

RESTRICTIVE COVENANT

OWNER: Capital City-Howard Lane, Ltd., a Texas limited partnership

ADDRESS: 1717 West 6th Street, Suite 390, Austin, Texas 78703

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Tract One: A 35.0 acre tract of land, more or less, out of the Alexander T. Walters Survey 67, Abstract 791, Travis County, being a portion of a 67.890 acre tract identified as Tract Two in this covenant, the 35.0 acre tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant; and

Tract Two: A 67.890 acre tract of land, more or less, out of the Alexander T. Walters Survey 67, Abstract 791, Travis County, Save and Except the 35.0 acre tract of land identified as Tract One in this covenant, the 67.890 acre tract being more particularly described by metes and bounds in Exhibit "B" incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Owner shall provide and maintain an eight-foot high stone or masonry fence along the south property line adjacent to Tract Two.
2. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Alliance Transportation Group, dated July 2006, or as amended and approved by the Director of the Watershed Protection and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated November 22, 2006. The TIA shall be kept on file at the Watershed Protection and Development Review Department.


3. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
4. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
5. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
6. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 14th day of June, 2006 ~~7~~

OWNER:

**Capital City-Howard Lane, Ltd.,
a Texas limited partnership**

By: Capital City GP Corp.,
a Texas corporation,
its sole general partner

By: 
Christopher H. Whitworth,
President

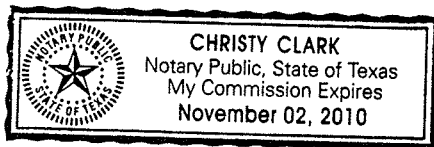
APPROVED AS TO FORM:

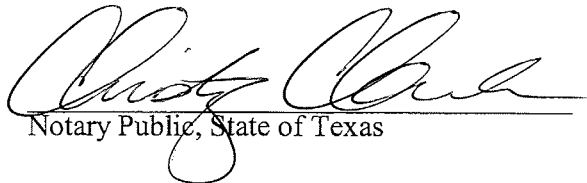
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

7 This instrument was acknowledged before me on this the 14th day of June, 2006, by Christopher H. Whitworth, President of Capital City GP Corp., a Texas corporation, general partner of Capital City-Howard Lane, Ltd., a Texas limited partnership, on behalf of the corporation and the partnership.




Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Paralegal



**Professional Land Surveying, Inc.
Surveying and Mapping**

EXHIBIT A

Tract 1

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

**35.000 ACRES
CAPITAL CITY-HOWARD LANE, LTD.**

A DESCRIPTION OF 35.000 ACRES IN THE ALEXANDER T. WALTERS SURVEY 67 ABSTRACT 791, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 67.890 ACRE TRACT CONVEYED TO CAPITAL CITY - HOWARD LANE, LTD., BY SPECIAL WARRANTY DEED EXECUTED JULY 23, 2002 AND RECORDED IN DOCUMENT NO. 2002135987 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 35.000 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with cap set in the west line of the said 67.890 acre tract, being in the east line of Lot 4, Block B, Resubdivision of Lot 1, Block A, Lot 1, Block B, Lot 1, Block C, Lot 1, Block D and Lot 13, Block E, Parkway Subdivision, a subdivision of record in Document No. 200500063 of the Official Public Records of Travis County, Texas, from which a 1/2" rebar found in the east right-of-way line of Harris Ridge Boulevard (64' right-of-way width), being in the west line of the said 67.890 acre tract, being also the southernmost corner of said Lot 4, bears South 27°42'37" West, a distance of 448.34 feet;

THENCE North 27°42'37" East with the west line of the said 67.890 acre tract, the east line of said Lot 4, the east line of Northtown Park Section 5-A, a subdivision of record in Volume 91, Page 188 of the Plat Records of Travis County, Texas, and the east line of a 4.652 acre tract of land described in Volume 12088, Page 492 of the Real Property Records of Travis County, Texas, a distance of 1759.40 feet to a 1/2" rebar found for the northwest corner of the said 67.890 acre tract, being the northeast corner of the said 4.652 acre tract, being also in the south line of Lot 2, Block H, Parkside Subdivision, a subdivision of record in Document No. 200400029 of the Official Public Records of Travis County, Texas;

THENCE with the north line of the said 67.890 acre tract and the south line of Lot 2, Block H, of said Parkside Subdivision, the following three (3) courses:


1. South 62°12'15" East, a distance of 84.00 feet to a 60d nail in Hackberry stump found;
2. South 61°57'45" East, a distance of 349.51 feet to a 1/2" rebar found;
3. South 62°26'25" East, a distance of 433.60 feet to a 1/2" rebar found for the northeast corner of the said 67.890 acre tract, being the northwest corner of a 67.93 acre tract of land described in Volume 13082, Page 106 of the Real

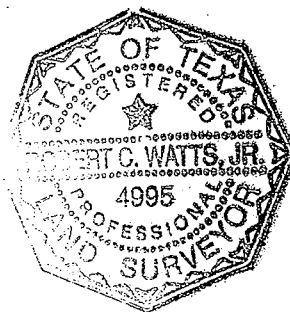
Property Records of Travis County, Texas;

THENCE South 27°42'20" West with the east line of the said 67.890 acre tract and the west line of the said 67.93 acre tract, a distance of 1758.42 feet to a 1/2" rebar with cap set, from which a 1/2" rebar found, bears South 27°42'20" West, a distance of 1651.69 feet;

THENCE North 62°17'23" West over and across the said 67.890 acre tract, a distance of 867.24 feet to the **POINT OF BEGINNING**, containing 35.000 acres of land, more or less.

Surveyed on the ground in December, 2005 under my direction and supervision. Bearing basis is Grid Azimuth for the Texas Central Zone, 1983/93 HARN values from the LCRA survey control network. Attachments: survey Drawing No. 351-001-ZN and 351-001-TO2.


Robert C. Watts, Jr.
Registered Professional Land Surveyor
State of Texas No. 4995



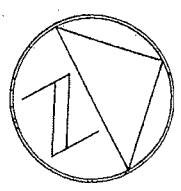
11-6-06

SKETCH TO ACCOMPANY A DESCRIPTION OF 35.000 ACRES IN THE ALEXANDER T. WALTERS SURVEY 67
 ABSTRACT 791, TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 67.890 ACRE TRACT CONVEYED TO CAPITAL
 CITY - HOWARD LANE, LTD., BY SPECIAL WARRANTY DEED EXECUTED JULY 23, 2002 AND RECORDED IN
 DOCUMENT NO. 2002135987 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

BEARING BASIS: GRID AZIMUTH FOR
 TEXAS CENTRAL ZONE, 1983/93
 HARN VALUES FROM LCRA CONTROL
 NETWORK.
 ATTACHMENTS: METES AND BOUNDS
 DESCRIPTION 351-001-ZN

LOT 2, BLOCK H
 PARKSIDE SUBDIVISION
 (200400029)

NORTHTOWN M.U.D.
 4.652 ACRES
 (12088/492)



1" = 200'

- LEGEND**
- 1/2" REBAR FOUND
 - 1/2" REBAR WITH CAP SET
 - ▲ 60D NAIL FOUND IN HACKBERRY HACKBERRY STUMP

MICELLA DRIVE
 (RIGHT-OF-WAY WIDTH)

27	28	29	30	31	32	33	34	35	36	37	38
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N27°42'37"E 1759.40'
 (N30°16'57"E)

TRACT 3 (LIES WITHIN TRACT 1)
 3.81 ACRES
 WATER QUALITY TRANSITION ZONE

S61°57'45"E 349.51' S62°26'25"E 433.60'
 (S59°23'44"E 349.52') (S59°51'46"E 433.58')

100 YEAR FLOODPLAIN
 (PROVIDED BY HPE)

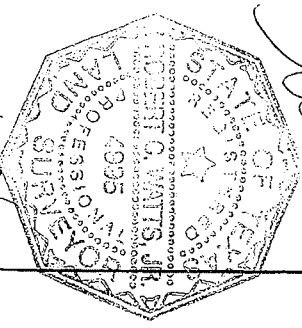
TRACT 1 AND 3 - 35.000 ACRES
 (67.890 ACRES)
 CAPITAL CITY - HOWARD LANE, LTD.
 (2002135987)

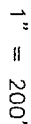
ALEXANDER T. WALTERS
 SURVEY 67 ABSTRACT 791

Chaparral

S27°42'20"W 1758.42'
 S27°42'20"W 3410.11'
 (S30°16'40"W 3410.04')

RUTH MAY MULENEX
 67.93 ACRES
 (13082/106)





(91/188)

(200500063)

ASPHALT PAVEMENT

(200500063)

(50' Right)

SHEET 2 OF 2

(50' RIGHT-OF-WAY WIDTH)

LOT 4
BLOCK B
(200500063)

N27°42'37"E 1759.40'
(N30°16'57"E)

S27°42'37"W 448.34'

P.O.B.

N62°17'23"W 867.24'

67.890 ACRES
(2002135987)

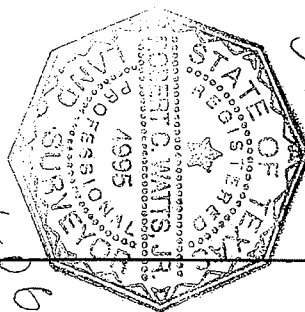
ALEXANDER T. WALTERS
SURVEY 67 ABSTRACT 791
TRACT 1 AND 3 - 35,000 ACRES
(67.890 ACRES)
CAPITAL CITY - HOWARD LANE, LTD.
(2002135987)

S27°42'20"W 1758.42'

S27°42'20"W 3410.11'
(S30°16'40"W 3410.04')

(13082/106)

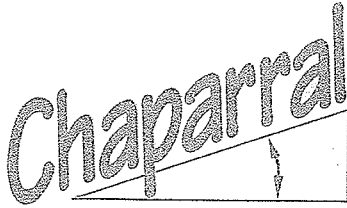
LINE TABLE		
No.	BEARING	LENGTH (RECORD)
L2	S62°12'15"E	(559.39,56"E 83.99')
L4	N62°17'12"W	(N62°09'40"W 63.92')



2

U-6-

Chaparral



Professional Land Surveying, Inc.
Surveying and Mapping

EXHIBIT B

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

**67.890 AC. ZONING DESCRIPTION
CAPITAL CITY-HOWARD LANE, LTD.**

A DESCRIPTION OF 67.890 ACRES IN THE ALEXANDER T. WALTERS SURVEY 67 ABSTRACT 791, TRAVIS COUNTY, TEXAS, CONVEYED TO CAPITAL CITY - HOWARD LANE, LTD. IN A SPECIAL WARRANTY DEED EXECUTED JULY 23, 2002 AND RECORDED IN DOCUMENT NO. 2002135987 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 67.890 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found in the north right-of-way line of Howard Lane East (right-of-way width varies), being the southeast corner of the said 67.890 acre tract, being also the southwest corner of a 67.93 acre tract of land described in Volume 13082, Page 106 of the Real Property Records of Travis County, Texas;

THENCE North 62°18'29" West with the north right-of-way line of Howard Lane East and the south line of the said 67.890 acre tract, a distance of 867.37 feet to a 1/2" rebar with cap set in the east right-of-way line of Harris Ridge Boulevard (right-of-way width varies), being also the southwest corner of the said 67.890 acre tract;

THENCE North 27°42'37" East, with the east right -of-way line of Harris Ridge Boulevard and the west line of the said 67.890 acre tract, passing at a distance of 1203.63 feet a 1/2" rebar found for the southernmost corner of Lot 4, Block B, Resubdivision of Lot 1, Block A, Lot 1, Block B, Lot 1, Block C, Lot 1, Block D and Lot 13, Block E, Parkway Subdivision, a subdivision of record in Document No. 200500063 of the Official Public Records of Travis County, Texas, and continuing with the west line of the 97.890 acre tract and the east line of Northtown Park Section 5-A, a subdivision of record in Volume 91, Page 188 of the Plat Records of Travis County, Texas, and the east line of a 4.652 acre tract described in Volume 12088, Page 492 of the Real Property Records of Travis County, Texas, a total distance of 3411.37 feet to a 1/2" rebar found for the northwest corner of the 67.890 acre tract, being also in the northeast corner of the 4.652 acre tract, and being in the south line of Lot 2, Block H, Parkside Subdivision, a subdivision of record in Document No. 200400029 of the Official Public Records of Travis County, Texas;

THENCE with the north line of the 67.890 acre tract and the south line of Lot 2, the following three (3) courses:

1. South 62°12'15" East, a distance of 84.00 feet to a 60d nail found;
2. South 61°57'45" East, a distance of 349.51 feet to a 1/2" rebar found;

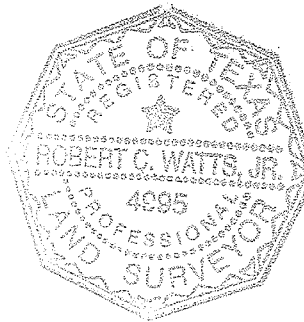
3. South 62°26'25" East, a distance of 433.60 feet to a 1/2" rebar found for the northeast corner of the 67.890 acre tract, for the northwest corner of the said 67.93 acre tract;

THENCE South 27°42'20" West, with the east line of the 67.890 acre tract and the west line of the 67.93 acre tract, a distance of 3410.11 feet to the **POINT OF BEGINNING**.

Surveyed on the ground in January 05, 2007 under my direction and supervision. Bearing basis is Grid Azimuth for the Texas Central Zone, 1983/93 HARN values from the LCRA survey control network. Attachments: Survey Drawing No. 351-001-Z2.



Robert C. Watts, Jr.
Registered Professional Land Surveyor
State of Texas No. 4995



S.29-07

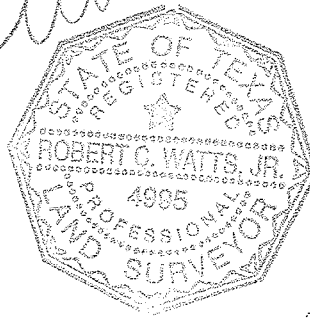
SKETCH TO ACCOMPANY A DESCRIPTION OF 67.890 IN THE ALEXANDER T. WALTERS SURVEY 67 ABSTRACT 791, TRAVIS COUNTY, TEXAS, CONVEYED TO CAPITAL CITY - HOWARD LANE, LTD., BY SPECIAL WARRANTY DEED EXECUTED JULY 23, 2002 AND RECORDED IN DOCUMENT NO. 2002135987 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

LEGEND

- ⊙ 1/2" REBAR FOUND
- 1/2" REBAR WITH CAP SET
- ▲ 60D NAIL FOUND IN HACKBERRY HACKBERRY STUMP

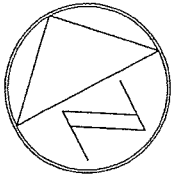
BEARING BASIS: GRID AZIMUTH FOR TEXAS CENTRAL ZONE, 1983/93 HARN VALUES FROM LCRA CONTROL NETWORK.

ATTACHMENTS: METES AND BOUNDS DESCRIPTION 351-001-ZN



DATE OF SURVEY: 01/05/2007
PLOT DATE: 05/29/2007
DRAWING NO.: 351-001-ZN2
PROJECT NO.: 351-001

Chaparral



1" = 200'

LOT
BLOC
(20050)

HARRIS RIDGE BLVD.
(RIGHT-OF-WAY WIDTH VARIES)

1203.63'

N27°42'37"E 3411.37'
(N30°16'57"E 3411.26')

ALEXANDER T. WALTERS
SURVEY 67 ABSTRACT 791

67.890 AC.
CAPITAL CITY - HOWARD LANE, LTD.
(2002135987)

S27°42'20"W 3410.11'
(S30°16'40"W 3410.04')

RUTH MAY MULENEX
67.93 ACRES
(13082/106)

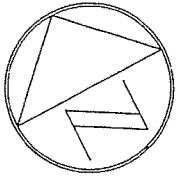
P.O.B.

HOWARD LANE EAST
(RIGHT-OF-WAY WIDTH VARIES)
(13314/706)

N62°18'29"W 867.37'
(N59°44'10"W 867.37')

Chaparral

DATE OF SURVEY: 1/05/2007
PLOT DATE: 05/29/07
DRAWING NO.: 351-001-ZN
PROJECT NO.: 351-001



1" = 200'

S62°12'15"E
84.00'
(S59°39'56"E 83.99')

LOT 2, BLOCK H
PARKSIDE SUBDIVISION
(200400029)

S61°57'45"E 349.51'
(S59°23'44"E 349.52')

S62°26'25"E 433.60'
(S59°51'46"E 433.58')

NORTHTOWN M.U.D.
4.652 ACRES
(12088/492)

NORTHTOWN PARK
SECTION 5-A
(91/188)

MARICELLA DRIVE
(50' RIGHT-OF-WAY WIDTH)

NORTHTOWN PARK
SECTION 5-A
(91/188)

LOT 4
BLOCK B
(200500063)

N27°42'37"E 3411.37'
(N30°16'57"E 3411.26')

ALEXANDER T. WALTERS
SURVEY 67 ABSTRACT 791

67.890 AC.
CAPITAL CITY - HOWARD LANE, LTD.
(2002135987)

S27°42'20"W 3410.11'
(S30°16'40"W 3410.04')

RUTH MAY MULENEX
67.93 ACRES
(13082/106)

Chaparral