



RESTRICT 2005115460

8 PGS

Zoning Case No. C14-05-0038

**RESTRICTIVE COVENANT**

OWNER: J17 FORTUNE, L.P., a Texas limited partnership

ADDRESS: P.O. Box 50628, Austin, Texas 78763

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 3.116 acre tract of land, more or less, out of the George W. Spear League, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" 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 March 2005, 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 June 15, 2005. 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.

6-23-05

# 2-12

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 subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 22 day of JUNE, 2005.

OWNER:

J17 FORTUNE, L.P.,  
a Texas limited partnership

By: Margaret L. Mueller  
Margaret L. Mueller,  
General Partner

APPROVED AS TO FORM:

[Signature]  
Assistant City Attorney  
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 22 day of JUNE, 2005, by Margaret L. Mueller, as General Partner on behalf of J17 FORTUNE, L.P., a Texas limited partnership.



[Signature]  
Notary Public, State of Texas

3.116 ACRES  
GABLES REALTY L.P.

FN NO. 04-486(CAG)  
NOVEMBER 23, 2004  
BPI JOB NO. 659-24.92

**EXHIBIT A**  
**DESCRIPTION**

OF 3.116 ACRES OF LAND OUT OF THE GEORGE W. SPEAR LEAGUE, SITUATED IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN 4.5 ACRE TRACT OF LAND CONVEYED TO J17 FORTUNE, L.P. A LIMITED PARTNERSHIP BY DEED OF RECORD IN VOLUME 12653, PAGE 45 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, HAVE AND EXCEPT THAT CERTAIN 0.79 ACRE TRACT OF LAND CONVEYED TO J.R. BLACKMORE BY WARRANTY DEED OF RECORD IN VOLUME 556, PAGE 510, AND THAT CERTAIN 0.53 ACRE TRACT OF LAND CONVEYED TO J.R. BLACKMORE BY WARRANTY DEED OF RECORD IN VOLUME 556, PAGE 512, BOTH OF SAID DEED RECORDS AND BOTH BEING DESCRIBED IN VOLUME 12653, PAGE 45 OF SAID REAL PROPERTY RECORDS, SAID 3.116 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron rod found at the southwesterly intersection of West 5th Street (R.O.W varies) and West Lynn Street (Unimproved R.O.W.), being the northeasterly corner of said 4.5 acre tract of land and hereof;

THENCE, S29°15'00"W, leaving the southerly right-of-way line of West 5th Street, along the westerly right-of-way line of West Lynn Street, being the easterly line of said 4.5 acre tract and hereof, a distance of 209.84 feet to a 1/2 inch iron rod found in the northerly line of that certain 0.485 acre tract of land conveyed to Lake Austin Commons, Ltd. by deed of record in Document No. 2000031178 of the Official Public Records of Travis County, Texas, being the southeasterly corner of said 4.5 acre tract and hereof;

THENCE, along a portion of the northerly line of said 0.485 acre tract and a portion of the northerly line of that certain 0.696 acre tract of land conveyed to Lake Austin Commons by deed of record in Volume 12455, Page 867 of said Real Property Records, being a portion of the southerly line of said 4.5 acre tract and the southerly line hereof, the following seven (7) courses and distances:

- 1) N55°23'21"W, a distance of 100.06 feet to an iron pipe found for an angle point;
- 2) N51°43'22"W, a distance of 99.94 feet to a 1/2 inch iron rod with cap set for an angle point, from which a 1/2 inch iron rod found for reference bears S74°45'55"W, a distance of 1.15 feet;
- 3) N48°59'02"W, a distance of 100.15 feet to an iron pipe found for an angle point;
- 4) N45°11'31"W, a distance of 99.88 feet to a 1/2 inch iron rod found for an angle point hereof, being the common northerly corner of said 0.696 acre tract and said 0.485 acre tract;

- 5) N43°58'36"W, a distance of 100.05 feet to an iron pipe found for an angle point;
- 6) N38°42'13"W, a distance of 99.97 feet to a 1/2 inch iron rod found for an angle point;
- 7) N37°16'06"W, a distance of 86.05 feet to a 1/2 inch iron rod found, being the southwesterly corner hereof being the southeasterly corner of Lot 2, Lake Austin Commons, a subdivision of record in Volume 83, Page 58C of the Plat Records of Travis County, Texas, from which a 1/2 inch iron rod found for reference in the northerly line of said 0.696 acre tract bears N36°16'39"W, a distance of 13.60 feet;

THENCE, N44°59'01"E, along the easterly line of said Lot 2, being the westerly line hereof, over and across said 4.5 acre tract, a distance of 180.90 feet to an "X" cut found in the southerly right-of-way line of West 5th Street, being the northwesterly corner hereof being in the northerly line of said 4.5 acre tract;


THENCE, along the southerly right-of-way line of West 5th Street, being a portion of the northerly line of said 4.5 acre tract and the northerly line hereof, the following three (3) courses and distances:

- 1) S45°07'13"E, a distance of 81.27 feet to a 1/2 inch iron rod found for an angle point;
- 2) S46°51'37"E, a distance of 356.44 feet to a 1/2 inch iron rod found for an angle point;
- 3) S51°41'32"E, a distance of 188.99 feet to the POINT OF BEGINNING, containing an area of .3.116 acres (135,718 sq. ft.) of land, more or less, within these metes and bounds.

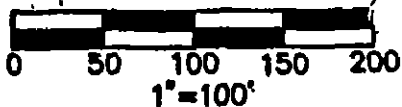
BEARING BASIS: THE BASIS OF BEARING OF THE SURVEY DESCRIPTION HEREIN IS THE EASTERLY LINE OF SAID 4.5 ACRE TRACT ACCORDING TO VOLUME 12653, PAGE 45 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS

I, JOHN T. BILNOSKI, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

BURY & PARTNERS, INC.  
ENGINEERS-SURVEYORS  
3345 BEE CAVE ROAD, SUITE 200  
AUSTIN, TEXAS 78746

 11/23/04  
JOHN T. BILNOSKI  
R.P.L.S. NO. 4998  
STATE OF TEXAS



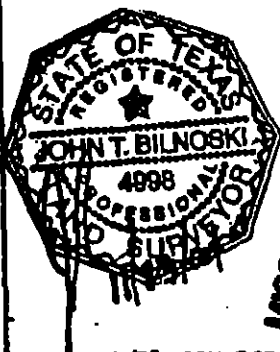


# LEGEND

- 1/2" IRON ROD FOUND (UNLESS NOTED)
- 1/2" IRON ROD SET
- ⊙ IRON PIPE FOUND
- ⊗ CUT "X" FOUND
- P.O.B. POINT OF BEGINNING

0.696 ACRES  
LAKE AUSTIN  
COMMONS, LTD.  
VOL. 12455, PG. 867

0.385 ACRES  
SAGE-FIFTH STREET, LTD  
DOC. NO. 2000198730



1/2" IRON ROD  
FOUND BEARS  
S74°45'55"W 1.15'

0.485 ACRES  
LAKE AUSTIN  
COMMONS, LTD.  
DOC. NO. 200003178

N36°16'39"W  
13.60'

LOT 2  
LAKE AUSTIN  
COMMONS  
VOL. 83, PG. 58C

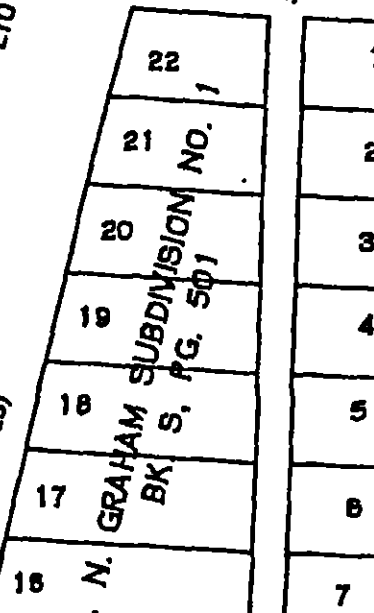
MISSOURI PACIFIC RAILROAD  
(200' R.O.W.)

3.116 ACRES  
(135,718 SQ. FT.)

J17 FORTUNE,  
L.P.  
VOL. 12653,  
PG. 45

WEST 8TH STREET  
(R.O.W. VARIES)

CAMPBELL  
STREET  
(60' R.O.W.)



## LINE TABLE

No.	Bearing	Distance
L1	S29°15'00"W	209.84'
L2	N55°23'21"W	100.06'
L3	N51°43'22"W	99.94'
L4	N48°59'02"W	100.15'
L5	N45°11'31"W	99.88'
L6	N43°58'36"W	100.05'
L7	N38°42'13"W	99.97'
L8	N37°16'05"W	86.05'
L9	N44°59'01"E	180.90'
L10	S45°07'13"E	81.27'
L11	S51°41'32"E	188.99'

P.O.B. WEST LYNN  
(R.O.W. VARIES)

GABLES REALTY LP.

ROYATEX SUBDIVISION  
VOL. 91, PG. 9

**Bury+Partners**

ENGINEERING SOLUTIONS

1545 Bee Grove Road, Suite 800

Irving, Texas 76246

Tel. (817) 329-0211 Fax (817) 329-0221

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## SKETCH TO ACCOMPANY DESCRIPTION

OF 3.116 ACRES OF LAND OUT OF THE GEORGE W. SPEAR LEAGUE, SITUATED IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN 4.3 ACRE TRACT OF LAND CONVEYED TO J17 FORTUNE, L.P., A LIMITED PARTNERSHIP BY DEED OF RECORD IN VOLUME 12653, PAGE 45 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, SAID AND EXCEPT THAT CERTAIN 0.79 ACRE TRACT OF LAND CONVEYED TO J.R. BLACKMORE BY WARRANTY DEED OF RECORD IN VOLUME 856, PAGE 810, AND THAT CERTAIN 0.53 ACRE TRACT OF LAND CONVEYED TO J.R. BLACKMORE BY WARRANTY DEED OF RECORD IN VOLUME 856, PAGE 812, BOTH OF SAID DEED RECORDS AND BOTH BEING DESCRIBED IN VOLUME 12653, PAGE 45 OF SAID REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS

DATE: 11/23/04 FILE: H:\659\24\65924EX3.DWG

FN No.: 04-486(CAG) DRAWN BY: CAG

PROJ. No: 659-24

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

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

2005 Jun 28 04:30 PM 2005115460

SENAVIDESV \$24.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS