

#52

Late Backup



**MEMORANDUM**

**TO:** Mayor and Council

**FROM:** Greg Guernsey, Director  
Planning and Development Review Department

**DATE:** January 31, 2013

**SUBJECT:** C14-2012-0114 / Monaco II

Attached please find the following items related to this rezoning application:

- Attachment A – Request for Postponement from PODER and  
Response to Postponement from Owner
- Attachment B – Letter from EROC NPCT clarifying support for liquor sales  
Letter from Monaco HOA clarifying support for liquor sales
- Attachment C – Additional correspondence regarding liquor sales
- Attachment D – Draft Zoning Ordinance with Council-adopted CO prohibiting  
drive-through uses (added at first reading)
- Attachment E – Copy of Executed Public Restrictive Covenant

A handwritten signature in black ink, appearing to read 'Greg Guernsey', with a small 'for' written below it.

**Greg Guernsey, Director**  
**Planning and Development Review Department**

x: Marc A. Ott, City Manager  
Sue Edwards, Assistant City Manager



*People Organized in Defense of Earth and her Resources*

January 24, 2013

Mayor Lee Leffingwell  
Mayor Pro Tem Cole  
City Council Member Martinez, Morrison,  
Tovo, Spelman, and Riley

Re: Postponement Request for Case C14-2012-0114  
2440 Wickersham Lane

Dear Mayor Leffingwell, Mayor Pro Tem Cole and City Council Members:

PODER is requesting a postponement for Case#C14-2013-0114 until February 14<sup>th</sup>, 2013. PODER members who live in the East Riverside/Oltorf Combined Neighborhood Plan area were not notified and/or informed by the East Riverside/Oltorf Combined Neighborhood Contact Team that a decision was being made regarding the above case. PODER's members are renters in the East Riverside/Oltorf Combined Neighborhood Planning area, therefore do not receive notices.

PODER would like the opportunity to set a meeting with the agent to discuss residents' concerns and to possibly work on a compromise. PODER understands that the above case was approved on first reading at the City Council meeting on January 17<sup>th</sup>, 2013 without conditions. PODER also endorses the recommendation that was made by the Planning Commission on October 23, 2012 which approved staff recommendation to grant Neighborhood Commercial – Mixed Use – Conditional Overlay, (LR-MU-CO) combining district zoning. This conditional overlay would limit the vehicle trips to less than 2,000 per day and prohibit liquor sales as an accessory use.

Again, we request a postponement on the case that would allow residents who are renters the opportunity to discuss their concerns with the agent of this project.

Sincerely,

*Susana Almanza*  
Susana Almanza, Director  
PODER

*PODER P.O. Box 6237 Austin, TX 78762 512/428-6990 email: poder.austin@gmail.com*

**Attachment A**



*People Organized in Defense of Earth and her Resources*

Please see the applicant response in blue below.

January 24, 2013

Mayor Lee Leffingwell  
Mayor Pro Tem Cole  
City Council Member Martinez, Morrison,  
Tovo, Spelman, and Riley

Re: Postponement Request for Case C14-2012-0114  
2440 Wickersham Lane

Dear Mayor Leffingwell, Mayor Pro Tem Cole and City Council Members:

PODER is requesting a postponement for Case#C14-2013-0114 until February 14<sup>th</sup>, 2013. PODER members who live in the East Riverside/Olton Combined Neighborhood Plan area were not notified and/or informed by the East Riverside/Olton Combined Neighborhood Contact Team that a decision was being made regarding the above case. PODER's members are renters in the East Riverside/Olton Combined Neighborhood Planning area, therefore do not receive notices.

- Written notice was sent to 394 persons around this project including renters and PODER.
- This mailing was sent out TWICE (9-21-2012) and (10-12-2012) confirmed COA records.
- Large Visible Signs were posted on both East Olton and Wickersham. COA photo records.

PODER would like the opportunity to set a meeting with the agent to discuss residents' concerns and to possibly work on a compromise.

- At seeing the letter from PODER, the property owner immediately set up a meeting with PODER (Ms. Almanza). Ms. Almanza brought Jesse Lona. Mr. Lona had previously provided Council a letter packet against the project and spoke to the Council against the project two weeks ago but was relatively silent at this meeting.
- PODER (Ms. Almanza) and Jesse Lona were shown the project. No objection was voiced by them at the meeting.

PODER understands that the above case was approved on first reading at the City Council meeting on January 17<sup>th</sup>, 2013 without conditions.

The GR-MU-CO approval included a

- Public Restrictive Covenant, addressing hours of operation and the TIA, and
- Conditional Overlay.

**Attachment A**

PODER also endorses the recommendation that was made by the Planning Commission on October 23, 2012 which approved staff recommendation to grant Neighborhood Commercial – Mixed Use – Conditional Overlay, (LR-MU-CO) combining district zoning.

- The Planning Commission approved GR-MU-CO not LR-MU-CO

This conditional overlay would limit the vehicle trips to less than 2,000 per day and prohibit liquor sales as an accessory use.

- The vehicle trip limitations are per the approved TIA and made a part of the Approved Public Restrictive Covenant.

Again, we request a postponement on the case that would allow residents who are renters the opportunity to discuss their concerns with the agent of this project.

- All notices to all persons have been sent out timely. Large visible signage was also posted.
- Considering the time PODER (Ms. Almanza) has had to respond to all of the notices and postings sent to her and her total absence in all of the successful neighborhood meetings with both the East Riverside/Oltorf Neighborhood Contact Team (EROC) and the Monaco Homeowners Association, her late request is unwarranted.
- Actual neighborhood meetings have resulted in Support Letters from both the neighboring Monaco Homeowners Association and the EROC Team.  
PODER (Ms. Almanza) is ignoring this Neighborhood and EROC Team support.
- The City Council has already voted unanimously to approve this zoning request. There is no new information not previously presented to the City Council prior to the City Council unanimous action on January 17, 2013. The 2nd and 3rd readings should not be postponed.
- The Monaco Homeowners Association also disagrees with any postponement of the 2nd and 3rd readings. (Their letter is attached)

Sincerely,

*Susana Almanza*

Susana Almanza, Director  
PODER

*PODER P.O. Box 6237 Austin, TX 78762 512/428-6990 email: poder.austin@gmail.com*

**Attachment A**

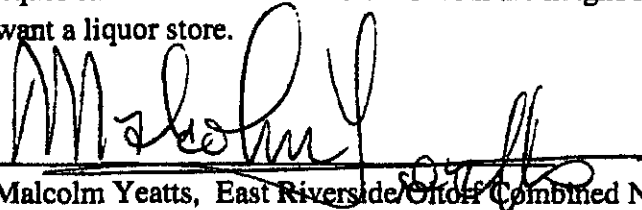
January 18, 2013

From: East Riverside/Oltorf Combined Neighborhood Plan Contact Team  
c/o: Mr. Malcolm Yeatts

To: Austin City Council  
c/o: Mr. Lee Heckman, Case Manager  
Case #: C14-2012-0114  
Monaco II

Dear Council:

We watched the City Council proceedings for the above case and are responding to the council's request for clarification on the beer wine sales. We have no objection to restaurant liquor sales or beer and wine sales from the neighborhood grocery. The neighborhoods do not want a liquor store.



Malcolm Yeatts, East Riverside/Oltorf Combined Neighborhood Plan Contact Team  
4811 Allison Cove  
385-1958

January 28, 2013

From: Monaco Homeowners Association

c/o: Mr. Rick Thompson, President

To: Austin City Council

c/o: Mr. Lee Heckman, Case Manager

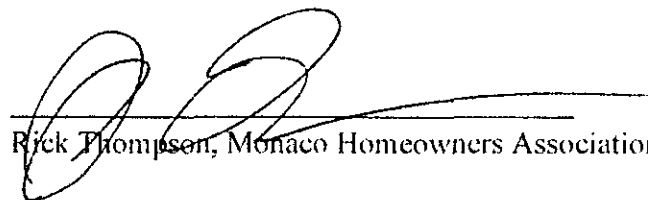
Case #: C14-2012-0114, Monaco II

Dear Council:

In response to the City Council request for further clarification of our original support letter "We do support beer and wine sales for the planned neighborhood convenience grocery store and mixed drinks at the new restaurant/s during the agreed operating hours shown in the new Public Restrictive Covenant." I have had the attached neighborhood benefits package put together for them and for you so that they and you would understand how beneficial this project will be to our neighborhood.

Please continue the Council actions started on January 17th, 2013 and

PLEASE DO NOT POSTPONE THE 2ND AND 3RD READINGS  
ON JANUARY 31, 2013

A handwritten signature in black ink, appearing to read 'Rick Thompson', is written over a horizontal line.

Rick Thompson, Monaco Homeowners Association, Board President

Attachments:

The Fully Executed new Public Restrictive Covenant restricting hours of operation.

Original Support letter with map showing the location of our HOA.

Monaco / Neighborhood Benefits Package

**Attachment B**

**From: On Behalf Of**

**Sent:** Tuesday, January 29, 2013 10:12 PM

**To:** Heckman, Lee

**Cc:**

**Subject:** Opposition to zoning request: 2440 Wickersham - File/Case No. C14-2012-0114

To: Austin City Counsel

As a resident of Chamonix Condos at 2450 Wickersham Lane and as a board member of Chamonix Condos, I wish to include my name in opposition to the sales of alcohol. By this e-mail to the other two board members (Patrick Everling and Ray Flores), I ask them to add their names and addresses to this petition and forward to you by January 30, 2013.

I protest against any change of Land Development Code which would zone the property to any classification other than GR-MU-CO with the following uses prohibited:

Automotive Repair Sales	Automotive Sales	Commercial Off-Street Parking
Community Recreation-Public	Congregate Living	Drive-Thru Services
Drop-Off Recycling Collection Facility	Exterminating Services	Hospital Services -General
Hotel-Motel	Indoor Sports & Recreation	Off-Site Recreation Parking
Outdoor Entertainment	Pawn Shop Services	Private Primary Educational Svcs.
Private Secondary Educational Svcs.	Residential Treatment	Services Station
Theater		

- \* Residential uses shall be limited to MF-3 density standards;
- \* Hours of Operation shall be limited to Sun. through Thurs., 6 AM to 10 PM and Fri. through Sat. 6 AM to 12 AM; and
- \* Prohibit Liquor and Alcohol sales as a principal and accessory use; (including beer/wine sales as a principal and accessory uses).

I believe that allowing alcohol sales at the site will have a negative effect on the surrounding area and our property. Allowing alcohol sales will increase crime, violence, loitering, and it will create more problems in an already high crime area, as alcohol is an enabler of crime. All alcohol sales should be prohibited at the proposed development including alcohol sales at a Grocery Store, Convenience Store, Bar and Restaurant.

Sylvia Gomez  
2450 Wickersham Lane, Unit 718  
Austin, TX 78741  
Ph.: 512/784-7152

**Attachment C**

**From:** Ray Flores  
**Sent:** Wednesday, January 30, 2013 5:53 AM  
**To:** Heckman, Lee  
**Cc:**  
**Subject:** RE: Opposition to zoning request: 2440 Wickersham - File/Case No. C14-2012 -0114

To: Austin City Counsel

As a resident of Chamonix Condos at 2450 Wickersham Lane and as a board member of Chamonix Condos, I wish to include my name in opposition to the sales of alcohol. **By this e-mail to the other two board members (Patrick Everling and Ray Flores), I ask them to add their names and addresses to this petition and forward to you by January 30, 2013.**

I protest against any change of Land Development Code which would zone the property to any classification other than GR-MU-CO with the following uses prohibited:

Automotive Repair Sales	Automotive Sales	Commercial Off-Street Parking
Community Recreation-Public	Congregate Living	Drive-Thru Services
Drop-Off Recycling Collection Facility	Exterminating Services	Hospital Services -General
Hotel-Motel	Indoor Sports & Recreation	Off-Site Recreation Parking
Outdoor Entertainment	Pawn Shop Services	Private Primary Educational Svcs.
Private Secondary Educational Svcs.	Residential Treatment	Services Station
Theater		

- \* Residential uses shall be limited to MF-3 density standards;
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I believe that allowing alcohol sales at the site will have a negative effect on the surrounding area and our property. Allowing alcohol sales will increase crime, violence, loitering, and it will create more problems in an already high crime area, as alcohol is an enabler of crime. All alcohol sales should be prohibited at the proposed development including alcohol sales at a Grocery Store, Convenience Store, Bar and Restaurant.

Sylvia Gomez  
2450 Wickersham Lane, Unit 718  
Austin, TX 78741  
Ph.: 512/784-7152

Ray Flores  
2450 Wickersham Lane #1316  
Austin Texas, 78741  
512 689  
512 689 7325

**Attachment C**



-----Original Message-----

From: John Hartzler

Sent: Sunday, January 27, 2013 11:51 AM

To: Heckman, Lee

Subject: Zoning 2440 Wickersham Lane-Opposed to Rezoning

Dear Mr. Heckman:

My name is John Hartzler at 2901 Allison Dr., Austin, Texas 78741 and phone number 512-385-3173. I am opposed to the rezoning of the property located at 2440 Wickersham Lane because it will have a detrimental affect on our neighborhood. We want to keep our neighborhood safe for families and to protect our neighborhood. The sale of alcohol in our neighborhood does not make sense since there are several establishments located on Oltorf, Burton, and on Riverside that are available for patrons purchasing alcohol. These kind of establishments generate lots of crime, drug activity and loitering. I believe it will lower our property values in the area and will cause a unwanted level of alert for us to protect our homes from unwanted and potentially unsavory people.

Last year there were 459 alcohol/DWI related police cases in our neighborhood and 7000 incidents were reported in our area as well. We believe providing the public with more availability of alcohol would increase this number and cause undue damage to our neighborhood. We have many different families living in our neighborhood and they have a right to live in a place and area that is free of crime, drug activity and loitering that this kind of establishment would bring to our neighborhood. Therefore, I oppose the rezoning of 2440 Wickersham Lane and request that you prohibit alcohol/liquor sales at this location. Thanks.

John Hartzler  
2901 Allison Dr.  
Austin, Texas 78741

**From:** Allen Stephens

**Sent:** Thursday, January 17, 2013 2:09 PM

**To:** Heckman, Lee

**Subject:** Monaco rezoning

Mr. Beckham my name is Allen Stephens and i am a condo owner at Monaco 4500 E. OLTORF ST. #420 AUSTIN TX 78741 I live here full time this is my permanent residence my bedroom and living room sliding glass doors go out to my patio that face that field and wicker sham I can hear noise from wicker sham and at the bus stop in my bedroom, I have spent 30,000 dollars renovating my condo over the last 5 years I do not want to convenience store a fast food place or check cashing place steps from my bedroom door I feel like you're taking advantage of the fact that this is a low income area if this were a high in area this would not be going on!! this is our home this is where we live this is where we go for our sanctuaries!!! if this place is allowed to be rezoned for commercial place this is going to ruin our home lives!!!!!! I never got the information on my door like other residents my neighbor just came and share this information with me and I'm very upset for the fact that the meeting is in the middle of the day of the week and for the the fact that I never did get any of this information about this meeting and it said we had a deadline a 5 o'clock yesterday to email you, but I didn't get that information!! as a

**Attachment C**

homeowner I am 100 percent against this happening it will ruin our home lives it will lower our property values and it will bring more drugs pollution and crime in our area, someone's gotta stand up for us to not allow this to happen this is just ridiculous!! Thank you, Allen Stephens

Sent from Yahoo! Mail on Android

-----Original Message-----

From: Kerry Kittrell  
Sent: Thursday, January 17, 2013 1:12 PM  
To: Heckman, Lee  
Subject: 2440 Wickersham Lane -- NO ALCOHOL SALES  
Importance: High

Dear Mr. Heckman,

I am ADAMANTLY opposed to permitting alcohol sales at the new development at 2440 Wickersham Lane in order to protect our lovely neighborhood from more crime. There is already too much crime in our area without encouraging more.

I live at 2806 Allison Drive, Austin, 78741 and have done so since 1999. During the time I have live there, my housing area has experienced lots of break-ins and robberies. We have had our home broken into TWICE. Not fun.

Please do the responsible thing and don't give in to the unscrupulous, greedy developer. Have them keep their word.

Keep our neighborhoods safe!

Thank you in advance for your support.

Kerry Kittrell  
512 632 7858

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE  
2 PROPERTY LOCATED AT 2440 WICKERSHAM LANE FROM MULTI FAMILY  
3 RESIDENCE LOW DENSITY (MF-2) DISTRICT TO COMMUNITY  
4 COMMERCIAL-MIXED USE-CONDITIONAL OVERLAY (GR-MU-CO)  
5 COMBINING DISTRICT.  
6  
7

8 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:  
9  
10

11 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to  
12 change the base district from multi family residence low density (MF-2) district to  
13 community commercial-mixed use-conditional overlay (GR-MU-CO) combining district  
14 on the property described in Zoning Case No. C14-2012-0114, on file at the Planning and  
15 Development Review Department, as follows:  
16

17 A 1.960 acre tract of land, more or less, out of the Santiago Del Valle Grant the  
18 tract of land being more particularly described by metes and bounds in Exhibit "A"  
19 incorporated into this ordinance (the "Property"),  
20

21 locally known as 2440 Wickersham Lane in the City of Austin, Travis County, Texas, and  
22 generally identified in the map attached as Exhibit "B".  
23

24 **PART 2.** The Property within the boundaries of the conditional overlay combining district  
25 established by this ordinance is subject to the following conditions:  
26

- 27 A. Drive-in service use is prohibited as an accessory use to commercial uses.  
28  
29 B. Development of the Property may not exceed 36 residential units per acre.  
30

C. The following uses are prohibited uses of the Property:

Automotive repair services

Automotive sales

Congregate living

Exterminating services

Hotel-motel

Off-site accessory parking

Pawn shop services

Private secondary educational services

Service station

Commercial off-street parking

Community recreation (public)

Drop-off recycling collection facility

Hospital services-general

Indoor sports and recreation

Outdoor entertainment

Private primary educational services

Residential treatment

Theater

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the community commercial (GR) base district, the mixed use combining district and other applicable requirements of the City Code.

**PART 3.** This ordinance takes effect on \_\_\_\_\_, 2013.

**PASSED AND APPROVED**

2013

Lee Leffingwell  
Mayor

**APPROVED:**

Karen M. Kennard  
City Attorney

**ATTEST:**

Janette Goodall  
City Clerk



## Landesign Services, Inc.

555 Round Rock West Drive  
Bldg. D, Suite 170  
Round Rock, Texas 78681  
512-238-7901 office  
512-238-7902 fax

EXHIBIT " "

### METES AND BOUNDS DESCRIPTION

BEING 1.960 OF AN ACRE OF LAND, SURVEYED BY LANDESIGN SERVICES, INC., OUT OF THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF THE REMAINDER OF LOT 4 CHEVY CHASE SOUTH PHASE SIX RECORDED IN BOOK 85, PAGE 127B OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS (P.R.T.C.T.), A PORTION OF LOT 1, BLOCK A, MONACO SUBDIVISION OF RECORD IN DOCUMENT NUMBER 200200348 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.) AND BEING A PORTION OF A 2.04 ACRE TRACT DESCRIBED IN VOLUME 12345, PAGE 718 OF THE REAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (R.P.R.T.C.T.) AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2" iron rod found at the southeast corner of said Lot 1, the southeast corner of Lot 2, Chevy Chase South, Phase 2 a subdivision of record in Cabinet 78, Slide 138 of the P.R.T.C.T. and in the west right-of-way line of Wickersham Lane (70' R.O.W.)

THENCE South 70°28'35" West with the east line of said Lot 1 and the existing west right-of-way line of said Wickersham Lane a distance of 34.90 feet to an iron rod found;

THENCE continuing along with the east line of said Lot 1 and the existing west right-of-way line of said Wickersham Lane along a curve to the left, having a radius of 841.63 feet, a delta angle of 22°04'49", a length of 324.34 feet and a chord which bears South 59°16'54" West a distance of 322.34 feet to an iron rod found;

THENCE continuing along with the east line of said Lot 1 and the existing west right-of-way line of said Wickersham Lane along a curve to the right, having a radius of 15.00 feet, a delta angle of 86°40'52", a length of 22.69 feet and a chord which bears North 88°25'05" West a distance of 20.59 feet to an 1/2" iron rod with cap marked "LANDESIGN" found;

THENCE along with the south line of said Lot 1 and the existing north right-of-way line of East Oltorf Street (90' R.O.W.) along a curve to the left, having a radius of 2036.28.00 feet, a delta angle of 05°48'49", a length of 206.61 feet and a chord which bears North 47°59'03" West a distance of 206.52 feet to a 1/2" iron rod with cap marked "LANDESIGN" set;

THENCE North 39°56'04" East crossing through said Remainder Lot 4 a distance of 33.78 feet to a 1/2" iron rod with cap marked "LANDESIGN" set in the south line of said Lot 1;

THENCE North 25°37'48" West with the south line of said Lot 1 a distance of 27.06 feet to a 1/2" iron rod with cap marked "LANDESIGN" set in the west line of said 2.04 acre tract;

THENCE North 38°29'26" East with the west line of said 2.04 acre tract and crossing through said Lot 1 a distance of 90.62 feet to a 1/2" iron rod with cap marked "LANDESIGN" set;

THENCE with the west line of said Lot 1 and the east line of said Remainder of Lot 4 the following two (2) courses:

1. South 79°12'56" East a distance of 1.29 feet to a iron rod found;
2. North 42°18'22" East a distance of 66.49 feet to 1/2" iron rod with cap marked "LANDESIGN" set;

THENCE crossing through said Lot 1 the following two (2) courses:

1. South 53°29'40" East a distance of 74.09 feet to a 1/2" iron rod with cap marked "LANDESIGN" set;
2. North 84°20'44" East a distance of 39.13 feet to a 1/2" iron rod with cap marked "LANDESIGN" set in the west line of said Lot 1 and the east line of said Remainder of Lot 4 and the west line of said 2.04 acre tract;

THENCE with the west line of said 2.04 acre tract and crossing through said Lot 1 the following two(2) courses:


1. South 67°24'08" East a distance of 46.23 feet to a 1/2" iron rod with cap marked "LANDESIGN" set;
2. North 59°57'23" East a distance of 52.99 feet to a 1/2" iron rod with cap marked "LANDESIGN" set in the west line of said Lot 1 and the east line of said Remainder of Lot 4;

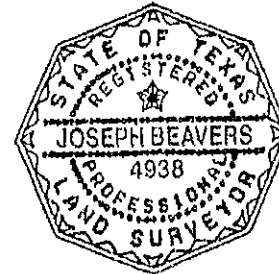
THENCE along the west line of said Lot 1 and the east line of said Remainder of Lot 4 the following three (3) courses:

1. North 84°20'44" East a distance of 11.49 feet to an iron rod found;
2. South 86°27'46" East a distance of 8.26 feet to an iron rod found;
3. North 63°07'55" East a distance of 91.86 feet to an iron rod found in the north line of said Lot 1 and the south line of said Lot 2;

THENCE South 30°03'52" East with the north line of said Lot 1 and the south line of said Lot 2 a distance of 165.60 feet to the POINT OF BEGINNING.

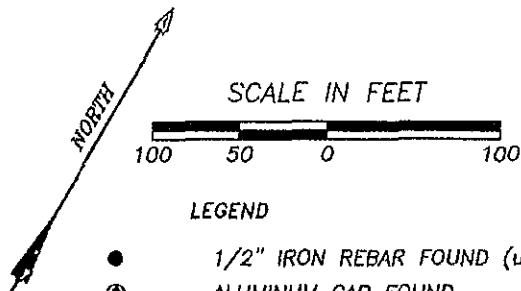
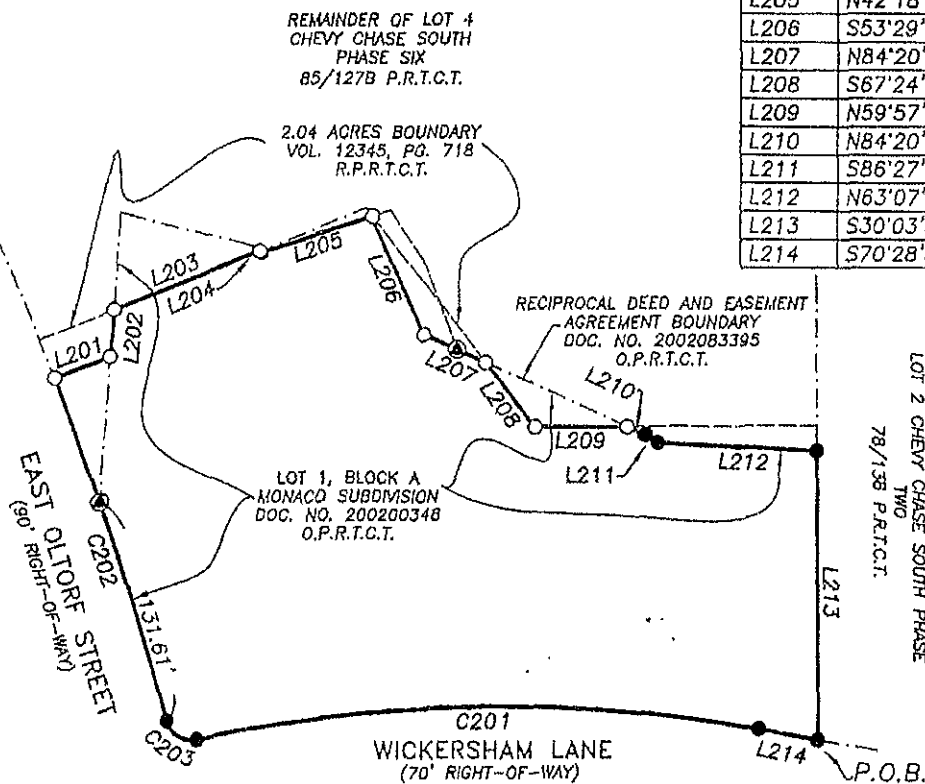
This parcel contains 1.960 of an acre of land, out of the Santiago Del Valle Grant, in Travis County, Texas. Description prepared from an on-the-ground survey made during September, 2012. All bearings are based on the north right-of-way line of Wickersham Lane as shown on the Monaco subdivision of record in Doc. No. 200200348 of the Official Public Records of Travis County, Texas.

 15 Nov 12  
\_\_\_\_\_  
Joseph Beavers                      Date  
Registered Professional Land Surveyor  
State of Texas No. 4938



NO.	Radius	Delta Angle	Length	Chord Bearing	Chord Length
C201	841.63	22°04'49"	324.34	S59°16'54"W	322.34
C202	2036.28	05°48'49"	206.61	N47°59'03"W	206.52
C203	15.00	86°40'52"	22.69	N88°25'05"W	20.59

NUMBER	DIRECTION	DISTANCE
L201	N39°56'04"E	33.78'
L202	N25°37'48"W	27.06'
L203	N38°29'26"E	90.62'
L204	S79°12'56"E	1.29'
L205	N42°18'22"E	66.49'
L206	S53°29'40"E	74.09'
L207	N84°20'44"E	39.13'
L208	S67°24'08"E	46.23'
L209	N59°57'23"E	52.99'
L210	N84°20'44"E	11.49'
L211	S86°27'46"E	8.26'
L212	N63°07'55"E	91.86'
L213	S30°03'52"E	165.60'
L214	S70°28'35"W	34.90'



#### LEGEND

- 1/2" IRON REBAR FOUND (unless noted otherwise)
- ⊙ ALUMINUM CAP FOUND
- ⊠ PUNCH/DRILL/"X" FOUND
- 1/2" IRON REBAR W/ORANGE PLASTIC CAP STAMPED "LANDESIGN" SET
- P.O.C POINT OF COMMENCEMENT
- P.O.B POINT OF BEGINNING

*SR*  
15 Nov 12



JOB NUMBER: 220-09-02 DATE: 09/10/2012

PROJECT NAME: 2440 WICKERSHAM

DRAWING NAME: 2200903 ZONNING

DRAWING FILE PATH:  
L:\2240 WICKERSHAM\DWG\2200202METES\_SWAP

FIELDNOTE FILE PATH:

RPLS: JB TECH: JCA PARTYCHIEF: PC CHK BY: JB

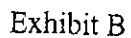
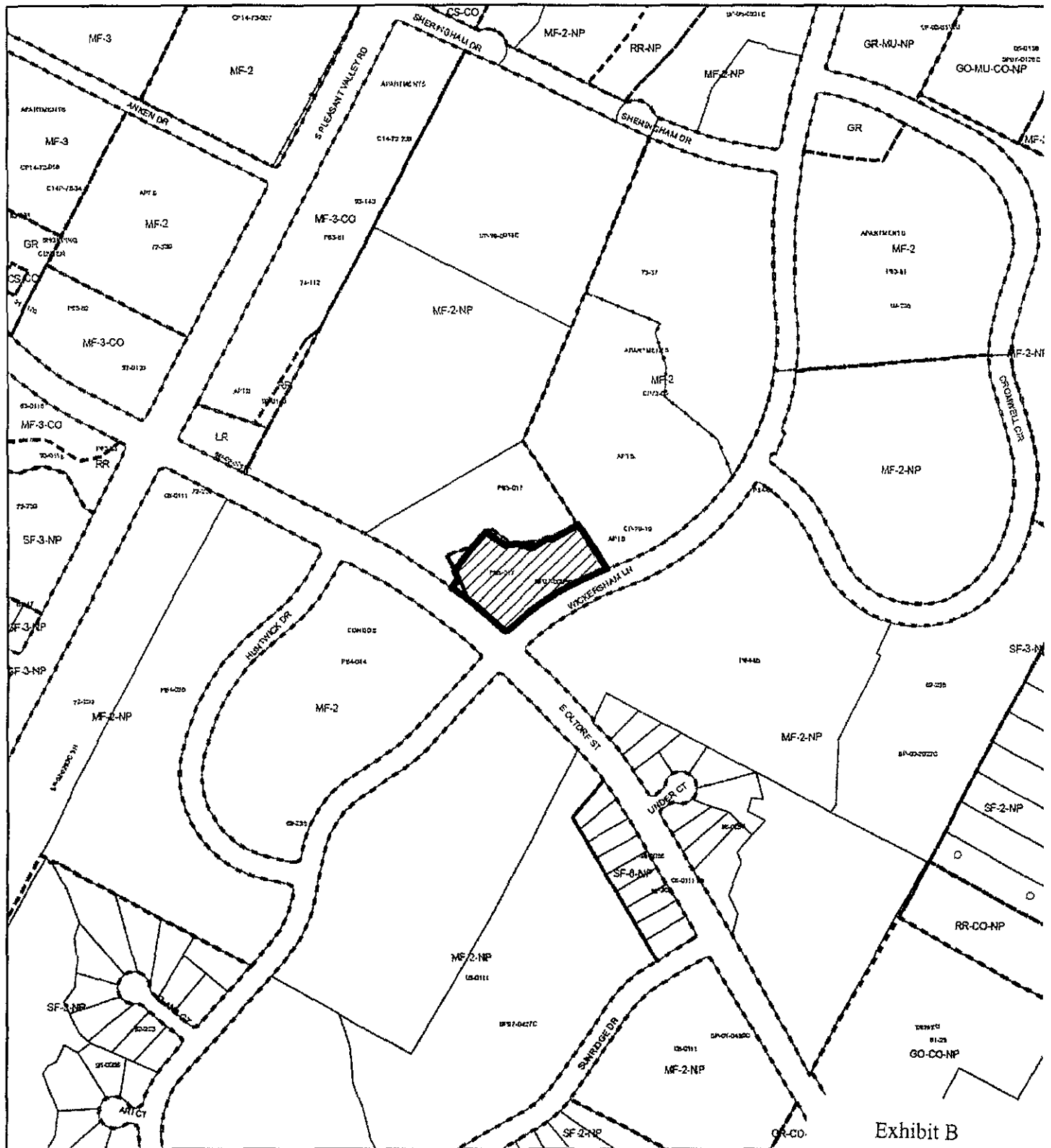
SHEET 1 of 1 FIELDBOOKS: SCALE: 1" = 100'






**LANDESIGN  
SERVICES, INC.**

512-238-7901  
555 ROUND ROCK WEST DR.  
BUILDING D, SUITE 170  
ROUND ROCK, TEXAS 78681





-  SUBJECT TRACT  
 PENDING CASE  
 ZONING BOUNDARY

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Exhibit A

**RESTRICTIVE COVENANT**

OWNER: Joycevus, Inc., a Texas corporation

ADDRESS: P.O. Box 1090, Kyle, TX 78640

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 1.960 acre tract of land out of the Santiago Del Valle Grant, said acre tract of land being more particularly described by metes and bounds in Exhibit "A" attached and 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. Hours of operation for a business located on the Property are limited to the hours of 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 12:00 a.m. Friday and Saturday.
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 HDR Engineering, Inc., dated December 31, 2012, or as amended and approved by the Director of the Planning 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 Planning and Development Review Department, dated January 11, 2013. The TIA shall be kept on file at the Planning and Development Review Department.

3. 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.
4. 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.
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, 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 29 day of January, 2013.

OWNER:

JOYCEVUS, INC., A TEXAS CORPORATION

  
T. Marc Knutsen  
President

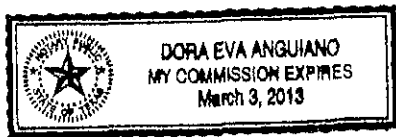
APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 29 day January of, 2013, by T. Marc Knutsen, President of Joycevus, Inc., a Texas corporation, on behalf of said corporation.



Dora E. Anguiano  
Notary Public, State of Texas

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



## Landesign Services, Inc.

555 Round Rock West Drive  
Bldg. D, Suite 170  
Round Rock, Texas 78681  
512-238-7901 office  
512-238-7902 fax

EXHIBIT " "

### METES AND BOUNDS DESCRIPTION

BEING 1.960 OF AN ACRE OF LAND, SURVEYED BY LANDESIGN SERVICES, INC., OUT OF THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF THE REMAINDER OF LOT 4 CHEVY CHASE SOUTH PHASE SIX RECORDED IN BOOK 85, PAGE 127B OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS (P.R.T.C.T.), A PORTION OF LOT 1, BLOCK A, MONACO SUBDIVISION OF RECORD IN DOCUMENT NUMBER 200200348 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.) AND BEING A PORTION OF A 2.04 ACRE TRACT DESCRIBED IN VOLUME 12345, PAGE 718 OF THE REAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (R.P.R.T.C.T.) AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2" iron rod found at the southeast corner of said Lot 1, the southeast corner of Lot 2, Chevy Chase South, Phase 2 a subdivision of record in Cabinet 78, Slide 138 of the P.R.T.C.T. and in the west right-of-way line of Wickersham Lane (70' R.O.W.)

THENCE South  $70^{\circ}28'35''$  West with the east line of said Lot 1 and the existing west right-of-way line of said Wickersham Lane a distance of 34.90 feet to an iron rod found;

THENCE continuing along with the east line of said Lot 1 and the existing west right-of-way line of said Wickersham Lane along a curve to the left, having a radius of 841.63 feet, a delta angle of  $22^{\circ}04'49''$ , a length of 324.34 feet and a chord which bears South  $59^{\circ}16'54''$  West a distance of 322.34 feet to an iron rod found;

THENCE continuing along with the east line of said Lot 1 and the existing west right-of-way line of said Wickersham Lane along a curve to the right, having a radius of 15.00 feet, a delta angle of  $86^{\circ}40'52''$ , a length of 22.69 feet and a chord which bears North  $88^{\circ}25'05''$  West a distance of 20.59 feet to an 1/2" iron rod with cap marked "LANDESIGN" found;

THENCE along with the south line of said Lot 1 and the existing north right-of-way line of East Oltorf Street (90' R.O.W.) along a curve to the left, having a radius of 2036.28.00 feet, a delta angle of  $05^{\circ}48'49''$ , a length of 206.61 feet and a chord which bears North  $47^{\circ}59'03''$  West a distance of 206.52 feet to a 1/2" iron rod with cap marked "LANDESIGN" set;

THENCE North  $39^{\circ}56'04''$  East crossing through said Remainder Lot 4 a distance of 33.78 feet to a 1/2" iron rod with cap marked "LANDESIGN" set in the south line of said Lot 1;

THENCE North 25°37'48" West with the south line of said Lot 1 a distance of 27.06 feet to a 1/2" iron rod with cap marked "LANDESIGN" set in the west line of said 2.04 acre tract;

THENCE North 38°29'26" East with the west line of said 2.04 acre tract and crossing through said Lot 1 a distance of 90.62 feet to a 1/2" iron rod with cap marked "LANDESIGN" set;

THENCE with the west line of said Lot 1 and the east line of said Remainder of Lot 4 the following two (2) courses:

1. South 79°12'56" East a distance of 1.29 feet to a iron rod found;
2. North 42°18'22" East a distance of 66.49 feet to 1/2" iron rod with cap marked "LANDESIGN" set;

THENCE crossing through said Lot 1 the following two (2) courses:

1. South 53°29'40" East a distance of 74.09 feet to a 1/2" iron rod with cap marked "LANDESIGN" set;
2. North 84°20'44" East a distance of 39.13 fee to a 1/2" iron rod with cap marked "LANDESIGN" set in the west line of said Lot 1 and the east line of said Remainder of Lot 4 and the west line of said 2.04 acre tract;

THENCE with the west line of said 2.04 acre tract and crossing through said Lot 1 the following two(2) courses:

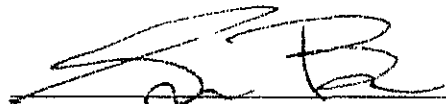
1. South 67°24'08" East a distance of 46.23 feet to a 1/2" iron rod with cap marked "LANDESIGN" set;
2. North 59°57'23" East a distance of 52.99 feet to a 1/2" iron rod with cap marked "LANDESIGN" set in the west line of said Lot 1 and the east line of said Remainder of Lot 4;

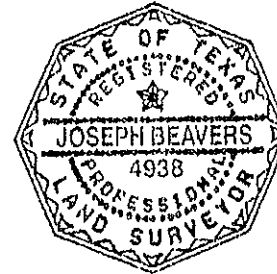
THENCE along the west line of said Lot 1 and the east line of said Remainder of Lot 4 the following three (3) courses:

1. North 84°20'44" East a distance of 11.49 feet to an iron rod found;
2. South 86°27'46" East a distance of 8.26 feet to an iron rod found;
3. North 63°07'55" East a distance of 91.86 feet to an iron rod found in the north line of said Lot 1 and the south line of said Lot 2;

THENCE South 30°03'52" East with the north line of said Lot 1 and the south line of said Lot 2 a distance of 165.60 feet to the POINT OF BEGINNING.

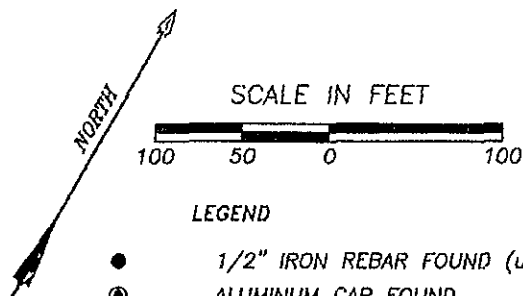
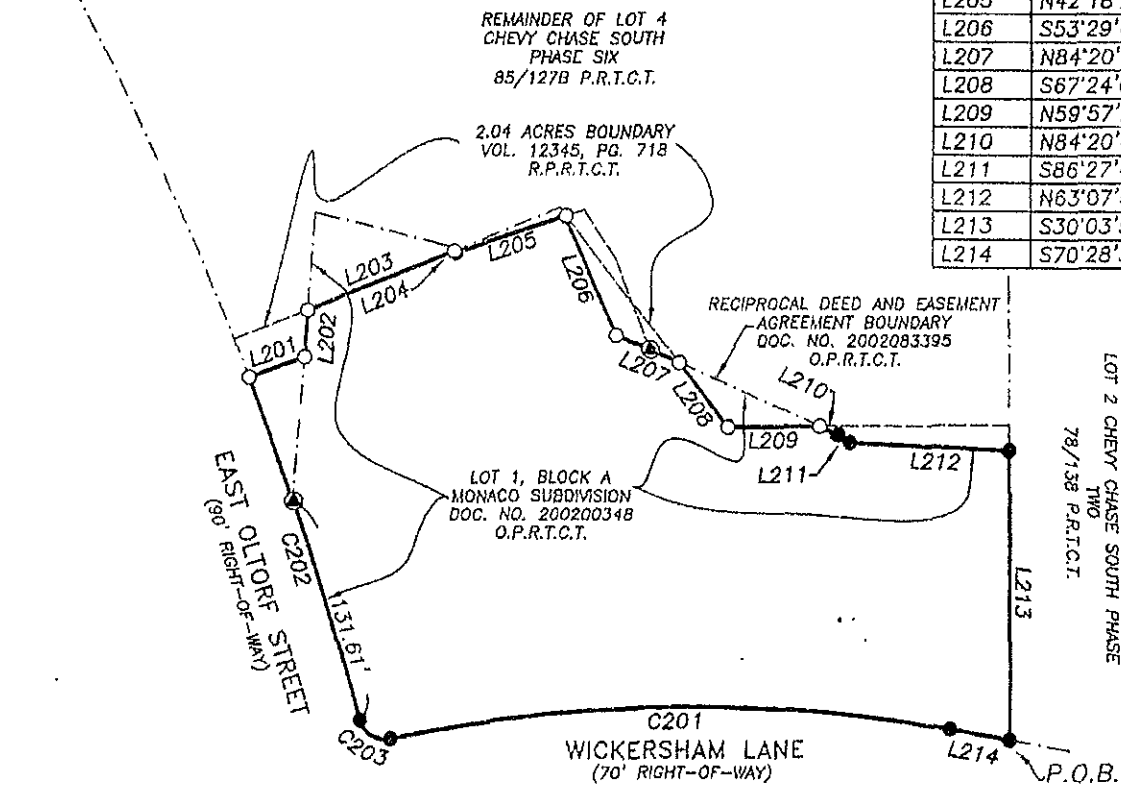
This parcel contains 1.960 of an acre of land, out of the Santiago Del Valle Grant, in Travis County, Texas. Description prepared from an on-the-ground survey made during September, 2012. All bearings are based on the north right-of-way line of Wickersham Lane as shown on the Monaco subdivision of record in Doc. No. 200200348 of the Official Public Records of Travis County, Texas.

 15 Nov 12  
\_\_\_\_\_  
Joseph Beavers                      Date  
Registered Professional Land Surveyor  
State of Texas No. 4938



NO.	Radius	Delta Angle	Length	Chord Bearing	Chord Length
C201	841.63	22°04'49"	324.34	S59°16'54"W	322.34
C202	2036.28	05°48'49"	206.61	N47°59'03"W	206.52
C203	15.00	86°40'52"	22.69	N88°25'05"W	20.59

NUMBER	DIRECTION	DISTANCE
L201	N39°56'04"E	33.78'
L202	N25°37'48"W	27.06'
L203	N38°29'26"E	90.62'
L204	S79°12'56"E	1.29'
L205	N42°18'22"E	66.49'
L206	S53°29'40"E	74.09'
L207	N84°20'44"E	39.13'
L208	S67°24'08"E	46.23'
L209	N59°57'23"E	52.99'
L210	N84°20'44"E	11.49'
L211	S86°27'46"E	8.26'
L212	N63°07'55"E	91.86'
L213	S30°03'52"E	165.60'
L214	S70°28'35"W	34.90'



#### LEGEND

- 1/2" IRON REBAR FOUND (unless noted otherwise)
- ⊙ ALUMINUM CAP FOUND
- ⊗ PUNCH/DRILL/"X" FOUND
- 1/2" IRON REBAR W/ORANGE PLASTIC CAP STAMPED "LANDESIGN" SET

P.O.C POINT OF COMMENCEMENT  
P.O.B POINT OF BEGINNING



JOB NUMBER: 220-09-02 DATE: 09/10/2012

PROJECT NAME: 2440 WICKERSHAM

DRAWING NAME: 2200903 ZONNING

DRAWING FILE PATH:

L:\2240 WICKERSHAM\DWG\2200202METES\_SWAP

FIELDNOTE FILE PATH:

RPLS: JB TECH: JCA PARTYCHIEF: PC CHK BY: JB

SHEET 1 of 1 FIELDBOOKS: SCALE: 1" = 100'



**LANDESIGN  
SERVICES, INC.**

512-238-7001  
555 ROUND ROCK WEST DR.  
BUILDING D, SUITE 170  
ROUND ROCK, TEXAS 78681