

121

ZONING CHANGE REVIEW SHEET

CASE: C14-01-0070

P.C. DATE: July 24, 2001

July 31, 2001

August 21, 2001

C.C. DATE: September 27, 2001

ADDRESS: 910 West Cesar Chavez

OWNER/APPLICANT: Lumberman's Investment
(O. Phillip Breland)

AGENT: Lock, Liddell & Sapp
(Jay Hailey)

ZONING FROM: DMU

TO: DMU-CURE (Tract 1 and 2)

AREA: 4.521 acres

SUMMARY STAFF RECOMMENDATION:

Staff recommends the proposed zoning change to DMU-CURE, Downtown Mixed Use-Central Urban Redevelopment District. The CURE overlay would increase the height allowed under the DMU zoning district to 180 feet.

PLANNING COMMISSION RECOMMENDATION:

July 24, 2001 – Postponed one week by Planning Commission (Vote: 5-0).

August 21, 2001 – Approved staff recommendation (Vote 7-1, J. Mather-nay, R. Cravey-absent).

ISSUES:

At this time the applicant has an approved zoning site plan, which was approved October 18, 1984, to construct a 15 story office tower and a parking garage on tract 1 (see exhibit A). This site plan does not have an expiration date and may be used for the construction of a new project today. On January 8, 2001 the City of Austin entered into a Settlement Agreement (see exhibit B) with the Lumberman's Investment Corporation (LIC). The settlement was a result of a lawsuit between the City and LIC, in regards to a boundary dispute. As a condition of the settlement, if the City of Austin grants approval of the proposed project, the approved zoning site plan will be terminated. However, the owner of the property must adhere to certain "Project Characteristics" as noted in section 8 and 9 of the settlement agreement, which states:

- The project must adhere to DMU development regulations, as well as provisions in the Waterfront Overlay Combining District and the Northshore Central Subdistrict.
- It shall be a mixed-use project with a floor area of 400,000 and 500,000 square feet, with a parking structure for at least 600 automobiles
- The gross floor area shall contain at least 60% of residential with the balance for commercial uses allowed in the DMU zoning district.
- The proposed project shall conform to all LDC regulations governing zoning, subdivision and site plans, aside from the exceptions within this agreement. Also the owner will work with City staff, should conflicts arise between this project and the Seaholm District Master Plan

- One building on the northwest corner shall be 180 feet, with the remaining buildings in the Capitol View Corridor averaging a height (including the 180 foot building) of 120 feet.

The property lies within the Seaholm District Master Plan Boundaries (SDMP). The SDMP is attempting to revitalize this section of downtown with a mixture of retail, office and high density residential. The SDMP illustrative plan suggests a residential, mixed-use development for the property (see exhibit C). A larger map showing the entire SDMP area will be provided at the meeting.

At this time a site plan for the new project has not been submitted to the City of Austin for formal review. The proposed project is located within the Waterfront Overlay Combining District, and as per the settlement agreement must adhere to the provisions set forth in the Land Development Code (a copy of the overlay has been included).

As requested by the Planning Commission, this case was heard by the Parks Board on August 14. By a vote of 5-2, the Board voted to not support the proposed zoning change. The concern was the precedent this would set for development along Town Lake.

DEPARTMENT COMMENTS:

Downtown Mixed-Use zoning district is intended for areas on the periphery of CBD, Central Business District designations. DMU may be applied to a development that includes any combination of office retail, commercial, and residential uses compatible with the downtown area. A DMU district may be used as a transition between the downtown area and surrounding districts. A DMU district is suitable for an area to which the Central Business District may expand.

The CURE combining district is intended for a combination with all base districts within specific central urban areas, in order to modify base district provisions as necessary to allow for appropriate uses. The proposed CURE is appropriate at this location in order to allow the proposed mixed use development.

Staff recommends the proposed zoning change. The project is consistent with the purpose statement set forth in the Land Development Code. The property is located on the periphery of the Central Business District, within the recognized downtown area boundaries.

As per the settlement agreement, the project will be a mixed-use project combining retail, office and at least 60% residential. It is this type of development that should be encouraged within the downtown core.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	DMU	Bar
<i>North</i>	DMU DMU-CO	Retail, Art Studio Residential, Office
<i>South</i>	P -	Town Lake
<i>East</i>	P	Seaholm Power Plant
<i>West</i>	LI	Baseball Fields

AREA STUDY: Seaholm Master Plan

TIA: N/A

WATERSHED: Town Lake

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: Yes

HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

057 – Old Austin Neighborhood Association
300 – Terrell Lane Interceptor Association
402 – Downtown Austin Neighborhood Association
602 – Downtown Neighborhood Association
623 – City of Austin Downtown Commission
998 – West End Austin Alliance

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-00-2132	DMU to CBD	Approved CBD-CO w/co that the owner reconnect the hike and bike trail along Shoal Creek (Vote: 8-0, S.A. – absent). 8/22/00	Approved P.C. recommendation (Vote: 7-0). 9/28/00.
C14-00-2127	DMU to CBD	Approved CBD-CO w/co that the owner reconnect the hike and bike trail along Shoal Creek (Vote: 8-0, S.A. – absent). 8/22/00	Approved P.C. recommendation (Vote: 7-0). 9/28/00.
C14-99-0002	P to DMU-CO	Approved DMU-CO limiting trips to 2,000 per day (Vote: 9-0). 2/9/99	Approved P.C. recommendation (Vote: 7-0). 4/15/99

ABUTTING STREETS:

STREET	RIGHT-OF-WAY	PAVEMENT WIDTH	CLASSIFICATION	DAILY TRAFFIC
Lamar Boulevard	200'	48'	Arterial	52,980
Sandra Muraida Way	80'	44'	Collector	not available
Cesar Chavez Boulevard	80'	41'	Arterial	43,410

CITY COUNCIL DATE: September 27, 2001

ACTION:

ORDINANCE READINGS: 1st

2nd

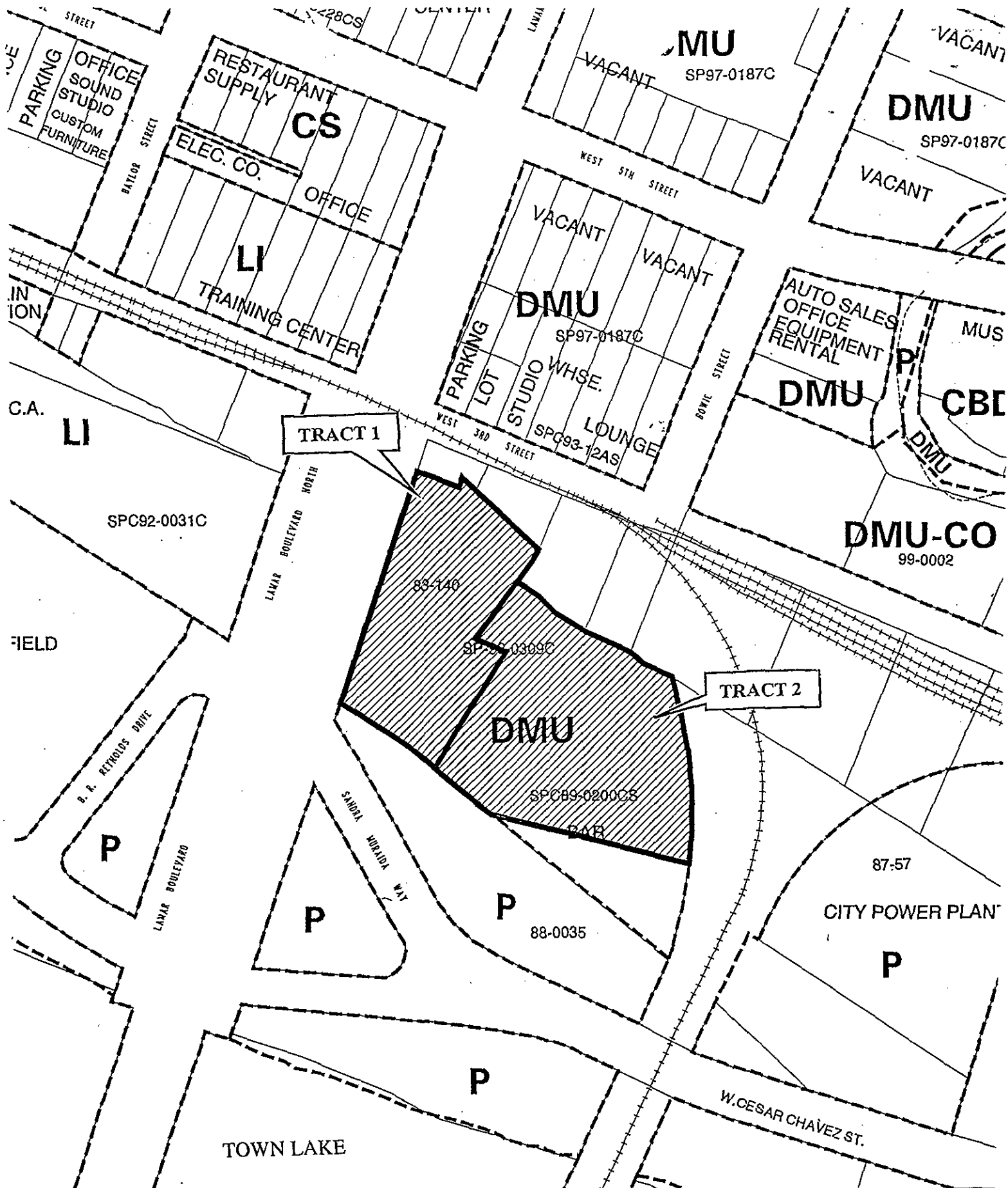
3rd

ORDINANCE NUMBER:

CASE MANAGER: Glenn Rhoades

PHONE: 499-2775

E-MAIL: glenn.rhoades@ci.austin.tx.us



SUBJECT TRACT
PENDING CASE
ZONING BOUNDARY
CASE MGR: G.RHOADES



CASE #: C14-01-0070

ADDRESS: 910 W.CESAR CHAVEZ ST.

SUBJECT AREA (acres): 4.521

ZONING

DATE: 01-04

INTLS: TRC

CITY GRID
REFERENCE
NUMBER

H22

STAFF RECOMMENDATION

C14-01-0070

Staff recommends the proposed zoning change to DMU-CURE, Downtown Mixed Use-Central Urban Redevelopment District.

BACKGROUND

At this time the applicant has an approved zoning site plan, which was approved October 18, 1984, to construct a 15 story office tower and a parking garage on tract 1 (see exhibit A). On January 8, 2001 the City of Austin entered into a Settlement Agreement (see exhibit B) with the Lumberman's Investment Corporation (LIC). The settlement was a result of a lawsuit between the City and LIC, in regards to a boundary dispute. As a condition of the settlement, if the City of Austin grants approval of the proposed project, the approved zoning site plan will be terminated. However, the owner of the property must adhere to certain "Project Characteristics" as noted in section 8 and 9 of the settlement agreement.

BASIS FOR RECOMMENDATION

Downtown Mixed Use zoning district is intended for areas on the periphery of CBD, Central Business District designations. DMU may be applied to a development that includes any combination of office retail, commercial, and residential uses compatible with the downtown area. A DMU district may be used as a transition between the downtown area and surrounding districts. A DMU district is suitable for an area to which the Central Business District may expand.

The CURE combining district is intended for a combination with all base districts within specific central urban areas, in order to modify base district provisions as necessary to allow for appropriate uses. The proposed CURE is appropriate at this location in order to allow the proposed office and financial service uses.

Staff recommends the proposed zoning change. The project is consistent with the purpose statement set forth in the Land Development Code. The property is located on the periphery of the Central Business District, within the recognized downtown area boundaries.

As per the settlement agreement, the project will be a mixed-use project combining retail, office and at least 60% residential. It is this type of development that should be encouraged within the downtown core.

EXISTING CONDITIONS

Site Characteristics

The 4.521 acre tract is currently occupied with a bar

Impervious Cover

The maximum impervious cover allowed under DMU zoning is 100%

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Town Lake Watershed, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Drinking Water Protection Zone/ Desired Development Zone. Impervious cover is not limited in this watershed class. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm.

According to flood plain maps, a large portion of the site is within the floodplain.

At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Transportation

At this time the dedication of additional ROW is not necessary. When a site plan application is submitted for this project additional ROW may be required to be dedicated along Lamar Boulevard, Cesar Chavez Boulevard and Sandra Muraida Way.

The trip generation under the requested zoning is estimated to be 4,667 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

The traffic impact analysis for this site was waived because zoning is intended to implement the settlement agreement approved by City Council. A traffic impact analysis will be required when a site plan application is submitted.

Water and Wastewater

The landowner intends to serve the tract with City of Austin water and wastewater utility service. If water or wastewater utility improvements are required, the landowner will be responsible for all cost and for providing the utility improvements.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

Compatibility Standards

There does not appear to be adjacent zoning, which would trigger implementation of Compatibility Standards regulations.

ORDINANCE NO. 841018-V

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1981 AS FOLLOWS:

LOT A, JETCO PARTNERS INTERNATIONAL RESUBDIVISION ONE, LOCALLY KNOWN AS 219 NORTH LAMAR BOULEVARD, FROM "D" INDUSTRIAL, THIRD HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL, THIRD HEIGHT AND AREA DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

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

PART 1. Chapter 13-2 of the Austin City Code of 1981 is hereby amended to change the USE and HEIGHT and AREA designations from "D" Industrial, Third Height and Area District to "C" Commercial, Third Height and Area District on the property described in File C14-83-140, to-wit:

Lot A, Jetco Partners International Resubdivision One (1), an addition to the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 83, Page 184A, Plat Records of Travis County, Texas,

locally known as 219 North Lamar Boulevard in the City of Austin, Travis County, Texas.

PART 2. It is hereby ordered that the USE and HEIGHT and AREA maps accompanying Chapter 13-2 of the Austin City Code of 1981 and made a part thereof shall be changed so as to record the change ordered in this ordinance.

PART 3. That the development of the property herein described shall be accomplished in accordance with the site plan approved by the City Council and attached hereto as Exhibit "A". Except to the extent that such site plan is inconsistent therewith, the development and use of the property described herein shall be in accordance with the ordinance of the City of Austin governing development and use of property in the use, height and area districts established on said property by this ordinance. The site plan as finally approved may be adjusted or altered subsequently in accordance with the same procedures as outlined in subsection 13-2-192(i) of the Austin City Code of 1981.

PART 4. WHEREAS, an emergency is apparent for the immediate preservation of order, health, safety and general welfare of the public, which emergency requires the suspension of the rule providing for the reading of an ordinance on three separate days, and requires that this ordinance become effective immediately upon its passage; therefore, the

Exhibit A

CITY OF AUSTIN, TEXAS

rule requiring the reading on three separate days is hereby suspended and this ordinance shall become effective immediately upon its passage as provided by the Charter of the City of Austin.

PASSED AND APPROVED

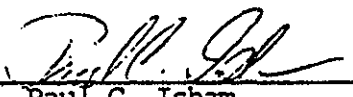
October 18, 1984

X
X
X
X

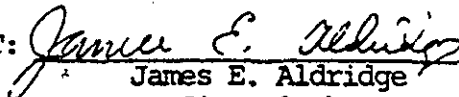


Ron Mullen
Mayor

APPROVED:


Paul C. Isham
City Attorney

ATTEST:


James E. Aldridge
City Clerk

WMC/saf



Exhibit

C14-83-140

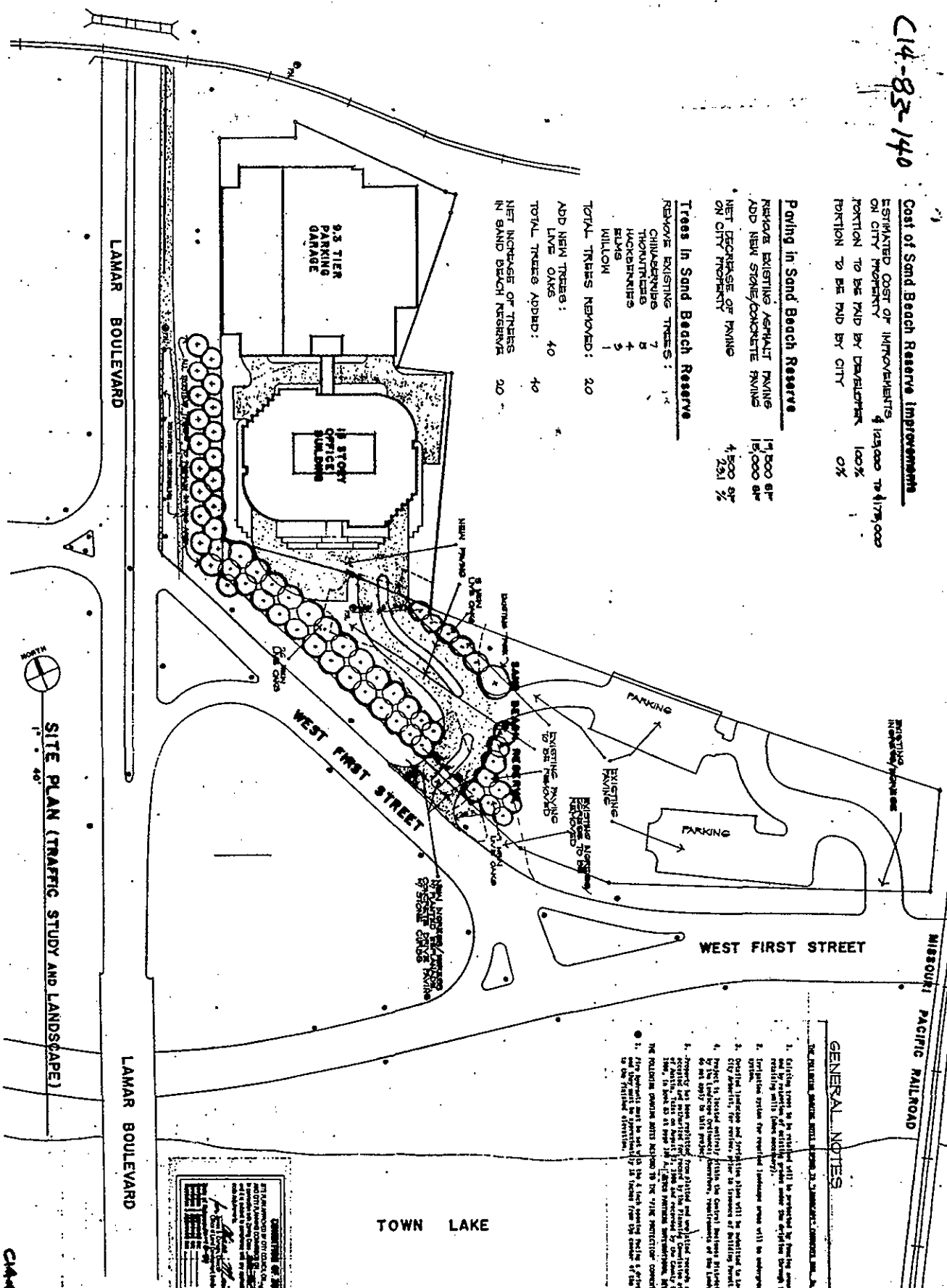
Cost of Sand Beach Reserve Improvements
 ESTIMATED COST OF IMPROVEMENTS \$123,000 to \$175,000
 ON CITY PROPERTY 100%
 PORTION TO BE PAID BY DEVELOPER 0%

Paving in Sand Beach Reserve

REMOVE EXISTING ASPHALT PAVING 19,500 SF
 ADD NEW STONE/CONCRETE PAVING 15,000 SF
 NET DECREASE OF PAVING 4,500 SF
 ON CITY PROPERTY 251 %

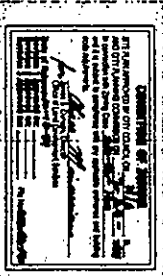
Trees in Sand Beach Reserve

REMOVE EXISTING TREES: 14
 CHINA BERRY 7
 THORNAPPLE 5
 JACKBERRIES 4
 BIRCH 4
 WILLOW 1
 TOTAL TREES REMOVED: 20
 ADD NEW TREES: 40
 LIVE OAKS 40
 TOTAL TREES ADDED: 40
 NET INCREASE OF TREES IN SAND BEACH RESERVE 20



GENERAL NOTES

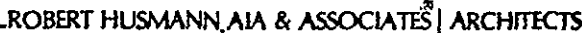
1. Grading shall be in accordance with the proposed grading plan and by reference to existing ground elevations. The existing ground elevations shall be taken from the existing ground surface.
2. Erosion control measures shall be installed in accordance with the proposed erosion control plan.
3. Grading, paving and proposed landscaping shall be completed in accordance with the proposed grading, paving and landscaping plans.
4. The proposed landscaping shall be installed in accordance with the proposed landscaping plan.
5. The proposed landscaping shall be installed in accordance with the proposed landscaping plan.



REVISIONS: DATE: PROJECT: JETCO OFFICE BUILDING AUSTIN, TEXAS

SITE PLAN (TRAFFIC STUDY AND LANDSCAPE)

CA-00001A



SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is executed effective as of January 8, 2001 (the "Effective Date") between the CITY OF AUSTIN, a Texas home rule city and municipal corporation (the "City"), and LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation ("LIC"), relating to a lawsuit between the City and LIC, Cause No. 99-13013 in the 126th Judicial District Court of Travis County, Texas (the "Lawsuit").

RECITALS

A. LIC holds record title to two tracts of land containing approximately 1.94 acres and 3.19 acres, collectively referred to as the "**LIC Property**", located near the intersection of Lamar Boulevard and Cesar Chavez Street, as shown on the attached Exhibit "A".

B. The City holds record title to the land adjacent to the south boundary of the LIC Property known as the "**Sand Beach Reserve**", as shown on the attached Exhibit "A".

C. In the Lawsuit, the City alleges that the north boundary line of the Sand Beach Reserve (which forms the south boundary line of the LIC Property) was incorrectly located in a 1916 survey of the Sand Beach Reserve.

D. The City alleges that the proper location of the common boundary line between the LIC Property and the Sand Beach Reserve is somewhere north of the south boundary line of the LIC Property.

E. In response to the Lawsuit, LIC alleges that the south boundary line of the LIC Property, as shown on the attached Exhibit "A", is the correct boundary line between the LIC Property and the Sand Beach Reserve, and alleges that the City has ratified, acquiesced and caused others to rely on such boundary line through a course of conduct over a period of 84 years.

F. LIC wishes to develop and construct a mixed-use project on the LIC Property (the "**Project**"), but it has been unable to do so because of the uncertainty created by the Lawsuit.

G. The City wishes to have the LIC Project developed and constructed in a manner that is compatible with and enhances the Sand Beach Reserve parkland and the proposed redevelopment of the adjacent Seaholm Power Plant as a museum or other public facility (the "**Seaholm Project**").

H. LIC and the City wish to settle the Lawsuit by establishing the south boundary of the LIC Property, as shown on the attached Exhibit "A", as the common boundary line between the LIC Property and the Sand Beach Reserve (the "**Agreed Boundary Line**"), subject to the terms and conditions set forth in this Agreement.

B

I. LIC and the City also wish to enter into various agreements relating to the development and construction of the Project in a manner that is compatible with the adjacent Sand Beach Reserve parkland and the Seaholm Project.

NOW, THEREFORE, in consideration of the foregoing recitals; the mutual benefits to be received by the City and LIC by settling the Lawsuit; and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LIC and the City hereby agree as follows:

1. Agreed Judgment. Within five (5) days after the Effective Date of this Agreement, LIC and the City shall jointly request the State of Texas, acting by and through the Texas Attorney General ("Attorney General"), to intervene in or to consent to be joined as a party in the Lawsuit for the purpose of giving his consent and approval on behalf of the State of Texas to the entry of the Agreed Judgment. If the Attorney General consents to and approves the Agreed Judgment, then LIC, the City and the Attorney General, on behalf of the State of Texas, shall execute an Agreed Judgment with respect to the Lawsuit substantially in the form attached hereto as Exhibit "E". If the Attorney General fails to give his consent and approval to the entry of the Agreed Judgment within sixty (60) days after the Effective Date of this Agreement, this Agreement and the documents executed pursuant thereto shall automatically become null and void, unless LIC and the City Manager mutually agree to extend the time period for obtaining such consent and approval for an additional thirty (30) days. Thereafter, any extension of the time period for obtaining such approval may only be granted by the City Council. As soon as possible after such execution of the Agreed Judgment, LIC and the City shall submit the Agreed Judgment for entry by the District Court of Travis County. If the District Court fails to enter the Agreed Judgment, this Agreement and all documents executed pursuant thereto shall automatically become null and void and the parties are relieved of their obligations hereunder.

2. Boundary Line Agreement. Simultaneously with the execution of this Agreement, LIC and the City shall execute a Boundary Line Agreement substantially in the form attached hereto as Exhibit "F", which establishes the Agreed Boundary Line as the common boundary line between the LIC Property and the Sand Beach Reserve. The executed Boundary Line Agreement shall not become effective and shall not be recorded until the entry of the Agreed Judgment referenced in Section 1 hereof.

3. Conveyance of LIC Parcel A. Simultaneously with the execution of this Agreement and the Boundary Line Agreement, LIC shall execute a Special Warranty Deed, in a form mutually acceptable to LIC and the City, which conveys to the City a tract of land at the southeast corner of the LIC Property adjacent to the Sand Beach Reserve ("LIC Parcel A"), as shown on the attached Exhibit "B" and to be more particularly described in a survey thereof to be provided by LIC. The executed Special Warranty Deed for LIC Parcel A shall not become effective and shall not be recorded until the entry of the Agreed Judgment referenced in Section 1 hereof.

4. Conveyance of LIC Parcel B. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, LIC shall execute and deliver to the City a Special Warranty Deed, in a form mutually acceptable to LIC and the City, which conveys to the City a tract of land at the

northwest corner of the LIC Property adjacent to the Union Pacific Railroad Company right-of-way ("LIC Parcel B"), as shown on the attached Exhibit "C" and to be more particularly described in a survey thereof to be provided by LIC. If the City does not acquire the Union Pacific Parcel as provided in Section 5 hereof, the conveyance of LIC Parcel B to the City shall be subject to the City's agreement to maintain LIC Parcel B in such a manner that it does not become a nuisance or detriment to the LIC Project, and LIC, at its option and expense shall have the right to landscape and maintain LIC Parcel B for so long as it remains vacant.

5. Acquisition of Union Pacific Parcel. The City shall negotiate in good faith to acquire the tract of land now owned by Union Pacific Railroad Company adjacent to the LIC Property, as shown on the attached Exhibit "D" and to be more particularly described in a survey thereof to be provided by LIC (the "**Union Pacific Parcel**"). Subject to LIC receiving Project Approval pursuant to Section 8 hereof, LIC agrees to pay up to Seven Hundred Fifty Thousand Dollars (\$750,000) of the purchase price and closing costs, which amount shall be paid at the closing of the purchase of the Union Pacific Parcel, and the City shall pay any amount in excess thereof. If the City is not able to acquire the Union Pacific Parcel on terms acceptable to the City within the later of (i) one (1) year after the Effective Date of this Agreement, or (ii) thirty (30) days after LIC receives Project Approval pursuant to Section 8 hereof, the City shall have no obligation to acquire the Union Pacific Parcel; and the amount to be paid by LIC to the City for the purchase of the Union Pacific Parcel referenced in this Section 5 shall instead be paid by LIC to the City for the Alternative Parking as defined and provided in Section 6 hereof.

6. Parking Plaza. If LIC Parcel B and the Union Pacific Parcel are conveyed to the City, such Parcels shall be used to construct a landscaped public parking plaza consisting of a two-lane driveway with not less than one hundred twenty-five (125) head-in parking spaces (the "**Parking Plaza**") and a twelve (12) foot wide bikeway on the northern edge of the Parking Plaza. The Parking Plaza shall be designed and constructed in accordance with plans and specifications to be prepared by the City and approved by LIC, and shall be completed no later than the completion of the LIC Project. All costs relating to the construction of the Parking Plaza shall be paid by the City. If the City is unable to acquire the Union Pacific Parcel as provided in Section 5 hereof, and subject to LIC receiving Project approval pursuant to Section 8 hereof, the Seven Hundred Fifty Thousand Dollar (\$750,000) payment to be made by LIC to the City referenced in Section 5 hereof shall instead be paid by LIC to the City for the construction of no less than one hundred twenty-five (125) landscaped, public parking spaces at a mutually acceptable location on City-owned land near the LIC Project and the Seaholm Project (the "**Alternative Parking**"). Such amount shall be paid by LIC to the City upon the commencement of construction of the Alternative Parking. The Alternative Parking shall be designed and constructed in accordance with plans and specifications to be prepared by the City and approved by LIC in a manner that is consistent with the City's Seaholm District Master Plan.

7. Landscaping and Other Improvements. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, LIC agrees to pay Five Hundred Thousand Dollars (\$500,000) for the installation and construction of landscaping, trees, trails, and other public amenities on the Sand Beach Reserve parkland, the Parking Plaza and LIC Parcel A to be conveyed to the City, in accordance with plans and specifications to be prepared by LIC and approved by the City. Such amount shall be paid by LIC to the City upon commencement of

construction of such landscaping and other improvements. The foregoing landscaping and improvements shall be provided in lieu of the landscaping and improvements referenced in Ordinance No. 85-0110-X, which shall no longer be applicable to the LIC Property; and shall be in addition to the landscaping that may otherwise be required for the Project under the applicable provisions of the City Land Development Code.

8. Project Approval. The term "Project Approval" shall mean the completion of all of the following with respect to the Project: (i) the approval of any required subdivision or resubdivision of the LIC Property pursuant to Section 13 hereof; (ii) the zoning of the LIC Property as part of the Downtown Mixed-Use (DMU) zoning district with the Central Urban Redevelopment Combining District Overlay referenced in Section 9 hereof; and (iii) the issuance of a Site Development Permit for the Project. To obtain Project Approval, the Project must have the following "Project Characteristics":

- a. The Project must be subject to the requirements of the Downtown Mixed-Use (DMU) zoning district and the current applicable provisions of the Waterfront Overlay Combining District and North Shore Central Subdistrict, except for the waivers and variances provided for in this Agreement or otherwise approved by the City.
- b. The completed Project must be a mixed-use project containing between four hundred thousand (400,000) and five hundred thousand (500,000) square feet of floor area and a parking garage for not less than six hundred (600) automobiles.
- c. The completed Project must have not less than sixty percent (60%) of the gross floor area for residential use and the balance for permitted commercial uses in the DMU zoning district.
- d. The Project must comply with all applicable subdivision, zoning and site plan requirements of the City, except for the waivers and variances provided for in this Agreement or otherwise approved by the City. If there are any conflicts between the design of the LIC Project and the Seaholm District Master Plan, LIC and the City will collaborate together and attempt to resolve such differences, but LIC shall not be obligated to make any changes to the LIC Project solely to address conflicts between the design of the LIC Project and the Seaholm District Master Plan.

The performance of LIC with respect to the payments and obligations referenced in Sections 4, 5, 6, 7, 9, 10 and 11 hereof shall be subject to and conditioned upon LIC receiving Project Approval from the City for the Project.

9. Release of Zoning Site Plan. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, the existing zoning site plan for a proposed fifteen (15) story office and nine (9) story parking garage authorized for the LIC Property by Ordinance No. 84-1018-B shall be terminated simultaneously with the rezoning of such tracts of land as part of the Downtown Mixed-Used (DMU) zoning district, with a Central Urban Redevelopment Combining District

Overlay that permits one building to be located at the northwest corner of the LIC Property with a height (as defined in Section 25-1-21 of the City Land Development Code) not to exceed one hundred eighty (180) feet, so long as (i) the average height (to be determined as hereafter provided) of all buildings located outside the Capitol View Corridor (including the building at the northwest corner) does not exceed one hundred twenty (120) feet, (ii) the building heights are stair-stepped in a manner that provides a mix of building heights and minimizes the height of the buildings closest to Town Lake, and (iii) all of the buildings otherwise comply with the applicable setback and height restrictions and design guidelines of the Waterfront Overlay Combining District and North Shore Central Subdistrict. The above-referenced average height for all of the buildings in the Project (other than the parking garage and the buildings located in the Capitol View Corridor) shall be determined by (i) multiplying the height of each portion of the building by, (ii) the corresponding square footage of the building footprint beneath that height, (iii) totaling the calculations for all of such buildings, and (iv) dividing the total by the aggregate square footage of the footprints for all of the buildings. LIC agrees to consult with the Downtown Design Commission concerning the massing of the buildings in the Project and their impact on the adjacent parkland and along Lamar Boulevard.

10. Access. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, including the proposed access from Sandra Muraida Way provided for in this Section 10, LIC agrees to release and quitclaim to the City all right, title and interest of LIC in the easements dedicated by implication across the Sand Beach Reserve in a previous lawsuit between the State of Texas, the City and Missouri Pacific Railroad Company, Cause No. 477,213 in the 201st Judicial District Court of Travis County, Texas, affirmed by the Third Court of Appeals in Case No. 3-92-466-CP. LIC also agrees to release and quitclaim to the City all right, title and interest in the street right-of-way across the Sand Beach Reserve dedicated by Ordinance No. 85-0110-X. In exchange for the release of such existing access, the City shall abandon, release and quitclaim to LIC all right, title and interest of the City in the Bowie Street right-of-way located on the LIC Property, without the payment of any additional consideration. The City shall also dedicate the necessary right-of-way and allow access across the Sand Beach Reserve from Sandra Muraida Way at a location mutually acceptable to LIC and the City, and the City waives any objection to the location of such right-of-way across the Sand Beach Reserve parkland. The City shall also permit LIC to have at least two points of access to the Project from the Parking Plaza at a location mutually acceptable to LIC and the City.

11. Utility Lines. The existing 30-inch sanitary sewer line currently located on the LIC Property shall be rerouted across the Parking Plaza or other location mutually acceptable to LIC and the City. Subject to LIC receiving Project Approval pursuant to Section 8 hereof, LIC agrees to pay the cost of relocating the sanitary sewer line. The City shall grant an easement or otherwise give its permission for LIC to connect the LIC Property to the existing utility lines located on the Sand Beach Reserve, at one or more locations mutually acceptable to LIC and the City, upon the payment by LIC of the City's standard utility connection fees.

12. Floodplain. The City agrees to grant variances so as to permit the LIC Project to be constructed in the 25-year and 100-year floodplains, so long as LIC's engineer demonstrates through a floodplain hydraulic study acceptable to the City and certifies to the City that (i) the Project will not result in additional identifiable adverse flooding on other property; (ii) the Project complies with the minimum requirements of the National Flood Insurance Program; and

SETTLEMENT AGREEMENT

(iii) adequate provisions are made for emergency access to the Project. The City also agrees to grant variances for the Project so that LIC will not have to dedicate an easement or right-of-way for the 25-year and 100-year floodplains.

13. Resubdivision. If the conveyance of the LIC Parcel to the City constitutes a subdivision or resubdivision of the LIC Property under the applicable City and State subdivision ordinances, statutes and regulations, or if any portion of the LIC Property is otherwise determined not to be a subdivided or legal lot, the City agrees to cooperate with LIC to expedite the processing and approval of any required new subdivision plat.

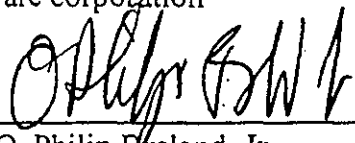
14. Miscellaneous.

- a. No term or provision of this Agreement shall constitute or be deemed to be an admission of liability on the part of any party hereto, all such liability being expressly denied.
- b. LIC and the City agree to cooperate with each other in the preparation and execution of the documents referenced in this Agreement or reasonably required to implement the terms and conditions of this Agreement, including but not limited to Special Warranty Deeds, Cost Reimbursement Agreements, Quitclaim Deeds, Releases, Contracts, Waivers, Consents and Approvals, and to take such other actions that may be reasonably necessary to implement the terms and conditions of this Agreement.
- c. The City and LIC represent and warrant to each other and agree (i) that they have been fully informed and have full knowledge of the terms, conditions and effects of this Agreement; (ii) that they have been represented by independent legal counsel of their choice throughout all negotiations preceding their execution of this Agreement; (iii) that they, either personally or through their independently retained attorneys, have fully investigated to their satisfaction all facts surrounding the various claims, controversies and disputes and are fully satisfied with the terms and effects of this Agreement; (iv) that no promise or inducement has been offered or made to any of them except as expressly stated in this Agreement, and that this Agreement is executed without reliance on any statement or representation by any other party or any other party's agent, and that this Agreement supercedes all prior negotiations and discussions; (v) that they are the sole owners of the claims or causes of action released in this Agreement and have not previously assigned or transferred or purported to assign or transfer any interest in such claims to any person or entity; and (vi) that they have full authority to enter into this Agreement, and are competent to do so, and that the person executing this Agreement on behalf of each party to this Agreement is duly authorized and empowered to do so. The City and LIC each recognize that the other has relied on the foregoing representations and warranties in entering into this Agreement, and each agrees that these representations and warranties shall survive the execution of this Agreement.

- b
- d. This Agreement constitutes the complete Agreement between the parties, and any prior oral representations or understandings are superceded by it. Further, this Agreement may not be altered or amended except in writing signed by the parties hereto.
 - e. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. All references herein to LIC shall be understood to mean LIC and its successors and assigns and any subsequent owner of the LIC Property and the Project to be constructed thereon.
 - f. This Agreement may be executed in multiple counterparts, each of which may be deemed to be an original, so long as all parties execute this Agreement.
 - g. This Agreement shall be construed in accordance with the laws of the State of Texas, and is performable in Travis County, Texas, and the prevailing party in any lawsuit to enforce this Agreement shall be entitled to recover reasonable attorneys' fees and court costs in accordance with applicable Texas law.
 - h. Each party hereto agrees to bear its own costs and attorneys' fees.

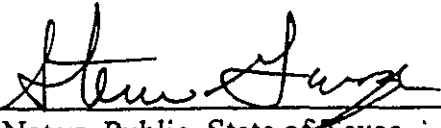
LUMBERMEN'S INVESTMENT CORPORATION,
a Delaware corporation

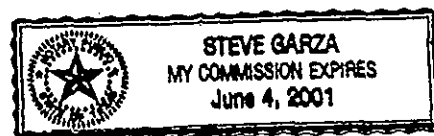
By:


O. Philip Breland, Jr.
Senior Vice President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on January 7, 2001, by O. Philip Breland, Jr., Senior Vice President of LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation, on behalf of said corporation.


Notary Public, State of Texas
My Commission Expires: 6/4/01 J.G.



B

CITY OF AUSTIN
a Texas home-rule city and municipal corporation

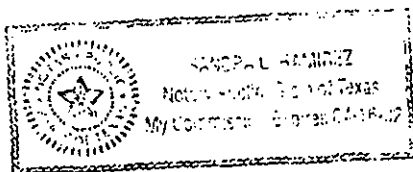
By: Jesus Garza
Jesus Garza,
City Manager

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

This instrument was acknowledged before me on January 8th, 2001, by Jesus Garza, City Manager of the City of Austin, a Texas home rule city and municipal corporation, on behalf of said city.

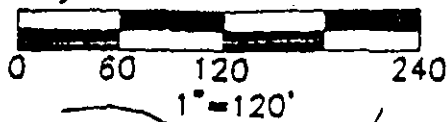


Sandra Ramirez
Notary Public, State of Texas
My Commission Expires: 04-16-02

31514 000001 : AUSTIN : 218002.14

B.R. REYNOLDS DRIVE

LAMAR BOULEVARD



SANDRA MURADA WAY

SAND BEACH RESERVE

WEST CESAR CHAVEZ STREET

1.94 ACRES—LOT A
JETCO PARTNERS
INTERNATIONAL
RESUBDIVISION ONE
BK. 83, PG. 184A

± 5.13 ACRES

3.19 ACRES
LUMBERMEN'S INVESTMENT
CORPORATION
VOL. 12038, PG. 535

NORTH LINE OF
SAND BEACH RESERVE
(AGREED BOUNDARY LINE)

RAILROAD

PACIFIC

MISSOURI

WEST 3RD STREET

16

15

14

13

BLOCK 4

12

11

10

9

BOWIE STREET
(80' R.O.W.)

b Bury+Partners

Consulting Engineers and Surveyors
Irvine, Texas Tel 918/328-0811 Fax 918/328-4388
Bury+Partners, Inc. ©Copyright 2000

EXHIBIT "A"

LUMBERMENS INVESTMENT
CORPORATION TRACT

LUMBERMENS
INVESTMENT CORP.

SAND BEACH
RESERVE

DATE: 10/04/00

FILE: H:\634\14\63414EX2.dwg

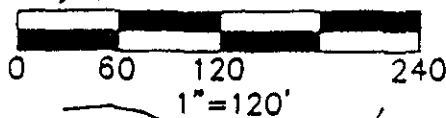
FN No.: NA

DRAWN BY: MVM

PROJ. No: 63414

B.R. REYNOLDS DRIVE

LAMAR BOULEVARD



SANDRA MURADA WAY

1.94 ACRES—LOT A
JETCO PARTNERS
INTERNATIONAL
RESUBDIVISION ONE
BK. 83, PG. 184A

N49°52'53"W
62.90'

3.19 ACRES
LUMBERMEN'S INVESTMENT
CORPORATION
VOL. 12038, PG. 535

NORTH LINE OF
SAND BEACH RESERVE
(AGREED BOUNDARY LINE)

SAND BEACH RESERVE

0.609 ACRES
L.I.C. PARCEL "A"

S14°55'01"E 321.86'
N49°52'53"W 363.61'

WEST CESAR CHAVEZ STREET

P.O.B.

C1

L1

RAILROAD
PACIFIC
(R.O.W. VARIES)

WEST 3RD STREET

16

15

14

13

BLOCK 4

12

11

10

9

BOWIE STREET
(80' R.O.W.)

LEGEND

- 1/2" IRON ROD FOUND
- PROPOSED CORNERS
- P.O.B. POINT OF BEGINNING

LINE TABLE

No.	Bearing	Distance
L1	N20°22'52"E	45.27'

CURVE TABLE

No.	Delta	Radius	Arc Length	Chord Length	Chord Bearing
C1	22°03'38"	520.00	200.22	198.98	S14°06'04"W

NORTH LINE IS ALONG PROPOSED CURBLINE

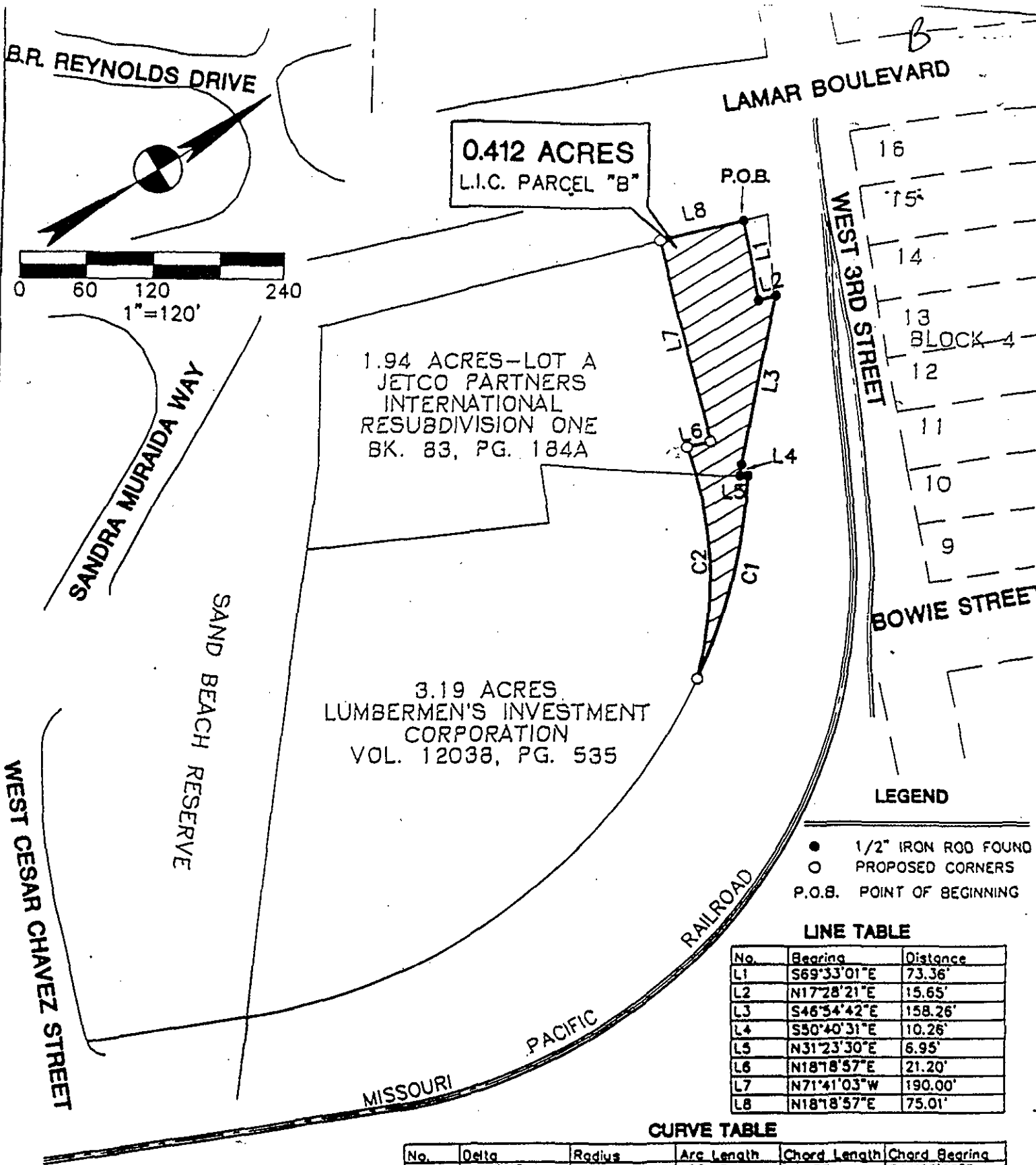
Bury+ Partners
Consulting Engineers and Surveyors
Austin, Texas Tel 512/328-0811 Fax 512/328-6225
Bury+Partners, Inc. ©Copyright 2000

SKETCH TO ACCOMPANY DESCRIPTION OF

L.I.C. PARCEL "A"
EXHIBIT "B"

**LUMBERMENS
INVESTMENT CORP.**

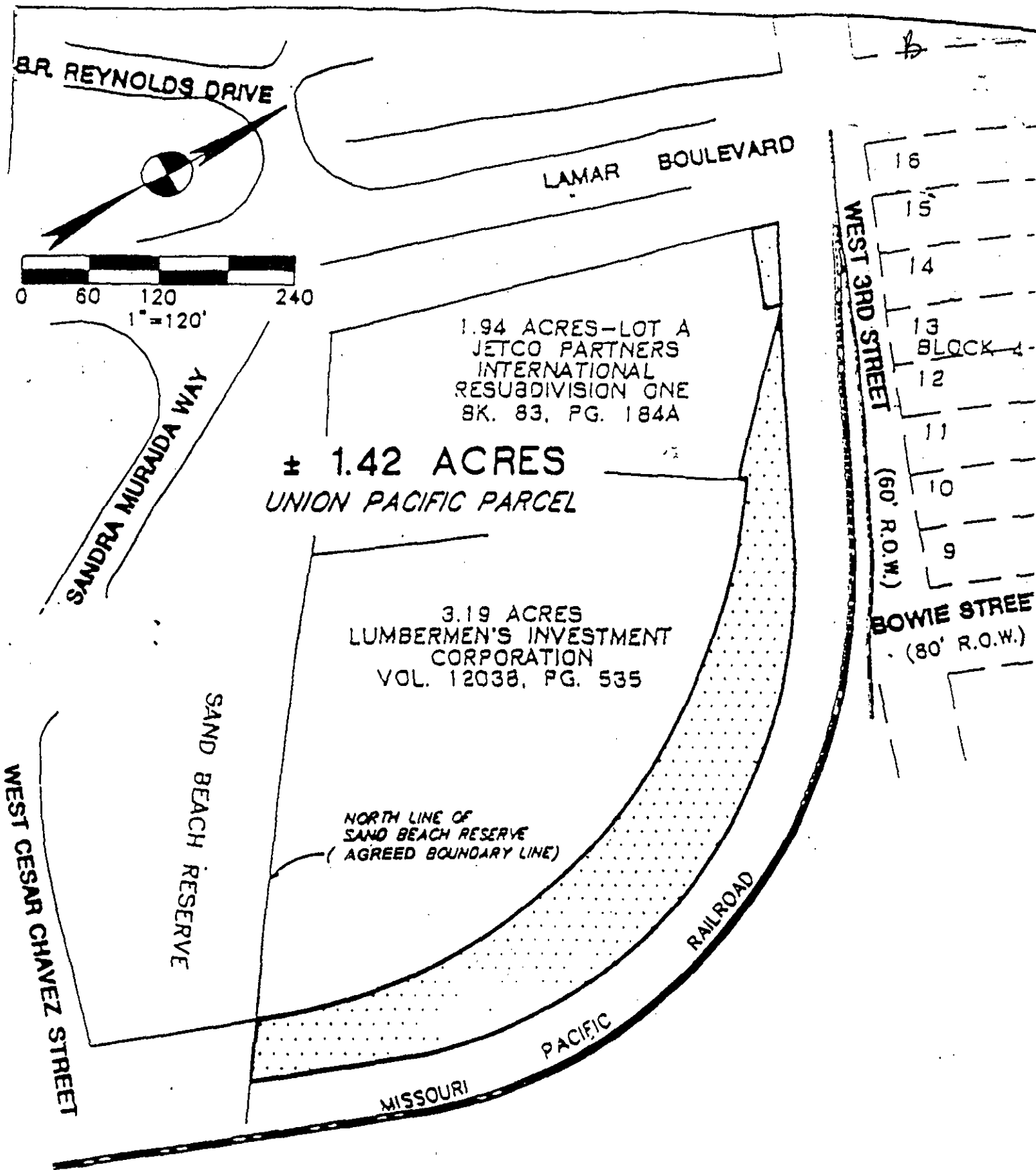
**SAND BEACH
RESERVE**



b Bury+ Partners
Consulting Engineers and Surveyors
Austin, Texas Tel 512/328-0811 Fax 512/328-3223
Bury+Partners, Inc. ©Copyright 2000

SKETCH TO ACCOMPANY DESCRIPTION OF
L.I.C. PARCEL "B"
Exhibit "C"

LUMBERMENS
INVESTMENT CORP.
SAND BEACH
RESERVE



b Bury+ Partners
Consulting Engineers and Surveyors
Saville, Texas Tel 812/338-0811 Fax 812/338-0838
Surveyors License No. 0000000000

EXHIBIT "D"

**UNION PACIFIC
PARCEL BOUNDARY**

**LUMBERMENS
INVESTMENT CORP.**

**SAND BEACH
RESERVE**

Exhibit "E"

B

NO. 99-13013

CITY OF AUSTIN,

Plaintiff,

vs.

LUMBERMEN'S INVESTMENT
CORPORATION,

Defendant.

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

126TH JUDICIAL DISTRICT

AGREED JUDGMENT ESTABLISHING BOUNDARY

Came before the Court on this ____ day of _____, 2001, Plaintiff City of Austin ("City"), Defendant Lumbermen's Investment Corporation ("LIC") and Intervenor State of Texas ("State"), appearing by and through their respective counsel, and announced to the Court that they have reached a compromise and settlement of all matters in controversy between them regarding this boundary dispute and that they desire the entry of this Agreed Judgment Establishing Boundary. Accordingly, based upon the parties' agreement and the pleadings and papers on file in this cause, as well as the facts associated with the above-styled and numbered cause, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. The City is the owner of that certain property designated as the Sand Beach Reserve as described in a Patent to the City dated July 3, 1945, which is described therein as follows:

Seventy-seven (77) acres of land more or less, commonly known as "Reserve", bounded on the north by Outlots 1 and 11, Division "Z", City of Austin, as established by a survey made by William H. Sandusky under an Act of Congress of the Republic of Texas, passed January 5, 1840; on the east by West Avenue as located by the said survey; on the south by the Colorado River; and on the west by the east line of the George W. Spear League; said tract being marked "Reserve" on the Sandusky map above referred to.

B

2. Defendant LIC is currently the owner of approximately 5.13 acres of real property located at the northeast corner of the intersection of North Lamar Boulevard and Cesar Chavez Street in the City of Austin, Texas, which is more particularly described in Exhibit "A" attached hereto ("LIC Property"). LIC acquired the LIC Property in two parcels, the 1.94 acres west tract by foreclosure in 1987 and the 3.19 acre east tract by purchase from Missouri Pacific Railroad Company in 1993. The west tract and east tract together comprise the LIC Property.

3. The State has a reversionary interest in the Sand Beach Reserve, and the Permanent School Fund of Texas owns the oil, gas and sulphur in and under the Sand Beach Reserve.

4. The LIC Property abuts the northern boundary of the Sand Beach Reserve.

5. The City, LIC and the State have agreed that the common boundary between the LIC Property and the Sand Beach Reserve is the southern boundary of the LIC Property described in the attached Exhibit "A", which Agreed Boundary Line is more particularly described in the attached Exhibit "B".

6. All relief requested that is not expressly granted herein is hereby DENIED.

7. Each party shall bear its own attorneys' fees and costs of suit.

SO ORDERED on this _____ day of _____, 2001.

JUDGE PRESIDING

**AGREED AS TO FORM
AND SUBSTANCE:**

SCOTT, DOUGLASS & MCCONNICO, L.L.P.
600 Congress Avenue, Suite 1500
Austin, Texas 78701

By: _____
Casey L. Dobson
State Bar No. 05927600
Elizabeth N. Miller
State Bar No. 14071100

**ATTORNEYS FOR PLAINTIFF CITY OF
AUSTIN**

LOCKE LIDDELL & SAPP LLP
100 Congress, Suite 300
Austin, Texas 78701

By: _____
William B. Steele III
State Bar No. 19107400
Jan Soifer
State Bar No. 18824530

**ATTORNEYS FOR LUMBERMEN'S
INVESTMENT CORPORATION,
DEFENDANT AND COUNTER-PLAINTIFF**

OFFICE OF THE ATTORNEY GENERAL OF
TEXAS
John Cornyn
Attorney General of Texas

Andy Taylor
First Assistant Attorney General

Jeffrey S. Boyd
Deputy Attorney General for Litigation

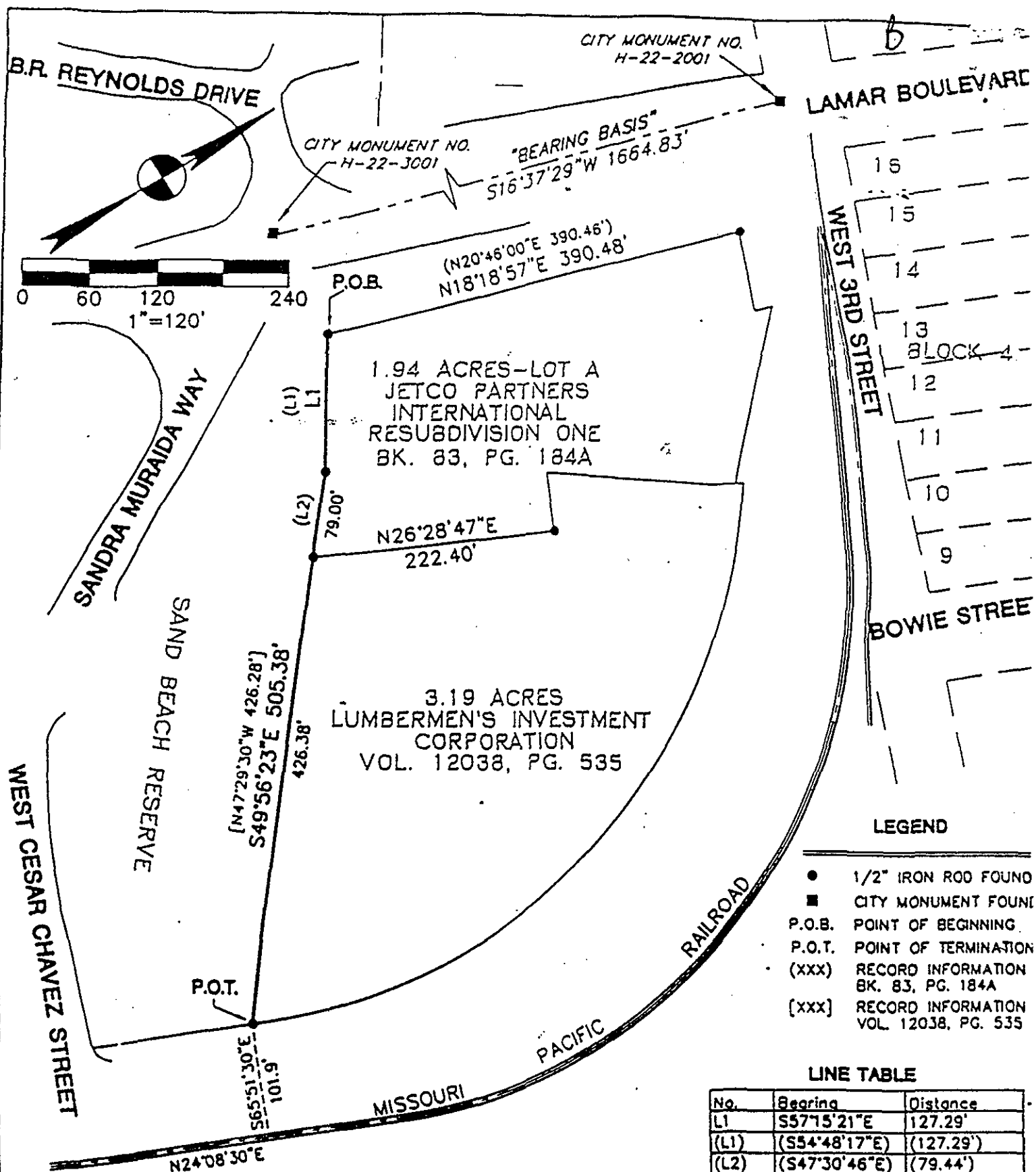
Karen W. Kornell
Assistant Attorney General
Chief, Natural Resources Division

By: _____
Joe Riddell
Assistant Attorney General
Texas Bar No. 16886500

Natural Resources Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548

(512) 463-2012 (telephone)
(512) 320-0052 (telecopier)

**ATTORNEYS FOR PLAINTIFF-INTERVENOR
STATE OF TEXAS**



b Bury+ Partners
 Consulting Engineers and Surveyors
 Austin, Texas Tel 512/328-0411 Fax 512/328-0225
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SKETCH TO ACCOMPANY DESCRIPTION OF

SOUTHERLY BOUNDARY LINES OF LOT A JETCO PARTNERS INTERNATIONAL RESUBDIVISION ONE, A SUBDIVISION OF RECORD IN BOOK 83, PAGE 184A OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND THAT 3.19 ACRE TRACT CONVEYED TO LUMBERMENS INVESTMENT CORPORATION BY DEED OF RECORD IN VOLUME 12038, PAGE 535 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.

LUMBERMENS INVESTMENT CORP.

SAND BEACH RESERVE

B

Exhibit "F"

BOUNDARY LINE AGREEMENT

THIS BOUNDARY LINE AGREEMENT (the "Agreement") is executed the ____ day of January, 2001, by Lumbermen's Investment Corporation, a Delaware corporation ("LIC"); the City of Austin, a Texas home rule city and municipal corporation (the "City"); and the State of Texas, acting by and through David Dewhurst, in his capacities as Commissioner of the General Land Office of the State of Texas and Chairman of the School Land Board, and on behalf of the Permanent School Fund of the State of Texas (the "State").

RECITALS:

A. LIC holds record title to two (2) tracts of land containing approximately 1.94 acres and 3.19 acres, collectively referred to as the "LIC Property", located near the intersection of North Lamar Boulevard and Cesar Chavez Street in the City of Austin, Texas, as more particularly described in the attached Exhibit "A".

B. The City holds record title to the land adjacent to the south boundary of LIC Property known as the "Sand Beach Reserve", as described in a Patent from the State to the City dated July 3, 1945, which is described therein as follows:

Seventy-seven (77) acres of land more or less, commonly known as "Reserve", bounded on the north by Outlots 1 and 11, Division "Z", City of Austin, as established by a survey made by William H. Sandusky under an Act of Congress of the Republic of Texas, passed January 5, 1840; on the east by West Avenue as located by the said survey; on the south by the Colorado River; and on the west by the east line of the George W. Spear League; said tract being marked "Reserve" on the Sandusky map above referred to.

C. The above-referenced Patent reserved to the State all oil, gas and sulphur and an interest in the sale of sand and gravel, and a reversionary interest if the Sand Beach Reserve was ever sold by the City.

D. A dispute arose between LIC and the City over the north boundary line of the Sand Beach Reserve, which forms the south boundary line of the LIC Property. The City filed suit in the case styled *City of Austin v. Lumbermen's Investment Corporation*, Cause No. 99-13013, in the 126th Judicial District Court of Travis County, Texas (the "Lawsuit"). LIC filed its answer and counterclaim in the Lawsuit.

E. The City and LIC desire to resolve their dispute over the common boundary line between the LIC Property and the Sand Beach Reserve and thereby avoid the costs and uncertainties of further litigation.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual benefits to be received by the City, LIC and the State for settling the Lawsuit and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LIC, the City and the State hereby agree as follows:

b

1. The common boundary between the LIC Property and the Sand Beach Reserve (the "Agreed Boundary Line") is established by this Agreement, and is the southern boundary of the LIC Property described in the attached Exhibit "A", which Agreed Boundary Line is more particularly described in the attached Exhibit "B".

2. Within five (5) business days after the entry of the Agreed Judgment Establishing Boundary, a copy of which is attached hereto as Exhibit "C", LIC agrees to deliver to the Commissioner a check in the amount of Ten Thousand and No/100 Dollars (\$10,000.00) payable to the order of the Permanent School Fund of the State of Texas, as consideration for any potential mineral interests or contingent reversionary interest of the State of Texas and the School Land Board in and to any portion of the LIC Property, if the City were to prevail in its claims in the Lawsuit.

3. This Agreement setting forth the Agreed Boundary Line shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns.

4. This Agreement shall not become effective and shall not be recorded until the entry of an Agreed Judgment Establishing Boundary, a copy of which shall be attached hereto as Exhibit "C".

5. The City, LIC and the State represent and warrant to each other and agree (a) that they have been fully informed and have full knowledge of the terms and effects of this Agreement; (b) that they have been represented by independent legal counsel of their choice through all negotiations preceding their execution of this Agreement; (c) that they, either personally or through their independently retained attorneys, have fully investigated to their satisfaction all facts surrounding the various claims, controversies and disputes and are fully satisfied with the terms and effects of this Agreement; (d) that no promise or inducement has been offered or made to any of them except as expressly stated in this Agreement, and that this Agreement is executed without reliance on any statement or representation by any other party or any other party's agent, and that this Agreement supercedes all prior negotiations and discussions; and (e) that they have full authority to enter into this Agreement and are competent to do so and that the person executing this Agreement on behalf of each party to this Agreement is duly authorized and empowered to do so. LIC, the City and the State each recognize that the other has relied on the foregoing representations and warranties in entering into this Agreement and each agrees that these representations and warranties shall survive the execution of this Agreement.

IN WITNESS WHEREOF, the parties hereto have subscribed their names.

b

Executed by the undersigned on behalf of Lumbermen's Investment Corporation on the date of the following acknowledgement, to be effective as of the date referenced in Section 4 hereof.

LUMBERMEN'S INVESTMENT CORPORATION,
a Delaware corporation

By:

O. Philip Breland, Jr.
Senior Vice President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on January ____, 2001, by O. Philip Breland, Jr., Senior Vice President of LUMBERMEN'S INVESTMENT CORPORATION, a Delaware corporation, on behalf of said corporation.

Notary Public, State of Texas
My Commission Expires: _____

B

Executed by the undersigned on behalf of the City of Austin on the date of the following acknowledgement, to be effective as of the date referenced in Section 4 hereof.

CITY OF AUSTIN
a Texas home-rule city and municipal corporation

By: _____
Jesus Garza,
City Manager

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on January ____, 2001, by Jesus Garza, City Manager of the City of Austin, a Texas home rule city and municipal corporation, on behalf of said city.

Notary Public, State of Texas
My Commission Expires: _____

B

Executed by the undersigned on behalf of the State of Texas on the date of the following acknowledgement, to be effective as of the date referenced in Section 4 hereof.

David Dewhurst, in his capacities as Commissioner
of the General Land Office of the State of Texas
and Chairman of the School Land Board, and on
behalf of the Permanent School Fund of the State of
Texas

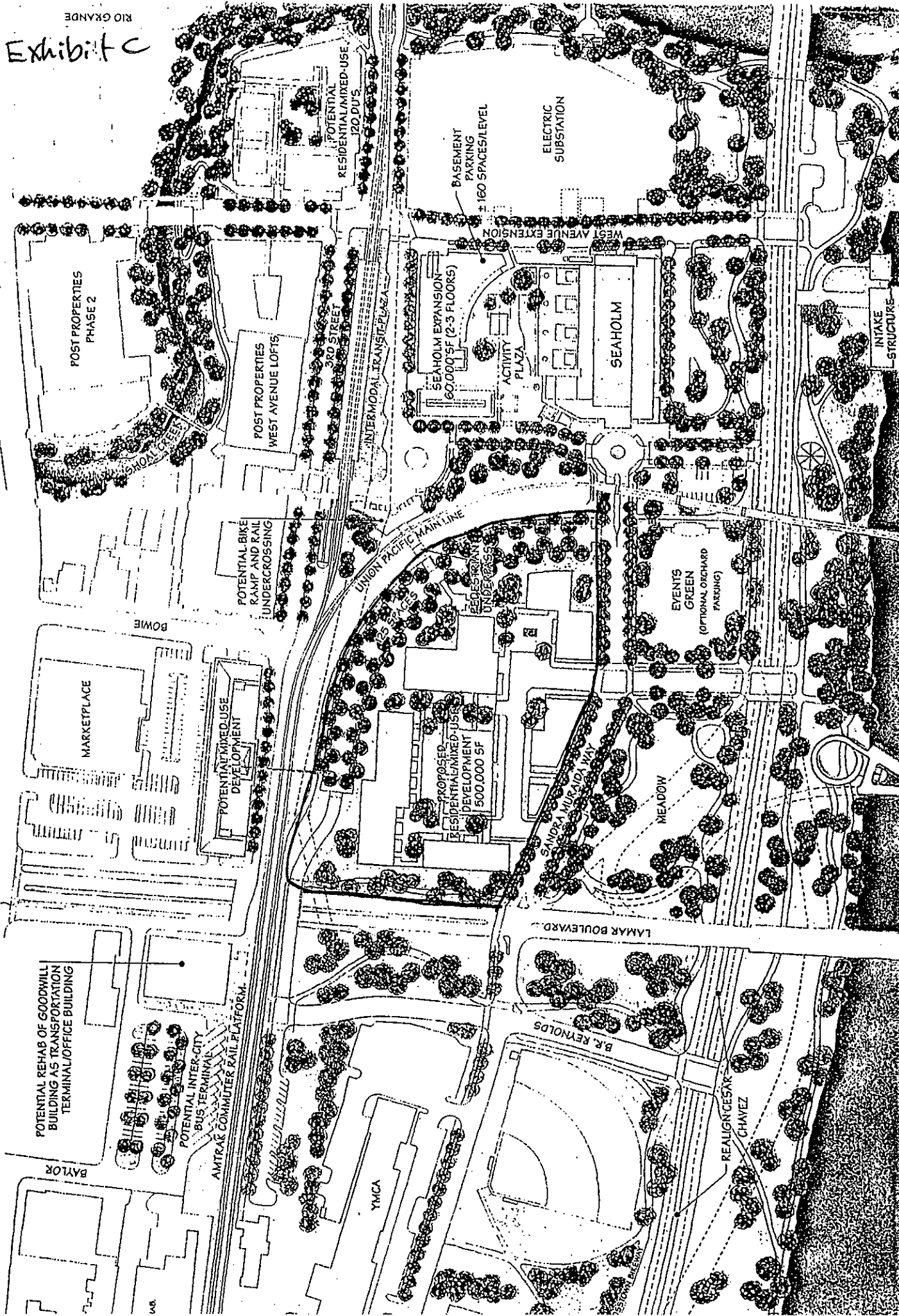
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on January ____, 2001, by David Dewhurst, in his capacities as Commissioner of the General Land Office of the State of Texas and Chairman of the School Land Board, and on behalf of the Permanent School Fund of the State of Texas.

Notary Public, State of Texas
My Commission Expires: _____

Exhibit C

RIO GRANDE



- (4) walking, exercise, and bicycle paths;
 - (5) an internal park transportation system;
 - (6) maintenance and improvement of environmental quality, including stream bank stabilization, fencing, and wildlife and vegetation management; and
 - (7) general park support and maintenance.
- (E) Development of an urban waterfront described in Section 25-2-671 (*Town Lake Park Terms*) is limited to:
- (1) plazas for performances and special events;
 - (2) wide sidewalks for walking, exercising, and bicycle riding;
 - (3) concessions that are designed to attract people from throughout the city, are mobile, temporary, or located in a building described in the Town Lake Park Plan, and require a small amount of space, including pushcarts selling food or flowers, temporary vending stands for special events, and museum gift shops;
 - (4) rowing facilities, boathouses, and similar water-related activities;
 - (5) maintenance and improvement of environmental quality, including stream bank stabilization, fencing, and wildlife and vegetation management; and
 - (6) general park support and maintenance.
- (F) Development of an area of Town Lake Park not included in a natural area, neighborhood park, community park, cultural park, or urban waterfront described in Section 25-2-671 (*Town Lake Park Terms*) is limited to:
- (1) walking, exercise, and bicycle trails;
 - (2) picnic facilities;
 - (3) surface parking of pervious material and park access roads; and
 - (4) general park support and maintenance.
- (G) This section does not apply to a community events use.
- Source: Section 13-2-228.1; Ord. 990902-57.

DIVISION 7: WATERFRONT OVERLAY DISTRICT AND SUBDISTRICT USES

§ 25-2-691 WATERFRONT OVERLAY (WO) DISTRICT USES.

- (A) This section applies to the waterfront overlay (WO) district, except for a community events use.
- (B) A residential use that is permitted in an MF-6 or more restrictive base district is also permitted in an NO or less restrictive base district.
- (C) A pedestrian-oriented use is a use that serves the public by providing goods or services and includes:
 - (1) art and craft studio (limited);
 - (2) cocktail lounge;
 - (3) consumer convenience services;
 - (4) cultural services;
 - (5) day care services (limited, general, or commercial);
 - (6) food sales;
 - (7) general retail sales (convenience or general);

- (8) park and recreation services;
 - (9) residential uses;
 - (10) restaurant (limited or general); and
 - (11) other uses as determined by the Planning Commission.
- (D) Pedestrian oriented uses in an MF-1 or less restrictive base district:
- (1) are permitted on the ground floor of a structure; and
 - (2) may be permitted by the Planning Commission above the ground floor of a structure.
- (E) A determination by the Planning Commission under Subsection (D)(1) may be appealed to the Council. For the City Hall subdistrict, a determination by the Planning Commission under Subsection (C)(11) may be appealed to Council.

Source: Section 13-2-228; Ord. 990715-115; Ord. 990902-57.

§ 25-2-692 WATERFRONT OVERLAY (WO) SUBDISTRICT USES.

- (A) This subsection applies to the University / Deep Eddy subdistrict.
- (1) The following uses are prohibited:
- (a) automotive rentals;
 - (b) automotive repair services;
 - (c) automotive sales;
 - (d) automotive washing;
 - (e) commercial off-street parking; and
 - (f) a use with a drive-in service.

- (2) The following are conditional uses:

- (a) hotel-motel;
- (b) service station;
- (c) local utility services.

(B) In the North Shore Central subdistrict, not less than 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Planning Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.

- (C) This subsection applies to the Red Bluff subdistrict.

- (1) The following uses are prohibited:

- (a) light manufacturing;
- (b) basic industry;
- (c) stockyards;
- (d) laundry services; and
- (e) resource extraction.

- (2) The following are conditional uses:

- (a) automotive rentals;
- (b) automotive repair services;
- (c) automotive sales;
- (d) automotive washing;
- (e) commercial off-street parking;
- (f) a use with a drive-in service; and
- (g) warehousing and distribution.

(D) This subsection applies to the East Riverside subdistrict.

(1) The following uses are prohibited:

- (a) automotive rentals;
- (b) automotive repair services;
- (c) automotive sales;
- (d) automotive washing;
- (e) basic industry;
- (f) *commercial off-street parking*;
- (g) a use with a drive-in service;
- (h) laundry services;
- (i) light manufacturing;
- (j) stockyards; and
- (k) warehousing and distribution.

(2) The following are conditional uses:

- (a) hotel-motel;
- (b) service station; and
- (c) local utility service.

(E) This subsection applies to the Travis Heights subdistrict.

(1) The following uses are prohibited:

- (a) automotive rentals;
- (b) automotive repair services;
- (c) automotive sales;
- (d) automotive washing;
- (e) basic industry;

(f) commercial off-street parking;

(g) laundry services;

(h) light manufacturing;

(i) stockyards; and

(j) warehousing and distribution.

(2) The following are conditional uses:

(a) hotel-motel;

(b) service station; and

(c) local utility service.

(F) In the South Shore Central subdistrict, not less than 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Planning Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.

(G) This subsection applies to the Auditorium Shores subdistrict, except for a community events use.

(1) Not less than 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Planning Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.

(2) Use of the area between the primary setback line and the secondary setback line is limited to:

(a) cultural services;

(b) day care services;

(c) park and recreation services;

- (d) food sales; and
 - (e) restaurant (limited).
- (H) In the Butler Shores subdistrict, not less than 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Planning Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement.
- (I) Use of the Zilker Park subdistrict is limited to park-related structures.
- (J) In the City Hall subdistrict, at least 50 percent of the net usable floor area of the ground level of a structure adjacent to Town Lake must be used for pedestrian-oriented uses. The Planning Commission may allow an applicant up to five years from the date a certificate of occupancy is issued to comply with this requirement. This requirement does not apply to a building used by the City for a governmental function.
- (2) the construction or reconstruction of existing or proposed development for which:
- (a) a building permit was issued before July 18, 1986;
 - (b) a certificate of occupancy was issued before July 18, 1986;
 - (c) a site plan was approved before July 17, 1986, including a phased project or a special permit site plan;
 - (d) a site plan was filed with the City before July 17, 1986 as a condition of zoning, and the site plan was previously approved by the Council or Town Lake Task Force; or
 - (e) building plans were filed with the City before July 17, 1986.
- (C) The requirements of this division supersede the other provisions of this title, to the extent of conflict.

Source: Section 13-2-229; Ord. 990715-115; Ord. 990902-57.

Source: Sections 13-2-700 and 13-2-701; Ord. 990902-57.

DIVISION 8: WATERFRONT OVERLAY DISTRICT AND SUBDISTRICT DEVELOPMENT REGULATIONS

SUBPART A: GENERAL PROVISIONS

§ 25-2-711 APPLICABILITY.

- (A) This division applies in the waterfront overlay (WO) combining district.
- (B) The requirements of this division do not apply to:
 - (1) a community events use; or

§ 25-2-712 DEFINITIONS.

In this part:

- (1) **BASEWALL** means the vertical surface of a building beginning at the finished grade up to a level defined by a setback or an architectural treatment, including a cornice line or similar projection or demarcation, that visually separates the base of the building from the upper portion of the building.
- (2) **PRIMARY SETBACK AREA** means the area between a primary setback line and the centerline of an identified creek, the shoreline of Town Lake, the

shoreline of the Colorado River, or the boundary of an identified street, as applicable.

- (3) PRIMARY SETBACK LINE means a line that is a prescribed distance from and parallel to the centerline of an identified creek, the shoreline of Town Lake, the shoreline of the Colorado River, or the boundary of an identified street, as applicable.
- (4) SECONDARY SETBACK AREA means the area between a primary setback line and a secondary setback line.
- (5) SECONDARY SETBACK LINE means a line that is a prescribed distance from and parallel to a primary setback line.

Source: Section 13-2-1.

§ 25-2-713 VARIANCES.

- (A) The Planning Commission may grant a variance from the requirements of Sections 25-2-692 (*Waterfront Overlay (WO) Subdistrict Uses*), 25-2-721 (*Waterfront Overlay (WO) Combining District Regulations*), or Subpart C (*Subdistrict Regulations*) after determining that:
 - (1) the proposed project and variance are consistent with the goals and policies of the Town Lake Corridor Study, including environmental protection, aesthetic enhancement, and traffic; and
 - (2) the variance is the minimum required by the peculiarities of the tract.
- (B) For the City Hall subdistrict, an interested party may appeal the Planning Commission's grant or denial of a variance under Subsection (A) to the Council.

Source: Section 13-2-704; Ord. 990715-115.

§ 25-2-714 ADDITIONAL FLOOR AREA.

- (A) In the WO combining district, a structure may exceed the maximum floor area permitted in the base district as provided by this section.
 - (1) Additional floor area under Subsection (B) is limited to 60 percent of the base district maximum.
 - (2) Additional floor area under Subsection (C), (D), (E), (F), (G), (H), or (I) is limited to 20 percent of the base district maximum.
 - (3) Total additional floor area under this section is limited to 60 percent of the base district maximum.
- (B) For a structure in a neighborhood office (NO) or less restrictive base district, floor area for a residential use is permitted in addition to the maximum floor area otherwise permitted.
- (C) For a structure in a multifamily residence limited density (MF-1) or less restrictive base district, floor area for pedestrian-oriented uses is permitted in addition to the maximum floor area otherwise permitted, if the pedestrian-oriented uses are on the ground floor of the structure and have unimpeded public access from a public right-of-way or park land. The pedestrian-oriented uses required under Sections 25-2-692 (*Waterfront Overlay (WO) Subdistrict Uses*) and Subpart C (*Subdistrict Regulations*) are excluded from the additional floor area permitted under this subsection.
- (D) Except in the North Shore Central subdistrict:
 - (1) an additional one-half square foot of gross floor area is permitted for each one square foot of gross floor area of a parking structure that is above grade; and

- (2) an additional one square foot of gross floor area is permitted for each one square foot of a parking structure that is below grade.
- (E) Additional gross floor area is permitted for each existing Category A tree, as determined by the Watershed Protection Department's tree evaluation system, that is either left undisturbed or transplanted under the supervision of the city arborist.
 - (1) A tree is considered undisturbed under this subsection if the area within a circle centered on the trunk with a circumference equal to the largest horizontal circumference of the tree's crown is undisturbed.
 - (2) A tree may be transplanted off-site if the Planning Commission determines that the character of the site is preserved and approves the transplanting.
 - (3) The permitted additional gross floor area is calculated by multiplying the undisturbed area described in Subsection (E)(1) by the base district height limitation and dividing the product by 12.
- (F) Additional gross floor area is permitted for land or an easement dedicated to the City for public access to Town Lake or the Colorado River. The additional gross floor area is calculated by multiplying the square footage of the access area by the height limitation applicable to the property and dividing the product by 12.
- (G) Additional gross floor area is permitted for land that is restricted to create a side yard or restricted public access to Town Lake, the Colorado River, or a creek. The additional gross floor area is calculated by multiplying the square footage of the restricted area by the height limitation applicable to the property and dividing the product by 12.
- (H) An additional one square foot of gross floor area is permitted for each one square foot of area restricted to create a scenic vista of Town Lake, the Colorado River, or a creek.
- (I) For a proposal to develop less than the maximum allowable impervious cover, an additional one square foot of gross floor area is permitted for each one square foot of impervious cover less than the allowable maximum.

Source: Section 13-2-703.

SUBPART B: DISTRICT REGULATIONS; SPECIAL REGULATIONS

§ 25-2-721 WATERFRONT OVERLAY (WO) COMBINING DISTRICT REGULATIONS.

- (A) This subsection provides requirements for review and approval of site plans.
 - (1) Approval of a site plan by the Planning Commission is required if an applicant requests a waiver from a requirement of this part under Section 25-2-713 (*Variances*).
 - (2) Review of a site plan by the Director of the Parks and Recreation Department is required before the site plan may be approved. The Director of the Parks and Recreation Department shall determine:
 - (a) whether the site plan is compatible with adopted park design guidelines; and
 - (b) if significant historic, cultural, or archaeological sites are located on the property.
- (B) In a primary setback area:

- (1) except as otherwise provided in this subsection, parking areas and structures are prohibited; and
- (2) park facilities, including picnic tables, observation decks, trails, gazebos, and pavilions, are permitted if:
 - (a) the park facilities are located on public park land; and
 - (b) the impervious cover does not exceed 15 percent.
- (C) In a secondary setback area:
 - (1) fountains, patios, terraces, outdoor restaurants, and similar uses are permitted; and
 - (2) impervious cover may not exceed 30 percent.
- (D) This subsection provides requirements for parking areas.
 - (1) Surface parking:
 - (a) must be placed along roadways, if practicable; and
 - (b) must be screened from views from Town Lake, the Colorado River, park land, and the creeks named in this part.
 - (2) A parking structure that is above grade:
 - (a) must be on a pedestrian scale and either architecturally integrated with the associated building or screened from views from Town Lake, the Colorado River, park land, and the creeks named in this part; and
 - (b) if it is adjacent to Town Lake, the Colorado River, park land, or a creek named in this part, it must incorporate pedestrian oriented uses at ground level.
- (3) Setback requirements do not apply to a parking structure that is completely below grade.
- (E) This subsection provides design standards for buildings.
 - (1) Exterior mirrored glass and glare producing glass surface building materials are prohibited.
 - (2) Except in the City Hall subdistrict, a distinctive building top is required for a building that exceeds a height of 45 feet. Distinctive building tops include cornices, steeped parapets, hipped roofs, mansard roofs, stepped terraces, and domes. To the extent required to comply with the requirements of Section 17-2-292(E) (*Rules For Heli-Facilities*), a flat roof is permitted.
 - (3) Except in the City Hall subdistrict, a building basewall is required for a building that fronts on Town Lake, Shoal Creek, or Waller Creek, that adjoins public park land or Town Lake, or that is across a street from public park land. The basewall may not exceed a height of 45 feet.
 - (4) A building facade may not extend horizontally in an unbroken line for more than 160 feet.
- (F) Underground utility service is required, unless otherwise determined by the utility provider.
- (G) Trash receptacles, air conditioning or heating equipment, utility meters, loading areas, and external storage must be screened from public view.

Source: Section 13-2-700; Ord. 990715-115.



AUSTIN DESIGN COMMISSION

June 4, 2001

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Mr. Jay Hailey
Locke Liddell & Sapp LLP
100 Congress Avenue, Suite 300
Austin, Texas 78701-4042

Re: LIC/LBJ Project / Cesar Chavez & Lamar Boulevard

Dear Mr. Hailey,

This letter offers a response to your inquiry to the Austin Design Commission regarding a proposal to vary proposed height limits at the referenced project.

On the assumption that the proposed project is located on the land tract as defined in the COA & LIC January 8, 2001 Settlement Agreement, and that there is a grade elevation difference of approximately 30 ft from the site to that of the MP rail line at Lamar Boulevard, the commission finds that the proposed height of 180 ft for the northwest corner mixed-use tower (Building Unit 'A') is an acceptable building massing. Further, it is the opinion of the commission that this building site warrants a project design that scales down the height of other proposed building units in this mixed-use development (i.e.: Building 'B' not to exceed 160 ft, Building 'C' 110 ft, Building 'D' 55 ft, Building 'E' 120 ft, and Building 'F' 50 ft.)

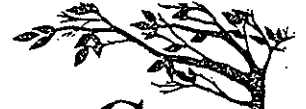
The commission commends and agrees with the LIC/LBJ project architect's design recommendation to scale the overall project buildings downward through such architectural massing. Reduced heights of approximately 30 to 50 ft for buildings adjacent to Seaholm and the realigned Sandra Muraida Way are deemed more appropriate. Such heights would result in a more pleasing aesthetic solution for development in this significant and important visual edge to the CBD region. It is acknowledged that the proposed height limits will also respect the applicable capitol view corridors.

The commission requests an opportunity to review and offer further comment on the design of the project as detail phases of development occur.

Sincerely,

Juan E. Cotera
Chair

cc: Madison Smith
Austan Librach
Michael Knox



Save Barton Creek Association

P.O. Box 5923 • Austin, Texas 78763 • (512) 480-0055
www.savebartoncreek.org

The Board of Trustees of the Save Barton Creek Association respectfully requests that the City of Austin Planning Commission recommend to the City Council that the Lumberman's Investment Corporation's request for Downtown Mixed Use-Central Urban Redevelopment (DMU-CURE) zoning be denied for the following reasons:

1. Even without CURE zoning, this site will be developed containing the desired mixed uses and activities for which supporters have requested.
2. The project can be designed with a compatible massing along the park edge, meeting all the Design Guidelines of the Austin Design Commission without granting this zoning.
3. LIC will build the maximum amount of parking—on the LIC tract and on the Railroad property—to serve its own needs.
4. The project, as designed, violates the Town Lake Protection Principals embodied in the Town Lake Corridor Study, the Town Lake Comprehensive Plan and the Waterfront Overlay Ordinance.
5. The Parks & Recreation Board indicated the project's current design, with the added height, makes it incompatible with adjacent parkland.
6. The use of CURE zoning in this case will defeat the intent of the DMU district to serve as a buffer, placing Central Business District heights adjacent to neighborhoods. It will also subvert the goal of CURE zoning to help existing neighborhoods.
7. The Old West Austin Neighborhood Association (OWANA) rejected the added height as intrusive to their neighborhood.
8. Granting the CURE zoning would encourage developers to use it simply to enhance their profit.
9. This "up-zoning" will, in effect, result in pressure to expand the DMU and CBD boundaries, pushing more commercialization into the surrounding neighborhoods.
10. Allowing this excessive height on Lamar Boulevard will destroy the vista from this major entryway into downtown.

If approved, it will set a precedent for all property along Town Lake Park. The ability to ensure the beauty of this scenic vista, which is the heart of our River City, will be severely compromised by granting the applicant's request. Thank you for your consideration of the Association's position.



Anguiano, Dora

From: Gary Hyatt [gehyatt@io.com]
Sent: Monday, July 30, 2001 1:20 AM
To: ANCTalk@onelist.com; BCNA@yahoogroups.com; Sector 7; Akers, Larry; Pool, Leslie; Quadlander, Mary Margaret; Reece, Ray; Blizzard, Mike
Subject: [ANCTalk] Another skyscraper for Town Lake?

Subject: skyscraper on Town Lake

*#22
Lumberman's Invest. Corp
Against
Glenn Road*

On this coming Tuesday's 7/31/01 Planning Commission meeting is agenda item #22 (C14-01-0070), a request for a zoning variance that would allow Lumberman's Corp. to build a 180 ft. tall luxury condo tower along the shores of Town Lake - on the old Sand Beach property next to the Lamar bridge. To my knowledge, and to Jeff Jack's and Robin Cravey's in Zilker, these folks have not even bothered to show their plans to the South Austin folks who will be slapped in the face with this thing every day heading north over either the car or bike/ped bridge.

The variance they are seeking is meant for downtown property, not waterfront property, and allows them to go another 60 ft. over what they would be allowed otherwise. But regardless of the merits, I think the South Austin neighs. should request a delay until we have time to consider the impact. Would Bouldin or the South Central Coalition be willing to put in a request for delay? Does ANC have a position on this project?

This thing is on the fast track because it is based on the outcome of a lawsuit with the city but we got the part about guaranteeing their zoning variance stripped from the final agreement. But of course they think we HAVE to give it to them.

Points to question Planning commission:

Scale/compatibility for Town Lake

Traffic concerns for Cesar Chavez, etc.

Have not completed master plan for Seaholm site-is this another subsidy for another developer?

Please call Council members and if possible show up at planning commission!

--
With zoning, No, is temporary;
Yes is permanent!

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Rhoades, Glenn

A22

From: Mike Blizzard [bliz@flash.net]
Sent: Monday, July 30, 2001 2:28 PM
To: Planning Commission
Subject: Lumberman's CURE Zoning Request - please delay

Planning Commission members,
I was very disappointed in the handling of the requested postponement of Item #14 of last week's agenda, which is now I believe, Item #22 on this week's.

The Zilker neighborhood association and other neighborhoods south of the river should definitely be informed prior to this decision. Though the applicant claims to have been working on this project for a year and a half, to my knowledge the applicant has made no effort to meet with the Zilker, Bouldin or other neighborhood associations or coalitions directly across the river along South Lamar.

Please delay consideration of this project until the applicant can meet with these neighborhood groups as has been requested and until the Seaholm master plan has been approved. Approving this zoning change will only limit the options available to achieve a variety of the goals of the master plan.

Also, the commission was misinformed (or at least not informed) about its ability to deny or place conditions upon this requested zoning variance. *The commission and/or Council can deny the zoning request with no effect whatsoever on the agreed judgment, boundary agreement or conveyance of Parcel A. PLEASE READ THE AGREEMENT!* The pre-approval of zoning sought by LIC was expressly removed prior to approval of the settlement agreement by Council and it was clearly understood and stated that LIC would go through the normal process for any requested zoning change or variance.

It is the planning commission's responsibility to consider this case as it would any other. The commission should also consider any requests for delay as it would any other and also honor the city's policy of not approving massive zoning changes or variances while a neighborhood or master planning effort is in process.

Thank you,

Mike Blizzard

ZILKER NEIGHBORHOOD ASSOCIATION
Celebrating 20 Years of Service to Our Community

Monday: 23 July 2001

Planning Commission, City of Austin

Re: Item #14 - Case #C14-01-0070, request for change from DMU to DMU-CURE
Lumberman's Investment Corp., 910 West Cesar Chavez, Austin, Texas 78701

Chairperson Betty Baker and Planning Commission Members

As President of the Zilker Neighborhood Association, I am requesting that the above noted case be postponed for 30 days for the following reasons:

1. Dedication of Land to the City of Austin

The agreement between the City of Austin and Lumberman's includes the dedication of 0.69 acres along the southern boundary of the proposed Lumberman's development. The exact location of this land is important to the final layout of the Seaholm Master Plan and at this time it is still unresolved and therefore has not been recorded. Since a zoning change has to be tied to a specific piece of land, and the this parcel has not been finalized, it is premature to proceed with this zoning change until this dedication is recorded.

2. Bowie Street Easement

The agreement between the City and Lumberman's also covers the area to the Bowie Street easement. The disposition of this easement has also not been resolved at this time and therefore should not be in any zoning change.

3. Seaholm Master Plan

The Lumberman's project has a great impact on this area of Town Lake and has to work with the proposed redevelopment of the Seaholm Power Plant and the improvements to street system in the area. Since the vehicular access to Lumberman's project is off of either Sandra Muraida or Cesar Chavez the capacity of these proposed street changes has to be assessed with regard to the added traffic from the lumberman's project. The City has hired ROMA design consultants to prepare a master plan of this area to coordinate all of the design efforts in this area. However their work has not been completed and the final design of street changes is still unresolved. Therefore it would seem prudent to decide on the proposed street changes before this zoning change is approved.

4. Visual impact on major gateway to Downtown

The visual impact, scale and height of this project are major concerns of the community. While this project is in the Downtown area, the citizens of South Austin will pass by this project as they travel into the city and the folks using the adjacent parkland will be shoulder to shoulder to it. This project should create an appropriate scale and character for such an important portal into downtown and be a good neighbor to Town Lake Park. During the earlier discussions, about this project it was requested that Lumberman's provide drawings showing the massing and height of the project. When these requests were not answered, photo-montages were created simulating the character of the project. While Lumberman's disputed the accuracy of these sketches, they never provided their own renderings or perspectives. The sketches that were done suggest a massive project hovering over both Lamar Blvd and the park. If these early renditions are accurate, the proposed project's height and massing would be an inappropriate design for such an important gateway to downtown.

It is our understanding that Lumberman's has agreed to provide this type of pictorial for community review. However as of today, we have not seen them and therefore have not had a chance to review the visual, scale and massing implications that would be allowed by this zoning request.

We appreciate your consideration of our request to postpone this item and hope that by granting this postponement the Planning Commission will allow time to resolve the issues noted above and also give the community an opportunity to fully understand the visual and massing impact of this development on both the Lamar Blvd. corridor and Town Lake park.

Sincerely

A handwritten signature in black ink, appearing to read "Jeff Jack", written in a cursive style.

Jeff Jack
President
Zilker Neighborhood Association

5. C14-01-0070 – LUMBERMEN'S INVESTMENT CORPORATION (O. Philip Breland, Jr.), By: Locke Liddell & Sapp L.L.P (Jay Hailey), 910 W. Cesar Chavez Street. (Town Lake). **FROM DMU TO DMU-CURE. RECOMMENDED. City Staff: Glenn Rhoades, 974-2775. ACTION ONLY. PUBLIC HEARING CLOSED.**

SUMMARY

Commissioner Baker stated, "I will remind the commission that the public hearing is closed. This was sent to the Parks Board with the request that they get back to us expeditiously with their findings. Will the commission like to hear from someone from the Parks Board?"

Commissioners replied, "yes".

Mary Ruth Holder, Secretary for Parks Board, stated that the chair is out-of-town. Ms. Holder stated that the minutes from the Parks Board were not available. "We voted 5-2 that in our opinion the project, with the rezoning, which would allow the increase to the height of 180' is not compatible with the adjacent parkland. We looked at in light of some criteria that was set forth to the Town Lake Comprehensive Plan for new development, that it should be scaled for human use, to create positives between it and adjacent parklands. Private development should take visual use to a natural environment, etc. A lot of the people who are here tonight, spoke to our board".

Commissioner Mather requested more information as to the waterfront overlay, in more detail.

Mr. Holder replied, "that plan sets forth, in our belief, some criteria that reflects the community history and the community values and importance of the Town Lake Parks corridor. It does not regulate new development, it does set forth criteria that we use when looking at new development projects. This is not the first time that we have looked at new development along that corridor".

Commissioner Mather requested to have someone from the Environmental Board.

Commissioner Baker asked, "Did this go to the Environmental Board"?

Mr. Rhoades answered, "no".

Greg Philo, Transportation, Planning and Sustainability Dept. assisting in the Seaholm Master Plan, stated the Seaholm Master Plan did go to the Environmental Board. The Lumbermen's Investment Corp. is contained within it. "There are some issues to be resolved. The first recommendation is, the land purchase option in partnership with Lumbermen's Investment Corp. should proceed separately and apart from development of the plan. Any such partnership should be subject to standard public process regard to the development rights or other considerations seated to Lumbermen's. They are saying that they believe that process should continue on".

Commissioner Baker stated, "currently there is an approved site plan for this tract, which allows a height for up to 180'. Is that correct"?

Mr. Rhoades replied, "It allows for a height of 220'".

Commissioner Baker went on to state, "Now the DMU zoning only allows 120'. Is that correct"?

Mr. Rhoades replied, "correct".