

ORDINANCE NO. 86 0807-H

AN ORDINANCE AMENDING CHAPTER 13-2A (REVISED ZONING REGULATIONS) OF THE AUSTIN CITY CODE OF 1981; DEFINING THE BOUNDARIES OF THE FAIRVIEW PARK NEIGHBORHOOD FOR PURPOSES OF THIS ORDINANCE; ESTABLISHING SPECIAL COMPATIBILITY STANDARDS APPLICABLE TO ALL PROPERTY LOCATED IN THE FAIRVIEW PARK NEIGHBORHOOD; AMENDING THE ZONING MAP TO CREATE A NEIGHBORHOOD CONSERVATION COMBINING DISTRICT ("NCCD") IN THE FAIRVIEW PARK NEIGHBORHOOD; FIXING BOUNDARIES AND IDENTIFYING PROPERTY INCLUDED IN THE FAIRVIEW PARK NCCD; AMENDING THE ZONING MAP TO CHANGE BASE DISTRICT ZONING CLASSIFICATIONS FOR CERTAIN IDENTIFIED PROPERTIES LOCATED IN THE FAIRVIEW PARK NCCD; MODIFYING CERTAIN BASE DISTRICT USE AND SITE DEVELOPMENT REGULATIONS FOR PROPERTIES INCLUDED IN THE BOUNDARIES OF THE FAIRVIEW PARK NCCD; PROVIDING FOR SEVERABILITY; WAIVING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE (3) SEPARATE DAYS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the South River City Citizens neighborhood association has prepared a neighborhood plan for development and conservation of the Fairview Park neighborhood, in accordance with the procedures established by Sections 13-2A-2805 through 13-2A-2822 of Chapter 13-2A (Revised Zoning Regulations) of the Austin City Code of 1981, and has requested creation of a Neighborhood Conservation Combining District ("NCCD") to implement the goals and policies of the neighborhood plan; and

WHEREAS, the City Council finds that notice of the proposal to create an NCCD for the Fairview Park neighborhood was given to all property owners in the Fairview Park neighborhood in accordance with the requirements of Chapter 13-2A; and

WHEREAS, public hearings on the proposed neighborhood plan and NCCD have been conducted by the Historic Landmark Commission, the Planning Commission, and the City Council, in accordance with the requirements of Chapter 13-2A; and

WHEREAS, the City Council has considered the recommendations of the Historic Landmark Commission, the Planning Commission, and comments of persons appearing at the public hearing concerning the creation of a Neighborhood Conservation Combining District in the Fairview Park neighborhood; and

WHEREAS, the City Council has adopted the neighborhood plan proposed by the SRCC as the Fairview Park Neighborhood Plan; and

WHEREAS, the City Council finds that it is necessary and desirable to create a Neighborhood Conservation Combining District for the Fairview Park neighborhood to implement the

goals and policies of the Fairview Park Neighborhood Plan; Now, Therefore

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

PART 1. That for purposes of this Ordinance, the boundaries of the Fairview Park neighborhood are shown on the map attached to this Ordinance as Exhibit "A" and hereby incorporated as if fully set forth herein.

PART 2. That notwithstanding any other provision of Chapter 13-2A of the Austin City Code of 1981 enacted before the effective date of this Ordinance, the following special compatibility standards shall apply to any SF-6 or less restrictive development occurring on property located within the Fairview Park neighborhood and adjacent to or across the street from property used or zoned SF-3-NCCD:

(A) No structure shall exceed two (2) stories or thirty (30) feet in height within one hundred (100) feet of a property used or zoned SF-3-NCCD.

(B) No structure shall exceed three (3) stories or forty (40) feet in height within three hundred (300) feet of a property used or zoned SF-3-NCCD.

No building permit to construct a structure in violation of a height restriction established by this PART 2 shall be issued. This PART 2 shall not apply to development of property abutting South Congress Avenue.

PART 3. That the Fairview Park Neighborhood Conservation Combining District ("Fairview Park NCCD") is hereby created. Use and development of property located within the boundaries of the Fairview Park NCCD established by PART 4 of this Ordinance shall comply with the use and site development regulations of the applicable base district established by Chapter 13-2A (as shown on the Zoning Map), as such use or site development regulations may be modified by the Fairview Park NCCD use or site development regulations established by PART 6 of this Ordinance.

PART 4. That the Zoning Map accompanying Chapter 13-2A of the Austin City Code of 1981 and made a part thereof be, and hereby is, amended to reclassify each property identified by a specific base zoning district on the map attached and incorporated into this Ordinance as Exhibit "B" from its respective existing base district classification to the base district classification shown on Exhibit "B."

PART 5. That the Zoning Map accompanying Chapter 13-2A of the Austin City Code of 1981 and made a part thereof be, and hereby is, amended to include all properties located in the Fairview

Park neighborhood within the Fairview Park NCCD, SAVE AND EXCEPT those properties identified as "EXCLUDED" on the map attached as Exhibit "B" to this Ordinance. The Zoning Map classification of each property included in the Fairview Park NCCD shall be, and hereby is, amended to append the designation "-NCCD" to the base district applicable to each property.

PART 6. That the applicable provisions of Chapter 13-2A of the Austin City Code of 1981 are hereby modified for property located in the Fairview Park NCCD as follows:

(A) For purposes of continued maintenance, repair, and rehabilitation, no structure existing on the effective date of this Ordinance shall be deemed to be a noncomplying structure.

(B) Two family residential use is allowed subject to the following conditions and limitations:

(1) The minimum lot area shall be seven thousand (7,000) square feet.

(2) The gross floor area of a second dwelling unit constructed on a lot with an existing dwelling unit shall not exceed fifteen percent (15%) of the lot area.

(3) The total building coverage, including garage(s), shall not exceed forty percent (40%) of the lot area.

(4) At least one (1) off-street parking space shall be provided for each dwelling unit. Parking spaces for vehicles, other than in a driveway, are prohibited in required front street yards.

(5) No impervious cover shall be permitted in required front yards except as required to provide driveways and sidewalks.

(6) Vehicular access to the lot shall be restricted to a single paved driveway not less than ten (10) feet in width serving both dwelling units.

(7) The second dwelling unit shall be located to the rear of the site, separated from the front dwelling by a minimum distance of ten (10) feet measured from face of wall to face of wall.

(8) Compliance with Site Plan Review is required, with additional required notice to the registered neighborhood association. The decision of the Director of Office of Land Development Services in connection with a site plan submitted pursuant to this subsection (B) is final and may not be appealed to the Planning Commission or City Council.

(C) Notwithstanding subsection (c)(1) of Section 13-2A-5620, compliance with the Landscaping Regulations (Sections 5600 through 5635 of Chapter 13-2A) is required before a building permit for the construction of a dwelling unit may be issued. Compliance with this subsection (C) is not required for additions to or routine maintenance or repairs to existing single-family, duplex, or accessory structures.

(D) Development or redevelopment of multi-family, condominium, or townhouse uses with three (3) or more units is subject to the following conditions, limitations, and modifications:

(1) Compliance with Site Plan Review is required, with additional required notice to the registered neighborhood association.

(2) Except for projects designed for the elderly pursuant to the following subsection (3), maximum density shall not exceed eleven (11) units per acre for property zoned MF-2, fifteen (15) units per acre for property zoned MF-3, and twenty-two (22) units per acre for property zoned MF-4. For purposes of calculating the maximum permitted density, each dwelling unit shall be counted as a single unit, notwithstanding the size or configuration of the unit.

(3) Projects designed for occupancy by the elderly and meeting the requirements of the following subsection (4) shall not exceed a maximum density of sixteen (16) units per acre for property zoned MF-2, twenty-two (22) units per acre for property zoned MF-3, and thirty-three (33) units per acre for property zoned MF-4.

(4) For purposes of this section, a project shall be deemed to be designed for the elderly if it meets the following criteria:

(a) Occupancy is restricted to persons sixty (60) years of age or older and members of the household of a person sixty (60) years of age or older.

(b) No more than one (1) off-street parking space per dwelling unit is required.

(c) Each dwelling unit is designed and constructed to include the following:

- (i) ramps or elevators in place of steps;
- (ii) non-skid floors;
- (iii) all doors of sufficient width to accommodate wheelchairs;

- (iv) electrical outlets located no less than twenty-four (24) inches above the floor;
- (v) grab bars in showers, tubs, and around toilets;
- (vi) handle-type spigots and doorknobs; and
- (vii) cooking units with no open flames.

(5) Neither a traffic impact analysis nor additional right-of-way dedication shall be required for development of sites no larger than two (2) acres in size.

(6) Sidewalks shall be constructed where none exist.

(7) Impervious cover shall not exceed fifty-five percent (55%) of the lot area.

(8) Building setback requirements of the Compatibility Standards shall not apply to structures no more than one (1) story in height located within one hundred (100) feet of a property line.

(E) Development or redevelopment along South Congress Avenue shall be subject to the following conditions, limitations, and suggestions:

(1) Lots with less than fifty (50) feet of street frontage are exempt from off-street parking requirements and application of the Landscaping Regulations.

(2) Front walls shall be aligned with adjacent structures, approximately twelve and one-half (12.5) feet from the curb.

(3) Pedestrian access shall be provided directly from the structure to the sidewalk along South Congress Avenue.

(4) Parking spaces are prohibited in the front street yard if a front yard is provided.

(5) Awnings, street windows, and zero lot lines with fire walls are encouraged.

(F) Development or redevelopment for nonresidential uses of sites without frontage on South Congress Avenue shall be subject to the following conditions and limitations:

(1) Compliance with Site Plan Review is required, with additional required notice to the registered neighborhood association.

(2) Maximum floor to area ratio (FAR) of 0.35 to 1.00.

(3) Maximum building coverage of thirty-five percent (35%).

(4) Maximum impervious coverage of sixty percent (60%).

(5) Maximum height of thirty-five (35) feet or two (2) stories.

(6) Uses limited to office uses, excluding medical offices.

(G) Residential use, including multi-family, condominium, or townhouse uses up to a maximum density of fifteen (15) units per acre, is allowed in any nonresidential base district, subject to the requirements of the previous subsection (D) of this PART 6.

(H) All new construction is encouraged to be consistent with surrounding architectural styles, scale, setbacks, placement, and building materials.

(I) Structures designated historic pursuant to the Historic Landmark Regulations (Sections 5900 through 5999 of Chapter 13-2A) may be used as a Bed and Breakfast Home, subject to the following conditions:

(1) For purposes of this Ordinance only, a Bed and Breakfast Home is defined as a single-family residential structure providing up to five (5) rooms or suites for overnight lodging for a maximum period of up to thirty (30) consecutive days for any particular occupant. Meal services may be supplied to registered, overnight guests.

(2) Compliance with Site Plan Review is required, with additional required notice to the registered neighborhood association. For proposed Bed and Breakfast Homes located on property zoned SF-3-H-NCCD, Planning Commission approval of the site plan shall be required.

(3) In addition to the Bed and Breakfast Home use, the structure shall be occupied as a permanent residence.

(4) All rooms and suites shall be contained within the principal structure.

(5) Cooking facilities in guest rooms and suites are prohibited.

(6) One (1) off-street parking space in addition to spaces required for the dwelling shall be provided for each room or suite.

(7) On-site employment of more than two (2) persons who do not reside in the structure is prohibited.

(8) Dining and other facilities shall be exclusively for the use of the residents and registered, overnight guests.

(9) One identification sign not to exceed three (3) square feet is permitted, provided the word "hotel" or "motel" is not used.

(10) A record of all guests registered at the Bed and Breakfast Home shall be maintained by the operator for a period of three (3) years. Registration records shall be made available to the Building Official on one (1) day's notice.

PART 7. The following modifications of use or site development regulations shall apply to the following specific sites, to the extent such modifications are inconsistent with any other provision of this Ordinance or of Chapter 13-2A:

1002 Newning: Maximum density of eight (8) dwelling units and driveway locations as shown on the site plan attached to this Ordinance as Exhibit "C".

1202 Newning: Maximum density of thirty-eight (38) dwelling units, if property is redeveloped.

1214 Newning: If the existing structure is preserved and is designated as an historic landmark pursuant to the Historic Landmark Regulations of Chapter 13-2A, NO Neighborhood Office use is permitted in up to two-thirds (2/3) of the gross floor area of the existing structure, if one (1) floor of the structure is occupied as a residence by the owner of the property.

501 - 507 East Riverside: Development is authorized and subject to the provisions of the Agreement attached to this Ordinance as Exhibit "D".

119 Academy: Development is authorized and subject to the provisions of the Agreement attached to this Ordinance as Exhibit "E".

1300 Newning: Maximum density of twenty (20) dwelling units, if property is redeveloped.

1227 Hillside Drive: Maximum intensity of eleven (11) dwelling units, if property is (i) developed and marketed as barrier-free for the elderly and/or physically disabled; (ii) designed and constructed in accordance with subsection (D)(4)(c) of PART 6 of this Ordinance; and (iii) registered with the Austin Housing Authority and other agencies which provide housing assistance to elderly or physically disabled persons. Subsections (D)(4)(a) and (D)(4)(b) of PART 6 shall not apply to development pursuant to this PART 7.

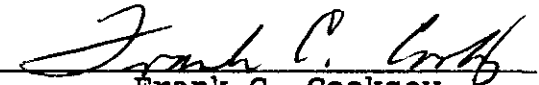
PART 8. If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the invalidity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion therefor provisions, or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof and all provisions of this ordinance are declared to be severable for that purpose.

PART 9. That the requirement imposed by Section 2-2-3 of the Austin City Code of 1981 that this ordinance be read on three (3) separate days shall be, and hereby is, waived by the affirmative vote of five (5) members of the City Council to pass this ordinance through more than one reading on a single vote.

PART 10. This ordinance shall become effective ten (10) days after the date it is passed.

PASSED AND APPROVED

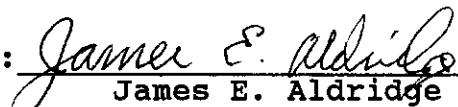
August 7, 1986


Frank C. Cooksey
Mayor

APPROVED:


Paul C. Isham
City Attorney

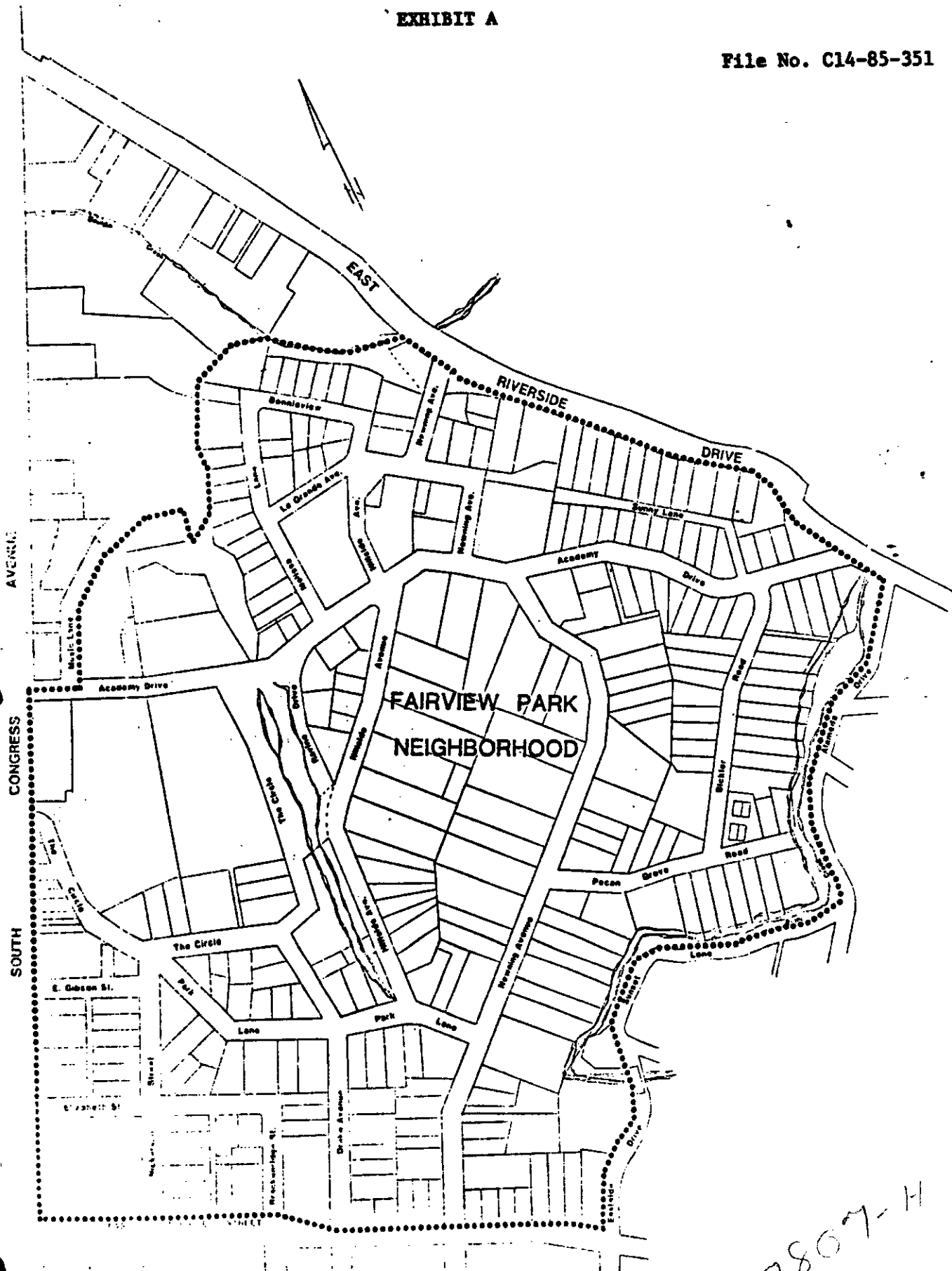
ATTEST:


James E. Aldridge
City Clerk

AFM
NCCD

EXHIBIT A

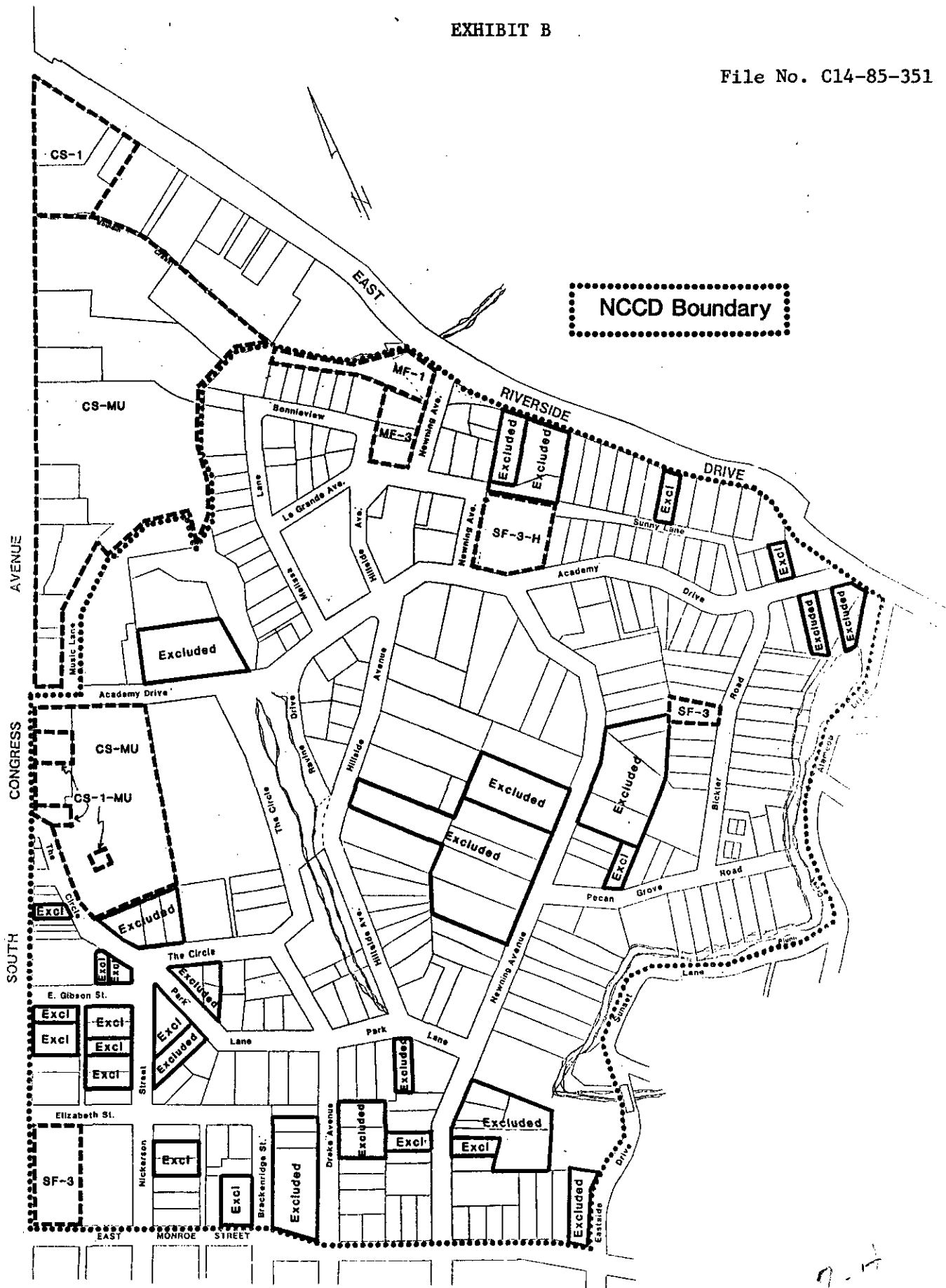
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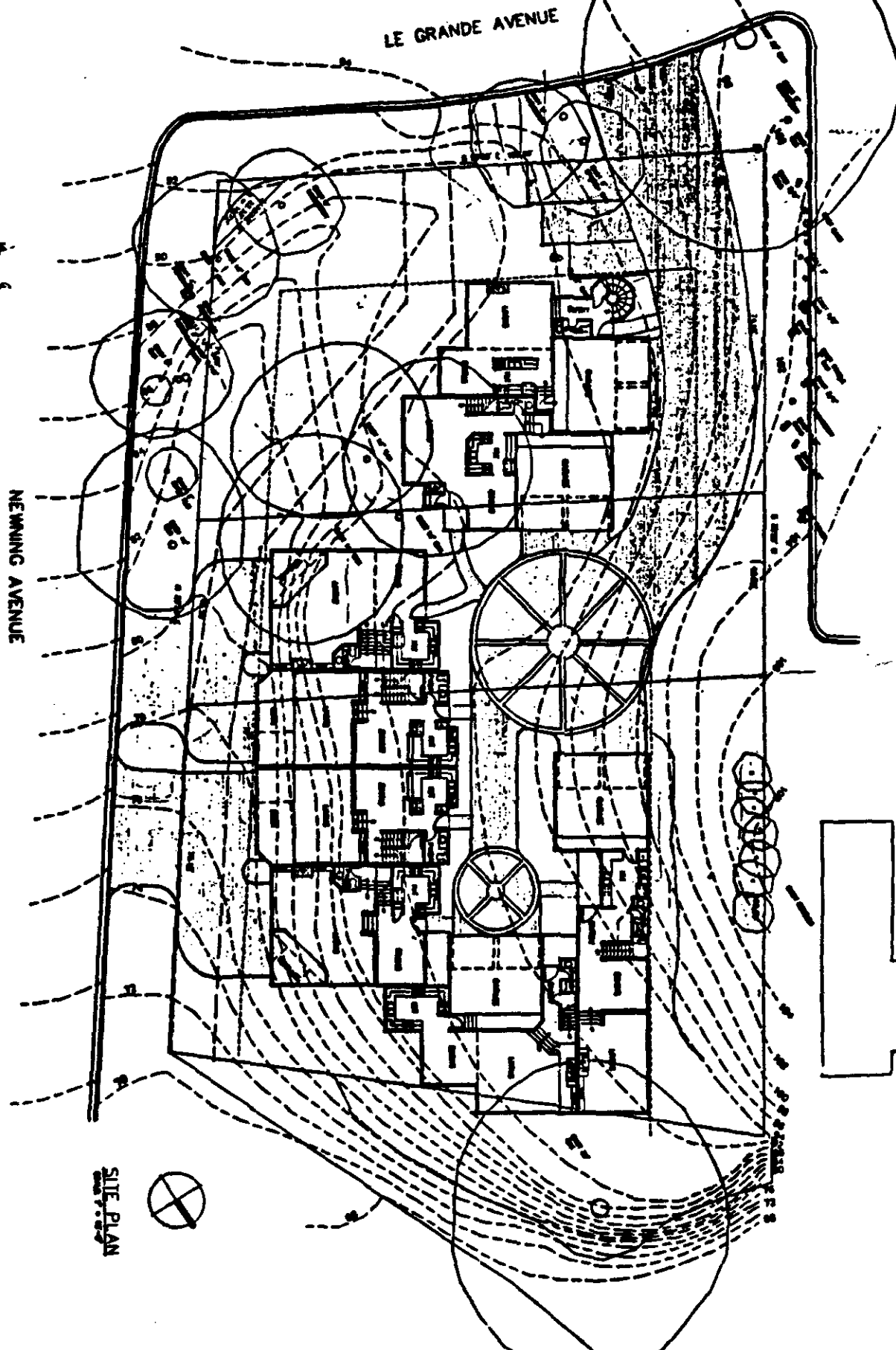
EXHIBIT B

File No. C14-85-351



860807-1

EXHIBIT 'C'



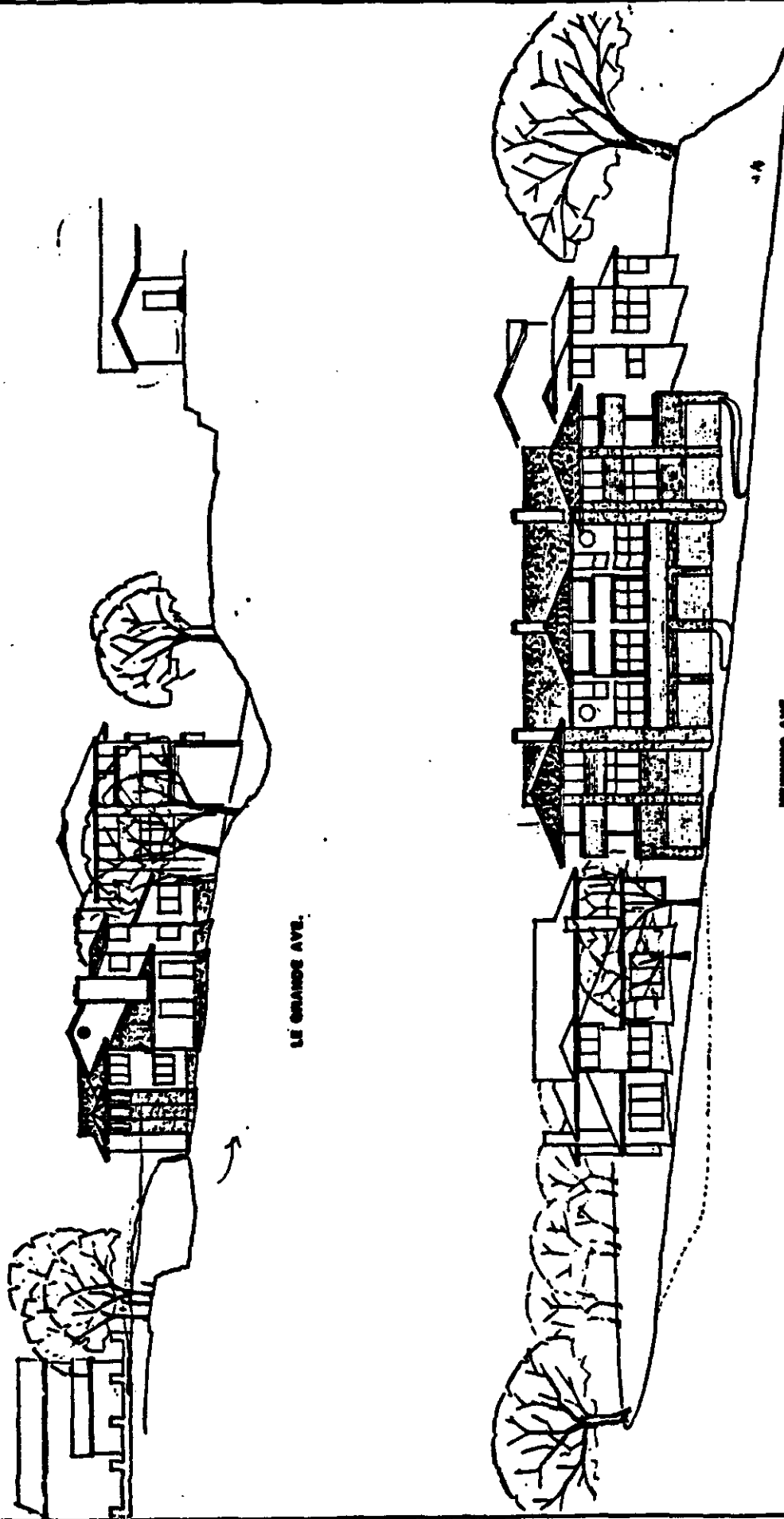
SITE PLAN

LE GRANDE CONDOMINIUMS
GARY G. HADGIAN
1900 SPRING

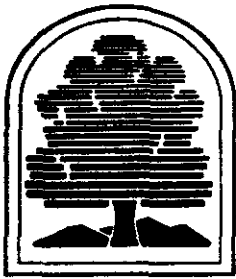
L. M. HOLDER III
ARCHITECT PLANNER
ENERGY CONSULTANT
2000 SOUTHWEST CORNER ROAD
SUITE 210 • AUSTIN, TX • 78740
512-344-0017

CONSULTANTS

EXHIBIT 'C'



L. M. HOLDER III
ARCHITECT PLANNER
ENERGY CONSULTANT
1101 NEWING
SUITE 200 • AUSTIN, TX 78702
512-382-0912



GLENFIELD
DEVELOPMENT COMPANY

EXHIBIT 'D'

501-507 E. Riverside

July 25, 1986

Ms. Linda Weir
Office of Land Development Services
301 West Second Street
Austin, Texas 78701

Re: Fairview Park NCCD
Lots 62, 63, 64, 65
Woodlawn Addition

Dear Linda,

The Owners of the above referenced property and representatives of the South River City Citizens, "SRCC", have been discussing the NCCD and how both parties objectives could be reached via the NCCD. Below, please find several points which have been agreed upon between the parties, and which form the basis of a formal agreement. These points below supersede and take precedent over the items listed in the letter signed by both parties dated February 11, 1986, should there be a conflict.

1. Site plan - Prior to the issuance of a Building Permit the Owners shall submit a site plan to Staff to verify that the development is in accord with the agreements between the parties and as adopted by City Council. Site Plan and Review procedures shall comply with Section 6100 of Chapter 13-2A (Revised Zoning Regulations), "13-2A", Code of the City of Austin, Texas. City Staff shall approve said site plan so long as it conforms with the Agreement between the parties and passed by the City Council.

2. Traffic Impact Analysis (TIA) - A TIA shall be made part of this Agreement, based upon access from Riverside Drive only. No access from Sunny Lane shall be permitted, except for emergency vehicles. The TIA shall be based upon 18,300 square feet of gross floor area, as defined in 13-2A.

3. Height - Building height shall not exceed 30 feet measured from Sunny Lane. The Owners shall deliver, upon completion, an approved set of construction drawings to SRCC and said plans shall be then used by SRCC to verify the height of the actual building. The Owners shall contact SRCC prior to any

the southeasternmost
corner of this
tract.

structural inspection by the City and SRCC shall promptly and at their sole cost, measure the height of the building. If in the opinion of SRCC the building exceeds the height as set out herein, the Owners, at their sole expense, shall have an independent party measure the height, and if found to be excessive, modify the building as to not exceed the mutually agreed height limitations.

4. Setback - Building setbacks shall conform with the nonbuildable setbacks as set out in the enclosed drawing attached to and made part of this Agreement as Exhibit "A".

5. ~~Scale and Clustering - The building scale and clustering has been reviewed by SRCC and is acceptable. The goals of SRCC with regard to scale and clustering is to provide a building which has proportions of human scale, "broken-up" facades and the use of the neighborhood native architectural elements, ie, sloped roofs. see last page.~~ *CLT*

6. Landscaping - A substantial visual buffer shall be provided along the east, west, and southerly property lines as to screen the building from the neighborhood. ^{SRCC has} provided the owners a plan outlining their ~~parameters~~ ^{requirements} of landscaping. In addition, buffer landscaping shall ~~be~~ sprinklered and in the event existing plant material dies, it shall be fully replaced by the next planting season.

7. Design Regulations - The development shall comply with Section 4735 of 13-2A.

8. Building Materials - The building exterior shall be compatible with building materials used in the residential construction within Fairview Park. The building will primarily consist of masonry, native rock, ^{stucco} or stucco like material and of a semi-reflective glass not to exceed 20% reflectivity. Said glass shall comply with the City's Energy Code requirements. *and secondarily CLT*

9. Dumpster Location - A dumpster may be located on Sunny Lane, but it shall be at the sole expense of the Owners. Said regular service shall only be approved by SRCC so long as the Owners receive a majority approval from the Property Owners abutting Sunny Lane, the dumpster is enclosed by a fence or other means of screening, an adequate vehicle turn-around is provided. No more than one trip per week shall be permitted for service.

10. Size - The building shall not exceed ^{18,500} ~~19,000~~ square feet of gross floor area. Gross Floor Area shall be defined as in Section 3152, Chapter 13-2A. *CLT*

11. Parking - A surface parking structure below grade from Sunny Lane shall be allowed, with access from Riverside Dr.

only. All parking for the building shall be accommodated by the subgrade structure.

12. Impervious Cover - Impervious cover shall not exceed 70% of the site.

13. Floor Area Ratio - FAR shall not exceed ^{.50} ~~.55~~ to 1. *DLH*

14. It shall be stipulated that this development is being permitted only via a compromise between the Owners and SRCC, and is being achieved only via the Fairview Park NCCD. There is no representation as to an upgrading in zoning of the two lots currently zoned MF-4; therefore, a precedent shall not be set for an upgrade in zoning.

This represents the Agreement between the parties concerning Lots 62, 63, 64, and 65, Woodlawn Addition, City of Austin. The Owners reserve the right to withdraw the inclusion of this property in the Fairview Park NCCD at any time prior to City Council action.

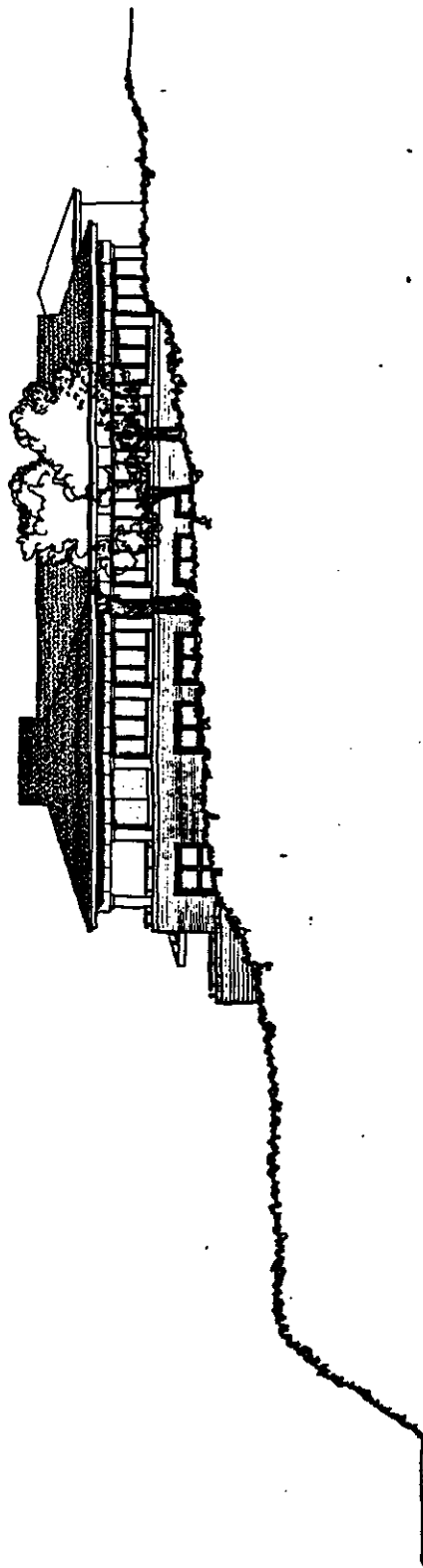
With Regards,



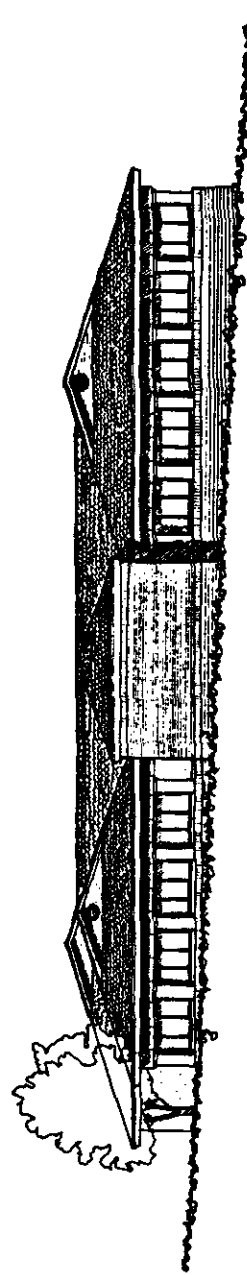
Lance Higgins
Director of Development

DLH/dll

5. Scale and Clustering - The building shall have proportions of human scale "broken-up" facades with recesses and variations in the exterior planes of the building, and the use of neighborhood architectural elements as generally displayed on the attached building elevations and including fenestration patterns, textural and decorative elements, historical references and use of primarily hipped roofs, (~~4 in 12 minimum slope~~) *LA CL*



WEST ELEVATION



SOUTH ELEVATION

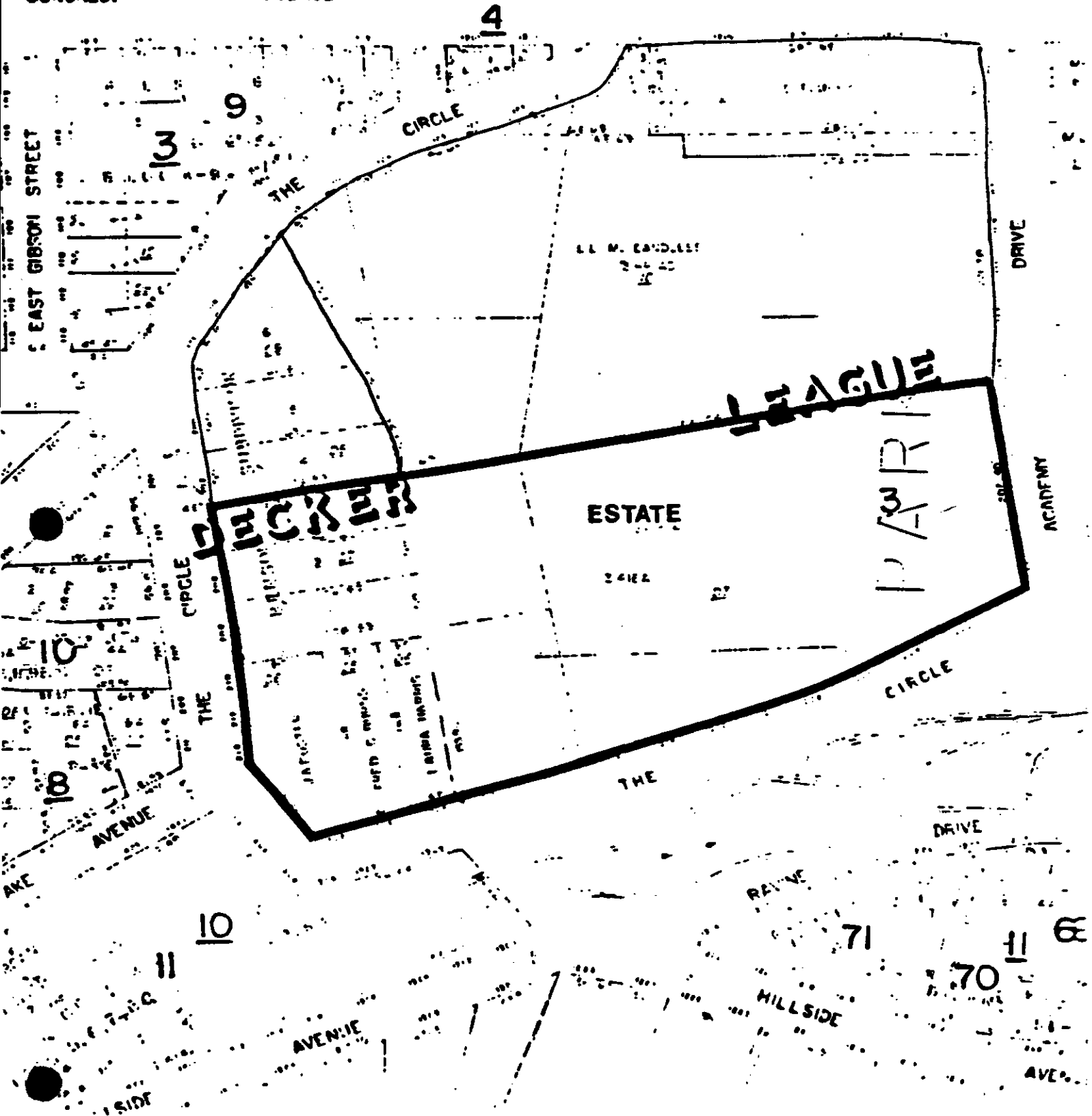


EXHIBIT A

EXHIBIT A

CONGRESS

AVENUE



1 0100

WELLS ST.

CONGRESS AVENUE

EAST GIBSON STREET

3

9

4

CIRCLE

THE

8

5

2

LEAGUE

DECKER

6

CIRCLE

THE

5

4

CIRCLE

THE

DRIVE

RAVINE

71

70

11

69

10

11

AVENUE

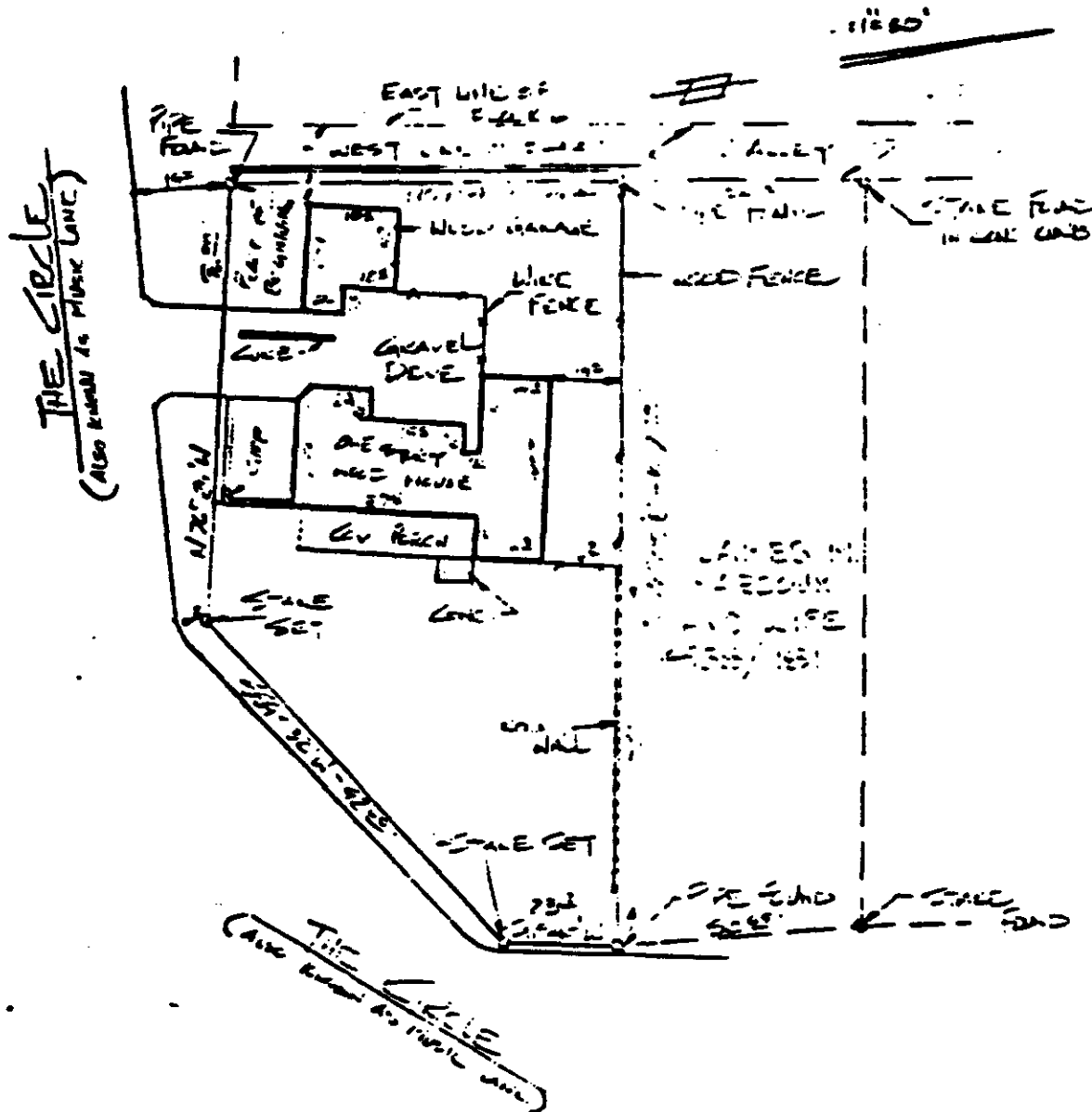
ORAKE

EXHIBIT B

Local Address: 1214 The Castle

Reference: Dr. Holt

Legal bearing, front East of Block 5 of Eastview City of Austin, Texas, as recorded in Book 1, Travis County, Texas Plat Records. (See attached field notes for notes and bounds.)



State of Texas: County of TRAVIS

The undersigned do hereby, certify that this survey was this day, made on the ground of the property legally described herein and is correct and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, over-hanging or improvements visible utility lines or roads in place, except as shown herein, and that said property has access to and from a public road, except as shown herein.

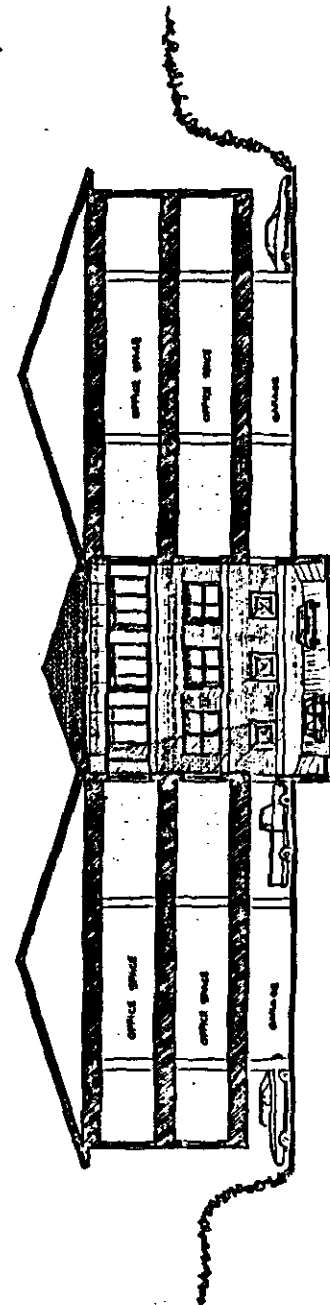
Date of birth: 1944 Sex: M Place of birth: India

I hereby certify that the property described herein
is NOT within a special flood hazard area as
indicated in the Flood Insurance Study of the
United States Department of Commerce, National
Flood Insurance Administration.

James Peelen
Registered Professional Engineer
29624



- [illegible]



SITE SECTION

**AGREEMENT
PROPOSED DEVELOPMENT STANDARDS
THE ESTATE AT 119 ACADEMY DRIVE**

This Agreement between the South River City Citizens Neighborhood Association (the "Neighborhood") and Academy Drive Joint Venture and its assigns (the "ADJV") shall become a part of the Fairview Park Neighborhood Conservation and Combining District (the "NCCD") and shall govern the development of the approximately 4.66 acres owned by Academy Drive Joint Venture and referred to as the Estate as shown in Exhibit "A". The Neighborhood and ADJV agree to the following:

1) Conditions to the Agreement

- a) This Agreement is not amendable without the approval of the City Council of the City of Austin, the Neighborhood and ADJV or the current owner of the Estate.
- b) ADJV's desire to be included in the NCCD is conditioned upon the acceptance of this Agreement by the City.
- c) The terms of this Agreement control in the event of a conflict with other City ordinances which would reduce the development guidelines established herein.
- d) The owner of the Estate will be subject to administrative review and approval for compliance with applicable ordinances and the conditions of this Agreement with notices to the Neighborhood prior to the issuance of a building permit for a development on the Estate.
- e) In the event the Neighborhood or ADJV feel the intent of this Agreement has not been fulfilled, then either party may request binding arbitration, as supervised by the American Arbitration Association. ADJV agrees to assume the responsibility for the cost of the arbitrator.

2) IIA - Access and Egress A TIA will be required for administrative review, however Section 5516 of the zoning ordinance will be waived. The project will be designed with ingress from Academy and egress on the south side of the property at The Circle. ADJV agrees to seek approval from the City for traffic patterns on The Circle to resemble as close as possible the drawing in Exhibit "D", understanding that the City traffic planners have final approval. ADJV also agrees, where desired by the property owner, to construct and maintain a six (6) foot wooden fence in the middle of ten feet of dense planting. ADJV will maintain planting on the north side of the fence and both sides of the fence at the street barrier. The fencing and planting will begin at the cul-de-sac egress point and extend along the south side of The Circle to the last single

family use on The Circle which is approximately 100 feet west of the present intersection of Nickerson, Park Lane and The Circle. Innovative transportation system management will be applied to neighborhood streets to discourage infiltration of traffic from this tract into the neighborhood, subject to approval by the Director of the Offices of Land Development Services for the City of Austin.

3) **Compatibility** The tracts described in Exhibit "B" will not trigger Compatibility Standards, Section 4700 of the zoning ordinance, on the adjoining MF-4 property.

4) **Density**

the minimum site area per dwelling unit on the Estate will be as stated below:

Dwelling Unit Size	Min. Site Area per Unit
Efficiency	1,500 square feet
One Bedroom	1,700 square feet
Two or more Bedrooms	1,775 square feet

However, in no event may the number of efficiencies exceed 14% of the total number of units. The maximum density permitted by this section will not be changed if ADJV, in its sole discretion, chooses to develop the Estate with condominiums or townhouses.

5) **Trees** It is agreed that trees are of significant value to the area residents and that an effort to preserve healthy protected trees will be made. As of January 24, 1986 The Tree Clinic surveyed all protected trees and classified them as stated below. As of February 24, 1986, ADJV toured the Estate with Jean Mather to determine all JFT trees.

Level JFT: Five to ten mutually agreed upon trees which must not be removed. Protective fences must be in place prior to the issuance of the Building Permit.

Level 1: Trees which are healthy and on an upward growth trend. These trees must be saved if they are within 75 feet of Academy Dr. or The Circle. Otherwise any Level 1 tree which is removed must be replaced on a one to one basis.

- Level 2:** Trees which are desirable but are not as healthy or significant as Level 1 trees. It is important to save these trees if possible. If any of these trees are removed they must be replaced on a one for one basis.
- Level 3:** Older trees which are not healthy and have limited lifespan. These trees are to be saved if they are not in the way of any proposed improvements. If any of these trees are removed they do not have to be replaced.

This information is attached to the Agreement as Exhibit "C". This Paragraph 5 is subject to final review and approval by the City Arborist.

6) **Impervious Cover** The maximum impervious cover for the Estate will be 70%. Additionally, ADJV will preserve and supplement (by offset tree planting, shrubs and ground cover) the existing tree barrier in the right of way for The Circle to create an effective visual barrier between the vacated right of way and the development on the Estate. Such visual barrier will be extended, to a depth of ten feet from The Circle, from cul-de-sac to cul-de-sac on the southeast property line. An interior driveway in the Estate can be built adjacent to the east property line but is not required to continue along the south property line. Buildings will be setback a minimum of 25 feet from the right of way line.

7) **The Circle** The ravine to the east of the Estate will be left in its natural condition. The City will be requested to vacate The Circle from Academy Dr. to 1310 The Circle and remove the pavement and replant the area with grass. ADJV may use a portion of this area for site detention constructed in accordance with the City's filtering standards. At the time of vacation the City will provide ADJV with easements for site detention as appropriate and ADJV will Quit Claim any interest in The Circle.

8) **Height Limits** The building heights will be limited as shown below, except that ADJV will have the option to use pitched roofs which will not be included in the restrictions stated below as follows:

- a) Within 55' from the east and 75' from the south property line buildings will be limited to 35 feet in height and will have pitched roofs. No dormers will be constructed facing the east and the south property line within these zones.
 - b) On the balance of the Estate the building heights will be limited to 45 feet.
- 9) **Utilities** All utilities owned by ADJV will be transferable

newpr5

within the NCCD, subject to the approval of the City Water and Wastewater Department.

10) Design Standards Clustering and architectural design will be left to the descretion of ADJV. The Estate is specifically exempt from the archetectural guidelines contained in the NCCD. Two structures within 55' of the east property line may have a dimension parallel to the property line up to 90'. No other building in the 55' or 75' setback will have a dimension parallel to the property line larger than 75'.

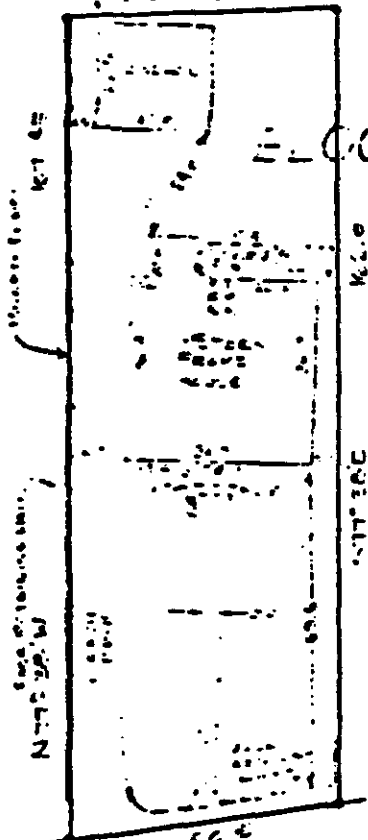
11) Amenities ADJV agrees that the amenity package for the Estate will include a pool with a minimum surface area of 1500 square feet. Five seating areas will be placed within the development. Dumpsters will be located in the interior of the property and at least 50' off the property line from cul-de-sac to cul-de-sac.

12) Tract 1 Should Tract 1 be downzoned to SF-2 or SF-3 ADJV agrees to not ask for a compatability waiver.

13) Statement of Intent It is the intent of the Neighborhood to allow ADJV to achieve the unit per acre density provided for herein, without further reduction of density at any later date.

SURVEY PLAT OF

Legal Address 1312 The Circle Apt Maroon
 Legal Description Lot No new lot 30 Block No _____
 a Subdivision of the City of _____ Tract of record in Plat Book _____
 Page _____ of the _____ County. Tract Plat Record.



LEGAL DESCRIPTION: A portion of Block 5 Fairview Park Addition, a subdivision in the City of Austin, Texas, found of record in Plat Book 3, at Page 46 of the Travis County, Texas Plat Records. See attached Field Notes.

THE 'CIRCLE

STATE OF TEXAS
COUNTY OF TARRANT

The undersigned hereby certifies that this vehicle was the day coach on the ground of the property for a period of three and a half years, and is to be used, and that there are no other persons entitled to possess or to use the vehicle for the purpose of the contract, and that the undersigned is the sole owner of the vehicle and is the only person who is entitled to use the vehicle, and that the undersigned has access to and from a dedicated roadway, except as shown herein.

Dated this 14th day of November 1975

[illegible]

Charles F. Rippy
6-10-1968
6-10-1968

EXHIBIT C

EVALUATION OF PROTECTED TREES

Survey Site: 119 Academy, Austin, Texas

Submitted by

**Brad Barber
Urban Forester
Consultation
Tree Clinic**

Submitted to

**Ms. Patti Halladay
Benson Investments**

January 24, 1986

INTRODUCTION

The property located at 119 Academy was surveyed on January 21, 1986 to evaluate the condition of each of the trees protected by the City of Austin's Tree Ordinance. Each protected tree was evaluated according to the criteria of the Basic Formula Method of tree appraisal. "Protected trees" are defined as trees which have a circumference of 60" or greater, measured at 4 1/2 feet above the ground.

METHODS

The Basic Formula Method was modified for this study to provide a rating system of the overall health of the tree rather than being used for calculating the financial value of the tree. Each protected tree was evaluated according to the following criteria: percentage of circumference wounded or decayed; percentage of crown dead, missing or damaged; percentage of root system damaged or destroyed and the percentage of the tree affected by insects or disease. The location factor was not used in this study because the value due to location will vary depending upon how the site is to be developed. The percentage figures for each tree were multiplied according to the formula technique and then converted to a number on a scale of 1-10. This number represents the overall health of the tree on a relative scale.

The scale was divided into three levels, according to the criteria established by William D. Bensen Investments. These criteria are as follows:

Level 1: Trees which are healthy and on an upward growth trend. This level includes trees rated from 7 to 10.

Level 2: Trees which are desirable but are not as healthy or significant as Level 1 trees. Level 2 includes trees rated from 4 to 6.

Level 3: Older trees which are not healthy and have a limited life span. Trees rated 3 or below are included in this level.

Page 3

EVALUATION OF PROTECTED TREES

Breakpoints for the classification levels were established subjectively because no specific guidelines are available. Breakpoints were set to approximate a normal distribution of trees falling into each of the three categories, with the mean rating value being in Level 2.

RESULTS

Fifty eight trees were evaluated. Two of these trees were protected trees which did not appear on the tree survey (trees #11 & #16). Trees #24 and #27 are listed on the tree survey as protected trees but are actually are smaller than 60" in circumference. Twelve trees were placed in Level 1, 36 trees in Level 2 and 7 trees in Level 3. Tree #19, listed as a 24" dbh cedar elm was not found but a stump was found in the vicinity. Tree # 57 is actually on the right-of-way rather than on 119 Academy.

Two trees (#12 & 17) trees in Level 1 are within 75 feet of Academy or The Circle and therefore must either be saved or replaced on a two-to-one basis. The following trees in Level 2 are within 75 feet of Academy or The Circle: #1,2,4,6,10,13,16,20,31-33,34,36-38 and 41-44.

The rating results for each of the trees are tabulated and summarized in the following two tables.

Tree Evaluation for William D. Benson Investments

SUMMARY OF TREE CLASSIFICATIONS

LEVEL 1 (TREE#)	LEVEL 2 (TREE#)	LEVEL 3 (TREE#)
3	1 30	5
11	2 32	23
12	4 34	27
17	6 35	28
29	7 36	39
33	8 37	40
45	9 38	57
46	10 41	
50	13 42	
51	14 43	
55	15 44	
56	16 47	
	18 48	
	20 49	
	21 52	
	22 53	
	25 54	
	30 58	

Tree Evaluation for William D. Benson Investments
Job Location: 119 Academy Austin, Texas

Key: LO = Live oak SP = Spanish oak J = Juniper HB = Hackberry
* = Trees not appearing on tree survey
** = "protected" trees on survey actually < 60" circumference
*** = protected tree in right-of-way

Tree #	Species	Circumf. (inches)	Trunk Class	Crown Class	Roots Class	Overall Rating	Distance from Academy
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1	LO	99	9	8	9	6	<75'
2	LO	80	8.5	7.5	10	6	<75'
3	LO	99	8.5	9	10	8	
4	CE	74	8	6.5	10	5	<75'
5	J	>60	6.5	8.5	5	3	<75'
	J	>60	7	8	9	5	<75'
	J	127	6.5	8	10	5	
8	J	>60	6.5	8.5	10	6	
9	J	>60	7	7.5	10	5	
10	J	>60	7	8	10	6	<75'

11 *	LO	92	7.5	5.5	7	3	
12	J	>60	5	6	10	3	<75'
13	LO	82	7	6.5	10	5	<75'
14	J	>60	7	7	10	5	
15	LO	54	7	7	10	5	
16*	LO	106	8	7	7.5	4	<75'
17	LO	72	9	8	10	7	<75'
18	SP	61	7.5	6	9.5	5	
19	CE	Stump found where tree was mapped					
20	LO	82	8.5	7	8.5	5	<75'
21	J	>60	8.5	7.5	4.5	3	
22	LO	82	8	8	10	6	
23	LO	70	5	4.5	5	1	
24 **	LO	51					
25	LO	67	8.5	7	10	6	
26	LO	60	6	6.5	8	3	
27 **	LO	53					

28	LO	84	5	5	10	3	
29	LO	111	9	8	9.5	7	
30	LO	62	8	5	10	4	<75'
31	J	>60	7	6	10	4	<75'
32	LO	80	8.5	7.5	10	6	<75'
33	LO	62	8	7	5	3	
34	J	>60	7.5	7.5	8	5	<75'
35	J	>60	9	8.5	7	5	
36	LO	84	8	7	7	4	<75'

Tree Evaluation for William D. Benson (continued)

Tree #	Species	Circumf (inches)	Trunk Class	Crown Class	Root Class	Overall Rating	Distance From Academy
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38	LO	81	9.5	8	8	6	<75'
39*	LO	95	8	7	5	2	<75'
40*	LO	71	9	7.5	5	3	<75'
41	LO	66	9	7.5	8.5	6	<75'
42	LO	110	6	7	10	4	<75'
43	J	>60	6.5	7	9	5	<75'
44	HB	31, 48	9	7	9.5	6	<75'
45	LO	62	9.5	8.5	10	8	
46	LO	66	9.5	8	10	8	
47	LO	74	7	8	10	6	
48	J	70	6.5	6.5	10	4	
49	LO	60	8	8	10	6	
50	LO	72	9.5	9	9.5	8	
51	LO	73	9.5	7.5	10	7	
52	J	>60	5.5	7.5	10	4	
53	LO	66	8	7	10	6	
54	LO	70	9	7	9.5	6	
55	LO	34, 39, 45	9	8.5	10	8	
56	LO	64	9.5	8.5	9.5	8	
57 ***	LO	61	8.5	7	5	3	
58	LO	78	8	9	8	6	

JFT TREES are defined as trees number 1, 2, 4, 5, 10, 36, 37, 38, and trees number 30 and 35. Trees number 30 and 35 can be substituted by retaining a line of cedars along the south property line near the cul de sac area. Tree numbers are matched to those on the tree survey completed by The Tree Clinic on January 24, 1896.

EXHIBIT D

1 0100

WELLS ST.

CONGRESS

AVENUE

4

CIRCLE

9

13

EAST GIBSON STREET

TRAP
BARRI
BLATTING & FENCING

DECKER

8

5

LEAGUE

2

DRIVE

7

ACADEMY

3 R

4

CIRCLE

5

THE

AVENUE

18

10

DRAKE

DRIVE

RAVINE

71

11

88

70

HILL SIFT

(Part 2)

**AGREEMENT
PROPOSED DEVELOPMENT STANDARDS
SOUTH CONGRESS AND ACADEMY DRIVE**

This Agreement between the South River City Citizens (the "Neighborhood") and Academy Drive Joint Venture and its assigns (the "ADJV") shall become a part of the Fairview Park Neighborhood Conservation and Combining District (the "NCCD") and shall govern the development of the approximately 10.1 acres, which may or may not include Tract 1, bounded by South Congress, The Circle Drive and Academy Drive (and referred to as the "Block") as shown in Exhibit "A". The Neighborhood and ADJV agree to the followings:

1) Conditions to the Agreement

- a) ADJV does not own all of the property in the Block. This Agreement will only take affect if ADJV is able to acquire portions of the Block (except for Tract 1) it does not now own. In the event ADJV is able to acquire such property then the Block will be subject to this Agreement.
- b) This Agreement is not amendable without the approval of the City Council of the City of Austin, the Neighborhood and ADJV or the current owner of the Block.
- c) ADJV's desire to be included in the NCCD is conditioned upon the acceptance of this Agreement by the City.
- d) The terms of this Agreement control in the event of a conflict with other City ordinances which would reduce the development guidelines established herein.
- e) The owner of the Block will be subject to administrative review and approval for compliance with applicable ordinances and the conditions of this Agreement with notices to the Neighborhood prior to issuance of a building permit for a development on the Block.
- f) In the event the Neighborhood or owners feel the intent of this Agreement has not been fulfilled, then either party may request binding arbitration, as supervised by the American Arbitration Association. The owner agrees to assume the responsibility for the cost of the arbitrator.

2) IIA - ACCESS AND EGRESS A TIA will be required for administrative review, however Section 5516 of the zoning ordinance will be waived. The project will be designed with primary divided boulevard access and egress from South Congress and secondary access on Academy Drive and egress on The Circle west of Tract 1. Innovative transportation systems managment will be applied to neighborhood streets to discourage

infiltration of traffic from this tract into the neighborhood, subject to approval by the Director of the Offices of Land Development Services for the City of Austin.

3) **Compatibility** The tracts described in Exhibit "B" will not trigger Compatibility Standards, Section 4700 of the zoning ordinance, on the adjoining MF-4 property.

4) **Density** The maximum Floor to Area Ratio (FAR) on the Block will be .8 to 1. A minimum of one third of the floor area of the total project will be residential. Maximum densities allowed will not be reduced if ADJV, at its sole discretion, chooses to develop this project with condominiums or townhomes.

5) **Trees** It is agreed that trees are of significant value to the area residents and that an effort to preserve healthy protected trees will be made. As of January 24, 1986 The Tree Clinic surveyed all protected trees and classified them as stated below. As of February 24, 1986, ADJV toured the Estate with Jean Mather to determine all JFT trees.

Level JFT: Five to ten mutually agreed upon trees which must not be removed. Protective fences must be in place prior to the issuance of the Building Permit.

Level 1: Trees which are healthy and on an upward growth trend. These trees must be saved if they are within 75 feet of Academy Dr. or The Circle. Otherwise any Level 1 tree which is removed must be replaced on a one to one basis.

Level 2: Trees which are desirable but are not as healthy or significant as Level 1 trees. It is important to save these trees if possible. If any of these trees are removed they must be replaced on a one for one basis.

Level 3: Older trees which are not healthy and have limited lifespan. These trees are to be saved if they are not in the way of any proposed improvements. If any of these trees are removed they do not have to be replaced.

Once the tour has been completed for the entire Block and the trees classified, the information will be attached to this Agreement as Exhibit "C". This Paragraph 5 is subject to final review and approval by the City Arborist. This task will be completed at the time of purchase.

6) **Impervious Cover** The maximum impervious cover for the Block will be 85%, however the 4.66 acre tract which is labeled as the

Estate on Exhibit "A", will be limited to 70% impervious cover. Additionally, ADJV will preserve and supplement (by offset tree planting, shrubs and ground cover) the existing tree barrier in the right of way for The Circle to create an effective visual barrier between the vacated right of way and the development on the Block. Such visual barrier will be extended, to a depth of ten feet from The Circle, to the west property line of Lot 3 Block 6. An interior driveway in the Block can be built adjacent to the east property line but is not required to continue along the south property line. Buildings will be set back a minimum of 25 feet from the current right of way.

7) The Circle The ravine to the east of the Block will be left in its natural condition. The City will vacate The Circle from Academy Dr. to 1310 The Circle and remove the pavement and replant the area with grass. ADJV may use a portion of this area for site detention for runoff created by development on the Estate and constructed according to the City's filtering standards. At the time of vacation the City will provide ADJV with easements for site detention as appropriate and ADJV will Quit Claim any interest in The Circle. ADJV will make an effort to locate surface detention for the Block on the Estate in order to create more greenspace.

8) Height Limits The building heights will be limited as shown below, except that ADJV will have the option to use pitched roofs which will not be included in the restrictions stated below as follows:

- a) Within 55' from the east and 75' from the south property line buildings will be limited to 35 feet in height and will have pitched roofs. No dormers will be constructed facing the east and south property line within these zones.
- b) On the balance of the Block the building heights will be limited to 45 feet.

9) Utilities All utilities owned by ADJV will be transferable within the NCCD subject to the approval of the City Water and Wastewater Department.

10) Design Standards Clustering and architectural design will be left to the discretion of ADJV. The Block is specifically exempt from the architectural guidelines referred to in Section II, Modifications, #8 and in Section VII of the NCCD report. Two structures within 55' of the east property line may have a dimension parallel to the property line up to 90'. No other building in the 55' or 75' setback will have a dimension parallel to the property line larger than 75'.

11) Zoning The block will be zoned MU-CS and MU-CS1. No

commercial structures will be allowed within 125' of the east property line of the Block.

12) Parking Parking requirements for the Block will be adjusted according to Section 5723 of the zoning ordinance for Mixed Use projects. All parking required for any development for the Block will be on-site.

13) Tract 1 In the event the Tract 1 as shown on Exhibit "A" is included in the Block it will be zoned MU-CS. No commercial structures will be built within 75' of The Circle on Tract 1 and no dumpsters will be placed within 50' of the The Circle and the 10' visual buffer will continue along this property.

14) Noise Levels In the event outdoor entertainment is provided at the Block, the noise level will not exceed 70 db at the property line of the nearest single family property line.

15) Amenities ADJV agrees that the amenity package for the Block will include a pool with a minimum surface area of 1500 square feet. Five seating areas will be placed within the development. Dumpsters will be located in the interior of the property and will be at least 50' from The Circle between the cul-de-sac on The Circle and the west property line of Lot 3 Block 6.

16) Statement of Intent It is the intent of the Neighborhood to allow ADJV to achieve the unit per acre density provided for herein, without further reduction of density at any later date.