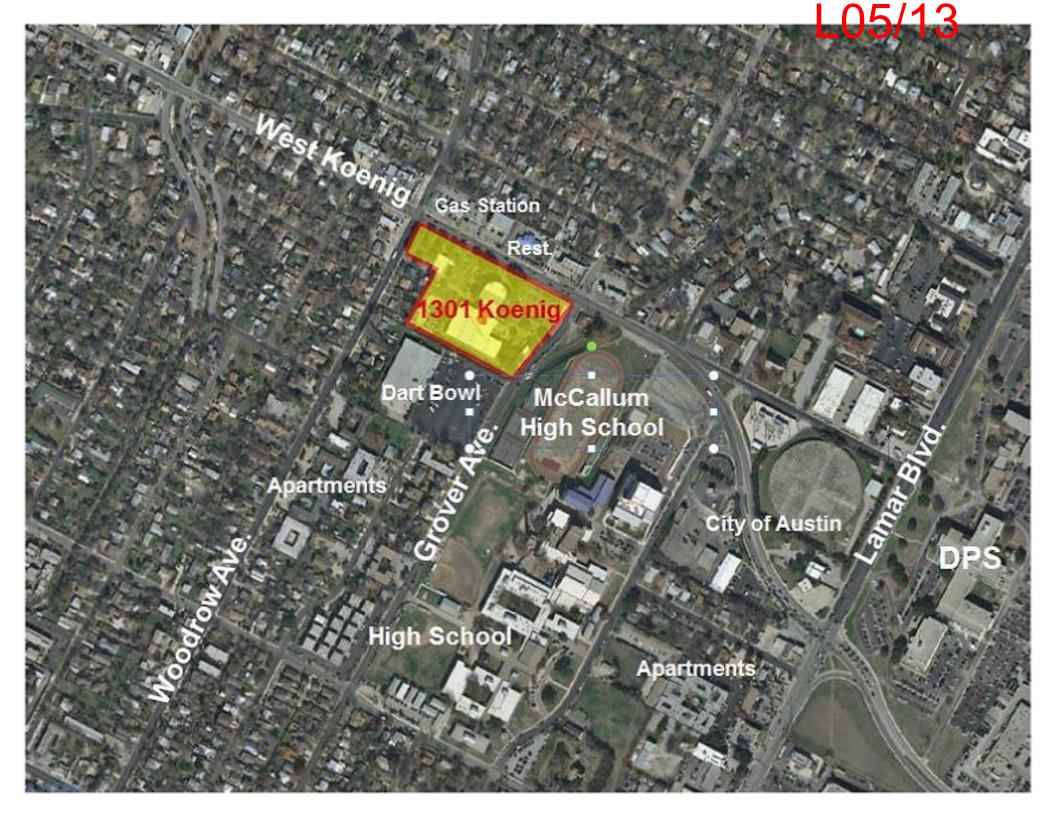
Legal Description

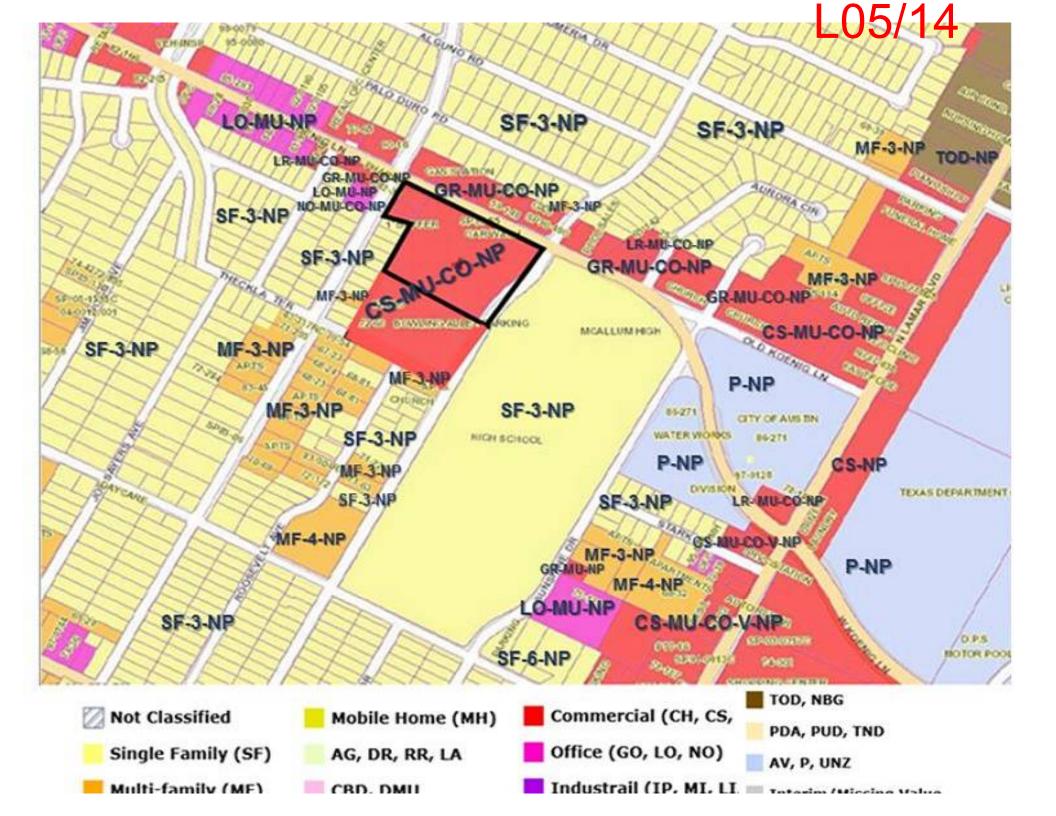
Lot 1, Wilder Addition Section 2, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 85, Page 138D in the Plat Records of Travis County, Texas, and Lots 13, 14 and 15, Wilder Addition Section 1, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 5, Page 19 in the Plat Records of Travis County, Texas.

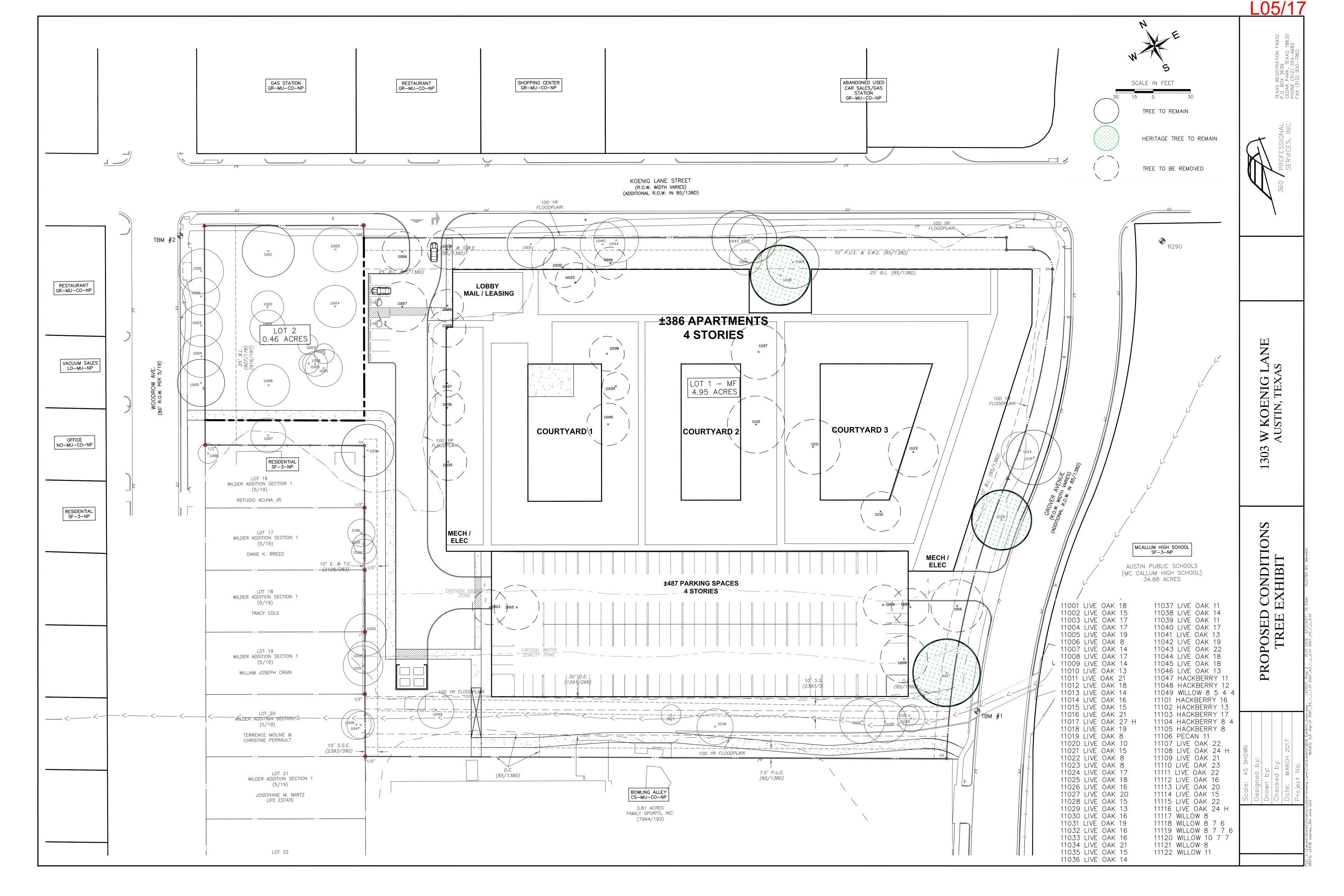
LIST OF EXHIBITS

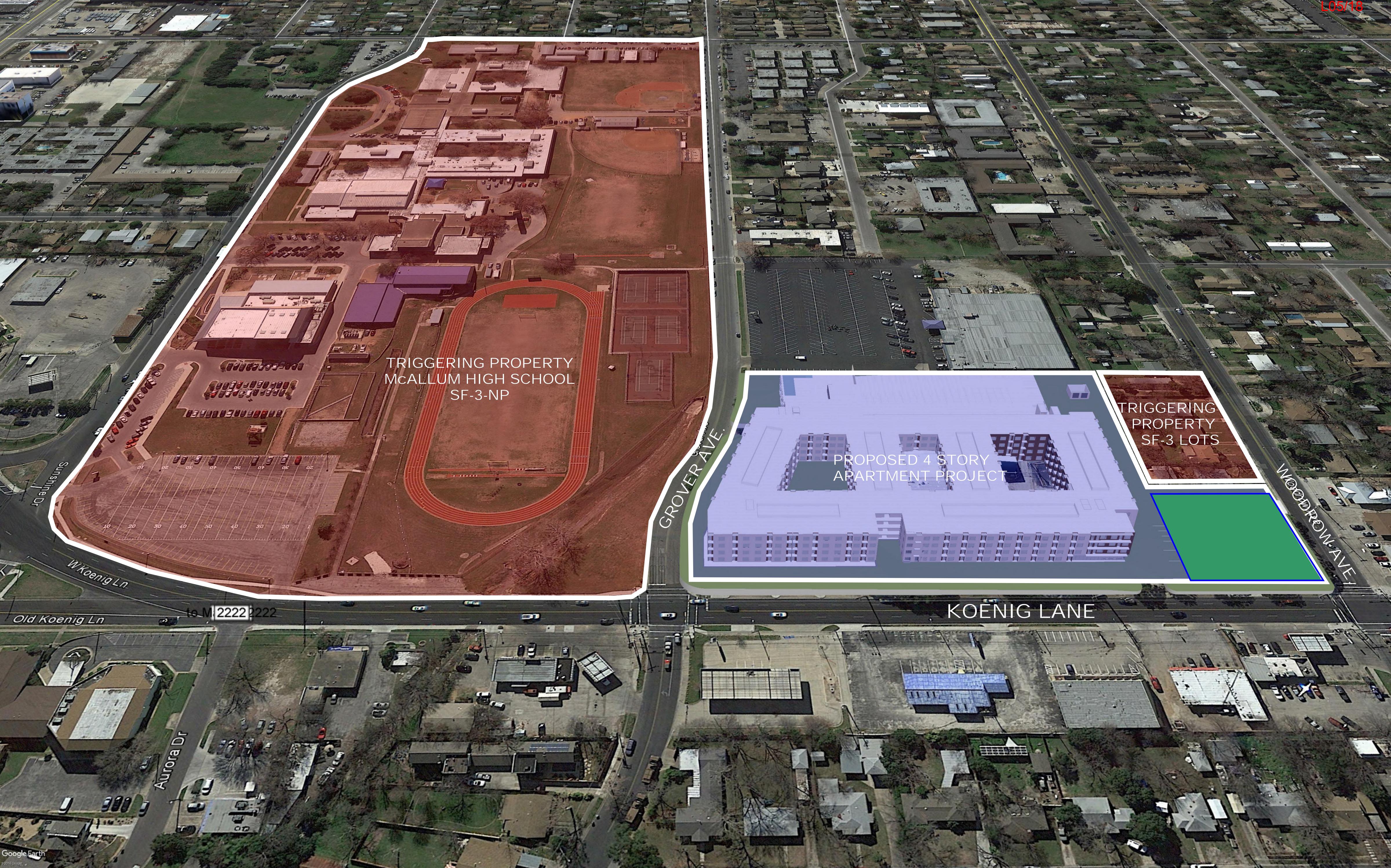
1301 Koenig Lane – Board of Adjustment Variance Application

	<u>EXHIBI</u>	<u> </u>	<u>PA</u>	<u>GE</u>
1.	Surroui	nding Us	es Map	1
2.	Existing	Zoning	Map	2
3.	Existing	g Conditi	ons Exhibit (with floodplain)	3
4.	Propos	ed Cond	itions Constraints Exhibit	4
5.	Propos	ed Cond	itions Tree Exhibit	5
6.	Propos	ed Apart	tments, with West and East Properties Triggering Compatibility Restrictions	6
7.	West P	ropertie	s Triggering Compatibility Restrictions (with Distance)	7
8.	East Pr	operty (I	McCallum High School) Triggering Compatibility (with Distance)	8
9.	Area St	reet Vie	ws9-	-12
10.	3D Aeri	ials	13	-16
11.	Concep	t Plan w	rith Compatibility Restrictions	.17
12.	Concep	t Plan w	rith Compatibility Restrictions, and Requested Variances	.18
13.	Elevation	ons		
	a.	40' Ma	ximum Height Compatibility & Building Envelope (Originally Proposed)	.19
	b.	Existing	g Compatibility Grover Ave	.20
		i.	40' Maximum Height Compatibility Envelope	
		ii.	3 Story Maximum	
	c.	Propos	ed Compatibility Grover Ave.	.21
		i.	45' Maximum Height Envelope (w/ Variance)	
		ii.	4 Story Maximum (w/ Variance)	
	d.	Existing	g Compatibility Woodrow Ave.	.22
		i.	40' Maximum Height Compatibility Envelope	
		ii.	3 Story Maximum	
	e.	Propos	ed Compatibility Woodrow Ave.	.23
		i.	45' Maximum Height Envelope (w/ Variance)	
		ii.	4 Story Maximum (w/ Variance)	
14.	Other A	Adiacent	Area Peer Apartments (fronting Koenig Lane, Lamar Blvd., Burnet Rd.)24-	-25

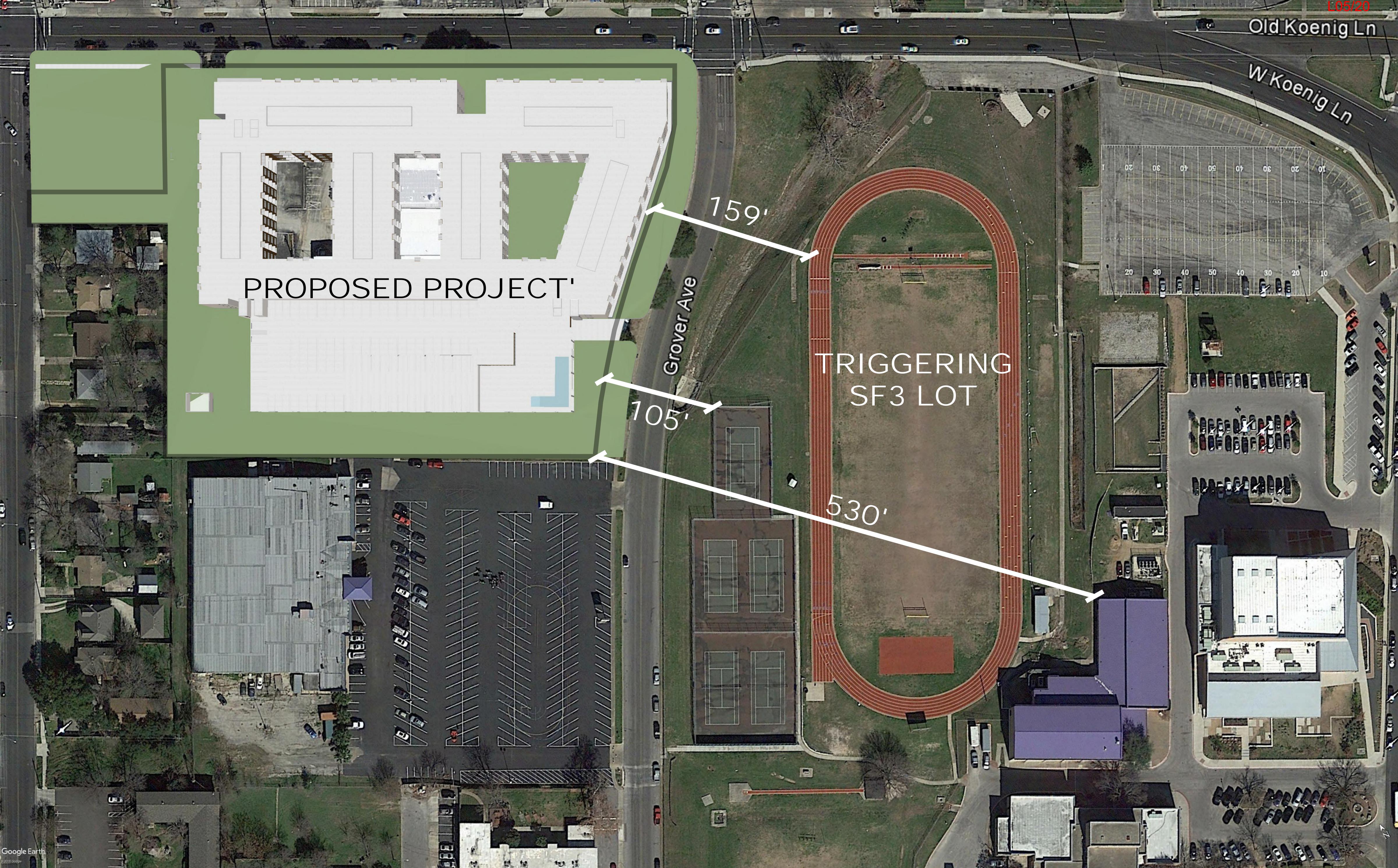


















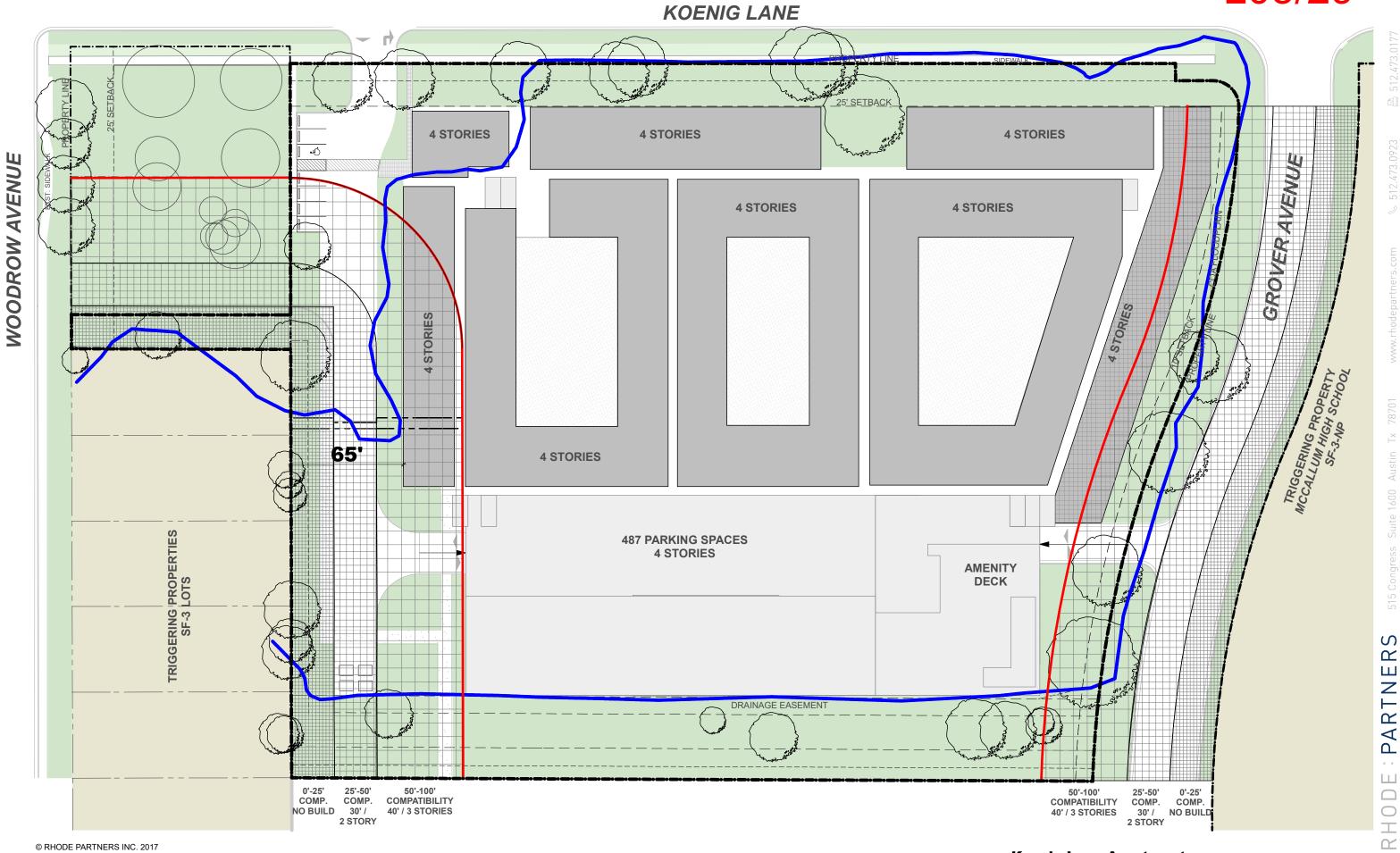


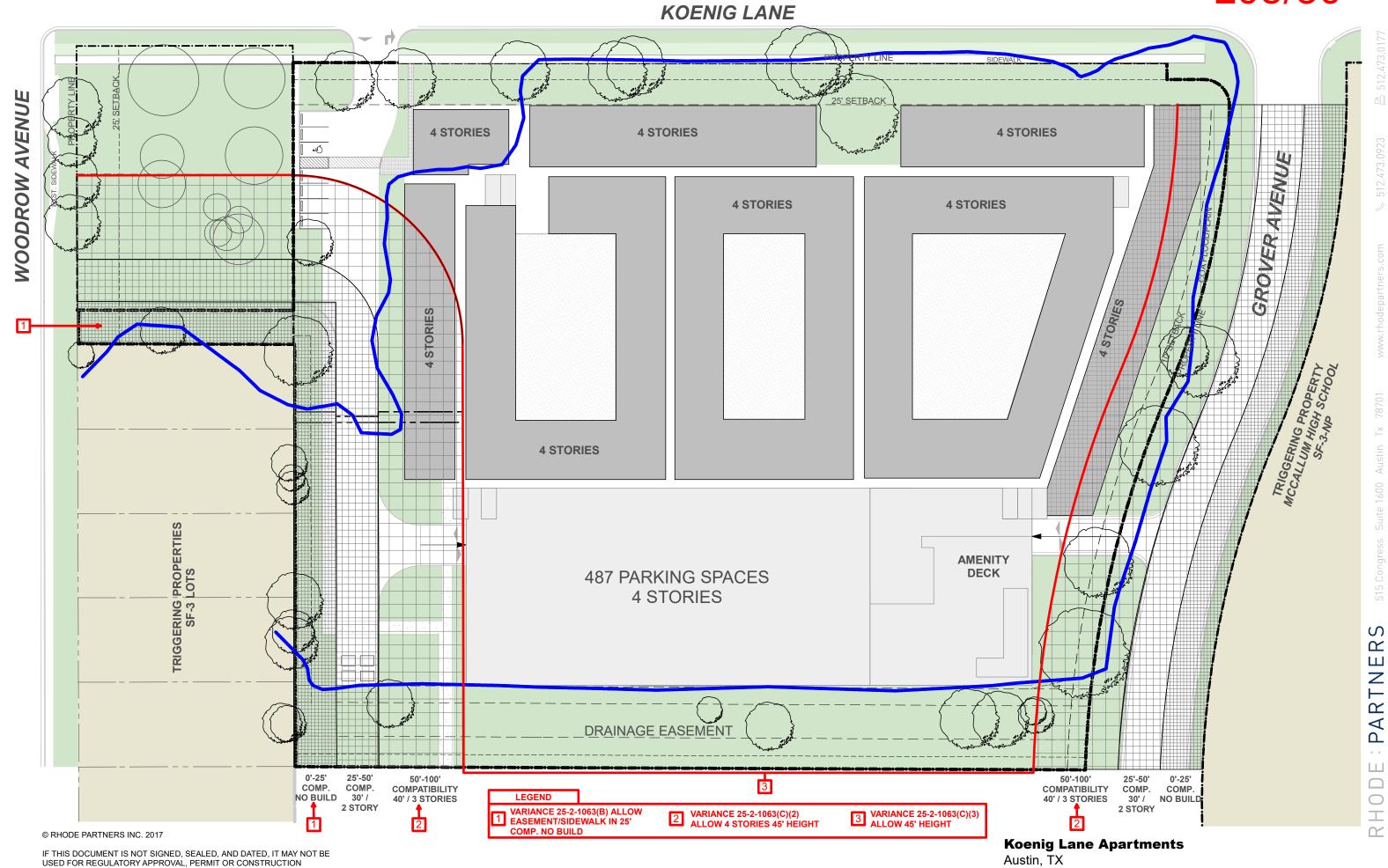


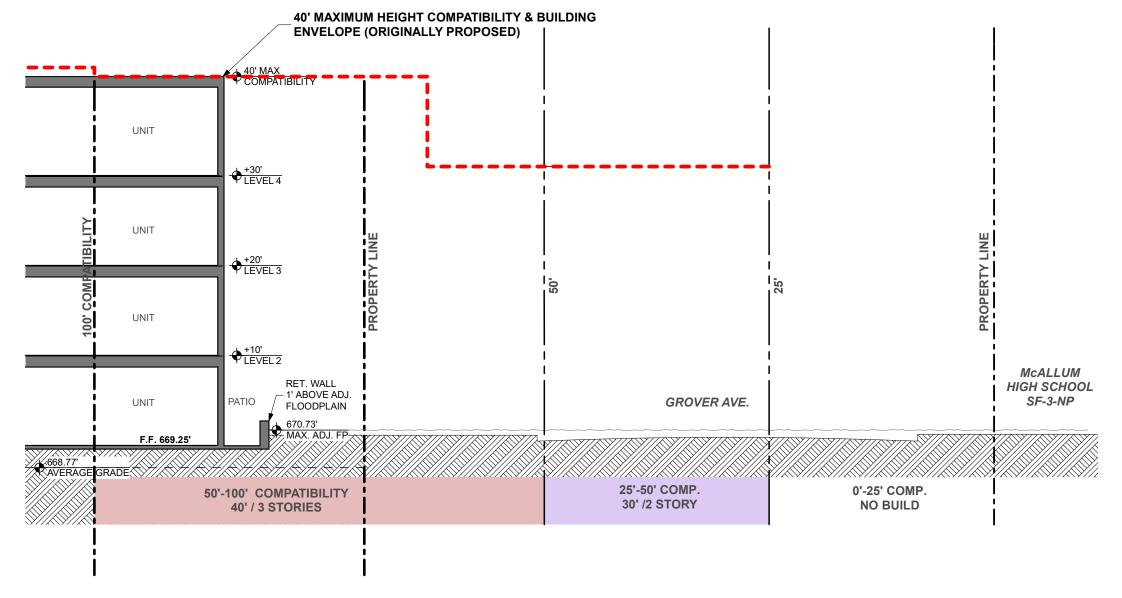








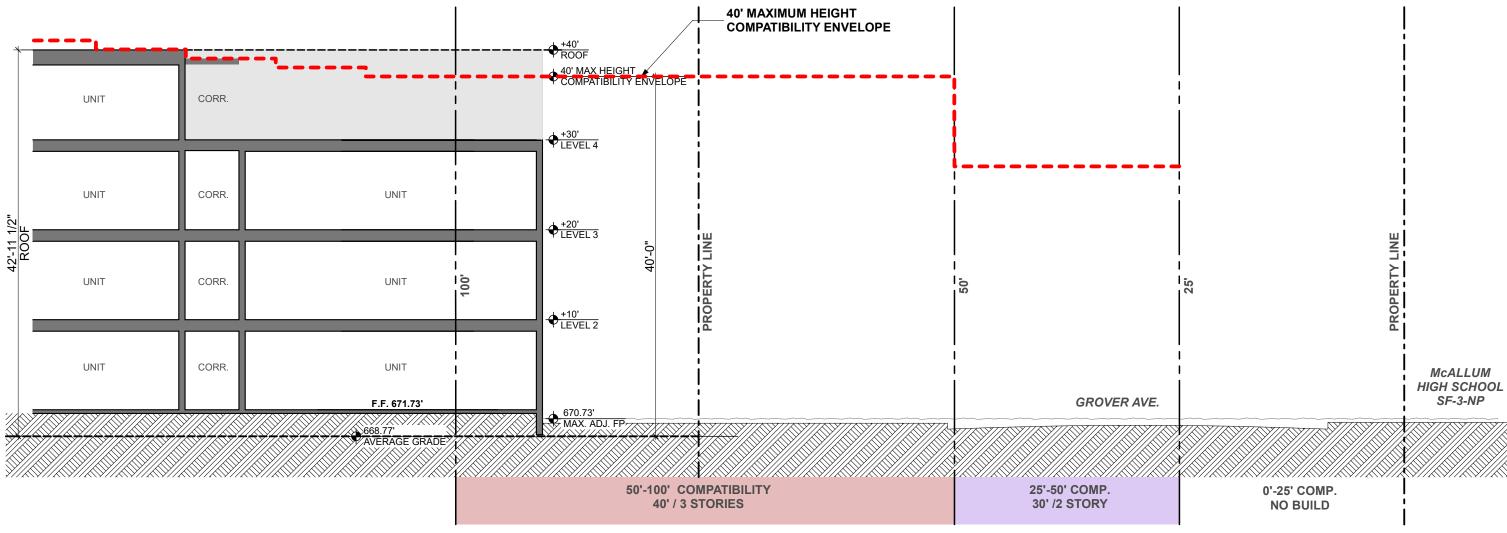




ORIGINALLY PROPOSED COMPATIBILITY - GROVER AVE

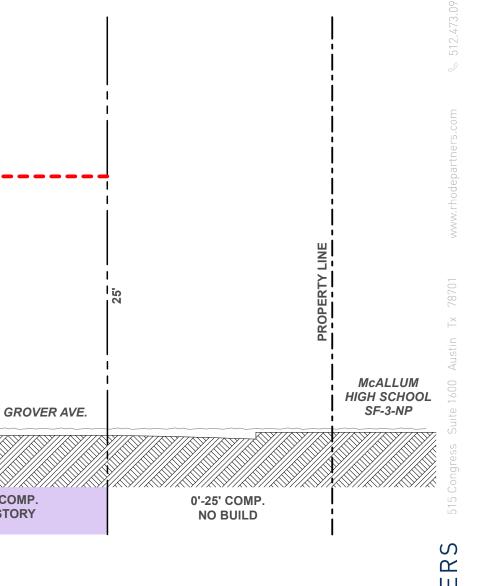
SCALE : 1" = 25'

7



EXISTING COMPATIBILITY - GROVER AVE

SCALE : 1" = 25'



PROPOSED COMPATIBILITY - GROVER AVE

SCALE: 1" = 25'

25'-50' COMP.

30' /2 STORY

45' MAXIMUM HEIGHT ENVELOPE

(W/ VARIANCE)

45' MAX HEIGHT ENVELOPE W/ VARIANCE

PROPERTY LINE

50'-100' VARIANCE REQUEST

45' / 4 STORIES

+40' ROOF

♦ +30' LEVEL 4

+10' LEVEL 2

670.73' MAX. ADJ. FP

UNIT

UNIT

UNIT

UNIT

CORR.

CORR.

CORR.

CORR.

UNIT

UNIT

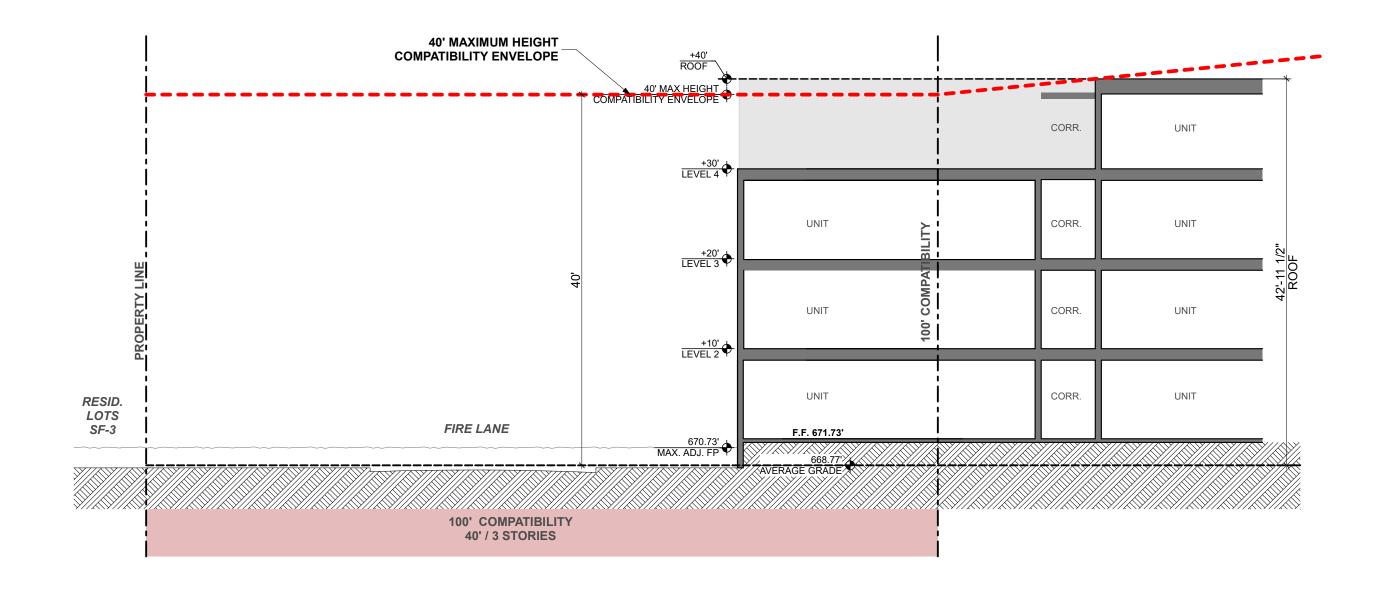
UNIT

UNIT

F.F. 671.73'

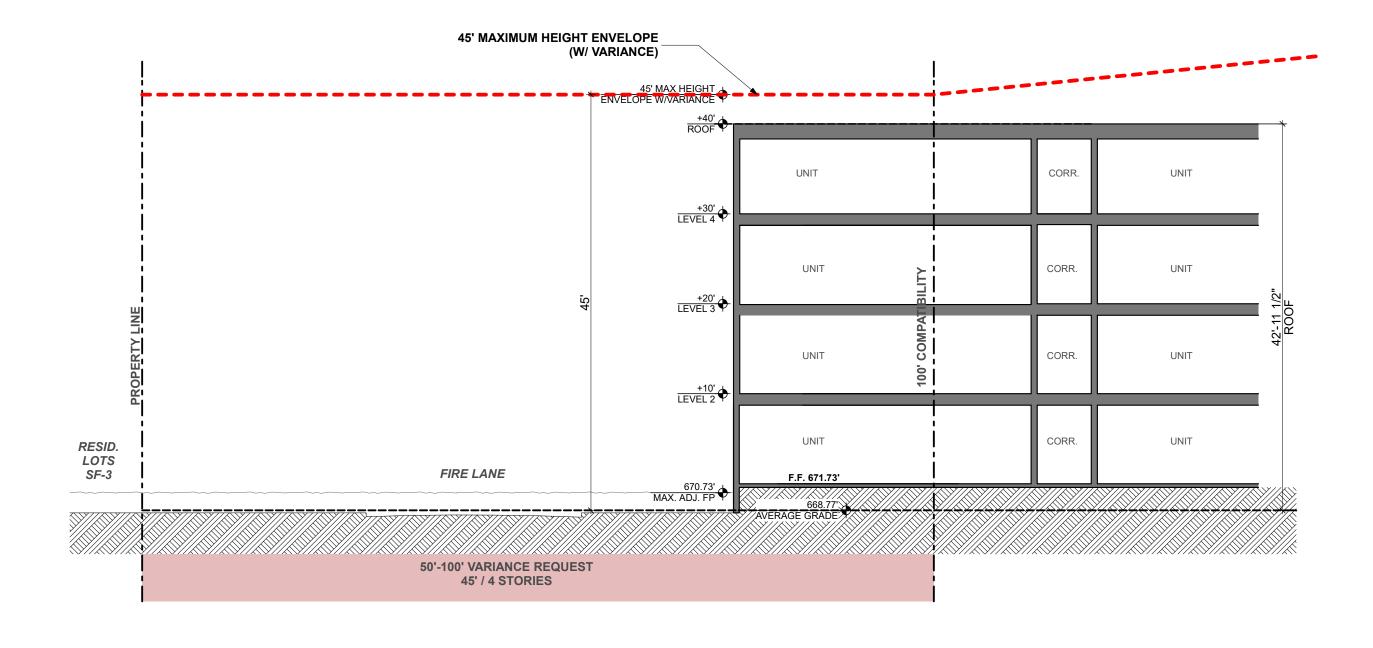
668.77'
AVERAGE GRADE

100



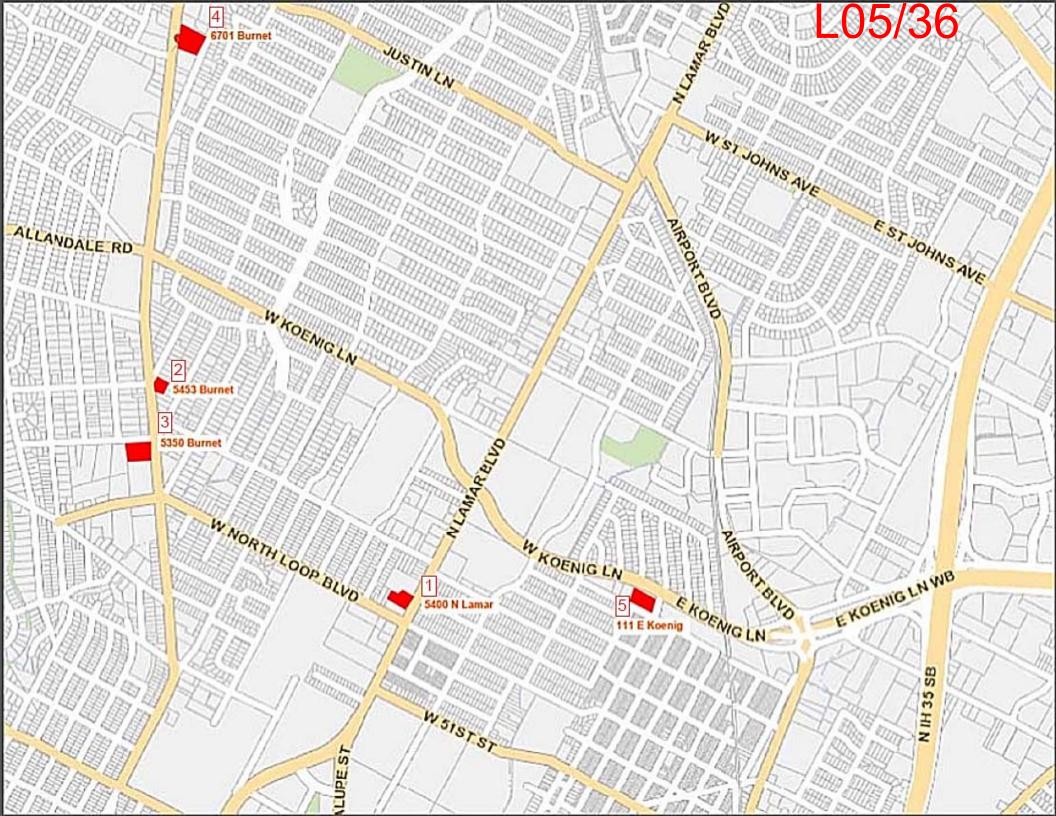
EXISTING COMPATIBILITY - WOODROW AVE

SCALE : 1" = 25'



PROPOSED COMPATIBILITY - WOODROW AVE

SCALE : 1" = 25'



Development Standards Peer Apartments (Koenig Lane, North Lamar, Burnet Road)

		Address	Total Units	Διτέασε ΄		Height	Stories
1.	Camden Lamar Heights	5400 North Lamar	314	4.65	68	60' (mostly 40')	3, 4 & 5 (mostly 4)
2.	Burnet Flats	5453 Burnet Road	179	2.31	77	30'/40'/50'	3, 4 & 5
3.	AMLI 5350	5350 Burnet Road	175	2.38	74	37'/47'	3 & 4 (mostly 4)
4.	Burnet Marketplace	6701 Burnet Road	343	3.9	88	50'/60'	4 & 5 (mostly 5)
5.	West Koenig Flats	111 E Koenig Lane	210	2.37	89	40'/40+'	3 & 4

AVG 79

Development Standards – Proposed Apartments 1301 Koenig Lane

Property Address		Total Units	Acreage	Density (u/ac)	Height	Stories
1301 Koenig	1301 Koenig Lane	391	5.415	72	40′	4

Re: Board of Adjustment Case C15-2017-0018, 1301 West Koenig Lane

The Brentwood Neighborhood Association voted on April 5, 2017 to support these specific variance requests pertaining to the redevelopment at 1301 West Koenig Lane:

- 1. The compatibility setback on the Grover frontage, which is across the street from the McCallum High School (zoned SF-3, which is triggering the setback). No waivers are supported for the Woodrow frontage.
- 2. We support the height variance to 45' because of flooding concerns expressed by City of Austin Staff.
- 3. We support the variance to build higher fencing along the boundary with the single-family housing on Woodrow.

Bill Spiesman President

Bill April

L05/39

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- appearing and speaking for the record at the public hearing;
 and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
 is the record owner of property within 500 feet of the subject property
- or proposed development; or
 is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.austintexas.gov/devservices

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. All comments received will become part of the public record of this case.

Case Number: C15-2017-0018, 1301 W. Koenig Lane
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, April 10th, 2017

Your Name (please print)

Lam in favor

Ind area.	mantin this will bring to	apartment complex being much	comments: I'm concerned about an	Daytime Telephone: (517) 799 - 8487	Jennifer (Sandu	John ald Lynno Rd austin 18757
	will bu	of is being	rned about	1795-8487		is application
	rg to	in bosed	22		4/10/17 Date	JX 78757

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be sent via:

Mail: City of Austin-Development Services Department/ 1st Floor Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: leane.heldenfels@austintexas.gov