



Zoning Case No. C14-04-0075
Zoning Case No. C14-04-0094

RESTRICTIVE COVENANT

OWNER: ABEL J. AND MARY ANN THERIOT FAMILY LIMITED
PARTNERSHIP, a Texas limited partnership

ADDRESS: 4917 Congress Avenue, Austin, Texas 78745-2306

OWNER: ELDON WAYNE JANSSEN AND DAWN JANSSEN

ADDRESS: 10115 Bradshaw Road, Austin, Texas 78747

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 59.925 acre tract of land, more or less, out of the Santiago Del Valle Grant and the S.F. Slaughter League in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant (the Theriot Property); and

A 5.579 acre tract of land, more or less, out of the Santiago Del Valle Grant and the S.F. Slaughter League in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" attached and incorporated into this covenant (the Janssen Property).

WHEREAS, the Owners 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 Owners 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 Owners 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 May 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 September 15, 2004. The TIA shall be kept on file at the Watershed Protection and Development Review Department.

10-21-04
2-11 + 2-13

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.

EXECUTED this the 15th day of October, 2004.

OWNERS:


ELDON WAYNE JANSSEN


DAWN JANSSEN

(for the Janssen Property)

ABEL J. AND MARY ANN THERIOT
FAMILY LIMITED PARTNERSHIP,
A Texas limited partnership

By: A.J. and M.A. Theriot, LLC,
A Texas limited liability company,
General Partner

By: _____
Suzanne Sanders, Manager

(for the Theriot Property)

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.

EXECUTED this the _____ day of _____, 2004.

OWNERS:

ELDON WAYNE JANSSEN

DAWN JANSSEN

(for the Janssen Property)

ABEL J. AND MARY ANN THERIOT
FAMILY LIMITED PARTNERSHIP,
A Texas limited partnership

By: A.J. and M.A. Theriot, LLC,
A Texas limited liability company,
General Partner

By: Suzanne Sanders
Suzanne Sanders, Manager

(for the Theriot Property)

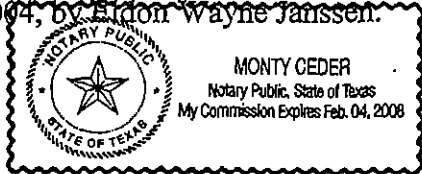
APPROVED AS TO FORM:

Debra L. Thomas

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

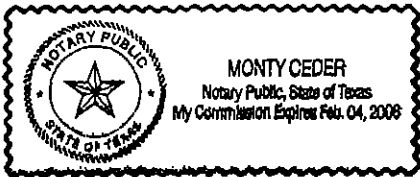
This instrument was acknowledged before me on this the 15th day of October, 2004, by Edison Wayne Janssen.



[Signature]
Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 15th day of October, 2004, by Dawn Janssen.



[Signature]
Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ___ day of _____, 2004, by Suzanne Sanders, Manager of the A.J. and M.A. Theriot, LLC, a Texas limited liability company, on behalf of the company, and the company acknowledged this instrument as General Partner on behalf of Abel J. and Mary Ann Theriot Family Limited Partnership, a Texas limited partnership.

Notary Public, State of Texas

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 ____ day of _____,
2004, by Eldon Wayne Janssen.

Notary Public, State of Texas

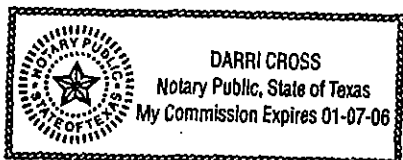
THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____,
2004, by Dawn Janssen.

Notary Public, State of Texas

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 19th day of October,
2004, by Suzanne Sanders, Manager of the A.J. and M.A. Theriot, LLC, a Texas limited
liability company, on behalf of the company, and the company acknowledged this
instrument as General Partner on behalf of Abel J. and Mary Ann Theriot Family Limited
Partnership, a Texas limited partnership.



Dawn Cross
Notary Public, State of Texas

Abel J. and Mary Ann Theriot
Family Limited Partnership
S.F. Slaughter League Survey No. 1 and
The Santiago del Valle Grant
Travis County, Texas

DESCRIPTION

DESCRIPTION OF 59.925 ACRES OF LAND SITUATED IN THE S. F. SLAUGHTER LEAGUE SURVEY NO. 1 AND THE SANTIAGO DEL VALLE GRANT, IN TRAVIS COUNTY, TEXAS, BEING A PART OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO ABEL J. AND MARY ANN THERIOT FAMILY LIMITED PARTNERSHIP OF RECORD IN DOCUMENT NUMBER 1999055181 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS; SAID 59.925 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3/4 inch iron pipe found the west right-of-way of Interstate Highway No. 35 (IH 35) (R. O. W. varies) for the northeast corner of that certain tract of land described in deed to Eldon Wayne Janssen and Dawn Janssen of record in Volume 12702, Page 1549 of the Real Property Records of Travis County, Texas, the most easterly southeast corner of said Theriot tract, and the most easterly southeast corner of the herein described tract, from which a 5/8 inch iron rod found in said west right-of-way of said IH 35 at Texas Department of Transportation (TxDOT) Station 1300+00, bears with the arc of a curve to the left a distance of 114.48 feet, having a radius of 11631.71 feet, and a chord which bears S13°13'58"W a distance of 114.48 feet;

THENCE with the north line of said Janssen tract, the most easterly south line of said Theriot tract, and the most easterly south line of the herein described tract, N69°18'03"W a distance of 538.86 feet to a steel spike with aluminum washer set for the northwest corner of said Janssen tract and an interior ell corner of the herein described tract;

THENCE with the west line of said Janssen tract, the most southerly east line of said Theriot tract, and the most southerly east line of the herein described tract, S22°57'41"W a distance of 399.75 feet to a 1/2 inch iron rod found in the north line of that certain tract of land described in deed to Edwin Tabb Harrell of record in Volume 13125, Page 203 of the Real Property Records of Travis County, Texas, for the southwest corner of said Janssen tract, the most southerly southeast corner of said Theriot tract, and the most southerly southeast corner of there herein described tract, from which a 5/8 inch iron rod found in the west right-of-way of said IH 35 for

the southeast corner of said Janssen tract and the northeast corner of said Harrell tract, bears S65°02'26"E a distance of 617.36 feet;

THENCE with the north line of said Harrell tract, the south line of said Theriot tract, and the south line of the herein described tract, N65°11'44"W a distance of 1405.15 feet to a 1/2 inch iron rod with plastic cap set for the southwest corner of the herein described tract, from which a 1/2 inch iron rod found in the east right-of-way of South First Street (80 foot R.O.W.) for the southwest corner of said Theriot tract and the northwest corner of said Harrell tract bears, N65°11'44"W a distance of 1443.78 feet;

THENCE over and across said Theriot tract, with the west line of the herein described tract, N24°19'48"E a distance of 1562.46 feet to a 3/4 inch iron pipe found in the north line of said Theriot tract, for the southwest corner of Lot 16 of the TOM F. DUNNAHOO SUBDIVISION according to the map or plat thereof recorded in Volume 683, Page 1 of the Deed Records of Travis County, Texas, same being that certain tract of land described in deed to T. P. Wingo and Arlene Wingo, Trustees, of record in Volume 13006, Page 203 of the Real Property Records of Travis County, Texas, and for the northwest corner of the herein described tract;

THENCE with the south line of Lot 16 of said TOM F. DUNNAHOO SUBDIVISION, the south line of said Wingo tract, the north line of said Theriot tract, and the north line of the herein described tract, S61°59'27"E a distance of 879.40 feet to a 3/4 inch iron pipe found at the intersection of the west right-of-way of Cullen Road (60 foot R.O.W.) and the south right-of-way of Turk Lane (60 foot R.O.W.), for the southeast corner of Lot 16 of said TOM F. DUNNAHOO SUBDIVISION and the southeast corner of said Wingo Tract, from which a 1/2 inch iron rod found in the west right-of-way of said Cullen Road for the northeast corner of Lot 12 and the southeast corner of Lot 10 of said TOM F. DUNNAHOO SUBDIVISION and the northeast corner of said Wingo tract, bears N07°48'45"E a distance of 991.49 feet;

THENCE with the south right-of-way of said Turk Lane, the north line of said Theriot tract, and the north line of the herein described tract, S62°09'45"E passing at a distance of 907.39 feet a 3/8 inch iron rod found, in all a distance of 908.25 feet to a point in the west right-of-way of said IH 35, for the northeast corner of said Theriot tract and the northeast corner of the herein described tract;

Abel J. and Mary Ann Theriot
Family Limited Partnership
S.F. Slaughter League Survey No. 1 and
The Santiago del Valle Grant
Travis County, Texas

THENCE with the east line of said Theriot tract, the east line of the herein described tract, same being the curving west right-of-way of said IH 35, said curve to the left having a radius of 11631.71 feet, an arc length of 1039.44 feet, the chord of which bears S16°04'29"W a distance of 1039.10 feet to the POINT OF BEGINNING, containing 59.925 ACRES of land, more or less, within these metes and bounds.

Reference is herein made to the Land Title Survey accompanying this metes and bounds description.

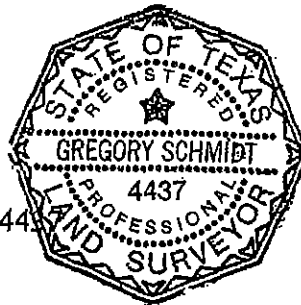
Bearing Reference: Grid North, Texas State Plane coordinate system NAD83 (CORS) Central Zone.

I hereby certify that this description was prepared from the results of a survey made on the ground under my supervision.

CUNNINGHAM-ALLEN, INC.



Gregory Schmidt,
Registered Professional Land Surveyor No. 4437
Date: 2/20/04



SKETCH TO ACCOMPANY FIELD NOTES

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	CH-BEARING
C1	1039.44	11631.71	5°07'12"	520.07	1039.10	S16°04'29"W
C2	114.48	11631.71	0°33'50"	57.24	114.48	S13°13'58"W

T.P. WINGO &
ARLENE WINGO, TRUSTEES
VOL. 13006, PG. 203
R.P.R.T.C.

LOT 16

TOM F. DUNNAHOO SUBDIVISION
VOL. 683, PG. 1 D.R.T.C.

SLAUGHTER/1H35 COMMERCIAL
DOC. NO. 200300314
O.P.R.T.C.

LOT 7

LOT 6

SCALE 1" = 300'

S61°59'27"E 879.40'

TURK LANE (60' R.O.W.)

S62°09'45"E 908.25'

59.925 ACRES

ABEL J. AND MARY ANN THERIOT
FAMILY LIMITED PARTNERSHIP
DOCUMENT NO. 1999055181
O.P.R.T.C.

S.F. SLAUGHTER LEAGUE NO. 1

APPROXIMATE SURVEY LINE

SANTIAGO DEL VALLE GRANT

INTERSTATE HIGHWAY 35 (R.O.W. VARIES)

P.O.B.

N69°18'03"W
538.86'

ELDON W. JANSSEN &
DAWN JANSSEN
VOL. 12702, PG. 1549
R.P.R.T.C.

S22°57'41"W
399.75'

N85°11'44"W
1405.15'

S65°02'26"E
617.36'

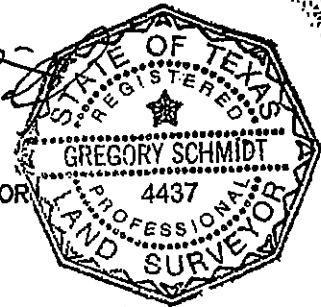
1300+00
TXDOT
STATION

N65°11'44"W
1443.78'

EDWIN TABB HARRELL
VOL. 13125, PG. 203 R.P.R.T.C.

SURVEYED BY:

GREGORY SCHMIDT
REG. PROF. LAND SURVEYOR
NO. 4437
DATE: 2/20/04



3103 Bee Cave Road, Suite 202

Austin, Texas 78746-6819

Tel: (512) 327-2946

Fax: (512) 327-2973

CA

Cunningham | Allen

Engineers • Surveyors

LEGEND

- 1/2" IRON ROD FOUND (UNLESS STATED)
- ⊙ IRON PIPE FOUND (SIZE AS STATED)
- 1/2" IRON ROD W/CAP SET (UNLESS STATED)
- △ STEEL SPIKE WITH ALUMINUM WASHER SET
- CONCRETE HWY. MONUMENT FOUND (TYPE I)
- ⬢ P.R.T.C. REAL PROPERTY RECORDS OF TRAVIS COUNTY
- ⬢ P.R.T.C. OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY
- ⬢ P.O.B. POINT OF BEGINNING

DESCRIPTION

DESCRIPTION OF 5.579 ACRES OF LAND SITUATED IN THE SANTIAGO DEL VALLE GRANT AND THE S.F. SLAUGHTER LEAGUE IN TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN TRACT OF LAND DESCRIBED IN DEED TO ELDON WAYNE JANSSEN AND WIFE, DAWN JANSSEN, OF RECORD IN VOLUME 12702, PAGE 1549, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 5.579 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3/4" iron pipe found in the west right-of-way line of Interstate Highway No. 35 (R.O.W. width varies) for the northeast corner of said Janssen tract, same being the most easterly southeast corner of that certain tract of land described in deed to Abel J. and Mary Ann Theriot Family Limited Partnership, of record in Document No. 1999055181, Official Public Records of Travis County, Texas;

THENCE with the curving west right-of-way line of Interstate Highway No. 35 and the east line of said Janssen tract, with said curve to the left an arc length of 114.48 feet, the radius of which curve is 11,631.71 feet, the chord of which arc bears S13°13'58"W a distance of 114.48 feet to a 5/8" iron rod found at the end of said curve;

THENCE continuing with the west right-of-way line of Interstate Highway No. 35 and the east line of said Janssen tract, S12°55'33"W a distance of 334.79 feet to the southeast corner of said Janssen tract, same being the northeast corner of that certain tract of land described in deed to Edwin Tabb Harrell, of record in Volume 13125, Page 203, Real Property Records of Travis County, Texas, from which a 1/2" iron rod found bears S65°02'26"E a distance of 0.88 feet;

THENCE with the south line of said Janssen tract and the north line of said Harrell tract, N65°02'26"W a distance of 616.48 feet to a 1/2" iron rod found for the southwest corner of said Janssen tract and the most southerly southeast corner of said Theriot tract;

THENCE with the west line of said Janssen tract and an east line of said Theriot tract, N22°57'41"E a distance of 399.75 feet to a steel spike with aluminum washer set for the northwest corner of said Janssen tract and an interior ell corner of said Theriot tract;

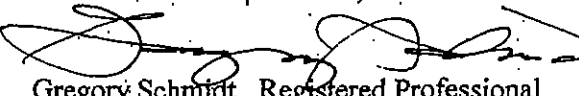
THENCE with the north line of said Janssen tract and a south line of said Theriot tract, S69°18'03"E a distance of 538.86' to the POINT OF BEGINNING and containing 5.579 Acres of Land within these metes and bounds.

Bearing Reference: Grid North, Texas State Plane Coordinate System NAD83 (CORS) Central Zone.

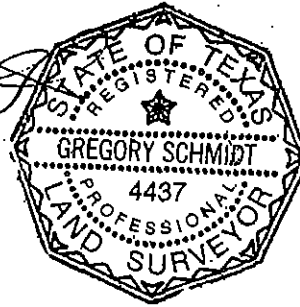
Reference is herein made to the Sketch accompanying this metes and bounds description.

The undersigned hereby certifies that this description was prepared from the results of a survey made on the ground under my supervision.

CUNNINGHAM | ALLEN, INC.


Gregory Schmidt, Registered Professional
Land Survey No. 4437

April 1, 2004



E:\2770901\Documents\Surveying Dept\janssen Tract desc for Zoning.doc

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1546
Austin, Texas 78767-1546
Attention: Diana Minter, Legal Assistant

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2004 Nov 24 02:16 PM 2004220256

BENAVIDESV \$38.00

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.