

RESTRICTIVE COVENANT

8

OWNER: Gene Charlesworth Payne

ADDRESS: 809 Newport Avenue, Austin, TX 78753

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: Tract One: A 0.69 acre tract of land, more or less, out of the Isaac Decker League, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant, and

Tract Two: A 1.49 acre tract of land, more or less, out of the Isaac Decker League, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" incorporated into this covenant, and

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.

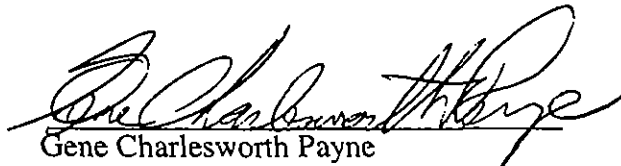
1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Neighborhood Traffic Analysis ("NTA") prepared by John F. Hickman and Associates, dated June 2004, or as amended and approved by the Director of the Watershed Protection 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 Watershed Protection and Development Review Department, dated July 26, 2004. The NTA 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.

9-30-04 #93

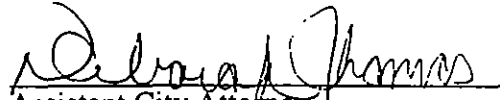
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority 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.

EXECUTED this the 28th day of July, 2004.

OWNER:


Gene Charlesworth Payne

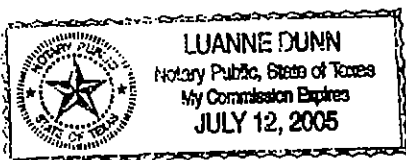
APPROVED AS TO FORM:


Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 28th day of July, 2004
by Gene Charlesworth Payne.




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

0.69 Acres
Zoning Description (LR)
Bluebonnet & S. Lamar

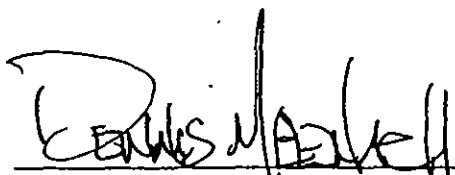
EXHIBIT A

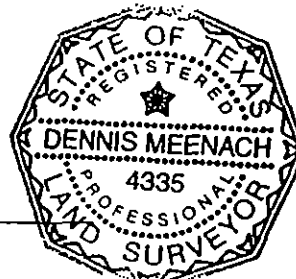
DESCRIPTION OF A TRACT OF LAND CONTAINING 0.69 ACRES OF LAND BEING OUT OF THE ISAAC DECKER LEAGUE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS. SAID TRACT OF LAND ALSO BEING A PORTION OF LOTS 4 AND 6, THEODORE LOW HEIGHTS, A SUBDIVISION OF RECORD IN VOLUME 445, PAGE 581 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID TRACT ALSO BEING A PORTION OF THAT CERTAIN TRACT CALLED TO CONTAIN 4.38 ACRES DESCRIBED IN A DEED TO LLOYD W. PAYNE OF RECORD IN VOLUME 1208, PAGE 347 AND ALSO DESCRIBED IN VOLUME 1301, PAGE 305 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND ALSO BEING A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO GENE CHARLESWORTH PAYNE OF RECORD IN VOLUME 9178 PAGE 206 DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID 0.69 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point for the northeast corner of the herein described tract and from said point a 1/2" iron rod found for the northeast corner of said Gene Charlesworth Payne Tract bears, South 38°01'06" East 6.01 feet, North 26°46'09" East 41.32 feet and North 61°44'22" West 50.00 feet;

THENCE, crossing said Gene Charlesworth Payne and said Lloyd W. Payne Tracts the following four (4) courses;

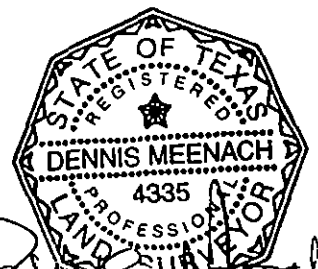
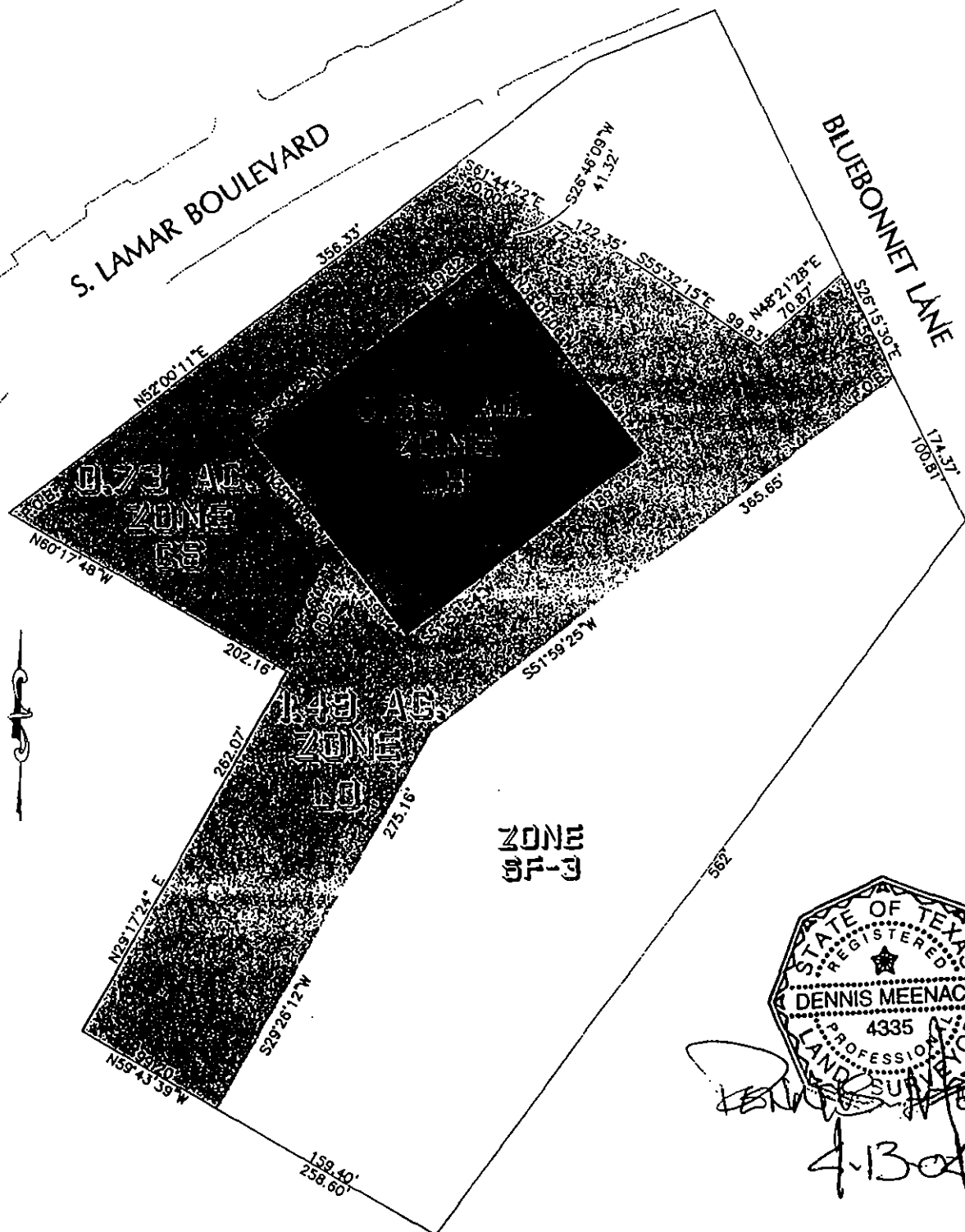
- 1) South 38°01'06" East 159.14 feet to an angle point of the herein described tract;
- 2) South 51°58'54" West 189.82 feet to an angle point of the herein described tract;
- 3) North 38°01'06" West 159.14 feet to an angle point of the herein described tract;
- 4) North 51°58'54" East 189.82 feet to the point of beginning and containing 0.69 acres of land as shown on the attached plat and made a part of this description.


Dennis Meenach, R.P.L.S. No. 4335



4-13-04
Date

ZONING EXHIBIT



Dennis Meenach
4-13-04

WALGREENS

**BLUEBONNET
AT S. LAMAR**



Doucet & Associates, Inc.
7401 B West Highway 71, Suite 160 Austin, TX 78735
Phone : (512) 583-2600 Fax : 583-2601
Austin, TX Easthampton, MA Sacramento, CA
www.doucetandassociates.com

Date:	04/13/04
Scale:	1" = 100'
Drawn by:	NH
Reviewed by:	DM
Project No.:	402-006
Sheet:	1 of 1

1.49 Acres
Zoning Description (LO)
Bluebonnet & S. Lamar

EXHIBIT B

DESCRIPTION OF A TRACT OF LAND CONTAINING 1.49 ACRES OF LAND BEING OUT OF THE ISAAC DECKER LEAGUE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS. SAID TRACT OF LAND ALSO BEING A PORTION OF LOTS 4 AND 6, THEODORE LOW HEIGHTS, A SUBDIVISION OF RECORD IN VOLUME 445, PAGE 581 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID TRACT ALSO BEING A PORTION OF THAT CERTAIN TRACT CALLED TO CONTAIN 4.38 ACRES DESCRIBED IN A DEED TO LLOYD W. PAYNE OF RECORD IN VOLUME 1208, PAGE 347 AND ALSO DESCRIBED IN VOLUME 1301, PAGE 305 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND ALSO BEING A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO GENE CHARLESWORTH PAYNE OF RECORD IN VOLUME 9178 PAGE 206 DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID 1.49 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point for the most easterly corner of the herein described tract, said point being in the easterly line of said Gene Charlesworth Payne Tract and the westerly line of Bluebonnet Lane and from said point the southeast corner of said Gene Charlesworth Payne Tract bears, South 26°15'30" East 100.81 feet;

THENCE, crossing said Gene Charlesworth Payne and said Lloyd W. Payne Tracts the following two (2) courses;

- 1) South 51°59'25" West 365.65 feet to an angle point of the herein described tract;
- 2) South 29°26'12" West 275.16 feet to a point on the westerly line of said Lloyd W. Payne Tract same being the westerly line of said Lot 6;

THENCE, with the westerly and northerly lines of said Lloyd W. Payne Tract, same being the westerly and northerly lines of said Lot 6, North 59°43'39" West 99.20 feet to the northwest corner of said Lloyd W. Payne Tract;

THENCE, North 29°17'24" East 262.07 feet to a point;

THENCE, North 26°46'09" East 80.25 feet to a point;

THENCE crossing said Lloyd W. Payne Tract the following three (3) courses;

- 1) South 38°01'06" East 63.75 feet,
- 2) North 51°58'54" East 189.82 feet,

3) North 38°01'06" West 153.13 feet to a point;

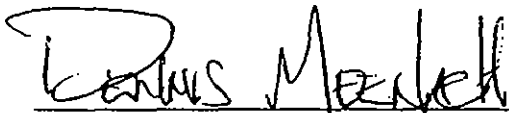
THENCE, North 26°46'09" East 41.32 feet to a point in the west line of a tract of land described in a deed to W.O. Harper of record in Volume 1452, Page 308, Deed Records of Travis County, Texas;

THENCE, South 61°44'22" East 72.35 feet to a point;

THENCE, South 55°32'15" East 99.83 feet to a 1" pipe found;

THENCE, North 48°21'28" East 70.87 feet to a ½ inch iron rod found for the northeast corner of the herein described tract, same being the southeast corner of said W. O. Harper Tract, same being a point in the westerly line of Bluebonnet Lane;

THENCE, with the easterly line of the herein described tract, same being the westerly line of said Bluebonnet Lane, South 26°15'30" East 73.56 feet to the point of beginning and containing 1.49 acres of land as shown on the attached plat and made a part of this description.

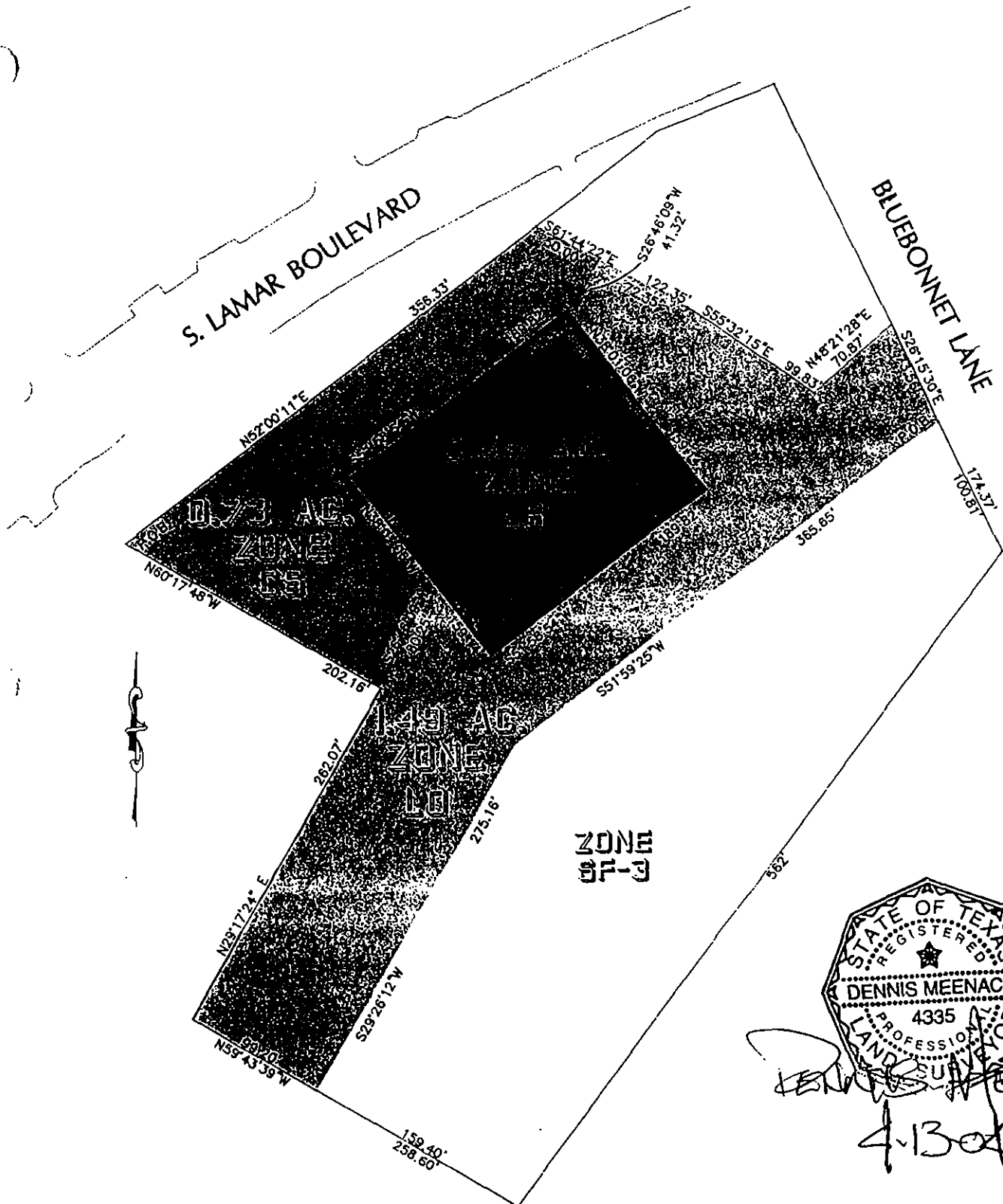


Dennis Meenach, R.P.L.S. No. 4335



4-13-04
Date

ZONING EXHIBIT



WALGREENS

**BLUEBONNET
AT S. LAMAR**



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 Austin, TX Easthampton, MA Sacramento, CA
www.doucetandassociates.com

Date:	04/13/04
Scale:	1" = 100'
Drawn by:	NH
Reviewed by:	DM
Project No.:	402-006
Sheet:	1 of 1

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2004 Oct 22 03:30 PM 2004200907

BENAVIDESV \$28.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.