

#31

Zoning Case No. C14-03-0120

RESTRICTIVE COVENANT

OWNER: 6500 Mopac Centrum Land, Ltd., a Texas limited partnership

ADDRESS: 7200 N. Mopac Expressway, Suite 450, Austin, TX 78731

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: Two tracts of land consisting of a 2.764 acre tract and a 0.572 acre tract, more or less, out of the T.J. Chambers Survey in Travis County, the tracts of land being more particularly described by metes and bounds in Exhibits "A" and "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. 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, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis (TIA) prepared by WHM Transportation Engineering Consultants, Inc., dated July 2003, or as amended and approved by the Director of the Watershed Protection and Development Review Department. 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 March 22, 2004. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. 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.
3. 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.
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 boty (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Propertry subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 12th day of May, 2004.

OWNER:

6500 Mopac Centrum Land, Ltd.
a Texas limited partnership

By: MCL GP, LLC,
a Texas limited liability company
its General Partner

By: [Signature]
Gerald Kucera
Manager

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 12th day of May, 2004, by Gerald Kucera, Manager, of 6500 MCL GP, LLC, a Texas limited liability company, on behalf of the company, and the company acknowledged this instrument as General Partner, on behalf of 6500 Mopac Centrum Land, Ltd., a Texas limited partnership.

Mary Jo Stilp
Notary Public, State of Texas

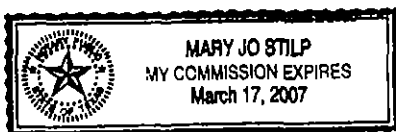


EXHIBIT A

FN-04-006-02-01
Proposed General Office (GO)
2.764 Acres
February 4, 2004

FIELD NOTE DESCRIPTION FOR A 2.764 ACRE PARCEL
(GO ZONING)

DESCRIPTION OF A 2.764 ACRE TRACT OF LAND, HEREIN IN THE T. J. CHAMBERS SURVEY IN TRAVIS COUNTY, TEXAS BEING PART OF THAT LOT 4 AND ALL OF LOTS 2 AND 3 OF NORTHWEST HILLS SECTION 15-A, A SUBDIVISION OF RECORD IN BOOK 86, PAGE 65A OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS AND BEING A PART OF THAT CERTAIN TRACT OF LAND AS DESCRIBED IN A DEED TO BALCONES CENTRUM, LTD., OF RECORD IN DOCUMENT NO. 2000042959 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 2.764 ACRE (24,906 SQUARE FEET) TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS AND AS SHOWN ON THE ATTACHED SKETCH:

BEGINNING at a ½ inch iron rod found for the northwest corner of Lot 4 of said Northwest Hills Section 15-A, being also the northeast corner of Lot 1 of Northwest Hills, Section Eleven, Phase One, a subdivision of record in Book 40, Page 31 of the Plat Records of Travis County, Texas, being also in the south line of North Hills Drive, a 60 foot wide right-of-way, and being the northwest corner of the herein described tract, said point having a Texas State Plane Coordinates (Texas Central zone NAD83, U.S. Feet) values of N=10,099,701.06 and E=3,110,800.78;

THENCE with the north line of said Lot 4, the south line of said North Hills Drive, and the north line of the herein described tract, the following two (2) courses and distances;

1. S 69°10'42" E for a distance of 89.94 feet to a ½ inch iron rod found for an angle point, and
2. S 60°22'41" E for a distance of 9.84 feet to a concrete monument found for an angle point in the north line of said Lot 4 and being at the intersection of the south line of said North Hills Drive and the west line of Loop 1 Frontage Road (MoPac Boulevard) a varying width right-of-way;

THENCE S 43°37'52" E, with the northeast line of said Lot 4 and the west line of said Loop 1 Frontage Road, for a distance of 30.20 feet to a calculated point;

General Office Zoning (GO)
2.764 Acres

FN 04-006-02-01
February 04, 2004

THENCE departing the west line of said Loop 1 Frontage Road and over and across said Lot 4, the following six (6) courses and distances;

1. S 64°54'26" W for a distance of 83.79 feet to a calculated point,
2. S 25°05'34" E for a distance of 80.63 feet to a calculated point,
3. S 64°54'26" W for a distance of 19.82 feet to a calculated point,
4. S 25°05'34" E for a distance of 40.29 feet to a calculated point,
5. S 19°54'26" W for a distance of 85.50 feet to a calculated point, and
6. S 70°05'34" E for a distance of 98.37 feet to a calculated point in the east line of said Lot 4 and being in the west line of said Loop 1 Frontage Road;

THENCE S 19°54'26" W with the east line of said Lot 4, the west line of said Loop 1 Frontage Road and the east line of the herein described tract, at a distance of 24.99 feet pass a ½ inch iron rod found for the southeast corner of said Lot 4 and being the northeast corner of Lot 3 of said Northwest Hills Section 15-A, at a distance of 329.94 feet pass a cotton spindle found for the southeast corner of said Lot 3 and being the northeast corner of Lot 2 of said Northwest Hills Section 15-A, for a total distance of 385.76 feet to a concrete monument found for an angle point in the east line of said Lot 2, being also an angle point in the east line of the herein described tract and being an angle point in the west line of said Loop 1 Frontage Road;

THENCE continuing with the east line of said Lot 2, the east line of the herein described tract and the west line of said Loop 1 Frontage Road the following two (2) courses and distances;

1. S 27°03'48" W for a distance of 260.65 feet to a ½ inch iron rod found for an angle point, and
2. S 73°28'22" W for a distance of 20.78 feet to an "X" found marked in concrete at the intersection of said west line of Loop 1 Frontage Road and the north line of Hart Lane, a 60 foot wide right-of-way, being also the most southerly southeast corner of said Lot 2 and being the most southerly southeast corner of the herein described tract;

THENCE with the north line of said Hart Lane, the south line of said Lot 2 and the south line of the herein described tract, the following two (2) courses and distances;

1. N 62°53'45" W for a distance of 114.70 feet to a ½ inch iron rod found for an angle point, and

2. N 69°26'47" W for a distance of 21.48 feet to a ½ inch iron rod found for the southwest corner of said Lot 2, being also the southwest corner of the herein described tract and being the southeast corner of Lot 3 of Northwest Hills, Section Eleven, Phase Two, a subdivision of record in Book 42, Page 7 of the Plat Records of Travis County, Texas;

THENCE N 27°12'46" E, with the west line of said Lot 2, Northwest Hills Section 15-A, the west line of the herein described tract and the east line of said Lot 3, Northwest Hills Section Eleven, Phase Two, for a distance of 265.22 feet to a ½ inch iron rod found for an angle point in the west line of said Lot 2, Northwest Hills Section 15-A, being also an angle point in the west line of the herein described tract, being also the northeast corner of said Lot 3, Northwest Hills Section Eleven, Phase Two and being the southeast corner of Lot 2 of said Northwest Hills Section Eleven, Phase Two;

THENCE with the west line of said Lot 2, Northwest Hills Section 15-A, the west line of the herein described tract and the east line of said Lot 2, Northwest Hills Section Eleven, Phase Two, the following two (2) courses and distances;

1. N 19°51'32" E, at a distance of 64.06 feet pass a ½ inch iron rod found for the northwest corner of said Lot 2, Northwest Hills Section 15-A and being the southwest corner of said Lot 3, Northwest Hills Section 15-A, for a total distance of 294.13 feet to a ½ inch iron rod found for an angle point, and
2. N 20°33'36" E, at a distance of 58.99 feet pass a ½ inch iron rod found for the northwest corner of said Lot 3, Northwest Hills Section 15-A and being in the southwest corner of said Lot 4, Northwest Hills Section 15-A, for a total distance of 183.95 feet to a ½ inch iron rod found for the northeast corner of said Lot 2, Northwest Hills Section Eleven, Phase Two, being also an angle point in the west line of said Lot 4, Northwest Hills Section 15-A and being an angle point in the west line of the herein described tract;

THENCE N 63°09'05" W, with the north line of said Lot 2, Northwest Hills Section Eleven, Phase Two, and a south line of said Lot 4, Northwest Hills Section 15-A and a south line of the herein described tract, for a distance of 108.17 feet to a ½ inch iron rod found for the most westerly southwest corner of said Lot 4, Northwest Hills Section 15-A, being also an angle point in the west line of the herein described tract, being also the northwest corner of said Lot 2, Northwest Hills Section Eleven, Phase Two and being in the east line of said Lot 1, Northwest Hills Section Eleven, Phase One;

THENCE N 27°11'03" E, with the west line of said Lot 2, Northwest Hills Section 15-A, the west line of the herein described tract and the east line of said Lot 1, Northwest Hills Section Eleven, Phase One, for a distance of 149.95 feet to the POINT OF BEGINNING and containing 2.764 acres of land.

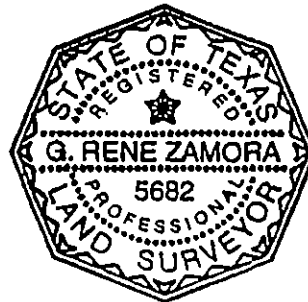
BEARING BASIS NOTE

The bearings described herein are Texas State Plane Grid Bearings, Texas Central Zone (4203), NAD 83 (CORS). Project reference control points were established from and referenced to "Austin RRP" having coordinate values of N=10,086,515.87, E=3,109,682.56.


THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TRAVIS §

That I, G. Rene Zamora, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during January, 2004 under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 4th day of February 2004, A.D.

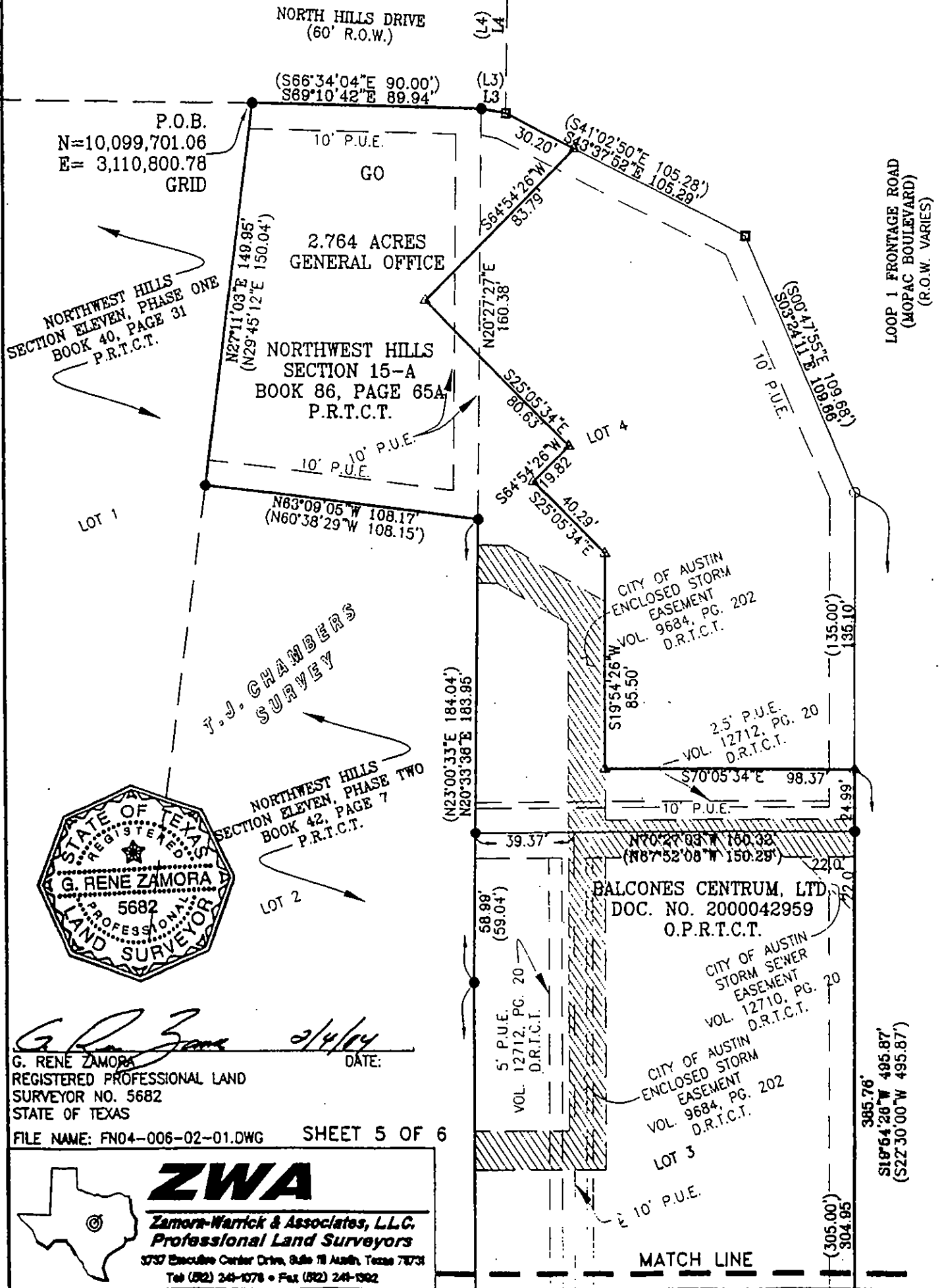


Zamora-Warrick and Associates, L.L.C
3737 Executive Center Drive, Suite 111
Austin, Texas 78731
512-241-1078


G. Rene Zamora
Registered Professional Land Surveyor
No. 5682 – State of Texas

REFERENCES

TCAD PARCEL NO. 0136010105
ZWA FIELD NOTE NO. FN 04-006-02-01



LOOP 1 FRONTAGE ROAD
(MOPAC BOULEVARD)
(R.O.W. VARIES)

EXHIBIT B

FIELD NOTE DESCRIPTION FOR A 0.572 ACRE PARCEL
(GR ZONING)

DESCRIPTION OF A 0.572 ACRE (24,906 SQUARE FEET) TRACT OF LAND, HEREIN IN THE T. J. CHAMBERS SURVEY IN TRAVIS COUNTY, TEXAS BEING PART OF THAT LOT 4 OF NORTHWEST HILLS SECTION 15-A, A SUBDIVISION OF RECORD IN BOOK 86, PAGE 65A OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS AND BEING A PART OF THAT CERTAIN TRACT OF LAND AS DESCRIBED IN A DEED TO BALCONES CENTRUM, LTD., OF RECORD IN DOCUMENT NO. 2000042959 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.572 ACRE (24,906 SQUARE FEET) TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS AND AS SHOWN ON THE ATTACHED SKETCH:

COMMENCING at a ½ inch iron rod found for the northwest corner of Lot 4 of said Northwest Hills Section 15-A, being also the northeast corner of Lot 1 of Northwest Hills, Section Eleven, Phase One, a subdivision of record in Book 40, Page 31 of the Plat Records of Travis County, Texas and being in the south line of North Hills Drive, a 60 foot wide right-of-way;

THENCE with the north line of said Lot 4 and the south line of said North Hills Drive, the following two (2) courses and distances;

1. S 69°10'42" E for a distance of 89.94 feet to a ½ inch iron rod found for an angle point, and
2. S 60°22'41" E for a distance of 9.84 feet to a concrete monument found for an angle point in the north line of said Lot 4 and being at the intersection of the south line of said North Hills Drive and the west line of Loop 1 Frontage Road (MoPac Boulevard) a varying width right-of-way;

THENCE S 43°37'52" E, with the northeast line of said Lot 4 and the west line of said Loop 1 Frontage Road, for a distance of 30.20 feet to a calculated point for the POINT OF BEGINNING and the most northerly corner of the herein described tract, said point having a Texas State Plane Coordinates (Texas Central Zone, NAD83, U.S. Feet) values of N=10,099,642.36 and E=3,110,914.24;

THENCE continuing with the northeast and east lines of said Lot 4 and the west line of said Loop 1 Frontage Road right-of-way and with the east line of the herein described tract, the following three (3) courses and distances;

1. S 43°37'52" E for a distance of 75.09 feet to a concrete monument found,
2. S 03°24'11" E for a distance of 109.66 feet to a ½ inch iron rod with cap set for an angle point, and
3. S 19°54'26" W for a distance of 110.10 feet to a calculated point for the southeast corner of the herein described tract;

THENCE departing the west line of said Loop 1 Frontage Road and over and across said Lot 4, with the south and west lines of the herein described tract, the following six (6) courses and distances;

1. N 70°05'34" W for a distance of 98.37 feet to a calculated point,
2. N 19°54'26" E for a distance of 85.50 feet to a calculated point,
3. N 25°05'34" W for a distance of 40.29 feet to a calculated point,
4. N 64°54'26" E for a distance of 19.82 feet to a calculated point,
5. N 25°05'34" W for a distance of 80.63 feet to a calculated point, and
6. N 64°54'26" E for a distance of 83.79 feet to the POINT OF BEGINNING and containing 0.572 acres (24,906 square feet) of land.

BEARING BASIS NOTE

The bearings described herein are Texas State Plane Grid Bearings, Texas Central Zone (4203), NAD 83 (CORS). Project reference control points were established from and referenced to "Austin RRP" having coordinate values of N=10,086,515.87, E=3,109,682.56.

THE STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

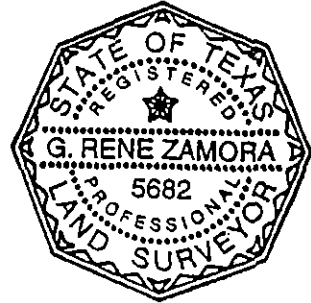
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COUNTY OF TRAVIS


§

That I, G. Rene Zamora, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground during January, 2004 under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 4th day of February 2004, A.D.



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G. Rene Zamora
Registered Professional Land Surveyor
No. 5682 – State of Texas

REFERENCES

TCAD PARCEL NO. 0136010105
ZWA FIELD NOTE NO. FN 04-006-02-02

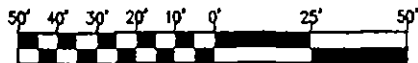
SKETCH TO ACCOMPANY LEGAL DESCRIPTION

NORTHWEST HILLS
SECTION ELEVEN, PHASE ONE
BOOK 40, PAGE 31
P.R.T.C.T.

L3 S60°22'41"E 9.84'
L4 N20°51'01"E 59.85'
(L3) S57°46'19"E 9.84'
(L4) N23°27'52"E 60.06'



LOT 1

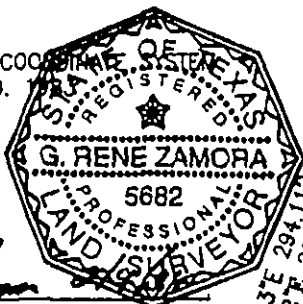


SCALE: 1" = 50'
FEBRUARY, 2004
TRAVIS COUNTY, TEXAS

LEGEND:

- CONCRETE MONUMENT FOUND
- 1/2" IRON ROD FOUND
- 1/2" IRON ROD W/CAP SET
- ✱ SPINDLE FOUND
- X 'X' IN CONCRETE FOUND
- △ CALCULATED POINT
- P.U.E. PUBLIC UTILITY EASEMENT
- S.E. SIDEWALK EASEMENT
- P.R.T.C.T. PLAT RECORDS TRAVIS COUNTY, TEXAS
- D.R.T.C.T. DEED RECORDS TRAVIS COUNTY, TEXAS
- O.P.R.T.C.T. OFFICIAL PUBLIC RECORDS TRAVIS COUNTY, TEXAS
- () RECORD INFORMATION
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT

BEARING BASIS:
TEXAS STATE PLANE COORDINATE SYSTEM
CENTRAL ZONE, N.A.D.



G. RENE ZAMORA
REGISTERED PROFESSIONAL LAND
SURVEYOR NO. 5682
STATE OF TEXAS

FILE NAME: FN04-006-02-02.DWG



ZWA

Zamora-Warrick & Associates, L.L.C.
Professional Land Surveyors

3737 Executive Center Drive, Suite 111 Austin, Texas 78731

Tel (512) 241-1078 • Fax (512) 241-1392

SHEET 4 OF 4

NORTH HILLS DRIVE
(60' R.O.W.)

THE AUSTIN CENTER
PHASE TWO

P.O.B.
N=10,099,642.36
E= 3,110,914.24
GRID

P.O.C.

NORTHWEST HILLS
SECTION 15-A
BOOK 86, PAGE 65A
P.R.T.C.T.

LOT 4

BALCONES CENTRUM, LTD.
DOC. NO. 2000042959
O.P.R.T.C.T.

LOT 2

0.572 ACRES
24,906 SQ. FT.
GENERAL RETAIL

T.J. CHAMBERS
SURVEY

CITY OF AUSTIN
ENCLOSED STORM
EASEMENT
VOL. 9684, PG. 202
D.R.T.C.T.

2.5' P.U.E.
VOL. 12712, PG. 20
D.R.T.C.T.

LOT 3

CITY OF AUSTIN
STORM SEWER
EASEMENT
VOL. 12710, PG. 20
D.R.T.C.T.

CITY OF AUSTIN
ENCLOSED STORM
EASEMENT
VOL. 9684, PG. 202
D.R.T.C.T.

LOOP 1 FRONTAGE ROAD
(MOPAC BOULEVARD)
(R.O.W. VARIES)

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