



Zoning Case No. C14-03-0173

RESTRICTIVE COVENANT

OWNER: Capital City-Bee Caves, Ltd., a Texas limited partnership

ADDRESS: 1717 West 6th Street, Austin, Suite 390, Austin, TX 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: A 9.611 acre tract of land, more or less, out of the John Swesey Survey No. 506 in Travis County, the tracts 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 Company, dated March 25, 2004, 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 April 13, 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 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.

6-24-04


#Z-17

EXECUTED this the 14 day of July, 2004.

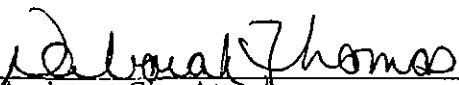
OWNER:

Capital City-Bee Caves Ltd.,
a Texas limited partnership,

By: Capital City GP Corporation,
a Texas corporation,
its General Partner

By: 
Joe Lamy,
Vice President

APPROVED AS TO FORM:


Assistant City Attorney
City of Austin

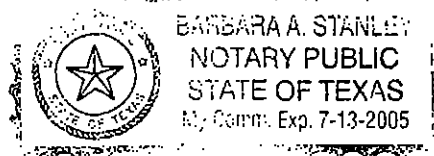
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 14 day of July, 2004, by Joe Lamy, Vice President of Capital City GP Corporation, a Texas corporation, General Partner of Capital City-Bee Caves, Ltd., a Texas limited partnership, on behalf of the corporation and limited 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, Legal Assistant



9.611 ACRES
ST. MICHAEL'S TRACT
CAPITAL CITY PARTNERS

EXHIBIT A

FN. NO. 03-209(JJM)
AUGUST 21, 2003
BPI JOB NO. 1289-04.91

DESCRIPTION

OF A 9.611 ACRE TRACT OF LAND OUT OF THE JOHN SWESEY SURVEY NO. 506, SITUATED IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 1 ST. MICHAEL'S EPISCOPAL CHURCH SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 85, PAGES 167A-167B OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS; A PORTION OF THAT CERTAIN 1.97 ACRE TRACT OF LAND CONVEYED TO ST. MICHAEL'S MISSION ENDOWMENT CORPORATION BY DEED OF RECORD IN VOLUME 4931, PAGE 1722 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; AND ALL OF THAT CERTAIN 0.44 ACRE TRACT OF LAND CONVEYED TO MARY LOU THOMPSON BY DEED OF RECORD IN VOLUME 12351, PAGE 631 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 9.611 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1/2 inch iron rod with aluminum cap found in the southerly line of F.M. 2244 (Bee Cave Road) (R.O.W. varies) at the northeasterly right-of-way return of Knollwood Drive (R.O.W. varies), same being the northwesterly corner of said Lot 1 and hereof, from which a brass TXDOT highway monument found for reference in the southerly line of F.M. 2244 bears N89°20'39"W, a distance of 35.47 feet;

THENCE, along the southerly line of F.M. 2244, being a portion of the northerly line of said Lot 1 and hereof, the following two (2) courses and distances:

- 1) S89°20'39"E, a distance of 513.82 feet to a 1/2 inch iron rod with cap set at the point of curvature of a curve to the right from which a 100d nail found bears S22°32'27"E, a distance of 0.90 feet;
- 2) Along said curve to the right having a radius of 1382.69 feet, a central angle of 13°42'45", an arc length of 330.92 feet and a chord which bears S32°29'27"E, a distance of 330.13 feet to a concrete highway monument found for the end of said curve;

THENCE, S73°19'47"E, continuing along the southerly line of F.M. 2244, being the southerly line of that certain 0.018 acre tract of land conveyed to the State of Texas by deed of record in Volume 12670, Page 131 of the Real Property Records of Travis County, Texas, being a portion of the northerly line hereof, a distance of 192.71 feet to a 1/2 inch iron rod with cap set for the southeasterly corner of said 0.018 acre tract and the northeasterly corner hereof from which, a 1/2 inch iron rod found within the right-of-way of F.M. 2244 bears N25°23'56"E, a distance of 3.09 feet;

THENCE, leaving the southerly line of F.M. 2244, along a portion of the common lines of said Lot 1 and Lot 2 of said St. Michael's Episcopal Church Subdivision, being a portion of the easterly and northerly lines hereof, the following two (2) courses and distances:

- 1) S15°59'57"W, a distance of 351.45 feet to a 1/2 inch iron rod with cap set for the southwesterly corner of said Lot 2;
- 2) S66°36'33"E, a distance of 315.12 feet to the most easterly northeast corner hereof, from which a 1/2 inch iron rod found surrounded by five (5) 1/2 inch iron pipes found for the southeasterly corner of said Lot 2, being the most easterly northeast corner of said Lot 1, and being in the westerly line of Westlake Condominiums of record in Book 11, Page 1424 and corrected in Volume 7342, Page 414 of the Condominium Records of Travis County, Texas bears S66°36'33"E, a distance of 60.51 feet;

THENCE, S15°57'10"W, over and across said Lot 1, along a portion of the easterly line hereof, a distance of 136.46 feet to a point in the southerly line of said Lot 1, being in the northerly line of that certain cemetery tract conveyed to Maudie T. Volmering, Trustee by deed of record in Volume 692, Page 81 of said Deed Records, for the southeasterly corner hereof, from which a 1/2 inch iron pipe found for the southeasterly corner of said Lot 1, being the northeast corner of said cemetery tract, same being in the westerly line of said Westlake Condominiums tract bears S60°55'59"E, a distance of 61.60 feet;

THENCE, N60°55'59"W, along a portion of the northerly line of said cemetery tract, being a portion of the southerly line of said Lot 1 and hereof, a distance of 104.87 feet to a 1/2 inch iron rod with "TERRA FIRMA" cap found in the southerly line of said Lot 1, being the northeasterly corner of the remaining portion of said 1.97 acre tract, the northwesterly corner of said cemetery tract, and an angle point hereof, from which a 1/2 inch iron rod in concrete found within said Lot 1 bears N09°43'10"E, a distance of 4.88 feet;

THENCE, S11°34'00"W, leaving the southerly line of said Lot 1, along a portion of the westerly line of said cemetery tract, being the easterly line of the remaining portion of said 1.97 acre tract, and a portion of the easterly line hereof, a distance of 67.63 feet to a 1/2 inch iron rod with cap set for the northeasterly corner of Lot 10-A Resubdivision of Lots 13 Through 22, Knollwood, a subdivision of record in Volume 57, Page 73 of said Plat Records, being the southeasterly corner of the remaining portion of said 1.97 tract, same being the most southerly southeast corner hereof;

THENCE, N62°01'20"W, along the northerly line of said Lot 10-A, being a portion of the southerly line of said 1.97 acre tract and hereof, a distance of 159.59 feet to a 1/2 inch iron rod with cap set for the northwesterly corner of said Lot 10-A, being the northeasterly corner of Lot 9-A of said Resubdivision of Lots 18 Through 22, Knollwood, and the southeasterly corner of said 0.44 acre tract, for an angle point in the southerly line hereof;

THENCE, N62°08'20"W, along a portion of the northerly line of said Lot 9-A, being a portion of the southerly line of said 0.44 acre tract and hereof, a distance of 199.89 feet to a 1/2 inch iron rod found for an angle point;

THENCE, N62°30'10"W, continuing along the northerly line of said Lot 9-A, being a portion of the southerly line of said 0.44 acre tract and hereof, passing the common north corner of said Lot 9-A, Lot 4-A of said Resubdivision of Lots 18 Through 22, Knollwood, said 0.44 acre tract, and said 1.97 acre tract and continuing along a portion of the northerly line of said Lot 4-A, being a portion of the southerly line of said 1.97 acre tract and hereof, a distance of 189.78 feet to a 1/2 inch iron pipe found for an angle point;

THENCE, N61°38'38"W, continuing along the northerly line of said Lot 4-A, being a portion of the southerly line of said 1.97 acre tract and hereof, passing the common north corner of said Lot 4-A and Lot 3-A of said Resubdivision of Lots 18 Through 22, Knollwood, and continuing along a portion of the northerly line of said Lot 3-A, a distance of 191.53 feet to a 1/2 inch iron pipe in concrete found for the northwest corner of said Lot 3-A, being the northeast corner of Lot 23, Knollwood, a subdivision of record in Volume 6, Page 117 of said Plat Records, for an angle point in the southerly line of said 1.97 acre tract and hereof;

THENCE, N60°54'29"W, along the northerly line of said Lot 23, being a portion of the southerly line of said 1.97 acre tract and hereof, a distance of 171.45 feet to a 1/2 inch iron pipe found for the northwest corner of said Lot 23, being the northeast corner of Lot 26-B, Resubdivision of Lots 24, 25 and 26, Knollwood, a subdivision of record in Volume 55, Page 91 of said Plat Records, and an angle point in the southerly line of said 1.97 acre tract and hereof;

THENCE, along the northerly line of said Lot 26-B, being a portion of the southerly line of said 1.97 acre tract and hereof, the following two (2) courses and distances:

- 1) N61°09'44"W, a distance of 117.40 feet to a 1/2 inch iron rod found in concrete;
- 2) N83°36'51"W, a distance of 150.13 feet to a 1/2 inch iron rod with plastic cap found in the easterly line of Knollwood Drive (R.O.W varies), being the northwesterly corner of said Lot 26-B, for the southwesterly corner of said 1.97 acre tract and hereof;

THENCE, along the easterly line of Knollwood Drive, along a portion of the westerly line and a portion of the northerly line of said 1.97 acre tract and hereof, the following two (2) courses and distances:

- 1) N17°27'30"W, a distance of 27.84 feet to a 3/4 inch iron pipe found;
- 2) S83°57'07"E, a distance of 11.21 feet to a 1/2 inch iron rod with aluminum cap in concrete found for the southwesterly corner of said Lot 1;

THENCE, leaving the northerly line of said 1.97 acre tract, along the easterly line of Knollwood Drive, the westerly line of said Lot 1 and a portion of the westerly line hereof, the following two (2) courses and distances:


- 1) N16°42'11"W, a distance of 159.44 feet to a 1/2 inch iron with cap set at the point of curvature of a curve to the right;
- 2) Along said curve to the right having a radius of 25.00 feet, a central angle of 107°00'02", an arc length of 46.69 feet and a chord which bears N36°57'37"E, a distance of 40.19 feet to the POINT OF BEGINNING, containing an area of 9.611 acres (418,654 sq. ft.) of land, more or less, within these metes and bounds.

BEARING BASIS:

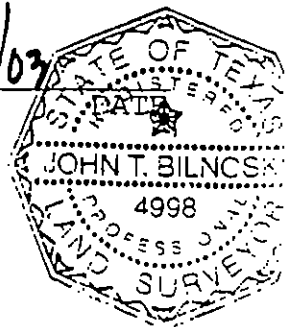
The basis of bearing is the southerly line of Lot 1 St. Michael's Episcopal Church Subdivision, a subdivision of record in Volume 85, Pages 167A-167B of the Plat Records of Travis County, Texas.

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. A SURVEY EXHIBIT WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

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

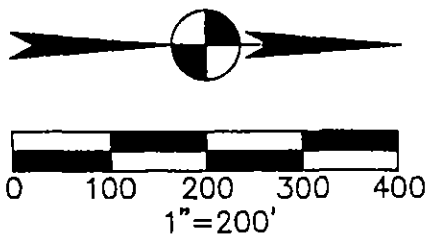

JOHN T. BILNOSKI
R.P.L.S. NO. 4998
STATE OF TEXAS

8/21/03



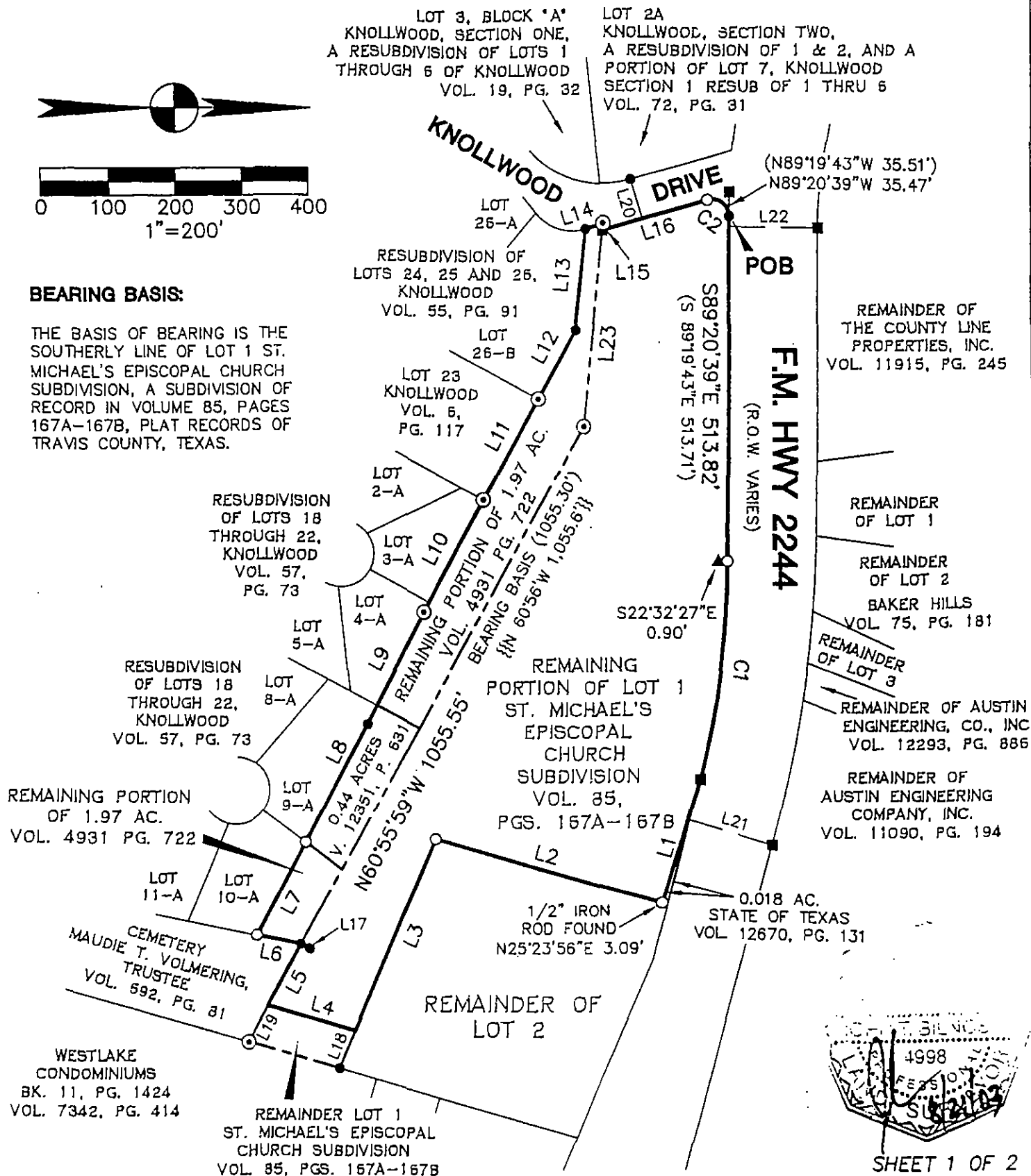
REFERENCES

CITY GRID - D24 AND E24
TCAD NOS. 0117230502, 0117250502, 0115230119 AND 0115230152



BEARING BASIS:

THE BASIS OF BEARING IS THE SOUTHERLY LINE OF LOT 1 ST. MICHAEL'S EPISCOPAL CHURCH SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 85, PAGES 167A-167B, PLAT RECORDS OF TRAVIS COUNTY, TEXAS.



SHEET 1 OF 2

CAPITAL CITY PARTNERS

Bury+Partners
Consulting Engineers and Surveyors
Austin, Texas Tel 512/328-0011 Fax 512/328-0325
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SKETCH TO ACCOMPANY DESCRIPTION

OF 9.611 ACRES OF LAND BEING A PORTION OF LOT 1, ST. MICHAEL'S EPISCOPAL CHURCH SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 85, PAGES 167A-167B OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF THAT CERTAIN 1.97 ACRE TRACT CONVEYED TO ST. MICHAEL MISSION ENDOWMENT CORPORATION BY DEED OF RECORD IN VOLUME 4931, PAGE 1722 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND ALL OF THAT CERTAIN 0.44 ACRE TRACT OF LAND CONVEYED TO MARY LOU THOMPSON BY DEED OF RECORD IN VOLUME 12351, PAGE 531 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS

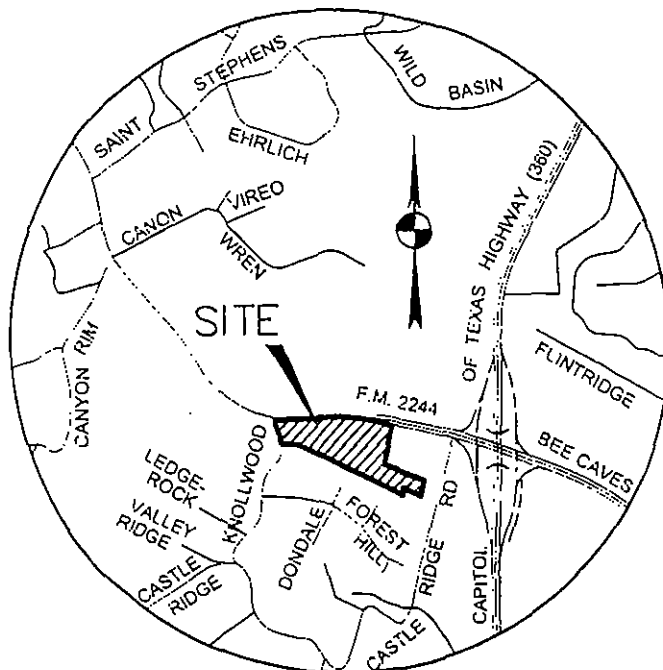
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FN No.: FN03-209(JJM)

DRAWN BY: JJM

PROJ. No: 1289-04



VICINITY MAP
N.T.S.

LEGEND

- 1/2" IRON ROD FOUND (UNLESS NOTED)
- ⊙ IRON PIPE FOUND
- ▲ NAIL FOUND
- MONUMENT FOUND
- POB POINT OF BEGINNING
- () RECORD PLAT INFORMATION PER BK. 85, PGS. 167A-168B
- [] RECORD PLAT INFORMATION PER BK. 55, PG. 91
- { } RECORD PLAT INFORMATION PER BK. 6, PG. 117
- (()) RECORD PLAT INFORMATION PER BK. 57, PG. 73
- [[]] RECORD DEED INFORMATION PER VOL. 12351, PG. 631
- [[]] RECORD DEED INFORMATION PER VOL. 4931, PG. 1722

LINE TABLE

No.	Bearing	Distance
L1	S73°19'47"E	192.71'
(L1)	((S75°48'03"E))	((193.17'))
L2	S15°59'57"W	351.45'
L3	S66°36'33"E	315.12'
L4	S15°57'10"W	136.46'
L5	N60°55'59"W	104.87'
L6	S11°34'00"W	67.63'
L7	N62°01'20"W	159.59'
{L7}	{N62°36'W}	{159.66'}
{{L7}}	{{N62°36'W}}	{{161.31'}}
L8	N62°08'20"W	199.89'
{L8}	{N62°43'W}	{199.97'}
[[L8]]	[[N62°43'00"W]]	[[199.87']]
{{L8}}	{{N62°43'W}}	{{202.03'}}
L9	N62°30'10"W	189.78'
{L9}	{N63°12'W}	{189.81'}
{{L9}}	{{N63°12'W}}	{{191.78'}}
L10	N61°38'38"W	191.53'
{L10}	{N62°19'W}	{191.64'}
{{L10}}	{{N62°19'W}}	{{193.61'}}
L11	N60°54'29"W	171.45'
{L11}	{N61°51'W}	{171.51'}
{{L11}}	{{N61°35'W}}	{{173.28'}}
L12	N61°09'44"W	117.40'
{L12}	{N61°51'W}	{115.66'}
{{L12}}	{{N61°51'W}}	{{116.86'}}
L13	N83°36'51"W	150.18'
{L13}	{N84°20'W}	{150.23'}
{{L13}}	{{N84°20'W}}	{{151.78'}}
L14	N17°27'30"W	27.84'
L15	S83°57'07"E	11.21'
(L15)	(S83°57'45"E)	(10.84')
L16	N16°42'11"W	159.44'
(L16)	(N16°39'18"W)	(159.78')
L17	N09°43'10"E	4.88'
L18	S86°36'33"E	60.51'
L19	S80°55'59"E	61.60'
L20	S73°17'49"W	60.14'
L21	N16°40'13"E	130.36'
L22	N00°39'21"E	130.97'
L23	N83°57'07"W	291.76'
(L23)	(N83°57'45"W)	(291.71')

CURVE TABLE

No.	Delta	Radius	Arc Length	Chord Length	Chord Bearing
C1	13°42'45"	1382.69	330.92	330.13	S82°29'27"E
(C1)	(14°32'38")	(1382.69)	(330.87)	(330.08)	(S82°28'31"E)
C2	107°00'02"	25.00	46.69	40.19	N36°57'37"E
(C2)	(107°19'35")	(25.00)	(46.83)	(40.28)	(N37°00'30"E)

SHEET 2 OF 2

CAPITAL CITY PARTNERS

Bury+Partners
Consulting Engineers and Surveyors
Austin, Texas Tel 512/328-0011 Fax 512/328-0325
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SKETCH TO ACCOMPANY DESCRIPTION

OF 9.611 ACRES OF LAND BEING A PORTION OF LOT 1, ST. MICHAEL'S EPISCOPAL CHURCH SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 85, PAGES 167A-167B OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, A PORTION OF THAT CERTAIN 1.97 ACRE TRACT CONVEYED TO ST. MICHAEL MISSION ENDOWMENT CORPORATION BY DEED OF RECORD IN VOLUME 4931, PAGE 1722 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND ALL OF THAT CERTAIN 0.44 ACRE TRACT OF LAND CONVEYED TO MARY LOU THOMPSON BY DEED OF RECORD IN VOLUME 12351, PAGE 631 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY TEXAS

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DRAWN BY: JJM

PROJ. No: 1289-04

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2004 Jul 23 12:04 PM 2004141337

TORREZR \$30.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS