

AN ORDINANCE 2009-01-15-0040

AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SAN ANTONIO BY AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, SECTION 35-304, OF THE CITY CODE OF SAN ANTONIO, TEXAS BY CHANGING THE ZONING DISTRICT BOUNDARY OF CERTAIN PROPERTY.

* * * * *

WHEREAS, a public hearing was held regarding this amendment to the Official Zoning Map at which time parties in interest and citizens were given an opportunity to be heard; and

WHEREAS, the Zoning Commission has submitted a final report to the City Council regarding this amendment to the Official Zoning Map of the City of San Antonio; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 35, Unified Development Code, Section 35-304, Official Zoning Map, of the City Code of San Antonio, Texas is amended by changing the zoning district boundary of Lot 40, NCB 11622 from "O-2" Office District to "C-1" Light Commercial District.

SECTION 2. All other provisions of Chapter 35 except those expressly amended by this ordinance shall remain in full force and effect including the penalties for violations as made and provided for in Section 35 -491.

SECTION 3. The Director of Development Services shall change the zoning records and maps in accordance with this ordinance and the same shall be available and open to the public for inspection.

SECTION 4. This ordinance shall become effective January 25, 2009.

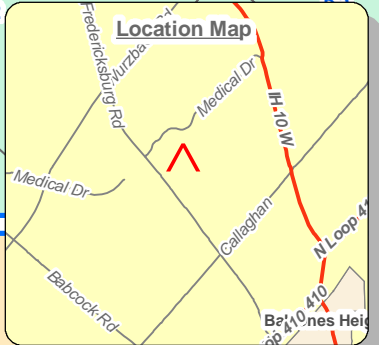
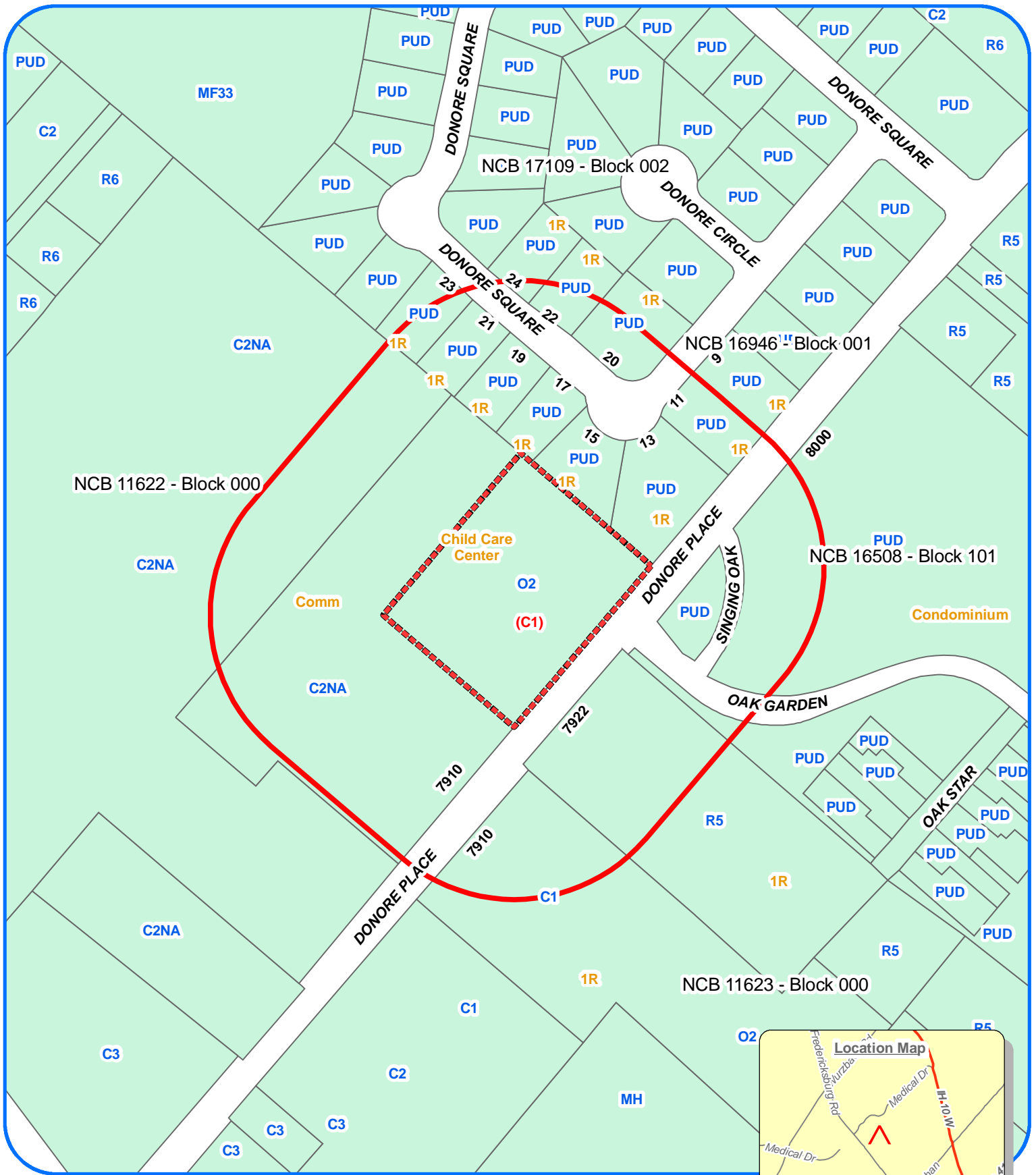
PASSED AND APPROVED this 15th day of January 2009.


M A Y O R

PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
City Attorney



Zoning Case Notification Plan

Case Z-2008-226

Council District 8

Scale: 1" approx. = 150'

Subject Property Legal Description(s): Lot 40 Blk 000 NCB 11622

Legend

- Subject Property (1.018 Acres)
- 200' Notification Buffer
- Current Zoning R6
- Requested Zoning Change (R6)
- 100-Year FEMA Floodplain



City of San Antonio - Development Services Dept
(08/01/2008)

Hum Z-8

SCANNED



7923 DONORE PLACE
DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is executed by Carson Family Revocable Trust ("Declarant") and the 8000 Del Donore Homeowners' Association, Inc. ("Association").

Definitions

1. "Declarant" shall mean Carson Family Revocable Trust, owner of the Property shown in the attached Exhibit "A" and successors and assigns of Carson Family Revocable Trust, who acquire fee title to all or a portion of the Property.
2. "Property" shall refer to an approximate 1.018-acre tract of land located at 7923 Donore Place in San Antonio, Texas, and more fully described in the attached Exhibit "A".
3. "Association" shall refer to the 8000 Del Donore Homeowners' Association, Inc.
4. "Support" shall include, but not be limited to:
 - (a) Respond to all notices issued by any government entity indicating that Association as a whole supports development consistent with this Declaration.
 - (b) Attendance and public comments by an Association representative indicating support at any public hearing where public input is requested, including, but not limited to, the City of San Antonio's Zoning Commission and City Council meetings.

Recitals



1. The Property is the subject of a request for rezoning through Zoning Case No. Z2008226. The Property is zoned "O-2" Office and the requested rezoning is "C-1" Commercial zoning district.
2. Declarant has executed this Declaration in consideration for the Support of the Association in the Declarant's request for rezoning.
3. The following restrictions shall run with the Property and shall be binding on all parties having any right, title, or interest in the Property in part or in whole, and their heirs, successors, and assigns.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows, which agreement shall constitute the Declaration:

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Restrictions

1. Fence – Within one (1) year of the effective date of this Declaration, Declarant, following manufacturer's instructions, shall have installed commercially available beige-colored PVT vertical privacy slats each measuring approximately sixty-eight inches (68") in length along no less than ninety-five percent (95%) of the length of the Property's existing chain-link fence facing Donore Place on the Association side of the Property. At any time, the chain-link fence and privacy slats may be removed if replaced with a solid fence or wall.

2. Hours of Operation – Declarant shall not open a permitted business to the public on the Property earlier than six o'clock a.m. (6:00 a.m.) or later than eight thirty p.m. (8:30) on any given day.

3. Uses - Although the City of San Antonio may permit the following uses in "C-1" Commercial zoning districts, the following uses are not permitted primary land uses on the Property:

- Video game arcade;
- Convenience store;
- Dairy products retail;
- Fish market retail;
- Food store;
- Grocery store;
- Laundry and/or dry cleaning service (self service nor pickup);
- Palm reading services;
- Transit park-and-ride;
- Reducing salon;
- Group daycare home;
- Fruit and/or produce retail;
- Music store;
- Newsstand;
- Tobacco retail store;
- Adult day care;
- Bed and breakfast;
- Boarding house; or
- Any food service establishment including but not limited to: restaurant, cafeteria, delicatessen, ice cream parlor, buffet, or barbeque.

4. Zoning Case Support – In consideration for the restrictions granted in this Declaration, the Association shall agree to not oppose, and to Support, Declarant's application(s) for rezoning of the Property from "O-2" Office to "C-1" Commercial that are pending or may be held before the City of San Antonio's Zoning Commission and the City Council.

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Default

The failure by the Declarant to observe or perform any of the covenants, conditions or observations of this Declaration, within thirty (30) days after the issuance of a written notice by the Association specifying the nature of the default claimed, shall constitute a default hereunder; provided, however, that if such condition is of a nature that it cannot be corrected within thirty (30) days of such notice, then the Declarant shall not be in default so long as it actively commences such cure within thirty (30) days after receiving such notice and diligently pursues such cure through completion.

General Provisions

1. **GOVERNING LAW** - THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. ALL ACTS REQUIRED OR PERMITTED TO BE PERFORMED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS, AND IT IS AGREED THAT ANY ACTION BROUGHT TO ENFORCE OR CONSTRUE THE TERMS OR PROVISIONS HEREOF OR TO ENJOIN OR REQUIRE THE PERFORMANCE OF ANY ACT IN CONNECTION HEREWITH SHALL BE BROUGHT IN A COURT OF COMPETENT JURISDICTION SITTING IN BEXAR COUNTY, TEXAS.
2. **Construction & Severability** - If this Declaration or any word, clause, sentence, paragraph or other part thereof shall be susceptible to more than one or conflicting interpretations, then the interpretation which is more nearly in accordance with the general purposes and objectives of this Declaration shall govern. In the event one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Declaration shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
3. **Unintended Omission** - If any punctuation, word, clause, sentence, or provisions necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herefrom, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.
4. **Term** - Every covenant, condition, and restriction contained herein shall run with the land and be binding upon the Property and Declarant for a period of ten (10) years from and after the date this Declaration is executed, after which time this Declaration, shall be automatically extended for successive periods of ten (10) years each unless and until an instrument, signed by the Declarant and either the Association, the owners of fifty-one percent (51%) of the property governed by the Association, or the owners of fifty-one percent (51%) of the property formerly governed by the Association in the event the Association ceases to exist, agreeing to terminate this Declaration shall have been recorded in the Bexar County Real Property Records.

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5. **Amendment** - The covenants, conditions, and restrictions of this Declaration may not be amended, except by an instrument signed by the Declarant and either the Association, the owners of fifty-one percent (51%) of the property governed by the Association, or owners of fifty-one percent (51%) of the property formerly governed by the Association in the event the Association ceases to exist, and recorded in the Bexar County Real Property Records.
6. **Recordation** - This Declaration shall be recorded in the Bexar County Real Property Records.
7. **Notice** - Any formal notices or communication with respect to the subject matter of this Declaration shall be delivered by one of the following methods:
 - (a) by delivering the same in person; or
 - (b) by depositing the same in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the party to be notified at the address set forth below; or
 - (c) by depositing the same with a nationally recognized courier service guaranteeing "next day delivery," addressed to the party to be notified at the address set forth below.

Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties, until changed as provided below, shall be as follows:

Declarant:

Carson Family Revocable Trust
Attn: John V. Carson, Trustee
441 Estates Drive
Sacramento, California 95864-6073

Association:

8000 Del Donore Homeowners' Association, Inc.
8000 Donore Place
San Antonio, Texas 78229

The parties may, from time to time, change their respective mailing addresses, and each has the right to specify as its address any other address within the United States of America by giving at least five (5) days written notice to the other party.

8. **Enforcement** - Declarant agrees that the Association is the direct intended party of this Declaration, and that the Association and/or Declarant shall have the right and power to enforce any of the covenants, restrictions, and development standards set out in this Declaration. Enforcement of the Declaration and the covenants, restrictions, and development standards set forth herein shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any of the same, either to restrain violation or to recover damages. Failure by any party to enforce any such covenant, restriction, or development standard shall in no event be deemed a waiver of the right to do so thereafter. Any remedies

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provided for in this Section are cumulative and shall be deemed additional to any and all other remedies to which any party may be entitled in law or in equity and shall include the right to restrain by injunction any violation or threatened violation by any party of any of the terms, covenants, or conditions of this Declaration and by decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for any breach of any such term, covenant, or condition is not adequate. In the event any person shall institute any action or proceeding against another person relating to the provisions of this Declaration, or any default thereunder or to collect any amounts owing hereunder, or an arbitration proceeding is commenced by agreement of the parties to any dispute, then and in such event the unsuccessful litigant in such action or proceeding shall reimburse the successful litigant therein for all reasonable costs and expenses incurred in connection with any such action or proceeding and any appeals therefrom, including reasonable attorneys' fees and court costs, to the extent permitted by the terms of any final order, decree, or judgment.

WHEREFORE, this Declaration is executed this 5, day of Dec, 2008.

[Signature pages follow.]

DECLARANT:

CARSON FAMILY REVOCABLE TRUST

By: *John V. Carson* Trustee
John V. Carson, Trustee

DECLARANT ACKNOWLEDGEMENT

STATE OF CALIFORNIA §
 §
COUNTY OF SACRAMENTO §

BEFORE ME, the undersigned authority, on this day personally appeared JOHN V. CARSON, Trustee of CARSON FAMILY REVOCABLE TRUST, whose name is subscribed to the foregoing instrument and who acknowledged that he executed the foregoing instrument on behalf of said trust.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of December 2008.



Olivia Bender
Notary Public, State of California
Print Name: Olivia Bender
My Commission Expires: 12/26/2011

ASSOCIATION:

8000 DEL DONORE HOMEOWNERS' ASSOCIATION, INC.

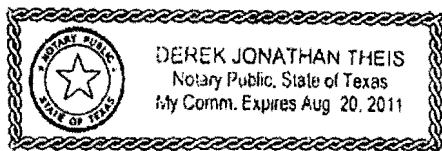
By: William J. Cassidy, Jr.
William J. Cassidy, Jr., President

ASSOCIATION ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

BEFORE ME, the undersigned authority, on this day personally appeared WILLIAM J. CASSIDY, JR., President of 8000 DEL DONORE HOMEOWNERS' ASSOCIATION, INC., whose name is subscribed to the foregoing instrument and who acknowledged that he executed the foregoing instrument on behalf of said entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of December, 2008.



Derek Theis
Notary Public, State of Texas
Print Name: Derek Theis
My Commission Expires: 8-20-2011

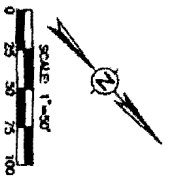
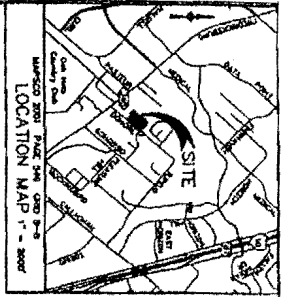
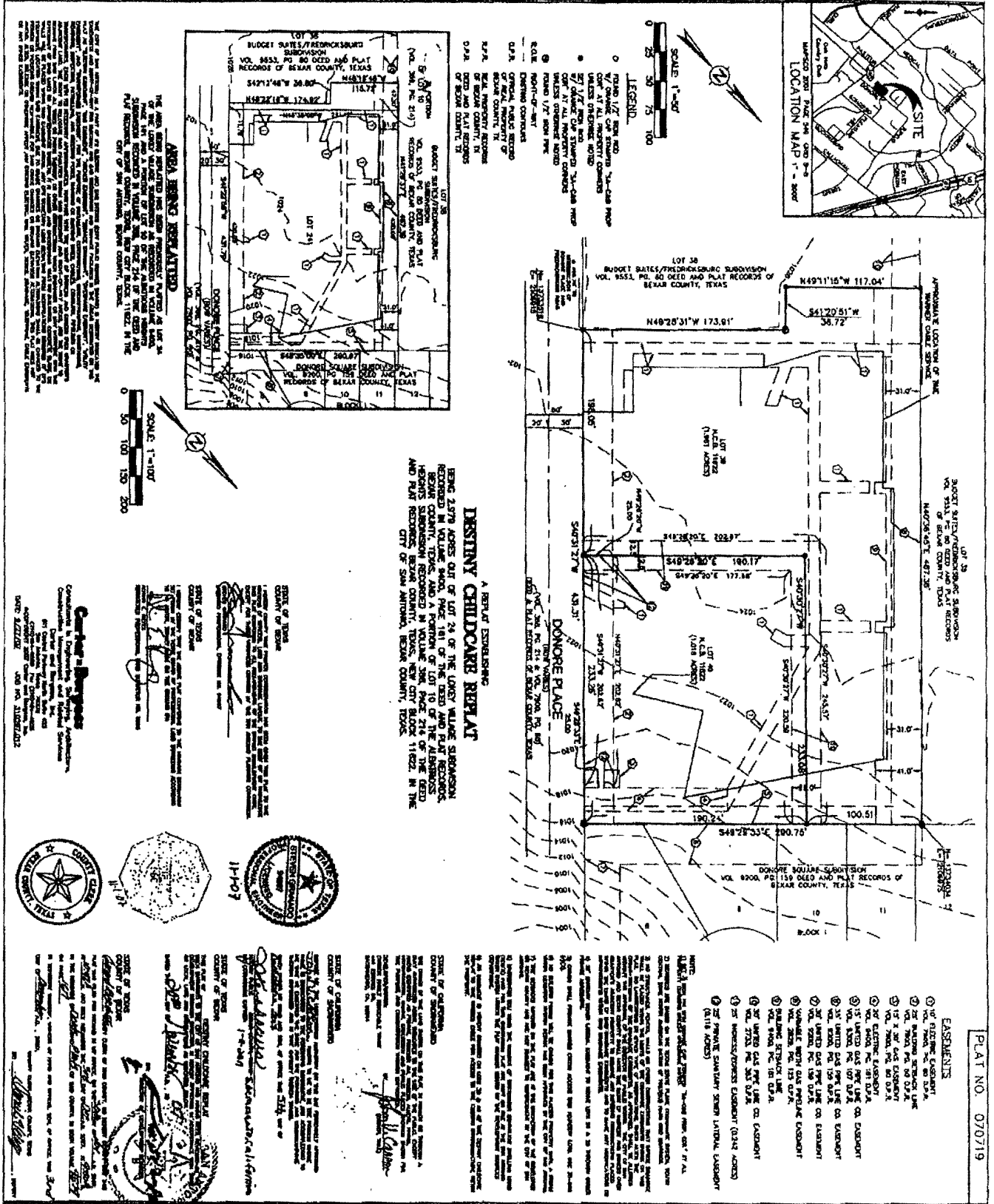
UPON RECORDATION PLEASE RETURN TO:

Lucy M. Peveto
Kaufman & Associates, Inc.
100 West Houston Street, Suite 1250
San Antonio, TX 78205

EXHIBIT A

Handwritten mark resembling the number '10'.

THE DISTRICT COURT...
OFFICE OF THE DISTRICT CLERK...
COUNTY CLERK



LEGEND

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ARTICLE VI. REGULATION OF FIREARMS AND WEAPONS*

Sec. 21-151. Definition of firearm.

As used in this article, the term "firearm" shall mean any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

(Ord. No. 79328, § 1, 12-16-93)

Sec. 21-152. Discharge of firearm.

(a) It shall be unlawful for any person to discharge a firearm within the city limits of the City of San Antonio.

(b) It is an affirmative defense to prosecution for a violation of this provision that:

- (1) The person discharging the firearm was a certified peace officer at the time and the discharge was done in the performance of his duties as such; or
- (2) The person discharging the firearm was a certified security guard at the time and the discharge was done in the performance of his duties as such; or
- (3) The discharge was justified under the provisions of Chapter 9 of the Texas Penal Code; or
- (4) The discharge occurred at a firing range or other area designated for target practice.

(Ord. No. 79328, § 2, 12-16-93; Ord. No. 84805, § 1, 9-19-96)

Sec. 21-153. Carrying a firearm prohibited; exceptions.

(a) It shall be unlawful for any person to carry a firearm within the city limits of the City of San Antonio at:

- (1) A public park; or
- (2) A public meeting of a governmental body; or
- (3) A political rally, political parade, or official political meeting; or
- (4) A nonfirearms-related school, college, or professional athletic event.

(b) It is an affirmative defense to prosecution for a violation of this provision that:

- (1) The firearm is being carried by a certified peace officer; or
- (2) The firearm is being carried by a certified security officer in the performance of his employment.

(Ord. No. 79328, § 3, 12-16-93; Ord. No. 84805, § 2, 9-19-96)