

ZONING CHANGE REVIEW SHEET

CASE: C14r-82-016(RCT) (8701 and 8627 N MoPac RCT)

DISTRICT: 10

ADDRESS: 8611, 8627 and 8701 N. MoPac Expressway Service Road North Bound

OWNER/APPLICANT: 8611 MoPac LLC, 8701 MoPac Atrium LLC and US REIF Euruss Austin LLC

AGENT: Drenner Group (Amanda Swor)

ZONING: LO, LR

AREA: 8.54 acres

REQUEST: The applicant is requesting a termination of the restrictive covenant conditions for this property.

CASE MANAGER: Sherri Sirwaitis (512-974-3057, sherri.sirwaitis@austintexas.gov)

STAFF RECOMMENDATION:

Staff recommends the proposed termination of the public restrictive covenant.

PLANNING COMMISSION ACTION / RECOMMENDATION:

August 23, 2022: Postponed to September 13, 2022 at the staff's request (12-0, S. Praxis-absent).

September 13, 2022: Approved staff's recommendation for an RCT by consent (8-0, G. Anderson, Y. Flores, J. Mushtaler and J. Shieh-absent).

CITY COUNCIL:

October 13, 2022

ORDINANCE NUMBER:

ISSUES: N/A

DEPARTMENT COMMENTS:

The applicant is requesting to terminate/delete a public restrictive covenant that was recorded in 1982 on Lot 2 of the Westover Hills Plaza subdivision and associated with zoning site plan case C14r-82-016 (*Please see Applicant's Request Letter – Exhibit C*). This covenant places restrictions on the number of stories, landscaping, reflectivity, and signage regulations that were subject to the zoning site plan on the Property (*Please see Public Restrictive Covenant for C14r-82-016 - Exhibit D*). These items will now be regulated under the designated base zoning districts.

The staff recommends the applicant's request to delete the conditions of this public restrictive covenant. Since this restrictive covenant was executed and recorded, the property in question has been re-subdivided numerous times. The area under consideration is now known as Lot 3 of The Atrium, Lot 2A of the Amended Plat of Lots 1 and 2 The Atrium and a portion of Lot 1 of 8611 Centre subdivisions. The staff supports the deletion of this public restrictive covenant because items listed in this public restrictive covenant will now be regulated under the zoning district site development standards and other requirements stipulated by the Land Development Code.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LO, LR	Office (The Atrium Office Centre, Chancellor Center, Mopac Centre)
<i>North</i>	CS-NP	Industrial (Ergon Asphalt & Emulsions, Inc.)
<i>South</i>	GR, GR-CO	Office
<i>East</i>	LI	Railway, Office/Warehouse, Office (TDCJ Government Building), Industrial (All-Tex, Facets of Austin)
<i>West</i>	ROW, GR	MoPac Expressway, Office (Hyridge Place), Multifamily (Wood Harbour)

NEIGHBORHOOD PLANNING AREA: Burnet Road, Anderson Lane and the North Shoal Creek Neighborhood Planning Area

TIA: Deferred to the time of Site Plan

WATERSHED: Shoal Creek

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District
Austin Lost and Found Pets
Austin Neighborhoods Council
Friends of Austin Neighborhoods
Friends of North Shoal Creek
Homeless Neighborhood Association
Neighborhood Empowerment Foundation
North Austin Civic Association
North Austin Neighborhood Alliance
North Shoal Creek Neighborhood Association
North Shoal Creek Neighborhood Plan Contact Team
NW Austin Neighbors
SELTEXAS
Shoal Creek Conservancy
Sierra Club, Austin Regional Group
TNR BCP – Travis County Natural Resources

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2020-0013 (8803 N Mopac)	LI to CS	5/12/20: Approved staff's recommendation of CS zoning by consent (13-0); P. Seeger-1st, G. Anderson-2nd.	6/11/20: Approved CS district zoning, with additional condition agreed to by the neighborhood and the applicant is to prohibit Adult Oriented Businesses (11-0); all 3 readings
C14-2014-0156 (MoPac Rezoning: 8611	LO to GR	11/12/14: Approved staff rec. of GR-CO zoning on consent (8-0, L. Varghese-absent); R. Hattfield-1 st , B. Roark-2 nd .	11/ 20/14: Approved GR-CO zoning, with additional conditions agreed to by the applicant and the neighborhood, on consent on all 3 readings (7-0) 12/11/14: Approved GR-CO zoning on consent on 2 nd /3 rd readings (7-0)
C14-2010-0164 (8610 North Mopac Rezoning)	LR-CO to GR	11/16/10: Approved GR-CO zoning on consent, with the following additional conditions offered by the applicant: No Pawn Shop Services use and a public restrictive covenant to state that business will be closed during the hours of 10:00 p.m. to 6:00 a.m. (6-0, Banks-absent); P. Seeger-1 st , D. Tiemann-2 nd .	12/09/10: Approved GR-CO zoning on consent on all 3 readings (7-0); B. Spelman-1 st , M. Martinez-2 nd .

C14-2007-0085 (8888 Tallwood Drive)	CS to CS-MU	7/30/07: Approved staff rec. for CS-MU-CO with conditions (8-0)	8/09/07: Approved CS-MU-CO zoning, with CO to prohibit Adult Oriented Businesses and a 2,000 vehicle trip limit per day
C14-91-0013 (Horizon Savings Motorbank)	SF-3 to LO and LR	4/02/91: Denied LR-CO & LO-CO zoning	5/23/91: Approved LR-CO for Tract 1 and LO-CO zoning for Tract 2 w/ following conditions: 1) prohibit Food Sales, General Retail Sales (Convenience), Restaurant (Limited), Restaurant (Drive-In/Fast Food), and Service Station uses on Tract 1; 2) No vehicular access from Tract 2 to Camelia Lane; 3) Maintain the existing 40 ft vegetative buffer along the western property line of Tract 2; 4) Maintain a 25 ft vegetative buffer along the northern property line of Tract 2; 5) Structures on Tract 2 shall not exceed two stories or 35 ft in height

RELATED CASES:

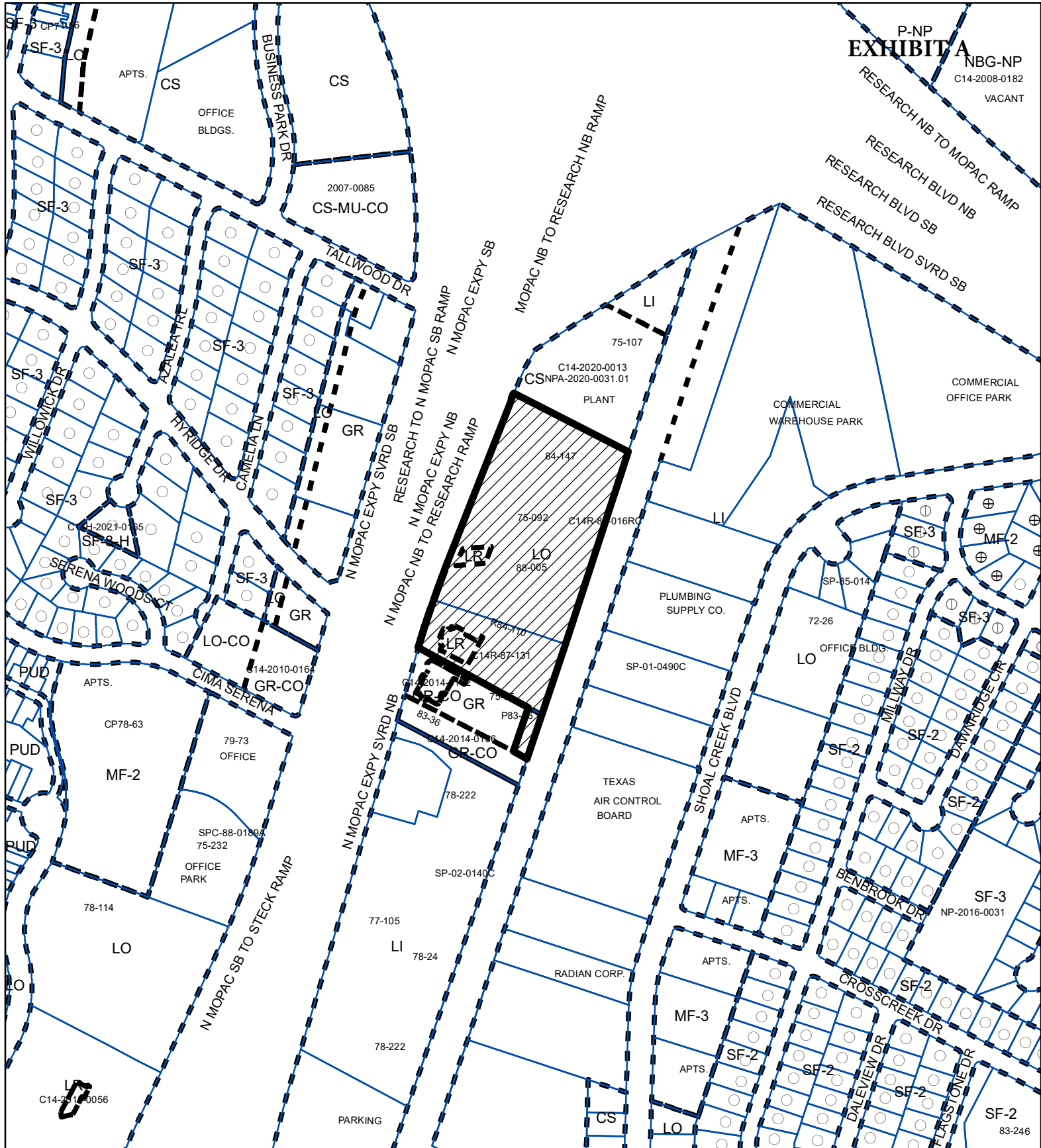
C14r-82-016 – Previous Zoning Case

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
N Mopac Expressway SVRD NB	Level 4	310'	330'	290'	No	N/A	Yes

INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Map
- C. Applicant's Request Letter
- D. Public Restrictive Covenant for C14r-82-016



P-NP
EXHIBIT A
NBG-NP
C14-2008-0182
VACANT

Restrictive Covenant Termination

ZONING CASE#: C14R-82-016(RCT)



Created: 7/6/2022

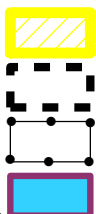
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

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



- SUBJECT TRACT
- PENDING CASE
- ZONING BOUNDARY

1" = 400'


$$1'' = 200'$$

ZONING CASE#: C14R-82-016(RCT)
LOCATION: N Mopac Expressway NB
SUBJECT AREA: 6.39 Acres
GRID: J31
MANAGER: Sherri Sirwatis



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

June 14, 2022

Ms. Rosie Truelove
Housing and Planning Department
City of Austin
1000 E 11th Street
Austin, TX 78702

Via Electronic Delivery

Re: 8701 and 8627 N MoPac – Restrictive Covenant Termination application for the approximately 8.54-acre restrictive covenant located on 8611, 8627, and 8701 N MoPac Expressway Service Rd NB in Austin, Travis County, Texas (the “Property”)

Dear Ms. Truelove:

As representatives of the owners of the Property, we respectfully submit the enclosed Restrictive Covenant Termination (RCT) application package for approximately 8.54 acres of land. The Property is located on the east side of the northbound MoPac Service Road NB between Steck Avenue and Research Boulevard and is in the full purpose jurisdiction of the City of Austin. This application accompanies a zoning application titled the same, 8701 and 8627 N MoPac, which is approximately 8.36 acres.

The Property is currently zoned LO-NP (Limited Office – Neighborhood Plan), LR-NP (Neighborhood Commercial – Neighborhood Plan), GR-NP (Community Commercial – Neighborhood Plan) and GR-CO-NP (Community Commercial – Conditional Overlay – Neighborhood Plan). Currently, the Property is developed with professional office uses.

The purpose of the RCT request is to terminate the restrictive covenant that was recorded in 1982 on Lot 2 of the Westover Hills Plaza subdivision and associated with zoning site plan case no. C14R-82-016. The Property has been subdivided several times since the restrictive was executed and now covers all of Lot 3 of The Atrium, Lot 2A of the Amended Plat of Lots 1 and 2 The Atrium, and a portion of Lot 1 of 8611 Centre subdivisions. This covenant places restrictions on the number of stories, landscaping, reflectivity, and signage regulations that were subject to the zoning site plan on the Property. These items will now be regulated under the base zoning district and are no longer enforced in public restrictive covenant. This request terminates restrictions for the entire Property.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Very Truly Yours,



Amanda Swor

cc: Joi Harden, Housing and Planning Department (via electronic delivery)
Jerry Rusthoven, Housing and Planning Department (via electronic delivery)

C14r-82-016

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RESTRICTIVE COVENANT

THE STATE OF TEXAS 86-000000 9773 * 9.00
COUNTY OF TRAVIS I

2-93-1937

WHEREAS, RICHARD D. HARDIN, TRUSTEE, of Austin, Travis County, Texas, is the owner of the following described property, to-wit:

Being 8.5377 acres of land out of the James P. Wallace Survey in Travis County, Texas, and being a part of Lot 2, Westover Hills Plaza Subdivision, recorded in Book 18, Page 60, Plat Records of Travis County, Texas, said 8.5377 acres of land being more particularly described by metes and bounds on Exhibit No. "A" attached hereto and incorporated herein by reference for all purposes.

WHEREAS, the City of Austin, and Richard D. Hardin, Trustee, 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, RICHARD D. HARDIN, TRUSTEE, for and in consideration of One and No/100 Dollars (\$1.00), and other good and valuable consideration in hand to the undersigned paid by City of Austin, the receipt of which is hereby acknowledged, 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. That construction on the property be limited to four stories; that the landscaping be substantially in accordance with the conceptual plan as filed; that the exterior of the building shall not be highly reflective; and that there be no major illuminated sign on or near the top of the building.

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.

2-93-1938

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 action of both (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 owners of the above described property at the time of such modification, amendment or termination.

Executed this the 17th day of May, 1982.

Richard D. Hardin, Trustee
Richard D. Hardin, Trustee

THE STATE OF TEXAS X

COUNTY OF TRAVIS X

~~here~~ This instrument was acknowledged before me on the 17 day of May, 1982, by Richard D. Hardin, Trustee.

NOTARY SEAL

Morgan L. Pearce
Notary Public, State of Texas

Type or Print Name: _____

My Commission Expires: _____

MORGAN L. PEARCE
My Commission Expires January 31, 1984

7823 579

FIELD NOTE DESCRIPTION
OF
A SURVEY OF 8.5377 ACRES OF LAND
OUT OF JAS. P. WALLACE SURVEY
TRAVIS COUNTY, TEXAS

2-93-1939

BEING A PART OF LOT NO. 2, WESTOVER HILLS PLAZA SUBDIVISION, RECORDED IN PLAT BOOK 18, AT PAGE 60, OF THE PLAT RECORDS OF TRAVIS COUNTY PLAT RECORDS, SAID LOT 2, OF WESTOVER HILL PLAZA CONVEYED TO VICTOR W. RAVEL ET AL, IN VOLUME 5740 AT PAGE 632 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, SAID 8.5377 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND AT THE NORTHEAST CORNER OF LOT 2, WESTOVER HILLS PLAZA SUBDIVISION, AND ON THE WEST R.O.W. LINE OF MISSOURI PACIFIC RAILROAD, SAID PIN BEING 1.0 FT., NORTH OF A SECURITY FENCE, SAID BEGINNING CORNER BEING THE SOUTHEAST CORNER OF TEXAS EMULSION INC. RECORDED IN VOLUME 2274, AT PAGE 504, OF THE FORESAID DEED RECORDS;

THENCE, S 21°06' W, A DISTANCE OF 1012.00 FT., WITH THE WEST R.O.W. OF MISSOURI PACIFIC RAILROAD TO A CROSS CUT IN THE WESTERLY BASE OF A CONCRETE POST FOR THE SOUTHEAST CORNER OF THIS TRACT;

THENCE, N 81°31' W, A DISTANCE OF 10.70 FT., WITH THE I. J. WHATLEY TRACT VOLUME 769 PAGE 295 OF THE FORESAID DEED RECORDS TO AN IRON PIPE SET FOR AN ANGLE POINT IN THIS LINE,

THENCE, N 59°30' W, A DISTANCE OF 40.06 FT., TO AN IRON PIN SET FOR CORNER, AT THE SOUTHEAST CORNER OF R & O CORPORATION TRACT RECORDED IN VOLUME 2992, AT PAGE 1984, OF THE FORESAID DEED RECORDS;

THENCE, N 21°06' E, A DISTANCE OF 150.43 FT., TO AN IRON PIN FOUND AT THE NORTHEAST CORNER OF THE FORESAID R&O CORPORATION TRACT FOR CORNER OF THIS TRACT;

ORIGINAL DIM

THENCE, N 58°51' W, A DISTANCE OF 391.49 FT., WITH THE NORTHLINE OF THE FORESAID R&O CORPORATION TRACT AND THE NORTHLINE OF LOT # 1 OF THE FORESAID WESTOVER HILLS PLAZA SUBDIVISION TO AN IRON PIN FOUND IN THE CURVED EAST BOUNDARY OF MO-PAC BOULEVARD, FOR THE MOST WESTERLY SOUTHWEST CORNER OF THIS TRACT;

EwhA

THENCE, WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 2,817.79 FT., AN ARC OF 280.18 FT., AND A CHORD WHICH BEARS N 21°39' E, A DISTANCE OF 280.08 FT., TO A CROSS FOUND CUT IN ROCK FOR THE P. T. OF THIS CURVE;

THENCE, N 24°30' E, A DISTANCE OF 550.34 FT., CONTINUING WITH THE EAST SIDE OF MO-PAC BOULEVARD, TO A BOLT FOUND AT THE P. C. OF A CURVE TO THE RIGHT;

2-93-1940

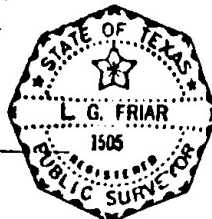
THENCE, WITH SAID CURVE TO THE RIGHT HAVING A RADIUS OF 627.07 FT., AN ARC OF 23.05 FT., AN A CHORD WHICH BEARS N 25°33' E A DISTANCE OF 23.05 FT., TO A BOLT FOUND AT THE NORTH END OF A SECURITY FENCE AND AT THE SOUTHWEST CORNER OF TEXAS EMULSION INC. FOR THE NORTHWEST CORNER OF THE TRACT HEREIN DESCRIBED;

THENCE, S 59°54' E, A DISTANCE OF 403.38 FT., WITH THE SOUTH LINE OF TEXAS EMULSION INC. TO THE PLACE OF BEGINNING, AND CONTAINING 8.5377 ACRES OF LAND.

SURVEYED, FEBRUARY 17, 1981.

BY:

L. G. Friar
L. G. FRIAR REGISTERED PUBLIC SURVEYOR #1505
FOR FRIAR SURVEYING AND MAPPING COMPANY
AUSTIN, TEXAS



ORIGINAL DIM

(FIELD NOTES REVISED MARCH 24, 1981)

FILED

1982 AUG -9 AM 8 17

Doris Shephard
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS
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 stamp hereon by me, on



AUG 9 1982

Doris Shephard
COUNTY CLERK
TRAVIS COUNTY, TEXAS

(SHEET TWO OF TWO)

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