**Zoning Case No. C14-2010-0118**

# RESTRICTIVE COVENANT

OWNER: Columbine Properties, Inc., a Texas corporation

ADDRESS: 1410 Turtle Creek Drive, Lufkin, Texas 75904

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: A 11,593 square feet tract of land, more or less, out of Lots 7, 8, and 9 of Fredericksburg Road Acres No. 2 Subdivision, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner (the "Owner", whether one or more) 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 ("Agreement"). 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. Noise levels shall not exceed 70 decibels, as measured at the property line.

2. If any person or entity shall violate or attempt to violate this Agreement, 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, to prevent the person or entity from such actions, and to collect damages for such actions.

3. If any part of this Agreement 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.

4. 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.

5. 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, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____day of _____, 2010.

**OWNER:**

Columbine Properties, Inc.,
a Texas corporation

By: _____
William Tamminga,
Vice President

APPROVED AS TO FORM:

_____
Assistant City Attorney
City of Austin

**THE STATE OF TEXAS** §

**COUNTY OF TRAVIS** §

This instrument was acknowledged before me on this the _____ day of _____, 2010, by William Tamminga, Vice President, of Columbine Properties, Inc., a Texas corporation, on behalf of the corporation.

_____
Notary Public, State of Texas

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

DESCRIPTION

OF A 11,593 SQUARE FEET TRACT, BEING OUT OF AN A PART OF ISAAC DECKER LEAGUE, SITUATED IN TRAVIS COUNTY, TEXAS, ALSO BEING A PORTION OF LOTS 7, 8 AND 9 OF THE FREDERICKSBURG ROAD ACRES NO. 2, AS RECORDED IN VOLUME 465, PAGE 282-283, OF THE TRAVIS COUNTY DEED RECORDS, ALSO BEING ALL OF THAT 0.266 ACRE TRACT AS CONVEYED TO 1901 S. LAMAR, LTD., AS RECORDED IN DOCUMENT #2007064672 OF THE TRAVIS COUNTY DEED RECORDS, SAID 11,593 SQUARE FEET TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

Beginning at a "X" Found in Concrete at the Southeast corner of a 0.266 Acre tract as recorded in Document #2007064672 of the Travis County Deed Records, and the Southwest corner of a tract as conveyed to Paul Y. Tsukahara Marital QTip Trust as recorded in Document #2006246287 of the Travis County Deed Records, also being in the North Right-of-Way of West Mary Street (60' Right-of-Way) previously known as Fredericksburg Road as recorded in Volume 465, Page 282-283 of the Travis County Deed Records and also being in the South line of Lot 9 Fredericksburg Road Acres No. 2 as recorded in Volume 465, Page 282-283 of the Travis County Deed Records;

Thence, S76°29'00"W, with the North Right-of-Way of the said West Mary Street and the South line of the said 0.266 Acre Tract, for a distance of 126.61' feet to a "X" Found on a Concrete Curb, for an angle point;

Thence, S72°38'06"W, with the North Right-of-Way of the said West Mary Street and the South line of the said 0.266 Acre Tract, for a distance of 73.12' feet to a ¼" Iron Rod Found at the Southwest corner of the said 0.266 Acre Tract and being in the East Right-of-Way of Heather Street (50' Right-of-Way), for the Southwest corner of the herein described tract;

Thence, N17°33'05"W, with East Right-of-Way of Heather Street and the west line of the said 0.266 Acre Tract for a distance of 27.58' feet to a ½" Iron Rod Found at the Northwest corner of the said 0.266 Acre Tract, also being in the South line of South Lamar Boulavard (80' Right-of-Way) as recorded in Volume 529, Page 478 and Volume "J", Page 121 of the Travis County Deed Records, for the Northwest corner of the herein described tract;

Thence, with a curve to the Left having a Central Angle of 03°56'36", a Radius of 2905.04' feet, Chord Bears N55°16'28"E, 199.90' feet, for an Arc distance of 199.94' feet to a 3\8" Iron Pipe Found at the Northeast corner of the said 0.266 Acre Tract and the Northwest corner of the said Paul Y. Tsukahara Marital QTip Trust Tract, for the Northeast corner of the herein described tract;

Thence, S22°34'44"E, with the common line between the said 0.266 Acre Tract and the said Paul Y. Tsukahara Marital QTip Trust, for a distance of 96.08' to the Place of Beginning, containing 11,593 Square Feet of land area.

The bearings for the above description are based upon that tract as conveyed to 1901 S. Lamar, Ltd. as recorded in Document #2007064672 of the Travis County Deed Records.

STATE OF TEXAS )(

COUNTY OF TRAVIS )(

I hereby certify that this field note description was prepared from the results of an actual survey made on the ground under my supervision and that it is true and correct to the best of my knowledge.

LIVE OAK SURVEYING
12421 Wycliff Lane
Austin, Texas 78727-5220

7-16-2009

DEAN A. WOODLEY DATE
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 5086




9650109 Field Notes.wps

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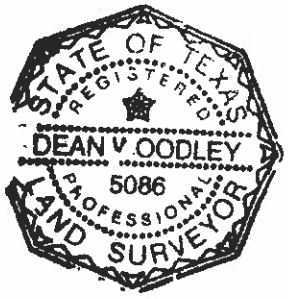
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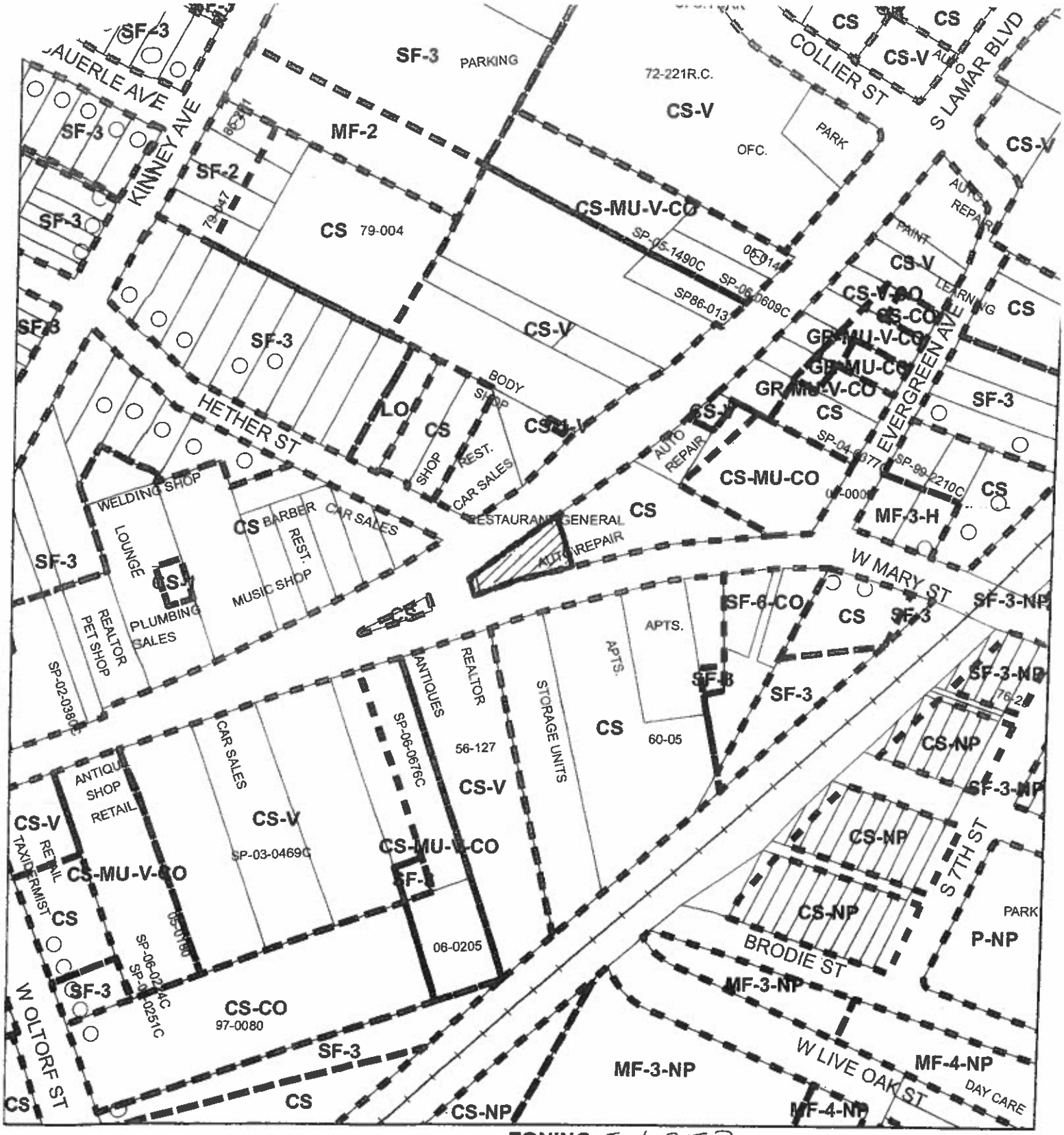
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**ZONING** EXHIBIT B

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

1" = 200'

ZONING CASE#: C14-2010-0118
LOCATION: 1901 S. LAMAR BLVD
SUBJECT AREA: 0.266 AC.
GRID: H20
MANAGER: STEPHEN RYE

CITY OF AUSTIN
FOUNDED 1839

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.