



Zoning Case No. C14-04-0181.SH

RESTRICTIVE COVENANT

OWNER: Henry W. Ault and June Oliver Ault
The Estate of Opal Ault
Herby's Joint Venture
George Washington Sanders, Jr.
Stephen G. Jackson

ADDRESS: 6001 West William Cannon Drive, Suite 201, Austin, Texas 78749

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 26.056 acre tract of land out of the Santiago del Valle Grant, Abstract No. 24, in Travis County, said tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner, whether one or more, 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. One pedestrian access shall be provided at a designated point along the east property line adjacent to the elementary school.
2. In the event property adjacent to the north property line is developed as a public park, Owner shall provide pedestrian and bicycle access to the park from the Property.
3. Owner shall provide for public vehicular access through the Property by way of a street extending between the terminus of Carlson Drive and Metcalfe Road.
4. 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.
5. 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.
6. 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.

2-17-05

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7. 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 10 day of FEBRUARY, 2005.

OWNER:


**Benchmark Land Development, Inc.,
a Texas corporation,
Attorney-in-fact for the Owner:**

Henry W. Ault and June Oliver Ault
The Estate of Opal Ault
Herby's Joint Venture
George Washington Sanders, Jr.
Stephen G. Jackson

By: 

**David C. Mahn,
Vice President,
Benchmark Land Development, Inc.**

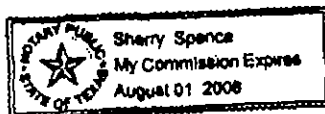
APPROVED AS TO FORM:

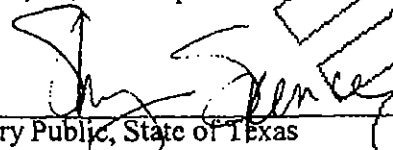

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 10 day of February, 2005, by David C. Mahn, Vice President of Benchmark Land Development, Inc., (a Texas corporation, on behalf of the corporation, and the corporation acknowledged this instrument as attorney-in-fact on behalf of Henry W. Ault and June Oliver Ault; The Estate of Opal Ault; Herby's Joint Venture; George Washington Sanders, Jr.; and Stephen G. Jackson.




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

EXHIBIT A

FIELD NOTES

BEING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE SANTIAGO DEL VALLE GRANT, ABSTRACT 24, SITUATED IN TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS BEING ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO HENRY W. AULT IN VOLUME 8000, PAGE 270 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO HENRY W. AULT IN VOLUME 5916, PAGE 60 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO H. L. AULT IN VOLUME 719, PAGE 458 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO HERBY'S JOINT VENTURE IN VOLUME 11934, PAGE 2259 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO STEVEN JACKSON IN VOLUME 10007, PAGE 738 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, ALL OF THAT CERTAIN TRACT OF LAND CONVEYED TO GEORGE W. SANDERS, JR. IN DOCUMENT NO. 2004017583 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND CONVEYED TO GEORGE W. SANDERS, JR. IN DOCUMENT NO. 2002249520 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID TRACT BEING 26.056 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at an iron rod found at the southwest corner of said Ault tract recorded in Volume 8000, Page 270, being also at the southeast corner of the Resubdivision of Blocks E and F of Greenbriar Section Two, a subdivision recorded in Volume 55, Page 61 of the Plat Records of Travis County, Texas, and being in the north right-of-way line of Wickshire Lane, a 60-foot wide right-of-way dedicated to the public by the plat The Knoll III, recorded in Volume 83, Page 150D of the Plat Records of Travis County, Texas, for the southwest corner and the **POINT OF BEGINNING** of the herein described 26.056 acre tract of land,

THENCE, departing the north right-of-way line of said Wickshire Lane, with the east line of said Resubdivision of Blocks E and F of Greenbriar Section Two, the following three (3) courses and distances, numbered 1 through 3,

1. N30°12'52"E, a distance of 80.06 feet to a concrete monument found,
2. N61°26'03"W, a distance of 5.55 feet to an iron rod found, and
3. N30°22'32"E, a distance of 965.12 feet to an iron pipe found at the northwest corner of said Ault tract recorded in Volume 5916, Page 60, being also the southwest corner of said Jackson tract,

THENCE, with the west line of said Jackson tract, being also the east line of said Greenbriar Section Two, N30°23'54"E, a distance of 231.40 feet to a calculated point, for the northwest corner of said Jackson tract, being also the southwest corner of said Sanders tract recorded in Document No. 2004017583,

THENCE, with the west line of said Sanders tract and the west line of said Sanders tract recorded in Document No. 2002249520, N30°01'27"E, a distance of 365.82 feet to a calculated

point in the east line of Lot 4 of Greenbriar Section Three, a subdivision recorded in Volume 57, Page 53 of the Plat Records of Travis County, Texas,

THENCE, crossing said Sanders tract, S58°44'22"E, a distance of 360.05 feet to a calculated point at an interior corner of said Sanders tract,

THENCE, with an east line of said Sanders tract, S30°01'38"W, a distance of 359.69 feet to a calculated point in the north line of said Jackson tract at the southwest corner of that certain tract of land described in a deed to Marlton O. Metcalfe, recorded in Document No. 2004020393 of the Official Public Records of Travis County, Texas,

THENCE, with the north line of said Jackson tract, being also the south line of said Metcalfe tract, the following two (2) courses and distances, numbered 1 and 2,

1. S59°42'48"E, a distance of 86.43 feet to a calculated point, and
2. S59°49'01"E, a distance of 290.21 feet to a calculated point at the southeast corner of said Metcalfe tract, being also in the south right-of-way line of Metcalfe Road,

THENCE, continuing with the north line of said Jackson tract, being also the south right-of-way line of said Metcalfe Road, the following three (3) courses and distances, numbered 1 through 3,

1. S59°26'46"E, a distance of 55.67 feet to a calculated point,
2. with a curve to the left having a radius of 129.99 feet, an arc length of 42.89 feet and whose chord bears, S49°59'36"E, a distance of 42.70 feet to a calculated point, and
3. S59°26'46"E, a distance of 57.16 feet to a calculated point at the northeast corner of said Jackson tract, being also the northwest corner of that certain tract of land described in a deed to Alicia Lown, recorded in Document No. 2004100347 of the Official Public Records of Travis County, Texas,

THENCE, with the east line of said Jackson tract, being also the west line of said Lown tract, S27°41'24"W, a distance of 226.64 feet to a calculated point at the southeast corner of said Jackson tract, being also in the north line of that certain tract of land described in a deed to the Austin Independent School District, recorded in Volume 2870, Page 47 of the Deed Records of Travis County, Texas,

THENCE, with the south line of said Jackson tract, being also the north line of said Austin Independent School District tract, N60°48'01"W, a distance of 104.27 feet to an iron pipe found at the northwest corner of said Austin Independent School District tract, being also the northeast corner of said Herby's Joint Venture tract,

THENCE, with the west line of said Austin Independent School District tract, being also the east line of said Herby's Joint Venture tract, S27°46'19"W, a distance of 318.42 feet to an iron rod found at the southeast corner of said Herby's Joint Venture tract, being also the northeast corner of said Ault tract recorded in Volume 719, Page 458,

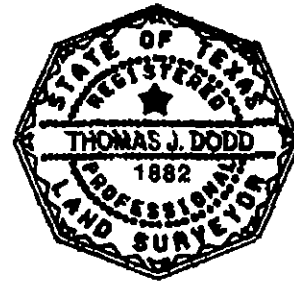
THENCE, continuing with the west line of said Austin Independent School District tract, being also the east line of said Ault tract, S27°46'19"W, a distance of 630.99 feet to an iron rod found at the southeast corner of said Ault tract, being also in the north right-of-way line of said Wickshire Lane,

THENCE, with the south line of said Ault tracts, being also the north right-of-way line of said Wickshire Lane, the following four (4) courses and distances, numbered 1 through 4,

1. N59°45'13"W, a distance of 494.61 feet to an iron rod found at a point of curvature to the left,
2. with said curve to the left having a radius of 270.00 feet, an arc length of 110.35 feet and whose chord bears, N71°31'13"W, a distance of 109.58 feet to an iron rod found at a point of tangency,
3. N82°07'13"W, a distance of 110.48 feet to an iron rod found at a point of curvature to the right, and
4. with said curve to the right having a radius of 330.00 feet, an arc length of 135.25 feet and whose chord bears, N71°30'13"W, a distance of 134.31 feet to the **POINT OF BEGINNING** and containing 26.056 Acres of Land.

Surveyed by:

Thomas J. Dodd - B.P.L. No. 1882
Carlson, Briggance & Doering, Inc.
3401 Slaughter Lane West
Austin, TX 78748 (512) 280-5160



BEARING BASIS IS FROM AULT TRACT
C:\docs\3992-007\fn-composite.doc

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2005 Feb 13 02:39 PM 2005027809

FERGUSONL \$24.00

DANA DEBEAUVOIR COUNTY CLERK
TRAVIS COUNTY TEXAS