



**ITEM FOR ENVIRONMENTAL BOARD AGENDA**

**BOARD MEETING**  
**DATE REQUESTED:** APRIL 4, 2012

**NAME & NUMBER OF PROJECT:** REGENTS WEST CONSTRUCTION PLANS  
C8J-2010-0056.0B

**NAME OF APPLICANT OR ORGANIZATION:** Regents School of Austin  
(CONTACT: RON PRITCHARD, PE 512/459-4734)

**LOCATION:** FOSTER RANCH RD

**PROJECT FILING DATE:** Nov 04, 2010

**WPDR/ENVIRONMENTAL STAFF:** JEB BROWN, 974-2709  
JEB.BROWN@AUSTINTEXAS.GOV

**WPDR/ CASE MANAGER:** RON CZAJKOWSKI, 974-6307  
RCZAJKOWSKI@AUSTINTEXAS.GOV

**WATERSHED:** BARTON SPRINGS ZONE (RECHARGE) & (CONTRIBUTING)  
DRINKING WATER PROTECTION ZONE

**ORDINANCE:** LAND DEVELOPMENT CODE (CURRENT)

**REQUEST:** VARIANCE REQUEST IS AS FOLLOWS:

1. TO ALLOW THE FLOODPLAIN MODIFICATION BERM TO BE CONSTRUCTED IN THE CWQZ. (LDC 25-8-482)
2. TO ALLOW THE FLOODPLAIN MODIFICATION BERM TO BE CONSTRUCTED IN THE WQTZ. (LDC 25-8-483)(A) (OVER RECHARGE)
3. TO ALLOW THE FLOODPLAIN MODIFICATION BERM TO BE CONSTRUCTED IN THE WQTZ. (LDC 25-8-483)(B) (CONTRIBUTING)
4. TO ALLOW CUT UP TO A MAXIMUM OF 14.5 FEET (LDC 25-8-341)
5. TO ALLOW FILL UP TO A MAXIMUM OF 7.2 FEET (LDC 25-8-342)

**STAFF RECOMMENDATION: RECOMMENDED WITH CONDITIONS.**

**REASONS FOR**

**RECOMMENDATION:**

**FINDINGS OF FACT HAVE BEEN MET.**



## MEMORANDUM

**TO:** Betty Baker, Chairperson  
Members of the Zoning and Platting Commission

**FROM:** Jeb Brown, Senior Environmental Reviewer  
Planning and Development Review Department

**DATE:** March 21, 2012

**SUBJECT:** Regents West  
Foster Ranch Road

### Variance Request(s)

1) To allow a berm to be constructed as part of the floodplain modifications on the east campus in the CWQZ. (Recharge) LDC 25-8-482. 2) To allow the same berm to be constructed as part of the floodplain modifications on the east campus in the WQTZ (Recharge). LDC 25-8-483(A). 3) To allow for the same berm as noted in #1 & #2 above to be constructed on the east campus and three jetties on the west campus to be constructed as part of the floodplain modification package in the WQTZ (Contributing). LDC 25-8-483(B). 4) To allow up to a 14.5' cut for the construction of the backwater pond on the west campus within the uplands and transition areas (Contributing). LDC 25-8-341. 5) To allow up to 7.2' of fill to keep water from overtopping the road on the west campus within the uplands area (Contributing). LDC 25-8-342.

### Description of Project Area

This 63.64 acre site (gross site area) is situated in Travis County, in the COA full purpose jurisdiction. The site is in the Drinking Water Protection Zone and located within the Barton Creek Watershed. The site is split in roughly half by the Mount Bonnell Fault line that crosses the East Campus tract. The Recharge Zone (35.28 acres) lies on the east side of the fault and the Contributing Zone (28.36 acres) lies to the west of the Fault. The majority of the site is currently located in the 100 year flood plain per COA GIS. The site is located approximately 2500 feet north of Southwest Parkway along Foster Ranch Road. It is split in the middle and bounded on the north by Travis County Road, Travis Green Road to the South and bounded by Republic of Texas Road to the East. There is not a definable road that bounds the site to the West. Allowable impervious cover totals are less than requirements set by LDC 25-8-514. Topographically, the site slopes from the North and the South Boundaries in towards a dry tributary along the northern edge of the site. The dry tributary

then drains in an easterly direction off site to Sycamore Creek (Sycamore Creek drains to Barton Creek). Slopes on the site range from approximately 1% to 15%.

### **Vegetation**

The vegetation types observed on the site consisted of light to medium ground cover consisting of native and nonnative species of grasses and woody plants. Scattered tree species include oak, cedar elm, hackberry and Ashe juniper interspersed with native grasses and woody plants. Oak types observed included Southern live oak (*Quercus fusiformis*) and Spanish oak (*Quercus texana*). Overall woodland canopy cover was estimated at 75-100%. No wetlands observed on site.

### **Critical Environmental Features/Endangered Species**

There is one CEF on site, which contains Cave X and Foster Cave. The cave network in the central portion of the East Campus tract provides habitat to a number of karst invertebrates that are considered "Species of Concern" in the BCCP and the cave is designated for protection.

### **Water/Wastewater**

The tract is within the AWU service area and water and wastewater service will be obtained from the City of Austin.

### **Recommendations**

Staff recommends granting the variance request(s) because the findings of fact have been met. The applicant has met the Environmental Board Variance Request Table for the types of variances requested and meets all aspects of SOS.

### **Conditions**

Staff recommends granting the variance with the following conditions:

- 1) Remove corral, greenhouse and portion of road in the CWQZ and WQTZ;
- 2) Natural seeding/landscaping for all disturbed areas with 609S in CWQZ areas (not road);
- 3) Restore/revegetate in the area where the road is removed within the CWQZ and the WQTZ;
- 4) Provide for silt fencing for erosion controls with curlex matting;
- 5) Provide 4:1 slope (3:1 is required) on creekside of berm to reduce erosion and velocity;
- 6) 6:1 slope on backside of creek;
- 7) Tree mitigation at 100%
- 8) Provide an educational component to students as to how the school has handled the environmental concerns of this site.

If you have any questions or need additional information, please feel free to contact me at 974-2709.

Jeb Brown, Senior Environmental Reviewer  
Planning and Development Review

Environmental Policy Program Manager:

  
Chuck Lesniak

## **Similar Cases**

The following projects in Barton Springs Zone had variance requests from LDC 25-8-341/342 that were approved by the EV Board, and subsequently the Zoning and Platting or Planning Commission.

**1. Grace Lane Office Building (SP-2007-0552D)** requested a variance from LDC 25-8-341/342 for cut/fill in excess of four feet. The EV Board recommended approval on August 20, 2008 by a vote of 6-0-0-0, with the following conditions:

### **Staff Conditions:**

1. The applicant will stabilize and restore areas of fill with City of Austin standard 604s seeding for erosion control and provide native class I or II Hill Country species trees planted 30 feet on center
2. The applicant will provide enhanced erosion and sedimentation controls below the fill area to ensure all eroded sediments remain onsite
3. The applicant will limit cut to 11 feet and fill to 14 feet
4. All slopes created from fill material will be less than or equal to a 3:1 slope

### **EV Board Conditions:**

1. Remove sandy loam topsoil and change to non sterile topsoil

**2. Hilltop Park (SP-2007-0214C)** requested a variance from LDC 25-8-341/342 for cut/fill in excess of four feet. The EV Board recommended approval on August 15, 2008 by a vote of 7-0-0-1, with the following conditions:

### **Staff conditions:**

The applicant will plant 100% COA native and/or adaptive plants and trees.

A recorded restrictive covenant will preserve the natural area from development.

The applicant will provide a rainwater collection system for the commercial structures.

The applicant will provide staff with a signed copy of a Letter of Intent (to Austin Energy) that proposes a minimum 1 star rating for the commercial buildings.

Cut and fill is limited to a maximum of 11 feet.

### **EV Board conditions:**

City of Austin staff will clarify condition number 2 to preserve both re-irrigation areas and natural areas to remain undisturbed.



**Watershed Protection and Development Review Department  
Staff Recommendations Concerning Required Findings  
Water Quality Variances**

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<b>Application Name:</b>	<b>Regents West</b>
<b>Application Case No:</b>	<b>C8J-2010-0056.0B</b>
<b>Code Reference:</b>	<b>LDC 25-8-482</b>
<b>Variance Request:</b>	<b>To allow construction of a floodplain modification berm in the CWQZ</b>

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**JUSTIFICATION:**

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development? **YES. The existing school was not originally mapped in the floodplain when first developed. By not allowing the floodplain modifications proposed, the existing school is in jeopardy of flooding in a major storm event.**
2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences? **YES. The project will actually increase compliance with SOS by increasing water treatment quality during storm events, protect the established endangered species CEF during flood events, and numerous trees have been saved by the current design. In addition, the proposed development is not based on a condition or method caused by the applicant to develop the property. The presence of a CEF forces the berm to be located in the CWQZ.**
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land. **YES. Grace Lane Office Building (SP-2007-0552D) (Up to 11 feet cut and 14 feet fill with conditions) and Hilltop Park (SP-2007-0214C) (Cut and Fill up to 11 feet with conditions) were both granted variances in the BSZ. The proposed berm is necessary to reduce**

**and contain the flooding impact that was not caused by any development methods or voluntary subdivision of the land.**

4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property? **Yes. The property, as built prior to the FEMA map revision, is in jeopardy of flooding without the proposed floodplain modifications. Without the proposed floodplain modifications, the property will not be able to have future development.**
5. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance? **YES. The proposed floodplain modifications do not require any additional water quality controls. Currently, the water quality ponds during a storm event would allow co-mingling of the water. The proposed revision will prevent this from occurring, therefore improving water quality. Any future development will require additional SOS water quality controls.**





**Watershed Protection and Development Review Department  
Staff Recommendations Concerning Required Findings  
Water Quality Variances**

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<b>Application Name:</b>	<b>Regents West</b>
<b>Application Case No:</b>	<b>C8J-2010-0056.0B</b>
<b>Code Reference:</b>	<b>LDC 25-8-483(A)</b>
<b>Variance Request:</b>	<b>To allow construction of a floodplain modification berm in the WQTZ – over the recharge</b>

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**JUSTIFICATION:**

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development? **YES. The existing school was not originally mapped in the floodplain when first developed. By not allowing the floodplain modifications proposed, the existing school is in jeopardy of flooding in a major storm event.**
2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences? **YES. The project will actually increase compliance with SOS by increasing water treatment quality during storm events, protect the established endangered species CEF during flood events, and numerous trees have been saved by the current design. In addition, the proposed development is not based on a condition or method caused by the applicant to develop the property.**
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land. **YES. Grace Lane Office Building (SP-2007-0552D) (Up to 11 feet cut and 14 feet fill with conditions) and Hilltop Park (SP-2007-0214C) (Cut and Fill up to 11 feet with conditions) were both granted variances in the BSZ. The proposed berm is necessary to reduce**

**and contain the flooding impact that was not caused by any development methods or voluntary subdivision of the land.**

4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property? **Yes. The property, as built prior to the FEMA map revision, is in jeopardy of flooding without the proposed floodplain modifications. Without the proposed floodplain modifications, the property will not be able to have future development.**
5. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance? **YES. The proposed floodplain modifications do not require any additional water quality controls. Currently, the water quality ponds during a storm event would allow co-mingling of the water. The proposed revision will prevent this from occurring, therefore improving water quality. Any future development will require additional SOS water quality controls.**



**Watershed Protection and Development Review Department  
Staff Recommendations Concerning Required Findings  
Water Quality Variances**

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<b>Application Name:</b>	<b>Regents West</b>
<b>Application Case No:</b>	<b>C8J-2010-0056.0B</b>
<b>Code Reference:</b>	<b>LDC 25-8-483(B)</b>
<b>Variance Request:</b>	<b>To allow construction of a floodplain modification berm and three (3) jetties in the WQTZ – Contributing</b>

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**JUSTIFICATION:**

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development? **YES. The existing school was not originally mapped in the floodplain when first developed. By not allowing the floodplain modifications proposed, the existing school is in jeopardy of flooding in a major storm event.**
2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences? **YES. The project will actually increase compliance with SOS by increasing water treatment quality during storm events, protect the established endangered species CEF during flood events, and numerous trees have been saved by the current design. In addition, the proposed development is not based on a condition or method caused by the applicant to develop the property.**
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land. **YES. Grace Lane Office Building (SP-2007-0552D) (Up to 11 feet cut and 14 feet fill with conditions) and Hilltop Park (SP-2007-0214C) (Cut and Fill up to 11 feet with conditions) were both granted variances in the BSZ. The proposed berm and jetties are necessary**

**to reduce and contain the flooding impact that was not caused by any development methods or voluntary subdivision of the land.**

4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property? **Yes. The property, as built prior to the FEMA map revision, is in jeopardy of flooding without the proposed floodplain modifications. Without the proposed floodplain modifications, the property will not be able to have future development.**
5. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance? **YES. The proposed floodplain modifications do not require any additional water quality controls. Currently, the water quality ponds during a storm event would allow co-mingling of the water. The proposed revision will prevent this from occurring, therefore improving water quality. Any future development will require additional SOS water quality controls.**



**Watershed Protection and Development Review Department  
Staff Recommendations Concerning Required Findings  
Water Quality Variances**

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<b>Application Name:</b>	<b>Regents West</b>
<b>Application Case No:</b>	<b>C8J-2010-0056.0B</b>
<b>Code Reference:</b>	<b>LDC 25-8-341</b>
<b>Variance Request:</b>	<b>To allow cut up to a maximum of 14.5 Feet (LDC 25-8-341)</b>

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**JUSTIFICATION:**

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development? **YES. The existing school was not originally mapped in the floodplain when first developed. By not allowing the floodplain modifications proposed, the existing school is in jeopardy of flooding in a major storm event.**
2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences? **YES. The project will actually increase compliance with SOS by increasing water treatment quality during storm events, protect the established endangered species CEF during flood events, and numerous trees have been saved by the current design.**
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land. **YES. Grace Lane Office Building (SP-2007-0552D) (Up to 11 feet cut and 14 feet fill with conditions) and Hilltop Park (SP-2007-0214C) (Cut and Fill up to 11 feet with conditions) were both granted variances in the BSZ. The proposed fill is necessary to reduce and contain the flooding impact that was not caused by any development methods or voluntary subdivision of the land.**

4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property? **Yes. The property, as built prior to the FEMA map revision, is in jeopardy of flooding without the proposed floodplain modifications. Without the proposed floodplain modifications, the property will not be able to have future development.**
5. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance? **YES. The proposed floodplain modifications do not require any additional water quality controls. Currently, the water quality ponds during a storm event would allow co-mingling of the water. The proposed revision will prevent this from occurring, therefore improving water quality. Any future development will require additional SOS water quality controls.**



**Watershed Protection and Development Review Department  
Staff Recommendations Concerning Required Findings  
Water Quality Variances**

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<b>Application Name:</b>	<b>Regents West</b>
<b>Application Case No:</b>	<b>C8J-2010-0056.0B</b>
<b>Code Reference:</b>	<b>LDC 25-8-342</b>
<b>Variance Request:</b>	<b>To allow fill up to a maximum of 7.2 Feet (LDC 25-8-342)</b>

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**JUSTIFICATION:**

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development? **YES. The existing school was not originally mapped in the floodplain when first developed. By not allowing the floodplain modifications proposed, the existing school is in jeopardy of flooding in a major storm event.**
2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences? **YES. The project will actually increase compliance with SOS by increasing water treatment quality during storm events, protect the established endangered species CEF during flood events, and numerous trees have been saved by the current design.**
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land. **YES. Grace Lane Office Building (SP-2007-0552D) (Up to 11 feet cut and 14 feet fill with conditions) and Hilltop Park (SP-2007-0214C) (Cut and Fill up to 11 feet with conditions) were both granted variances in the BSZ. The proposed fill is necessary to reduce and contain the flooding impact that was not caused by any development methods or voluntary subdivision of the land.**

4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property? **Yes. The property, as built prior to the FEMA map revision, is in jeopardy of flooding without the proposed floodplain modifications. Without the proposed floodplain modifications, the property will not be able to have future development. The fill at the road is necessary to prevent flow from overtopping the existing Travis County Circle roadway.**
5. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance? **YES. The proposed floodplain modifications do not require any additional water quality controls. Currently, the water quality ponds during a storm event would allow co-mingling of the water. The proposed revision will prevent this from occurring, therefore improving water quality. Any future development will require additional SOS water quality controls.**



**Hanrahan • Pritchard Engineering, Inc.**

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Mr. Greg Guernsey, Director  
Planning and Development Review Department  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

Re: Regents West Construction Plans – Austin, Texas  
Grading and Drainage Improvements C8J-2010-0056.0B  
Variance Request #5 to 25-8-342 (Fill Requirements)

Dear Mr. Guernsey:

- Please accept this letter on behalf of the Regents School of Austin, Inc. to formally request a variance from the City of Austin Land Development Code Section 25-8-342, to allow for up to a maximum 7.2 feet of fill for the construction of floodplain modifications within the uplands zone that will prevent flows from overtopping existing Travis Country Circle and a 9.3 foot fill for the berm to contain floodplain within the transition area on the east campus.

Regents School of Austin is located at 3230 Travis Country Circle in Austin, Texas. The property is located within the Barton Creek Watershed and is located in both the Edwards Aquifer recharge and contributing zones of the Barton Springs Zone. The Regents School of Austin is divided into an east and west campus separated by Travis Country Circle. Currently the majority of existing improvements exist on the east campus area and have been in place since 2000.

The pending construction plans propose floodplain modifications to resolve conflicts with the recent revision to FEMA Floodplain maps adopted in 2008. Currently, the FEMA map revision renders the majority of the property in the 100 year floodplain, which did not exist at the time of original development. No new improvements are proposed at this time other than floodplain improvements and modifications to solve the existing and future flooding problems. As such the above noted variance is requested in order to allow for the construction of floodplain modifications on the east and west campus that are within the uplands area.

As required by Section 25-8-41 of the City Code, in order to grant the variance the Commission must make the following findings of fact with an explanation of each applicable finding of fact according to the City's Environmental Criteria Manual Appendix U:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?
  - YES - Strict application of the requirement would prevent the ability to construct the necessary floodplain modification improvements. Without the floodplain modifications

that are now required due to the FEMA floodplain map revisions, the existing school is in jeopardy of flooding in a major storm event.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?
  - YES – The floodplain modification development is not based on a condition or method caused by the applicant to develop the property. In order to solve the problems created by the FEMA map revision, the proposed improvements limit harmful environmental consequences with construction of improvements that will prevent water from overtopping the road on the west campus within the uplands area and a berm to contain floodplain within the transition area on the east campus. In addition, the current floodplain overtops the existing roadway and creekbed causing the existing detention pond to overtop onto the downstream properties. Upon completion of the improvements, the floodplain will be contained within the exiting creekbed and culverts under the roadway, thus assuring that the detention pond will not overtop and flood downstream properties.
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.
  - YES – The proposed fill is necessary to reduce and contain the flooding impact to the existing road and campus that was not created by any development methods or voluntary subdivision of land.
4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
  - YES – The property is in jeopardy of harmful flooding without the proposed construction of the fill needed to mitigate the existing floodplain issues created by the FEMA map revision, which results in a detrimental impact to the economic use of the entire property. The maximum 7.2 feet of fill for the construction of floodplain modifications within the uplands zone will prevent flows from overtopping existing Travis Country Circle and a 9.3 foot fill is for the berm to contain floodplain within the transition area on the east campus.
5. For variances in the Barton Springs Zone, in addition to the above findings, the following additional finding must be included: Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?
  - YES – The proposed floodplain improvements on the east and west campus do not require water quality controls. The existing improvements on the east campus are served by existing SOS standard water quality controls. Any future development improvements on either campus will require additional SOS water quality controls.

Sincerely,



Ron Pritchard

**Hanrahan • Pritchard Engineering, Inc.**

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Mr. Greg Guernsey, Director  
Planning and Development Review Department  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

Re: Regents West Construction Plans – Austin, Texas  
Grading and Drainage Improvements C8J-2010-0056.0B  
Variance Request #4 to 25-8-341 (Cut Requirements)

Dear Mr. Guernsey:

Please accept this letter on behalf of the Regents School of Austin, Inc. to formally request a variance from the City of Austin Land Development Code Section 25-8-341, to allow for a maximum 14.5 foot cut for the construction of a backwater pond related to floodplain modifications.

Regents School of Austin is located at 3230 Travis Country Circle in Austin, Texas. The property is located within the Barton Creek Watershed and is located in both the Edwards Aquifer recharge and contributing zones of the Barton Springs Zone. The Regents School of Austin is divided into an east and west campus separated by Travis Country Circle. Currently the majority of existing improvements exist on the east campus area and have been in place since 2000.

The pending construction plans propose floodplain modifications to resolve conflicts with the recent revision to FEMA Floodplain maps adopted in 2008. Currently, the FEMA map revision renders the majority of the property in the 100 year floodplain, which did not exist at the time of original development. No new improvements are proposed at this time other than floodplain improvements and modifications to solve the existing and future flooding problems. As such the above noted variance is requested in order to allow for cuts that are related to the construction of a backwater pond on the west campus that is within the uplands and transition areas.

As required by Section 25-8-41 of the City Code, in order to grant the variance the Commission must make the following findings of fact with an explanation of each applicable finding of fact according to the City's Environmental Criteria Manual Appendix U:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?
  - YES - Strict application of the requirement would prevent the ability to construct the necessary floodplain modification improvements. Without the floodplain modifications that are now required due to the FEMA floodplain map revisions, the existing school is in jeopardy of flooding in a major storm event.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?
  - YES – The floodplain modification development is not based on a condition or method caused by the applicant to develop the property. In order to solve the problems created by the FEMA map revision, the proposed improvements limit harmful environmental consequences with construction of a backwater pond that will contain the floodplain. In addition, the current floodplain overtops the existing roadway and creekbed causing the existing detention pond to overtop onto the downstream properties. Upon completion of the improvements, the floodplain will be contained within the exiting creekbed and culverts under the roadway, thus assuring that the detention pond will not overtop and flood downstream properties.
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.
  - YES – The proposed cut is necessary to reduce and contain the flooding impact to the east and west campus that was not created by any development methods or voluntary subdivision of land.
4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
  - YES – The property is in jeopardy of harmful flooding without the proposed construction of the backwater pond to detain the water to mitigate the existing floodplain issues created by the FEMA map revision, which results in a detrimental impact to the economic use of the entire property. In addition, allowing for a proposed cut of up to a maximum of 14.5 feet allows for a deeper pond that covers less area and preserves existing and future improvements.
5. For variances in the Barton Springs Zone, in addition to the above findings, the following additional finding must be included: Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?
  - YES – The proposed floodplain improvements on the east and west campus do not require water quality controls. The existing improvements on the east campus are served by existing SOS standard water quality controls. Any future development improvements on either campus will require additional SOS water quality controls.

Sincerely,



Ron Pritchard

**Hanrahan • Pritchard Engineering, Inc.**

8333 Cross Park Drive  
Austin, Texas 78754

**HPE**

Phone: (512) 459-4734  
Fax: (512) 459-4752  
TX PE Firm Reg. No. 416

Mr. Greg Guernsey, Director  
Planning and Development Review Department  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

Re: Regents West Construction Plans – Austin, Texas  
Grading and Drainage Improvements C8J-2010-0056.0B  
**Variance Request #3 to 25-8-483(B) (Water Quality Transition Zone – Barton Springs Zone –Outside Recharge Zone Requirements)**

Dear Mr. Guernsey:

Please accept this letter on behalf of the Regents School of Austin, Inc. to formally request a variance from the City of Austin Land Development Code Section 25-8-483(B), to allow for development in the Water Quality Transition Zone that lies outside the Edwards Aquifer recharge zone.

Regents School of Austin is located at 3230 Travis Country Circle in Austin, Texas. The property is located within the Barton Creek Watershed and is located in both the Edwards Aquifer recharge and contributing zones of the Barton Springs Zone. The Regents School of Austin is divided into an east and west campus separated by Travis Country Circle. Currently the majority of existing improvements exist on the east campus area and have been in place since 2000.

The pending construction plans propose floodplain modifications to resolve conflicts with the recent revision to FEMA Floodplain maps adopted in 2008. Currently, the FEMA map revision renders the majority of the property in the 100 year floodplain, which did not exist at the time of original development. No new improvements are proposed at this time other than floodplain improvements and modifications to solve the existing and future flooding problems. As such the above noted variance is requested in order to allow for the construction of a berm and three jetties located on the east and west campus that is located in the area of the Water Quality Transition Zone that is located outside of the Edwards Aquifer recharge zone.

As required by Section 25-8-41 of the City Code, in order to grant the variance the Commission must make the following findings of fact with an explanation of each applicable finding of fact according to the City's Environmental Criteria Manual Appendix U:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?
  - YES - Strict application of the requirement would prevent the ability to construct the necessary floodplain modification improvements. Without the proposed floodplain

modifications that are now required due to the FEMA floodplain map revisions, the existing school is in jeopardy of flooding in a major storm event.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?
  - YES – The floodplain modification development is not based on a condition or method caused by the applicant to develop the property. In order to solve the problems created by the FEMA map revision, the proposed improvements limit harmful environmental consequences with construction of a berm and three jetties within the portion of the water quality transition zone that is outside the recharge zone. In addition, the current floodplain overtops the existing roadway and creekbed causing the existing detention pond to overtop onto the downstream properties. Upon completion of the improvements, the floodplain will be contained within the exiting creekbed and culverts under the roadway, thus assuring that the detention pond will not overtop and flood downstream properties.
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.
  - YES – The proposed berm and three jetties are necessary to reduce the flooding impact to the east and west campus that was not created by any development methods or voluntary subdivision of land.
4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
  - YES – The property is in jeopardy of harmful flooding without construction of the proposed berm and three jetties to mitigate the existing floodplain issues created by the FEMA map revision, which results in a detrimental impact to the economic use of the entire property.
5. For variances in the Barton Springs Zone, in addition to the above findings, the following additional finding must be included: Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?
  - YES – The proposed floodplain improvements on the east and west campus do not require water quality controls. The existing improvements on the east campus are served by existing SOS standard water quality controls. Any future development improvements on either campus will require additional SOS water quality controls.

Sincerely,

  
Ron Pritchard

**Hanrahan • Pritchard Engineering, Inc.**

8333 Cross Park Drive  
Austin, Texas 78754

**HPE**

Phone: (512) 459-4734  
Fax: (512) 459-4752  
TX PE Firm Reg. No. 416

Mr. Greg Guernsey, Director  
Planning and Development Review Department  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

Re: Regents West Construction Plans – Austin, Texas  
Grading and Drainage Improvements C8J-2010-0056.0B  
**Variance Request #2 to 25-8-483(A) (Water Quality Transition Zone – Barton Springs Zone –Recharge Zone Requirements)**

Dear Mr. Guernsey:

Please accept this letter on behalf of the Regents School of Austin, Inc. to formally request a variance from the City of Austin Land Development Code Section 25-8-483(A), to allow for development in the Water Quality Transition Zone that lies over the Edwards Aquifer recharge zone.

Regents School of Austin is located at 3230 Travis Country Circle in Austin, Texas. The property is located within the Barton Creek Watershed and is located in both the Edwards Aquifer recharge and contributing zones of the Barton Springs Zone. The Regents School of Austin is divided into an east and west campus separated by Travis Country Circle. Currently the majority of existing improvements exist on the east campus area and have been in place since 2000.

The pending construction plans propose floodplain modifications to resolve conflicts with the recent revision to FEMA Floodplain maps adopted in 2008. Currently, the FEMA map revision renders the majority of the property in the 100 year floodplain, which did not exist at the time of original development. No new improvements are proposed at this time other than floodplain improvements and modifications to solve the existing and future flooding problems. As such the above noted variance is requested in order to allow for the construction of a berm located on the east campus that is located in the area of the Water Quality Transition Zone that is located over the Edwards Aquifer recharge zone.

As required by Section 25-8-41 of the City Code, in order to grant the variance the Commission must make the following findings of fact with an explanation of each applicable finding of fact according to the City's Environmental Criteria Manual Appendix U:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?
  - YES - Strict application of the requirement would prevent the ability to construct the necessary floodplain modification improvements. Without the proposed floodplain

modifications that are now required due to the FEMA floodplain map revisions, the existing school is in jeopardy of flooding in a major storm event.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?
  - YES – The floodplain modification development is not based on a condition or method caused by the applicant to develop the property. In order to solve the problems created by the FEMA map revision, the proposed improvements limit harmful environmental consequences with construction of a berm within the portion of the water quality transition zone that is over the recharge zone. In addition, the current floodplain overtops the existing roadway and creekbed causing the existing detention pond to overtop onto the downstream properties. Upon completion of the improvements, the floodplain will be contained within the exiting creekbed and culverts under the roadway, thus assuring that the detention pond will not overtop and flood downstream properties.
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.
  - YES – The proposed berm is necessary to reduce the flooding impact to the east and west campus that was not created by any development methods or voluntary subdivision of land.
4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
  - YES – The property is in jeopardy of harmful flooding without the proposed berm construction to mitigate the existing floodplain issues created by the FEMA map revision, which results in a detrimental impact to the economic use of the entire property.
5. For variances in the Barton Springs Zone, in addition to the above findings, the following additional finding must be included: Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?
  - YES – The proposed floodplain improvements on the east and west campus do not require water quality controls. The existing improvements on the east campus are served by existing SOS standard water quality controls. Any future development improvements on either campus will require additional SOS water quality controls.

Sincerely,



Ron Pritchard



**Hanrahan • Pritchard Engineering, Inc.**

8333 Cross Park Drive  
Austin, Texas 78754

**HPE**

Phone: (512) 459-4734  
Fax: (512) 459-4752  
TX PE Firm Reg. No. 416

Mr. Greg Guernsey, Director  
Planning and Development Review Department  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

Re: Regents West Construction Plans – Austin, Texas  
Grading and Drainage Improvements C8J-2010-0056.0B  
**Variance Request #1 to 25-8-482 (Critical Water Quality Zone – Barton Springs  
Zone Requirements)**

Dear Mr. Guernsey:

Please accept this letter on behalf of the Regents School of Austin, Inc. to formally request a variance from the City of Austin Land Development Code Section 25-8-482, to allow for development in the Critical Water Quality Zone.

Regents School of Austin is located at 3230 Travis Country Circle in Austin, Texas. The property is located within the Barton Creek Watershed and is located in both the Edwards Aquifer recharge and contributing zones of the Barton Springs Zone. The Regents School of Austin is divided into an east and west campus separated by Travis Country Circle. Currently the majority of existing improvements exist on the east campus area and have been in place since 2000.

The pending construction plans propose floodplain modifications to resolve conflicts with the recent revision to FEMA Floodplain maps adopted in 2008. Currently, the FEMA map revision renders the majority of the property in the 100 year floodplain, which did not exist at the time of original development. No new improvements are proposed at this time other than floodplain improvements and modifications to solve the existing and future flooding problems. As such the above noted variance is requested in order to allow for the construction of fill along the existing Travis Country Circle roadway that is located in the Critical Water Quality Zone.

As required by Section 25-8-41 of the City Code, in order to grant the variance the Commission must make the following findings of fact with an explanation of each applicable finding of fact according to the City's Environmental Criteria Manual Appendix U:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?
  - YES - Strict application of the requirement would prevent the ability to construct the necessary floodplain modification improvements. Without the floodplain modifications

that are now required due to the FEMA floodplain map revisions, the existing school is in jeopardy of flooding in a major storm event.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?
  - YES – The floodplain modification development is not based on a condition or method caused by the applicant to develop the property. In order to solve the problems created by the FEMA map revision, the proposed improvements limit harmful environmental consequences with construction of fill along the existing roadway. In addition, the current floodplain overtops the existing roadway and creekbed causing the existing detention pond to overtop onto the downstream properties. Upon completion of the improvements, the floodplain will be contained within the exiting creekbed and culverts under the roadway, thus assuring that the detention pond will not overtop and flood downstream properties.
3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.
  - YES – The proposed fill along the roadway necessary to reduce the flooding impact to the east and west campus that was not created by any development methods or voluntary subdivision of land.
4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
  - YES – The property is in jeopardy of harmful flooding without the proposed fill along the roadway to mitigate the existing floodplain issues created by the FEMA map revision, which results in a detrimental impact to the economic use of the entire property.
5. For variances in the Barton Springs Zone, in addition to the above findings, the following additional finding must be included: Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?
  - YES – The proposed floodplain improvements on the east and west campus do not require water quality controls. The existing improvements on the east campus are served by existing SOS standard water quality controls. Any future development improvements on either campus will require additional SOS water quality controls.

Sincerely,



Ron Pritchard



**CAVE X  
MANAGEMENT AND MONITORING PLAN  
COVENANTS, CONDITIONS AND  
RESTRICTIONS**

THE STATE OF TEXAS

§

§

COUNTY OF TRAVIS

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WHEREAS, 2280 Properties, L L C , a Texas limited liability company, (the "Owner") is the owner of a tract of land located in Travis County, Texas, known as "the Regents School Site," which is more particularly described in attached Exhibit "A", (the "Property"),

WHEREAS, "Cave X", which is located on the Property, is a "significant cave" formed in association with the Balcones Fault Zone, and

WHEREAS, Cave X contains a number of Karst invertebrates that are considered "Species of Concern" in the Balcones Canyonland Conservation Plan (the "BCCP"), and

WHEREAS, "Foster Cave" is also located on the Property, and

WHEREAS, Cave X and Foster Cave are considered significant recharge features located in the Edwards Aquifer Recharge Zone and Contributing Zone, and

WHEREAS, the Owner is presently developing the Property pursuant to the City of Austin Development Code, including the "Save Our Springs" Ordinance, and desires to mitigate the impact of the development on the environment, and

WHEREAS, the Owner has proposed a "Cave Management and Monitoring Plan for Cave X" (the "Plan"), which has been ~~approved~~ approved by the City of Austin and Travis County to establish the parameters for the mitigation of the impact of the development of the Property, and

WHEREAS, the U S Fish & Wildlife Service has indicated that the development of the Property pursuant to the Plan is "not likely to adversely affect" the listed endangered Barton Springs Salamander as well as several non-listed karst invertebrate species of concern residing in Cave X, and

WHEREAS, pursuant to the provisions of the Plan, the Owner desires to establish a conservation preserve (the "Preserve"), to serve as a protective buffer, for the environmentally sensitive portion of the Property where Cave X and Foster Cave are located, and

WHEREAS, the Preserve is more particularly described in attached Exhibit B, and

WHEREAS, premises considered, the Owner desires to impress the Preserve with certain

covenants, conditions, and restrictions in order to implement the Plan,

NOW, THEREFORE, the Owner hereby adopts, establishes, and impresses the following Covenants, Conditions and Restrictions upon the Preserve

#### **Article I Establishment of Preserve**

1 The tract of real property, which is described in **Exhibit B**, is hereby established as a conservation zone and environmental preserve to be known as the "Preserve", for the purposes and subject to the conditions set forth in the Plan, which is incorporated herein by reference

2 The Preserve shall be managed subject to the conditions set forth in the Plan, which shall run with the title to the real property described in **Exhibit B**, and the same shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof

3 Each contract or deed which may hereafter be executed with regard to the Preserve or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the covenants, conditions and restrictions established hereby and as set forth in the Plan, regardless of whether or not the same are set out or referred to in said contract or deed

#### **Article II Cave Management & Monitoring Plan**

##### **1 Management**

The Owner is responsible for the management of the Preserve and may contract with a public management entity, such as the City of Austin, Travis County, or the Barton Springs/Edwards Aquifer Conservation District, or a qualified karst management group, such as the Texas Cave Management Association or the Texas Cave Conservancy (the "Manager") Any cave management personnel shall carry appropriate personal identification and any management vehicles shall be appropriately identified

##### **2. Preserve Site Management Procedures**

###### **A Cave Gating**

The cave entrances of Cave X and Foster Cave have been and will remain gated in accordance with the recommended procedures for the security and protection of the cave, as approved by the City of Austin The Owner will be responsible for the general care and light duty maintenance of the gates

###### **B Catchment Basin Fencing**

Permanent barrier fencing, consisting of six foot chain link fencing, has been installed around the

immediate catchment basin for Cave X, which is depicted on Exhibit C, (the "Basin") and a locking gate shall be installed in the barrier fence. Signs shall be placed on the barrier fence stating "Environmentally Sensitive Area, Please Help Protect It. Do Not Attempt To Enter This Area Without Authorization."

#### C Routine Inspections

The Manager will conduct regular monthly site inspections. A site inspection report will be completed and maintained by the Owner and/or the Manager.

The cave gates shall be inspected each month for evidence of tampering and to remove any accumulated trash or debris, however, natural plant material debris (twigs, leaves, fruits etc.) may be left to fall into the caves.

The cave entrances shall be inspected for evidence of vandalism or potential toxic materials. Any such evidence shall be documented and reported to the proper authorities, and any problems shall be remedied as soon as possible.

#### D Land Use Management

The Preserve shall remain in a natural state, without significant modifications, except as otherwise provided in these Covenants, Conditions, and Restrictions.

With the exception of the enclosure around the Basin, the Preserve may be used for educational purposes (eg., outdoor labs and field excursions), or for light duty recreation such as hiking or nature observation. The Basin may be utilized only for research and management purposes. Access to the enclosure around the Basin will be limited to the Manager and approved research personnel, including qualified City or County scientific and environmental staff. Access into the caves by any party will be subject to the prior approval of the Owner, which approval may be withheld or conditioned in the Owner's sole discretion.

At least 48 hours notice will be given to the Owner prior to any intended access to the Basin or into the caves. The individuals, who wish to access the Basin or caves, shall sign a written waiver of liability prior to such access and shall pre-arrange the access with the Manager.

The interpretative or hiking trail(s) to be constructed within the Preserve will be constructed and maintained in a manner so as not to significantly interrupt surface flow patterns. Signage will be placed at appropriate locations throughout the Preserve stating "Environmentally Sensitive Area, Please Help Protect It."

#### E Vegetation/Habitat Management

The Owner will maintain the natural surface vegetation habitat of the Preserve in consultation with City and County scientific personnel. Such maintenance may include thinning of excessive juniper, xeriscape landscaping, and removal of noxious, non-native plant species.

**F Fire Ant Control**

A fire ant control and treatment program will be conducted in the Preserve in consultation with City and County scientific personnel. Fire ant mounds within the Preserve and within 200 feet of the footprint of Cave X (collectively, the "Treatment Area") will be treated with boiling water twice a year or as needed. No chemical treatment may occur within the Treatment Area. Outside of the Treatment Area, heavy infestations of fire ants will be carefully treated in accordance with the Integrated Pest Management plan, which has been approved by the City of Austin, with minimal quantities of bait-type fire ant controls, such as Amdro or Logic, which will be placed directly on the mounds.

**G Continuing Education**

Educational materials and displays on karst invertebrate species habitats and the value of point aquifer recharge will be made available at the Preserve and the Owner may in its discretion provide appropriate educational programs at the Preserve.

**H Adaptive Management**

Any site conditions or disturbances within the Preserve which cannot be readily corrected shall be reported immediately to City and County scientific personnel.

**I Reporting**

An Annual Report of Preserve Management will be submitted to County BCCP staff and City BCCP and Environmental Resources Management staff.

**3 School Site Construction Conservation Measures**

**A Temporary Fencing**

Temporary construction barrier fencing shall be erected and maintained around the entire Preserve during any subsequent construction period. Signs shall be posted on the fencing stating "No entry or dumping" in English and Spanish. Temporary silt fencing shall be installed on the "up-slope" side of the catchment areas for Cave X and Foster Cave. This temporary fencing shall remain in place in adequate working order throughout such construction period.

**B Adaptive Management**

If during trenching, any subsurface voids larger than 6 inches in diameter or 3 cubic feet in volume are encountered, a qualified geologist and invertebrate specialist shall be consulted as soon as possible to assess the geological and biological significance of the void. In addition, the City of Austin (499-3429) and the Texas Natural Resources Conservation Commission (259-1000) shall be contacted as soon as possible.

### **C Utility Corridor and Access Drive**

A utility corridor passes through the Preserve, as depicted on attached Exhibit B, and contains utility lines, which have been trenched into the ground. Future site development may require the installation of additional lines which will be accomplished under the parameters of this section and in compliance with any applicable legal requirements. The utility lines have been and will be installed and maintained in accordance with TNRCC guidelines for utility construction over the Edwards Aquifer Recharge Zone. Any wastewater lines have been and will be encased in PVC or concrete for the entire length of the crossing of the Preserve to prevent leaks. All trenches have been and will be "saw cut" with no blasting allowed. The Owner will notify City Environmental Review or Environmental Resource Management (499-3429) to inspect any open utility trenches at least 48 hours prior to backfilling.

The utility corridor also contains a twenty foot wide access drive for pond maintenance and emergency services vehicle access. The access drive, which will be paved, and a parallel drainage swale will serve as a storm water conduit to the water quality pond on the school site to intercept and prevent excessive storm water runoff from flowing toward Cave X or Foster Cave. "No Parking" signs will be placed along the access drive.

All vehicles shall be restricted from the access drive, except for emergency services, pond maintenance, and Preserve management vehicles. Barrier fencing or dense plantings of native shrubbery shall be installed along the side of the access drive adjacent to Cave X to prevent unauthorized access. Any such shrubs must be at least 5 gal size, 2 to 4 feet tall, and planted on three foot centers and may include native species such as yaupon, Texas mountain laurel, Texas sage, silk tassel, eve's necklace, or evergreen sumac.

### **Article III**

#### **Amendment or Termination**

The Owner expressly reserves and retains for itself and its successors and assigns, the following rights:

a. In the event the Plan shall be amended to delete or modify any requirement set forth therein, then this Restrictive Covenant and Grant of Easements shall automatically be modified so as to conform to the change in the Plan, and the Owner shall file a Notice of Modification in the Real Property Records of Travis County, Texas, to give notice of such change.

b. In the event the Plan is no longer legally required, the Preserve shall automatically be released from these Restrictive Covenants and the Owner shall file a notice of termination in the Real Property Records of Travis County, Texas.

### **Article IV**

#### **Standard of Care**

Any entry onto or into the Basin, Cave X, or Foster Cave by the City of Austin and Travis County

and their respective employees or contractors for the purpose of conducting inspections and biological and hydrological surveys in accordance with the requirements of the BCCP and applicable law will be specifically limited to competent, qualified scientific and environmental personnel of the City and County or their respective contractors and is at the sole risk, responsibility, and liability of the City or County. To the extent allowed by Texas law, the City and the County will be solely responsible for their own proportionate share of any liability for damage to property or personal injury or death arising out of or connected to the intentional or negligent acts or omissions of the City or County and their respective employees or contractors with respect to their entry onto or into the the Basin, Cave X, or Foster Cave, and the Owner will not be responsible for any such liability. By accepting any such right to enter the Basin, Cave X, or Foster Cave, the City and the County, individually, each agree to waive and release and hereby do waive and release the Owner from any and all liability arising out of or connected in any way to such entry.

#### **Article V** **Miscellaneous**

1 **Applicable Law** These Covenants, Conditions, and Restrictions shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any dispute arising out of this Covenants, Conditions, and Restrictions shall be exclusively in Travis County, Texas.

2 **Severability Provisions.** If any term or provision in these Covenants, Conditions, and Restrictions is determined by a court of competent jurisdiction to be void, voidable, or unenforceable, the same shall be reformed or, if necessary, stricken and such voidness, voidability or unenforceability shall not impair the remaining terms of these Covenants, Conditions, and Restrictions, which shall continue in full force and effect.

3 **Binding Effect** These Covenants, Conditions, and Restrictions shall be binding upon the Owner and its successors and assigns and shall run with the title to the land referred to as the "Preserve". The Owner and its successors may, from time to time, convey the Property and the Preserve and, in addition, may either expressly retain or assign the rights and duties hereunder to any one or more successive owners of the Preserve or portions thereof or to the Manager of the Preserve by execution and filing of record an instrument of assignment. In the event of a conveyance of the Preserve or Property to any individual or entity, who, after such conveyance, does not own both the surrounding Property and the Preserve, a utility easement will be created or retained, as applicable, under such conveyance for the benefit of the Property in, over, under, upon and across the limited portion of the Preserve in which the utility corridor and the access road are located for the purpose of installing and maintaining the utility lines and other improvements located therein, including without limitation, the access road and drainage swale.

4 **Incorporation of Recitals and Exhibits** The above-set forth recitals and the attached Exhibits are made a part of this instrument for all purposes.

5 **Purpose** These Covenants, Conditions, and Restrictions are made and entered into pursuant to the approved Cave Management and Monitoring Plan for Cave X, the recommendations of the U.S. Fish & Wildlife Service, the City of Austin, and Travis County, Texas, the approved City of Austin.



Site Development Plan for the Property and the recorded subdivision of the Property for the purpose of establishing with certainty the rights, duties and management responsibilities of the Owner with respect to the management and monitoring of Cave X and the Preserve

EXECUTED ON THIS THE 23<sup>rd</sup> DAY OF NOVEMBER, 1999

The Owner  
2200 PROPERTIES, L L C,  
a Texas limited liability company

By Michael L. Cook  
Name Michael L. Cook  
Title Manager

Concurrence as to Form and Content

By [Signature]  
On Behalf of the City of Austin

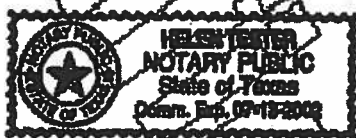
Date Nov. 23, 1999  
Law Dept.

STATE OF TEXAS

COUNTY OF TRAVIS

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§  
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This instrument was acknowledged before me on the 22<sup>nd</sup> day of October, 1999,  
by Michael L. Cook Manager of 2200 Properties, LLC, a Texas limited liability  
company, known to me personally or in the basis of legally sufficient identification, on behalf of said  
limited liability company.



Helen Dexter  
Notary Public, State of Texas

AFTER RECORDING RETURN TO

2200 Properties, L L C  
c/o Alan Glen  
Drenner & Stuart, L L P  
301 Congress Avenue, Suite 2100  
Austin, Texas 78701

**EXHIBIT A**

**REGENTS SECTION 1**

**BEING ALL OF LOT 29, BLOCK B, REGENTS SECTION 1, A SUBDIVISION OF  
RECORD IN DOCUMENT NO. 199900213 OF THE OFFICIAL RECORDS OF  
TRAVIS COUNTY, TEXAS**

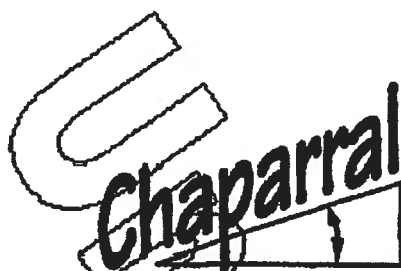


EXHIBIT B

**Professional Land Surveying, Inc.  
Surveying and Mapping**

Office 512-478-7103  
Fax 512-478-7105

510 South Congress Ave  
Suite B-100  
Austin, Texas 78704

**3.028 ACRE C.E.F.  
REGENTS SECTION 1**

A DESCRIPTION OF A 3.028 ACRE TRACT OF LAND OUT OF LOT 29, BLOCK B, REGENTS SECTION 1, A SUBDIVISION OF RECORD IN DOCUMENT NO. 199900213 OF THE OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS, BEING A PORTION OF A CRITICAL ENVIRONMENTAL FEATURE SETBACK SHOWN ON THE REFERENCED PLAT, SAID 3.028 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

COMMENCING at a 1/2" rebar found in the east right-of-way line of Travis Country Circle (80' right-of-way), being the southwest corner of said Lot 29, being also in the north line of Lot 1, Block A, Travis Country Green Subdivision, a subdivision of record in Volume 98, Page 223 of the Plat Records of Travis County, Texas,

THENCE South 61°10'12" East with the south line of said Lot 29 and the north line of the said Travis Country Green Subdivision a distance of 584.37 feet to a point,

THENCE over and across said Lot 29 the following two (2) courses

- 1 North 43°06'15" East a distance of 160.44 feet to a point;
2. North 48°56'25" East a distance of 188.85 feet to the POINT OF BEGINNING;

THENCE continuing across Lot 29, the same the following twenty-four (24) courses:

- 1 North 46°03'58" East a distance of 100.14 feet to a point;
2. North 07°18'25" West a distance of 22.10 feet to a point;
- 3 North 31°38'37" West a distance of 53.61 feet to a point;
4. North 49°14'11" West a distance of 102.75 feet to a point;
5. North 12°48'41" West a distance of 41.46 feet to a point;
- 6 North 12°10'40" East a distance of 46.79 feet to a point;
- 7 North 59°33'58" East a distance of 115.47 feet to a point;

EXHIBIT B

8. South 60°25'40" East a distance of 58.02 feet to a point;
9. South 66°01'31" East a distance of 218.35 feet to a point;
10. South 48°44'55" East a distance of 95.49 feet to a point;
11. South 24°23'05" West a distance of 79.77 feet to a point;
12. South 01°23'57" East a distance of 26.55 feet to a point,
13. South 80°21'27" West a distance of 48.81 feet to a point;
14. South 48°10'56" West a distance of 77.26 feet to a point;
15. South 32°29'45" West a distance of 37.82 feet to a point,
16. South 22°55'25" West a distance of 36.36 feet to a point,
17. South 42°04'10" West a distance of 140.93 feet to a point;
18. North 77°49'34" West a distance of 30.03 feet to a point,
19. North 53°17'50" West a distance of 24.60 feet to a point,
20. North 15°46'43" West a distance of 102.99 feet to a point;
21. North 88°42'03" West a distance of 49.37 feet to a point;
22. North 55°01'02" West a distance of 26.19 feet to a point;
23. North 13°23'33" West a distance of 27.85 feet to a point;
24. North 21°51'55" East a distance of 33.40 feet to the POINT OF BEGINNING  
and containing 3.028 acres of land

Surveyed on the ground in July 1999 Attachments. Survey Drawing 102-03S1  
Bearing basis is from record plat information

*Robert C. Watts*

Robert C. Watts, Jr  
Registered Professional Land Surveyor  
State of Texas No. 4995

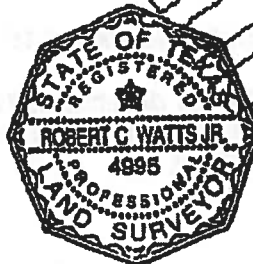




EXHIBIT B

**Professional Land Surveying, Inc.  
Surveying and Mapping**

Office 512-476-7103  
Fax 512-476-7105

510 South Congress Ave  
Suite B-100  
Austin, Texas 78704

**1.494 ACRE C E F  
REGENTS SECTION 1**

A DESCRIPTION OF A 1.494 ACRE TRACT OF LAND OUT OF LOT 29, BLOCK B, REGENTS SECTION 1, A SUBDIVISION OF RECORD IN DOCUMENT NO. 199900218 OF THE OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS, BEING A PORTION OF A CRITICAL ENVIRONMENTAL FEATURE SETBACK SHOWN ON THE REFERENCED PLAT, SAID 1.494 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

COMMENCING at a 1/2" rebar found in the east right-of-way line of Travis Country Circle (80' right-of-way), being the southwest corner of said Lot 29, being also in the north line of Lot 1, Block A, Travis Country Green Subdivision, a subdivision of record in Volume 98, Page 223 of the Plat Records of Travis County, Texas;

THENCE South 61°10'12" East with the south line of said Lot 29 and the north line of the said Travis Country Green Subdivision a distance of 584.37 feet to the POINT OF BEGINNING,

THENCE over and across said Lot 29 the following nine (9) courses.

1. North 43°06'15" East a distance of 160.44 feet to a point;
2. North 88°49'01" East a distance of 40.89 feet to a point;
3. South 67°41'13" East a distance of 27.68 feet to a point;
4. South 59°46'13" East a distance of 103.50 feet to a point;
5. South 37°56'23" East a distance of 211.91 feet to a point;
6. South 57°11'42" East a distance of 45.14 feet to a point;
7. South 45°34'24" East a distance of 20.93 feet to a point;
8. South 10°36'39" East a distance of 15.84 feet to a point;
9. South 29°34'58" West a distance of 71.94 feet to a point in the south line of said Lot 29, same being the north line of Lot 18, Block A, of the said Travis Country Green Subdivision,

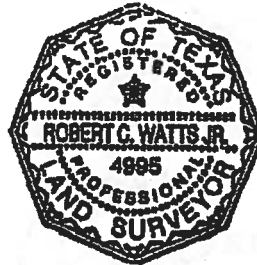
EXHIBIT B

THENCE with the south line of said Lot 29 and the north line of the said Travis Country Green Subdivision the following two (2) courses:

1. North 61°21'00" West a distance of 13.55 feet to a point;
2. North 61°10'12" West a distance of 461.42 feet to the POINT OF BEGINNING and containing 1.494 acres of land.

Surveyed on the ground in July 1999. Attachments: Survey Drawing 102-03S1.  
Bearing basis is from record plat information.

*Robert C. Watts*  
Robert C. Watts, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 4995



10-26-99

EXHIBIT B

LOT 29 - BLOCK B  
(63.64 ACRES)

3.028 ACRE C.E.F.  
(CRITICAL ENVIRONMENTAL FEATURE)

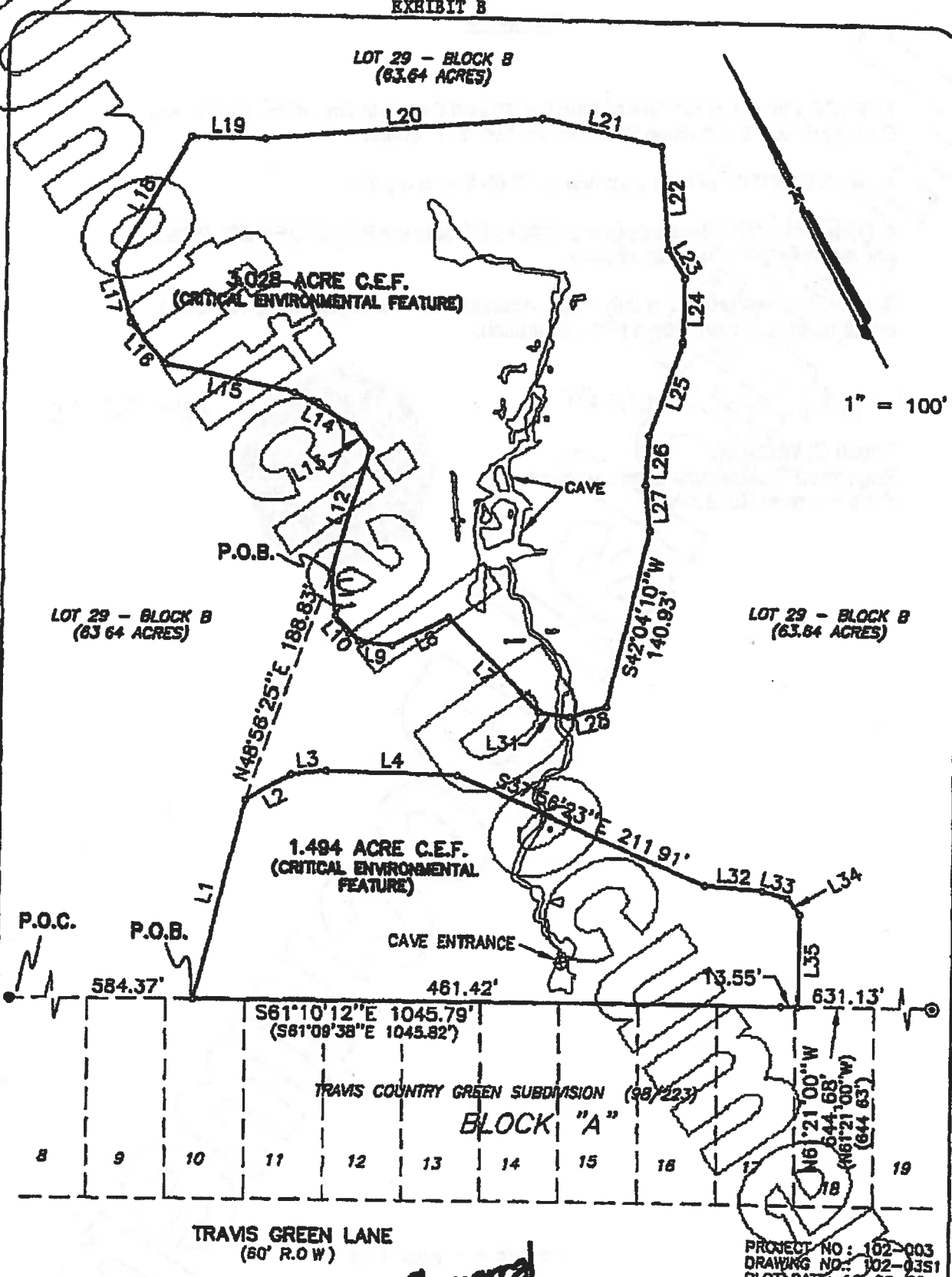
LOT 29 - BLOCK B  
(63.64 ACRES)

LOT 29 - BLOCK B  
(63.64 ACRES)

1.494 ACRE C.E.F.  
(CRITICAL ENVIRONMENTAL FEATURE)

CAVE ENTRANCE

1" = 100'



SHEET 1 OF 2

Chaparral

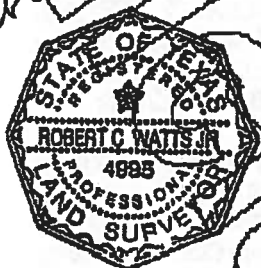
Exhibit B - page 5 of 6

PROJECT NO: 102-003  
DRAWING NO: 102-0351  
PLOT DATE: 10-22-98  
DRAWN BY: JRF



# EXHIBIT B

A SKETCH TO ACCOMPANY A DESCRIPTION OF A 3.028 ACRE TRACT AND A 1.494 ACRE TRACT OF LAND OUT OF LOT 29, BLOCK B, REGENTS SECTION 1, A SUBDIVISION OF RECORD IN DOCUMENT NO. 199900213 OF THE OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS.



10-26-98

## LEGEND

- 1/2" REBAR FOUND
- ◻ CALCULATED POINT
- ⊙ 1/2" IRON PIPE FOUND

NUMBER	DIRECTION	DISTANCE
L1	N43°06'15"E	160.44'
L2	N88°49'01"E	40.89'
L3	S67°41'13"E	27.68'
L4	S59°46'13"E	103.50'
L7	N15°46'43"W	102.99'
L8	N88°42'03"W	49.37'
L9	N55°01'02"W	26.19'
L10	N13°23'33"W	27.85'
L11	N21°51'55"E	33.40'
L12	N46°03'58"E	100.14'
L13	N07°18'25"W	22.10'
L14	N31°38'37"W	53.61'
L15	N49°14'11"W	102.75'
L16	N12°48'41"W	41.46'
L17	N12°10'40"E	46.79'
L18	N59°33'58"E	115.47'
L19	S60°25'40"E	58.02'
L20	S66°01'31"E	218.35'
L21	S48°44'55"E	95.49'
L22	S24°23'05"W	79.77'
L23	S01°23'57"E	26.55'
L24	S30°21'27"W	48.81'
L25	S48°10'56"W	77.26'
L26	S32°29'45"W	37.82'
L27	S22°55'25"W	36.36'
L28	N77°49'34"W	30.03'
L31	N53°17'50"W	24.60'
L32	S57°11'42"E	45.14'
L33	S45°34'24"E	20.93'
L34	S10°36'39"E	15.84'
L35	S29°34'58"W	74.94'

BEARING BASIS IS FROM RECORD PLAT INFORMATION.  
ATTACHMENTS METES AND BOUNDS DESCRIPTION.

PROJECT NO. 102-903  
DRAWING NO. 102-03S1  
PLOT DATE 10-22-98  
DRAWN BY JED

**EXHIBIT C**

**Professional Land Surveying, Inc.  
Surveying and Mapping**

Office: 512-478-7103  
Fax: 512-478-7105

510 South Congress Ave.  
Suite B-100  
Austin, Texas 78704

**900 S.F. FENCE AREA  
REGENTS SECTION 1**

A DESCRIPTION OF A 900 SQUARE FEET OF LAND OUT OF LOT 29, BLOCK B, REGENTS SECTION 1, A SUBDIVISION OF RECORD IN DOCUMENT NO. 198900213 OF THE OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS, BEING ALL OF A FENCE AREA SHOWN ON THE CONSTRUCTION PLANS FOR THE REFERENCED LOT; SAID 900 SQUARE FEET BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2" rebar found in the east right-of-way line of Travis Country Circle (80' right-of-way), being the southwest corner of said Lot 29, being also in the north line of Lot 1, Block A, Travis Country Green Subdivision, a subdivision of record in Volume 98, Page 223 of the Plat Records of Travis County, Texas;

THENCE South 61°10'12" East with the south line of said Lot 29 and the north line of the said Travis Country Green Subdivision a distance of 584.37 feet to the southwest corner of a Critical Environmental Feature Setback as shown on the referenced plat;

THENCE South 61°10'12" East, with the south line of said Lot 29 and the north line of the said Travis Country Green Subdivision, a distance of 274.55 feet to a point;

THENCE North 28°49'48" East, crossing Lot 29, a distance of 17.37 feet to the POINT OF BEGINNING;

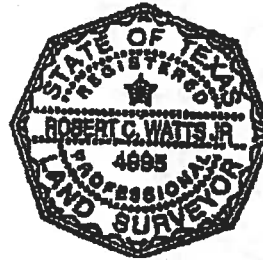
THENCE over and across said Lot 29 the following four (4) courses:

1. North 28°49'00" East, a distance of 30.00 feet to a point;
2. South 61°11'00" East, a distance of 30.00 feet to a point;
3. South 28°49'00" West, a distance of 30.00 feet to a point;
4. North 61°11'00" West, a distance of 30.00 feet to the POINT OF BEGINNING.

EXHIBIT C

Surveyed on the ground in July 1999. Attachments: Survey Drawing 102-03S2.  
Bearing basis is from record plat information.

*Robert C. Watts*  
Robert C. Watts, Jr.  
Registered Professional Land Surveyor  
State of Texas No. 4695



10-13-99

EXHIBIT C

SKETCH TO ACCOMPANY A DESCRIPTION OF 900 S.F. OUT OF LAND OUT OF LOT 29, BLOCK B, REGENTS SECTION 1, A SUBDIVISION OF RECORD IN DOCUMENT NO. 199900213 OF THE OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS.

NUMBER	DIRECTION	DISTANCE
L1	N28°49'48"E	17.37'
L2	N28°49'00"E	30.00'
L3	S61°11'00"E	30.00'
L4	S28°49'00"W	30.00'
L5	N61°11'00"W	30.00'

LEGEND  
 1/2" REDBARS FOUND  
 CALCULATED POINT  
 1/2" IRON PIPE FOUND

TRAVIS COUNTRY CIRCLE  
 (80' R.O.W.)

P.O.C.

584.37'

C.E.F. SETBACK (PLAT)

TRAVIS COUNTRY GREEN SUBDIVISION (88/223)  
 BLOCK "A"

S61°10'12"E 1045.79'  
 (S81°09'38"E 1045.82')

274.55'

LOT 29 - BLOCK B  
 (63.64 ACRES)



CAVE ENTRANCE

P.O.B.

BEARING BASIS IS FROM RECORD PLAT INFORMATION.  
 ATTACHMENTS: METES AND BOUNDS DESCRIPTION.

PROJECT NO.: 102-003  
 DRAWING NO.: 102-0352  
 PLOT DATE: 10-13-99  
 DRAWN BY: RCW

Exhibit C - page 3 of 3

Chaparral

**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS

*Link Kennedy*

02-24-2009 11 49 AM 2800228281  
STRONG, \$48.00  
DANA ORREALVIDA, COUNTY CLERK  
TRAVIS COUNTY, TEXAS

Recorder's 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.

