

3178

RESTRICTIVE COVENANT

FILM CODE  
00005802956

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

WHEREAS, Daisy Chapman Fulton Shepherd, George B. Shepherd, Jr., and Patricia Van Tassel are the owners (collectively, "Owner") of the following described property, to wit:

A portion of Lots 2 and 3, Block A, Shepherd Addition, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 96, Page 112 of the Plat Records of Travis County, Texas and further described by metes and bounds in Exhibit A attached hereto and incorporated herein ("Property");

WHEREAS, the Property is proposed to be developed as part of a retail center, with the Property being proposed for a use defined in the Austin Land Development Code as "Indoor Sports and Recreation/Cocktail Lounge";

WHEREAS, Owner and the Zilker Neighborhood Association ("Zilker") have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, Owner, for and in consideration of One And No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by Zilker, the receipt of which is hereby acknowledged, does hereby agree with respect to the Property, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on Owner, its successors and assigns, as follows, to wit:

1. Lighting shall be provided for all parking areas serving the Property and such lighting shall be shielded or otherwise oriented so as to minimize glare onto adjacent properties.
2. The developer of the Property shall meet and work with representatives of Zilker with respect to the design of the proposed retail center to be located on the Property prior to the issuance of a building permit for such center.
3. Hours of operation for the Indoor Sports and Recreation/Cocktail Lounge (Slick Willies Family Pool Hall) shall be limited to 11 a.m. to 2 a.m. daily.

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13274 0050

4. The Property shall be restricted from utilizing outdoor speakers for amplified music or voice. Further, the Property shall not be used as a live music venue. Further, the Property shall not utilize outdoor seating.

If any person, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for Zilker or its successors and assigns to prosecute proceedings at law, or in equity, against said person or entity violating or attempting to violate such agreement or covenant.

If any part or provision of this agreement or covenant herein contained shall be declared invalid by a judgment or court order, the same shall in no wise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.


The failure at any time to enforce this agreement by Zilker, its successors and assigns, whether any violations hereof or known or not, shall not constitute a waiver or estoppel of the right to do so.

This agreement may be modified, amended or terminated only by joint action of Zilker, its successors or assigns, and by the owners of the Property at the time of such proposed modification, amendment or termination.

OWNER:

Daisy Chapman Fulton Shepherd

By:



George B. Shepherd, Jr.,  
as Attorney-In-Fact for  
Daisy Chapman Fulton Shepherd

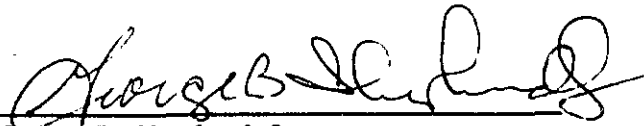
Date:

8 June 1998

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13274 0051

OWNER:



George B. Shepherd, Jr.

Date: 8 June 1998

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13274 0052

OWNER:

Patricia Van Tassel  
Patricia Van Tassel

Date: 6/9/98

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TRAVIS COUNTY, TEXAS

13274 0053

ZILKER NEIGHBORHOOD ASSOCIATION

BY:

  
Its: Charles Whitford

Date: June 23, 1998

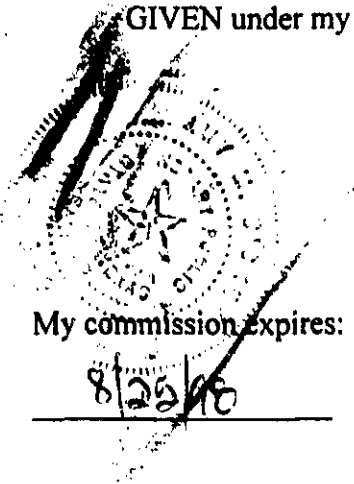
REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13274 0054

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this 8 day of June, 1998, by George B. Shepherd, Jr., attorney-in-fact for Daisy Chapman Fulton Shepherd.

GIVEN under my hand and seal of office, this 8 day of June, 1998.



Amy M. Dickey  
Notary Public, in and for  
The State of Texas

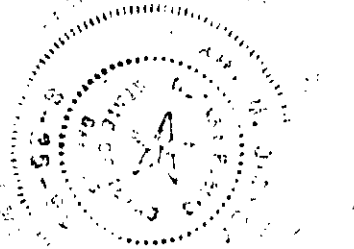
REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13274 0055

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this 8 day of June, 1998, by George B. Shepherd, Jr.

GIVEN under my hand and seal of office, this 8 day of June, 1998.



*Amy M. Decker*  
Notary Public, in and for  
The State of Texas

My commission expires:

8/25/98

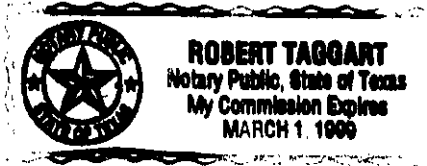
REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13274 0056

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this 9<sup>th</sup> day of June, 1998, by Patricia Van Tassel.

GIVEN under my hand and seal of office, this 9<sup>th</sup> day of June, 1998.



Robert Taggart  
Notary Public, in and for  
The State of Texas

My commission expires:

\_\_\_\_\_

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13274 0057



STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

This instrument was acknowledged before me on this 23<sup>rd</sup> day of June, 1998, by Charles Whitford of Zilker Neighborhood Association on behalf of Zilker Neighborhood Association.

GIVEN under my hand and seal of office, this 23<sup>rd</sup> day of June, 1998.

rena scoggins  
Notary Public, in and for  
The State of Texas

My commission expires:

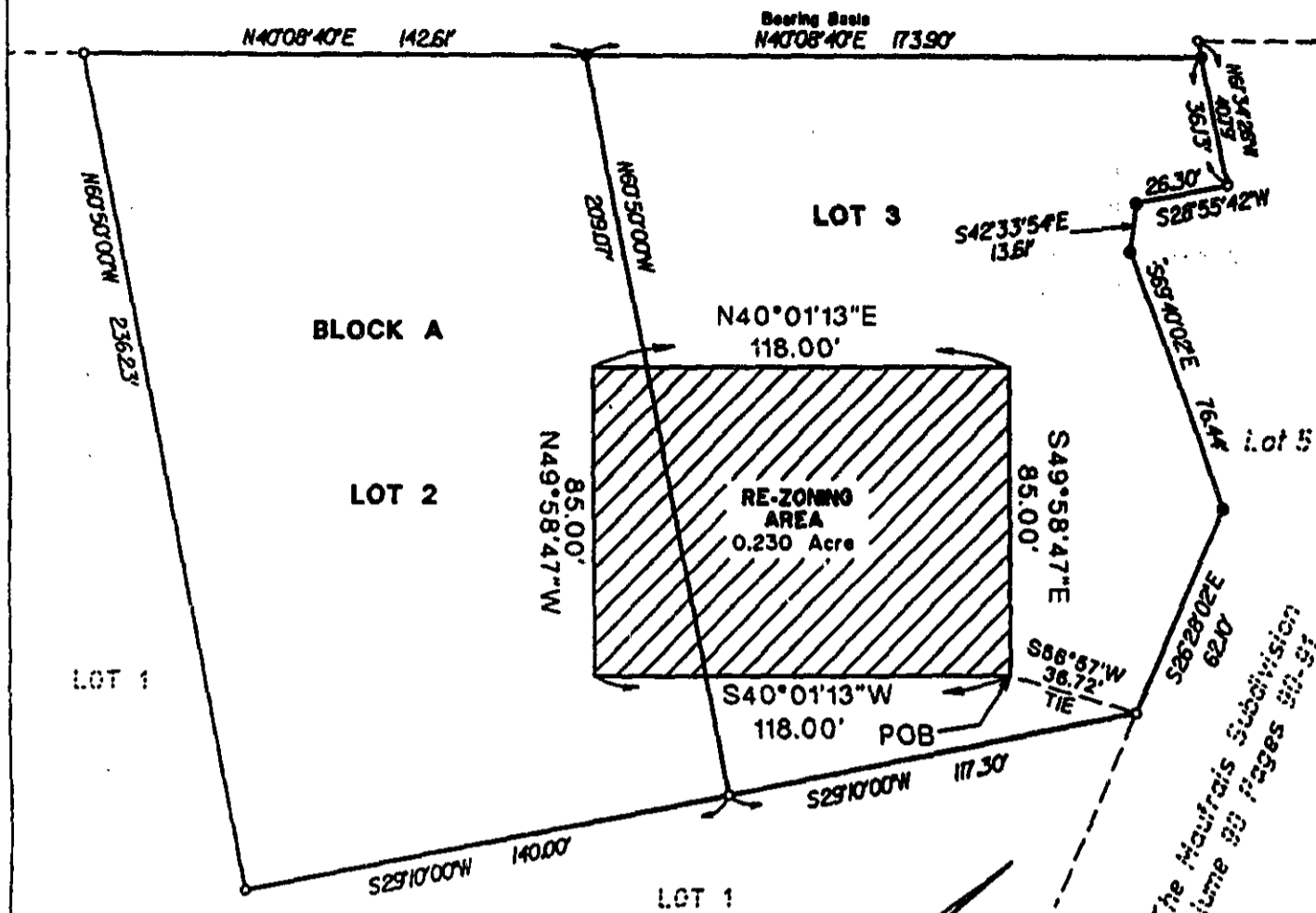


REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS  
13274 0058

EXHIBIT A

SCALE: 1" = 50'

SOUTH LAMAR BOULEVARD R.O.W. Varies



SHEPHERD ADDITION  
Volume 96 Page 112

LEGEND

- ⊙ ½" Iron Rod Found
- ⊙ ½" Iron Pipe Found
- ½" Iron Rod Set
- POB = Place of Beginning

SKETCH TO ACCOMPANY FIELD NOTES OF

0.230 ACRE OF LAND BEING PORTIONS OF LOT 2 AND LOT 3, BLOCK A, SHEPHERD ADDITION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 96 PAGE 112 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

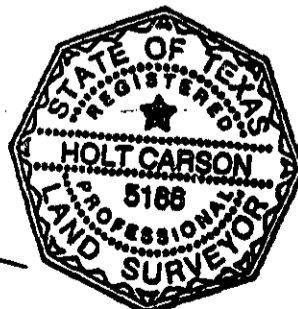
FOR RE-ZONING PURPOSES ONLY

PREPARED: May 27, 1998.

BY:

*Holt Carson*

Holt Carson



REAL PROPERTY RECORDS  
TRAVIS COUNTY TEXAS

13274 0059

Registered Professional Land Surveyor No. 5166  
BUSH SURVEYING, INC.

1904 Fortview Road Austin, Texas 78704

EXHIBIT A

**BUSH SURVEYING, INC.**

1904 Fortview Road  
Austin, Texas 78704  
Phone (512) 442-0990  
Fax (512) 442-1084

MAY 27, 1998

FOR RE-ZONING PURPOSES

FIELD NOTE DESCRIPTION OF 0.230 ACRE OF LAND, BEING PORTIONS OF LOT 2 AND LOT 3, BLOCK A, SHEPHERD ADDITION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 96 PAGE 112 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a 1/2" iron rod set in the Southwesterly line of Lot 5, The Maufrais Subdivision, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 90 Pages 90-91 of the Plat Records of Travis County, Texas, for the most Easterly corner of Lot 3, Block A, Shepherd Addition, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 96 Page 112 of the Plat Records of Travis County, Texas, and from which a 1/2" iron rod set for the most Southerly corner of said Lot 3 and for the most Easterly corner of Lot 2, Block A, of said Shepherd Addition bears S 29 deg. 10' 00" W 117.30 ft.;

THENCE entering the interior of said Lot 3, S 56 deg. 57' W 36.72 ft. to a point for the most Easterly corner and PLACE OF BEGINNING of the herein described portion to be re-zoned;

THENCE, S 40 deg. 01' 13" W 118.00 ft. to a point in the interior of said Lot 2 for the most Southerly corner of this portion to be re-zoned;

THENCE continuing across a portion of the interior of said Lot 2, N 49 deg. 58' 47" W 85.00 ft. to a point for the most Westerly corner of this portion to be re-zoned;

THENCE, N 40 deg. 01' 13" E 118.00 ft. to a point in the interior of said Lot 3 for the most Northerly corner of this portion to be re-zoned;

THENCE continuing across a portion of the interior of said Lot 3, S 49 deg. 58' 47" E 85.00 ft. to the PLACE OF BEGINNING, containing 0.230 acre of land.

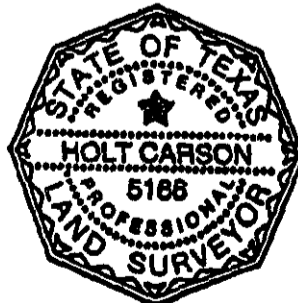
PREPARED: May 27, 1998.



Holt Carson

Registered Professional Land Surveyor No. 5166

483086



REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

13274 0060

AFTER RECORDING PLEASE RETURN TO:

Locke Purnell Rain Harrell  
100 Congress, Suite 300  
Austin, Texas 78701-4042  
Attn: Henry Gilmore

**FILED**

**98 SEP 23 AM 11:32**

**DANA DEBEAUVOIR  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS**

**STATE OF TEXAS COUNTY OF TRAVIS**  
I hereby certify that this instrument was FILED on  
the date and at the time stamped herein by me, and  
was duly RECORDED, in the Volume and Page of the  
public RECORDS of Travis County, Texas, on

**SEP 23 1998**



*Dana Debeauvoir*  
**COUNTY CLERK  
TRAVIS COUNTY, TEXAS**

**RECORDERS MEMORANDUM**-At the time of  
recording this instrument was found to be inadequate  
for the best photographic reproduction, because of  
illegibility, carbon or photo copy, discolored paper, etc.  
All blockouts, additions and changes were present at the  
time the instrument was filed and recorded.

**REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS**

**13274 0061**

RECEIPT#: A00132211 TRANS#: A8856 DEPT: REGULAR RECORD \$31.00  
CASHIER: HDWED FILE DATE: 9/23/98 TRANS DATE: 9/23/98  
PAID BY: CHECK# 2078