

**ORDINANCE NO. 49**

**AN ORDINANCE OF THE CITY OF BEE CAVE, TEXAS ("CITY") APPROVING AMENDMENTS TO THE SITE PLAN AND AMENDING CERTAIN DEVELOPMENT STANDARDS IN ORDINANCE NO. 46 RELATED TO DEVELOPMENT STANDARDS ASSOCIATED WITH THE REAL PROPERTY DESCRIBED HEREIN BEING APPROXIMATELY 32.73 ACRES, WHICH LAND IS LOCATED GENERALLY NORTH OF HIGHWAY 71 AND WEST OF HIGHWAY 620 AND SOUTH OF THE PROPOSED BEE CAVE PARKWAY EXTENSION IN THE CITY AND WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED ("PROPERTY"); APPROVING AN AMENDED SITE PLAN, ATTACHED BY REFERENCE AS EXHIBIT "B" ("SITE PLAN"); AMENDING DEVELOPMENT STANDARDS AND CONDITIONS, ATTACHED AS EXHIBIT "C" ("PLANNED DEVELOPMENT STANDARDS"), APPROVING AMENDED MAINTENANCE AND MONITORING AGREEMENTS, ATTACHED AS EXHIBIT "D"; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR FINDINGS OF FACT, SEVERABILITY, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the City Council in Ordinance No. 46 approved the Site Plan and amended certain Development Standards established in Ordinance No. 01;

**WHEREAS**, the development proposed by the applicant complies with the current City Ordinances except as modified herein and except as modified by Ordinance No. 46 and by Ordinance No. 01;

**WHEREAS**, the development proposed by the applicant is of a very low density impact and is intended to blend harmoniously with the natural terrain and vegetation which will require an ongoing, flexible design process for buildings, parking, lighting and related elements;

**WHEREAS**, Ordinance No. 1 provides that alternative parking area materials shall be approved by the City;

**WHEREAS**, the Applicant has determined that the alternative parking materials in addition to those approved in Ordinance No. 46 are needed for use within this Project and has requested that the City approve different materials and amend the previously approved Maintenance Plans so that they are applicable to any new materials being requested for use by the Applicant; and

**WHEREAS**, and the City Council of the City is of the opinion and finds that the Site Plan approved in Ordinance 46 should be amended in order to authorize use of the new proposed materials for the parking areas within the Project and that the Maintenance Plans approved in Ordinance No 46 should also be amended as applicable to the new materials;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:**

**SECTION 1.** Findings of Fact. All of the above premises are hereby found to be true and correct legislative and factual findings of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** Site Plan Amendment. The Site Plan for the Property described in Exhibit "A" is hereby amended to authorize in addition to the use of Grasspave™, the use of EZ ROLL™ or any other equivalent materials, in the parking areas of the Project as depicted in Exhibit "B" attached hereto. Whether other materials shall be considered as equivalent shall be determined in the sole opinion of the City Staff. Amendments to the development standards approved in Ordinance No. 46 are described in Exhibit "C" attached hereto and incorporated herein. To the extent that the drawings or other matters contained in any of the Exhibits attached hereto are inconsistent with the terms of approval contained in Ordinance No. 46 or Ordinance No. 01 then the information or drawings contained within this Ordinance shall control.

**SECTION 3.** Other Plans Approved. The following Plans and submittals are also approved in this Ordinance as follows:

a) The Maintenance and Monitoring Plan amendments attached hereto as Exhibit "D" are hereby approved. Applicant shall be required to submit such Maintenance and Monitoring Plan amendments to the City for re-approval in the event that the Texas Commission on Environmental Quality ("TCEQ") requires changes to the Maintenance and Monitoring Plan amendments.

b) The Non Point Source Plan described in the Site Plan, referenced as Exhibit "B", of Ordinance No. 46 is hereby amended in order to authorize the use of the EZ ROLL™ pavers in addition to Grasspave™ or any equivalent materials.

**SECTION 4.** Any portion of the applicant's Site Plan amendment application that is not specifically approved in this Ordinance is hereby denied.

**SECTION 5.** Severability. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjusted or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

**SECTION 6.** Effective Date. That this Ordinance shall take effect immediately from and after its passage.

**SECTION 7.** Notice and Meeting Clause. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** by the City Council of the City of Bee Cave, Texas, on the 9<sup>th</sup> day of March, 2010.

**CITY OF BEE CAVE, TEXAS**

  
\_\_\_\_\_  
Caroline Murphy, Mayor

**ATTEST:**

  
\_\_\_\_\_  
City Secretary

[SEAL]

**APPROVED AS TO FORM:**

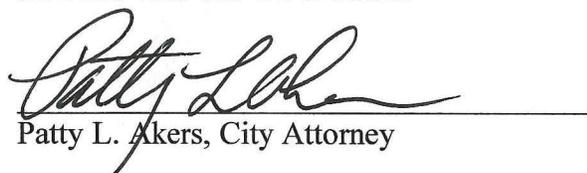
  
\_\_\_\_\_  
Patty L. Akers, City Attorney

Exhibit "A"

**Property Description**

**JAMES E. GARON  
& ASSOCIATES, INC.**  
PROFESSIONAL LAND SURVEYORS

924 Main Street  
Bastrop, Texas 78602  
512-303-4185  
Fax 512-321-2107  
jgaron@austln.rr.com

November 14, 2007

**LEGAL DESCRIPTION:** BEING A 37.453 ACRE TRACT OF LAND LYING IN AND BEING SITUATED OUT OF THE I. & G.N. R.R. CO. SURVEY, ABSTRACT NO. 2108 IN TRAVIS COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN 56.628 ACRE TRACT OF LAND CONVEYED TO REESE COMMERCIAL PROPERTIES LTD. BY DEED RECORDED IN DOCUMENT NO. 2001091446 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 37.453 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED UNDER THE SUPERVISION OF JAMES E. GARON & ASSOCIATES IN JUNE, 1995:

**BEGINNING** at a bolt found for the northeasterly corner hereof and said 56.628 acre tract and the northwesterly corner of that certain 51.50 acre tract of land conveyed to Baldwin Properties Ltd by deed recorded in Document 2002105444 of said deed;

THENCE along the east line hereof and said 56.628 acre tract and west line of said Baldwin Properties tract, S 02°03'33" E a distance of 1379.42 feet to an iron rod found in concrete for angle point and S 14°02'42" W a distance of 253.75 feet to an iron rod found for the southeast corner hereof;

THENCE crossing said 56.628-acre tract the following five (5) calls:

1. N 77°01'05" W a distance of 540.27 feet to a point for corner;
2. a length of 55.07 feet along the arc of a curve to the right having a radius of 1030.00 feet and a chord bearing S 21°12'38" W a distance of 55.06 feet to a point of tangency,
3. S 22°44'32" W a distance of 95.99 feet to a point for corner;
4. N 67°15'28" W a distance of 60.00 feet to an angle point;
5. S 78°21'02" W a distance of 465.38 feet to an iron rod set for the southwest corner hereof and an angle point in the west line of said 56.628 acre tract and west line of that certain 40.24 acre tract of land conveyed to Tim and Brenda Skaggs by deed recorded in Volume 12007, Page 1764 of said deed records;

THENCE N 10°14'06" W a distance of 1094.54 feet along said line to an iron rod found for the northwest corner hereof and said 56.628 acre tract;

EXHIBIT "A"

EXHIBIT A

THENCE along the north line hereof and said 56.628 acre tract and south line of Lot 1, Block "B", Replat of the Home Depot Addition as recorded in Document 200200218 of said deed records the following three (3) calls:

1. N 64°47'32" E a distance of 122.65 feet to an iron rod set for angle point;
2. N 65°06'59" E a distance of 209.26 feet to an iron rod found for angle point;
3. N 63°36'02" E a distance of 1116.77 feet to the POINT OF BEGINNING, containing 37.453 acres of land, more or less.

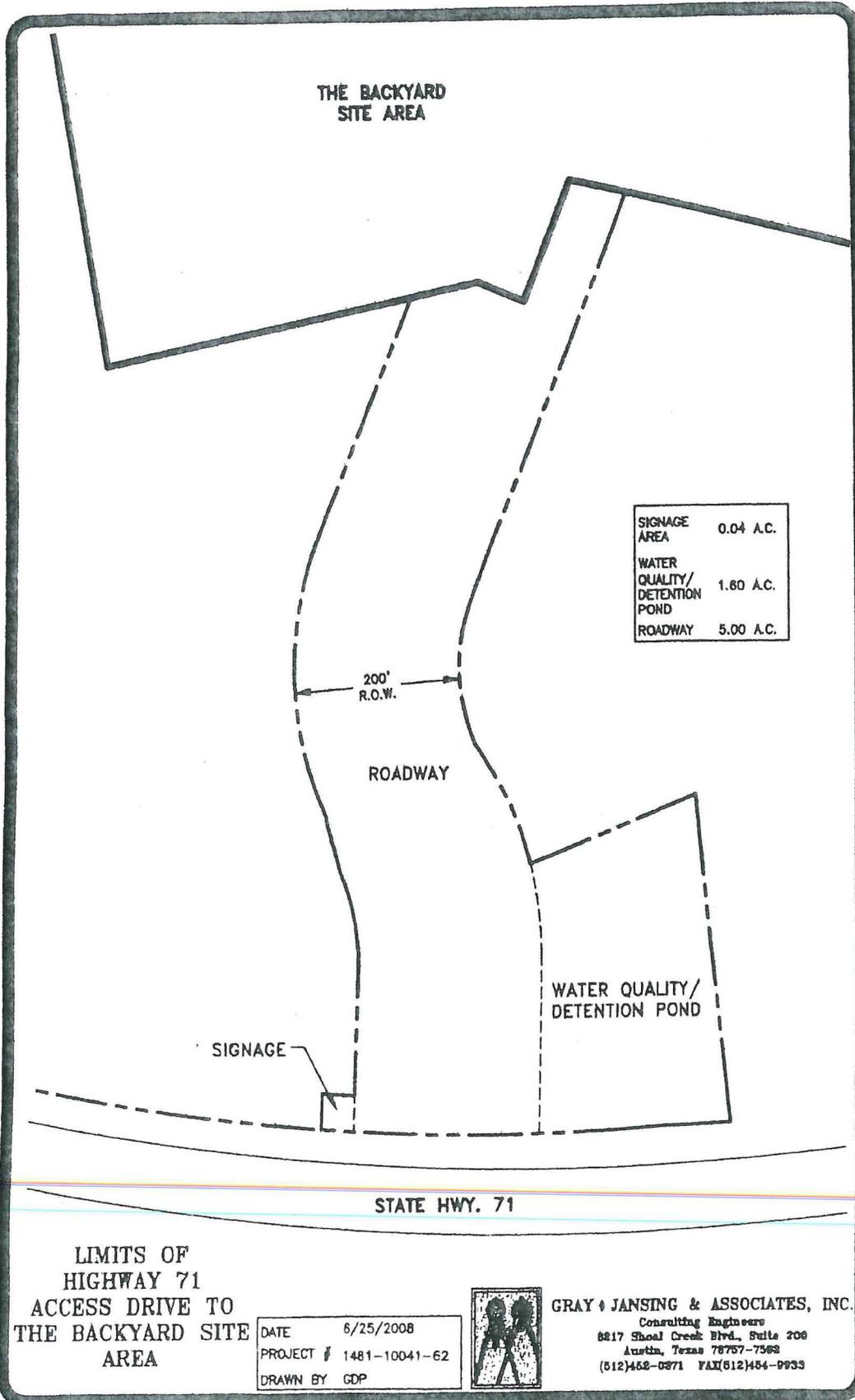
Surveyed by:



James E. Garon  
Registered Professional Land Surveyor  
Server: Co\Travis\Surveys\I & G.N. RR. CO.\ B70207.doc



EXHIBIT "A"



LIMITS OF  
HIGHWAY 71  
ACCESS DRIVE TO  
THE BACKYARD SITE  
AREA

DATE 6/25/2008  
PROJECT # 1481-10041-62  
DRAWN BY GDP



GRAY & JANSING & ASSOCIATES, INC.  
Consulting Engineers  
8817 Shoal Creek Blvd., Suite 200  
Austin, Texas 78757-7562  
(512)452-0371 FAX(512)454-9833



**FIELD NOTES FOR 0.499 ACRES IN THE NANCY GIBSON SURVEY A-521  
TRAVIS COUNTY, TEXAS**

FIELD NOTES DESCRIBING a 0.499 acre tract of land in the Nancy Gibson Survey, A-521, situated in Travis County, Texas, being a portion of that certain 56.682 acre tract of land conveyed to Reese Commercial Properties Ltd., by Deed recorded in Document No. 2001091446 of the Official Records of Travis County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point on the North right-of-way line of State Highway No. 71, being the Southeast corner of said 56.682 acre tract, for the Southeast corner and POINT OF BEGINNING of this tract.

THENCE with the North right-of-way line of State Highway No. 71, for the South line hereof, the following two (2) courses:

1. S86°53'42"W, 152.09 feet to the Point of Curvature of a curve to the right having a radius of 2801.45 feet and a central angle of 2°25'44".
2. with the arc of said curve 118.76 feet, the chord of which bears S87°52'45"W, 118.75 feet to the Point of Compound Curvature of a curve to the right having a radius of 25.00 feet and a central angle of 91°21'07".

THENCE with the West line hereof, the following two (2) courses:

1. with the arc of said curve 39.86 feet, the chord of which bears N45°14'08"W, 35.77 feet to the Point of Tangency of said curve.
2. N00°26'07"E, 49.53 feet to the Point of Curvature of a curve to the left having a radius of 2726.45 feet and a central angle of 2°55'47", for the Northwest corner of this tract.

THENCE with the North line hereof, the following two (2) courses:

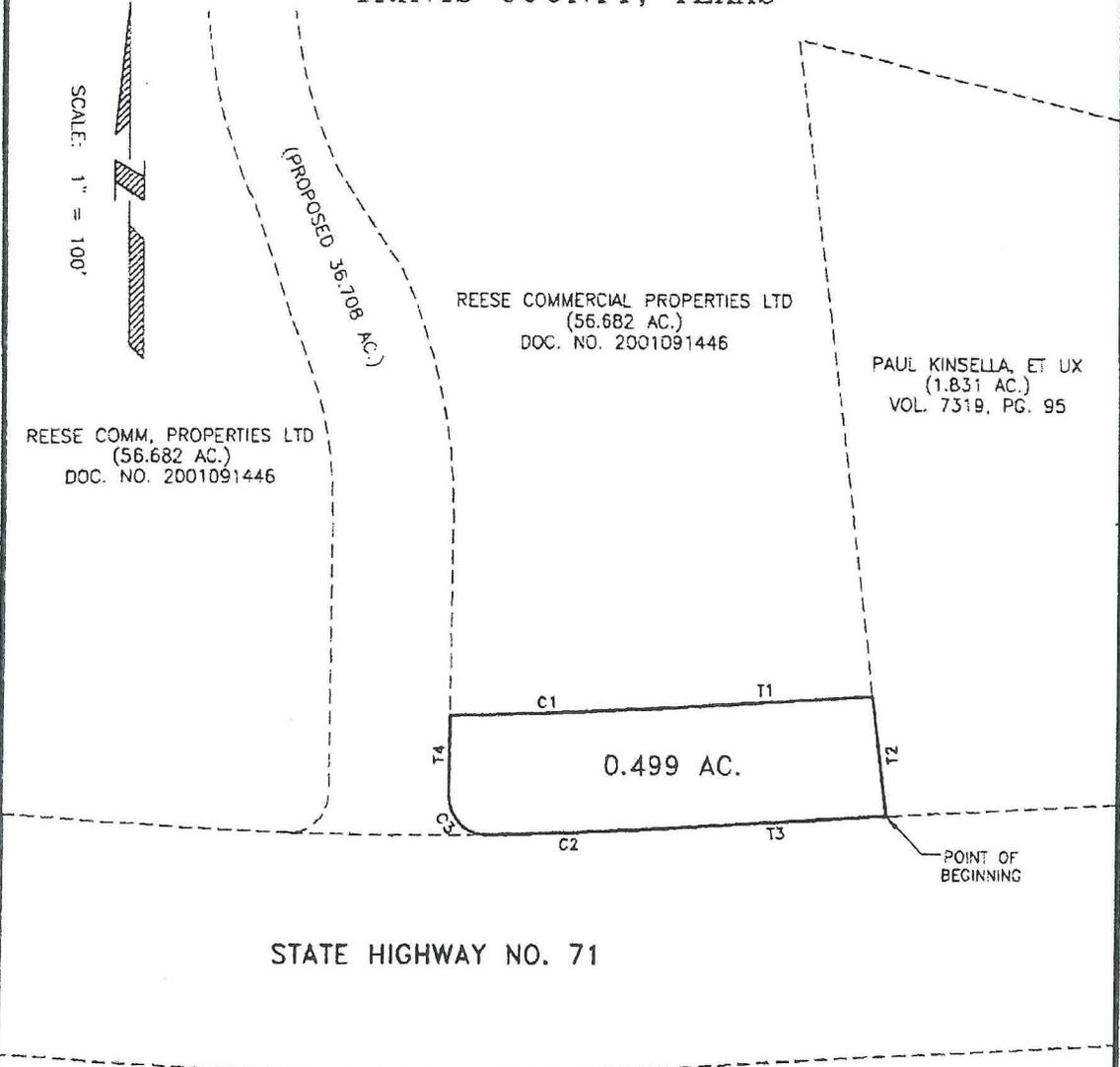
1. with the arc of said curve 139.42 feet, the chord of which bears N88°07'47"E, 139.40 feet to the Point of Tangency of said curve.
2. N86°53'42"E, 147.09 feet to a point on the East line of said 56.682 acre tract, for the Northeast corner of this tract.

THENCE with the East line of said 56.682 acre tract, for the East line hereof, S07°08'53"E, 75.19 feet to the POINT OF BEGINNING of this tract, containing 0.499 acres of land, more or less.

THESE FIELD NOTES WERE PREPARED FROM PUBLIC INFORMATION AVAILABLE THROUGH THE OFFICE OF THE TRAVIS COUNTY CLERK AND OTHER PUBLIC MAPS AND RECORDS. THESE FIELD NOTES DO NOT PURPORT TO BE AN ON-THE-GROUND SURVEY, AND DO NOT REPRESENT THE RESULTS OF AN ON-THE-GROUND SURVEY.

SKETCH TO ACCOMPANY FIELD NOTES FOR 0.499 ACRES  
 IN THE NANCY GIBSON SURVEY, A-521  
 TRAVIS COUNTY, TEXAS

SCALE: 1" = 100'



STATE HIGHWAY NO. 71

CURVE TABLE

NO.	DELTA	CHORD BRG	RADIUS	LENGTH	TANGENT	CHORD
C1	2° 55' 47"	N88° 07' 47" E	2726.45'	139.42'	69.72'	139.40'
C2	2° 25' 44"	S87° 52' 45" W	2801.45'	118.76'	59.39'	118.75'
C3	91° 21' 07"	N45° 14' 08" W	25.00'	39.86'	25.60'	35.77'

TANGENT TABLE

NUMBER	DISTANCE	BEARING
T1	147.09'	N 86° 53' 42" E
T2	75.19'	S 07° 08' 53" E
T3	152.09'	S 86° 53' 42" W
T4	49.53'	N 00° 26' 07" E

EXHIBIT "A"  
 PAGE 2 OF 2

PROJECT NO:	1481-10041-82	DESIGNED BY:	MEW
FILE NO:	10041-POND	DRAWN BY:	MEW
DATE:	JANUARY, 2009	CHECKED BY:	JMJ
SCALE:	1" = 100'	REVISED BY:	



GRAY · JANSING & ASSOCIATES, INC.  
 Consulting Engineers  
 6217 Shoal Creek Blvd., Suite 200  
 Austin, Texas 78757-7582  
 (512)452-0371 FAX(512)454-9933

THIS MAP WAS PREPARED FROM PUBLIC INFORMATION AVAILABLE THROUGH THE OFFICE OF THE TRAVIS COUNTY CLERK AND OTHER PUBLIC MAPS AND RECORDS. THIS MAP DOES NOT PURPORT TO BE AN ON-THE-GROUND SURVEY, AND DOES NOT REPRESENT THE RESULTS OF AN ON-THE-GROUND SURVEY.

**FIELD NOTES FOR 1502 SQUARE FEET  
IN THE NANCY GIBSON SURVEY A-521, TRAVIS COUNTY, TEXAS**

FIELD NOTES DESCRIBING 1502 square feet of land in the Nancy Gibson Survey, A-521, situated in Travis County, Texas, being a portion of that certain 56.682 acre tract of land conveyed to Reese Commercial Properties Ltd., by Deed recorded in Document No. 2001091446 of the Official Records of Travis County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point on the curving North right-of-way line of State Highway No. 71, from which the Southwest corner of said 56.682 acre tract bears N85°22'50"W, 248.61 feet, for the Southwest corner and POINT OF BEGINNING of this tract.

THENCE with the West line hereof, N02°05'43"E, 40.00 feet to the Northwest corner of this tract.

THENCE with the North line hereof, S89°33'53"E, 40.00 feet to the Northeast corner of this tract.

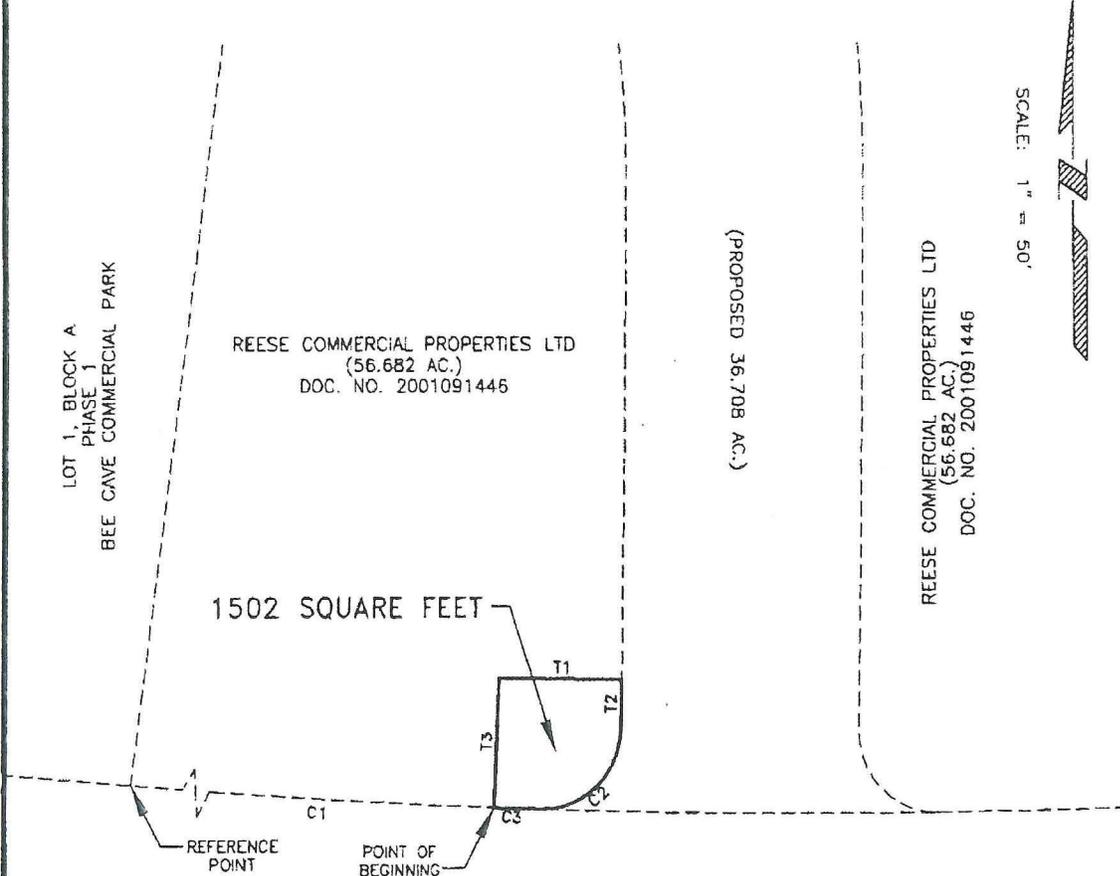
THENCE with the East line hereof, the following two (2) courses:

1. S00°26'07"W, 15.40 feet to the Point of Curvature of a curve to the right having a radius of 25.00 feet and a central angle of 91°21'07".
2. with the arc of said curve 39.86 feet, the chord of which bears S46°06'21"W, 35.77 feet to a point on the curving North right-of-way line of State Highway No. 71, being the Point of Compound Curvature of a curve to the right having a radius of 2801.45 feet and a central angle of 00°19'07".

THENCE with the curving North right-of-way line of State Highway No. 71, for the South line hereof, with the arc of said curve 15.58 feet, the chord of which bears N88°03'50"W, 15.58 feet to the POINT OF BEGINNING of this tract, containing 1502 square feet of land, more or less.

THESE FIELD NOTES WERE PREPARED FROM PUBLIC INFORMATION AVAILABLE THROUGH THE OFFICE OF THE TRAVIS COUNTY CLERK AND OTHER PUBLIC MAPS AND RECORDS. THESE FIELD NOTES DO NOT PURPORT TO BE AN ON-THE-GROUND SURVEY, AND DO NOT REPRESENT THE RESULTS OF AN ON-THE-GROUND SURVEY.

SKETCH TO ACCOMPANY FIELD NOTES FOR  
1502 SQUARE FEET IN THE NANCY GIBSON SURVEY, A-521  
TRAVIS COUNTY, TEXAS



STATE HIGHWAY NO. 71

CURVE TABLE

NO.	DELTA	CHORD BRG	RADIUS	LENGTH	TANGENT	CHORD
C1	5° 05' 10"	N85° 22' 50" W	2801.45'	248.69'	124.43'	248.61'
C2	91° 21' 07"	S46° 06' 21" W	25.00'	39.86'	25.60'	35.77'
C3	0° 19' 07"	N88° 03' 50" W	2801.45'	15.58'	7.79'	15.58'

TANGENT TABLE

NUMBER	DISTANCE	BEARING
T1	40.00'	S 89° 33' 53" E
T2	15.40'	S 00° 26' 07" W
T3	40.00'	N 02° 05' 43" E

EXHIBIT "A"  
PAGE 2 OF 2

PROJECT NO: 1481-10041-62	DESIGNED BY: MEW
FILE NO: 10041-SIGN	DRAWN BY: MEW
DATE: JANUARY, 2009	CHECKED BY: JMJ
SCALE: 1" = 50'	REVISED BY:



GRAY - JANSING & ASSOCIATES, INC.  
Consulting Engineers  
8217 Shoal Creek Blvd., Suite 200  
Austin, Texas 78757-7592  
(512)452-0371 FAX(512)454-9033

THIS MAP WAS PREPARED FROM PUBLIC INFORMATION AVAILABLE THROUGH THE OFFICE OF THE TRAVIS COUNTY CLERK AND OTHER PUBLIC MAPS AND RECORDS. THIS MAP DOES NOT PURPORT TO BE AN ON-THE-GROUND SURVEY, AND DOES NOT REPRESENT THE RESULTS OF AN ON-THE-GROUND SURVEY.

**JAMES E. GARON  
& ASSOCIATES, INC.**  
PROFESSIONAL LAND SURVEYORS

924 Main Street  
Bastrop, Texas 78602  
512-303-4185  
Fax 512-321-2107  
jgaron@austin.rr.com

January 8, 2009

**LEGAL DESCRIPTION:** BEING A 1.571 ACRE TRACT OF LAND LYING IN AND BEING SITUATED OUT OF THE NANCY GIBSON SURVEY, ABSTRACT NO. 521, IN TRAVIS COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN 56.628 ACRE TRACT OF LAND CONVEYED TO REESE COMMERCIAL PROPERTIES LTD. BY DEED RECORDED IN DOCUMENT NO. 2001091446 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 1.571 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED BY JAMES E. GARON & ASSOCIATES IN JUNE, 1995 AND AUGUST, 2008:

**BEGINNING** at a ½" iron rod set in the curving northerly right-of-way line of State Highway No. 71 and the southerly line of said 56.628 acre tract for the most southerly southeast corner hereof from which a ½" iron rod found at the southeast corner of said 56.628 acre tract bears N 87°52'45" E a chord distance of 118.75 feet and N 86°53'42" E a distance of 152.09 feet;

THENCE an arc distance of 131.18 feet with the curving northerly right-of-way line to the right of State Highway No. 71, having a radius of 2801.45 feet and whose chord bears N 89°33'53" W a distance of 131.17 feet to a ½" iron rod set at a point of reverse curvature for the most southerly southwest corner hereof;

THENCE crossing said 56.628-acre tract the following six (6) calls:

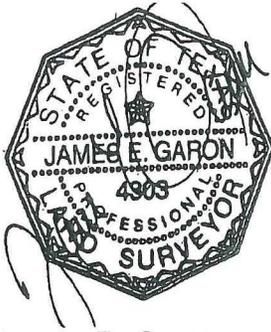
- 1) an arc distance of 39.86 feet with a curve to the left having a radius of 25.00 feet and whose chord bears N 46°06'21" E a distance of 35.77 feet to a ½" iron rod set for endpoint,
- 2) N 00°26'07" E a distance of 176.82 feet to a ½" iron rod set at a point of curvature of a curve to the left,
- 3) an arc distance of 124.88 feet with said curve to the left having a radius of 265.00 feet and whose chord bears N 13°03'53" W a distance of 123.73 feet to a ½" iron rod set for endpoint,
- 4) N 18°48'24" W a distance of 74.08 feet to a ½" iron rod set at a point of curvature of a curve to the right,
- 5) an arc distance of 288.29 feet with said curve to the right having a radius of 335.00 feet and whose chord bears N 01°54'41" W a distance of 279.48 feet to a ½" iron rod set for endpoint,
- 6) N 22°44'32" E a distance of 325.84 feet to a ½" iron rod set for the northwesterly corner hereof, from which said corner a ½" iron rod found for an ell corner hereof, an angle point in the west line of said 56.628 acre tract, the southeast corner of that certain 40.24 acre tract of land conveyed to Tim and Brenda Skaggs by deed recorded in Volume 12007, Page 1764 of said Official Public Records and the northeast corner of that certain 4.641 acre tract of land conveyed to Tim and Brenda Skaggs by deed recorded in Volume 12007, Page 1764 of said Official Public Records bears S 78°21'02" W a distance of 465.38 feet;

THENCE S 67°15'28" E a distance of 60.00 feet to a ½" iron rod set for the northeasterly corner hereof;

THENCE for the easterly line hereof the following six (6) calls:

- 1) S 22°44'32" W a distance of 325.84 feet to a ½" iron rod set at a point of curvature of a curve to the left,
- 2) an arc distance of 236.66 feet with said curve to the left having a radius of 275.00 feet and whose chord bears S 01°54'41" E a distance of 229.42 feet to a ½" iron rod set for endpoint,
- 3) S 34°19'23" E a distance of 74.08 feet to a ½" iron rod set at a point of curvature of a curve to the right,
- 4) an arc distance of 162.58 feet with said curve to the right having a radius of 345.00 feet and whose chord bears S 13°03'53" E a distance of 161.08 feet to a ½" iron rod set for endpoint,
- 5) S 00°26'07" W a distance of 176.82 feet to a ½" iron rod set at a point of curvature of a curve to the left,
- 6) an arc distance of 39.86 feet with said curve to the left having a radius of 25.00 feet and whose chord bears S 45°14'08" E a distance of 35.77 feet to the **POINT OF BEGINNING**, containing 1.571 acres of land, more or less.

Surveyed By: ·



James E. Garon  
Registered Professional Land Surveyor  
Server: Co\Travis\Surveys\I. & G.N. RR. CO.\B57808b.doc

Exhibit "B"

**Site Plan Amendment**



## Exhibit "C"

### AMENDED DEVELOPMENT STANDARDS

The following amended Development Standards shall be applicable within the Planned Development District approved in Ordinance No.1 and as amended by Ordinance No. 46. To the extent that any of the following standards conflict with Ordinance No.1, Ordinance No. 46 or other City Ordinances, the following shall control but only to the extent of a conflict. Capitalized terms shall be defined as indicated in these Development Standards or as defined in the Bee Cave Code of Ordinances ("Code"), depending upon context.

#### **1. Impervious Cover and Non-Point Source Pollution Control Standards for Water Quality Controls**

- (a) **Impervious Cover.** Areas of the Project, which are constructed within the drive lanes and aisles within the parking areas may be constructed with "EZ ROLL™", Grasspave™, or any equivalent materials and shall receive 100% credit from the impervious cover calculations for the Property.
- (b) Onsite-water quality controls in addition to those approved in Ordinance No. 1 may include bio-retention ponds, vegetative filter strips and sedimentation-filtration ponds.

Exhibit "D"

**Amendments to Maintenance and Monitoring Agreements**

**AMENDED PARKING LOT MAINTENANCE AGREEMENT**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

**THIS PARKING LOT MAINTENANCE AGREEMENT** "Agreement," made and entered into by **TWO LAWNMOWERS, LP** a Texas limited ("Owner") and is as follows:

**WITNESSETH:**

**WHEREAS**, Owner plans to construct and operate the new Backyard, a music and entertainment venue ("venue") on 51.5 acres in the City of Bee Cave, Texas ("City"); and

**WHEREAS**, the venue will require two Parking Lots ("Parking Lots"), covering approximately thirty five (35) acres of land, including Lot 1 comprising approximately thirty and six tenths (30.6) acres which shall be the primary Parking Lot and Lot 2 covering approximately four and one half (4.5) acres which shall be used only if Lot 1 is at capacity; and

**WHEREAS**, the Parking Lots shall be unpaved and include areas of no-disturbance; and

**WHEREAS**, Owner assumes the responsibility for managing and operating the Parking Lots in an environmentally protective manner; and

**NOW, THEREFORE**, Owner, as the owner of the Parking Lots hereby covenants and agrees as follows:

1. The Parking Lots shall not be used for event parking from November 1<sup>st</sup> thru March 1<sup>st</sup> of each year in order to allow vegetation to establish itself.
2. Lot 1 may be graded for construction activities and the area used for parking will be irrigated.
3. In order to maintain an adequate ground cover of vegetation during all seasons, the type of vegetation used will be suited to the season in which it will be installed.
4. At least once a year, Owner shall perform aeration of the Parking Space Areas only with a plug-style implement, to reduce compaction and increase air circulation to roots and soil. The driving isles within the parking lots will not be aerated to avoid damaging the grass paver system.
5. Owner will be responsible for contracting with an experienced professional to inspect the Parking Space Areas periodically and also following each event season for evidence of over-compaction and vegetation deterioration. Such third party's recommendations shall be incorporated as reasonably necessary to restore the impacted areas.

6. At the end of each event season and prior to the beginning of the next season,, the bermuda grass stand will not be mowed to allow for seed head maturity and dispersal, as well as leaving a dormant stand in place for soil protection.
7. After primary establishment, soil will be irrigated at a rate of one-to-two inches per week, or as conditions allow for adequate growth.
8. When mowed, bermuda grass stands shall be mowed to allow no more than one-third of the visible leaf to be removed and the grass to be approximately between one and two inches high.
9. Owner agrees that the City, its successors, contractors, agents, employees, representatives and assigns shall have the right at any time during the term of this Agreement to enter the property to inspect and observe the conditions of the premises.
10. In the event that the performance by the Owner of any of its obligations or duties shall be interrupted or delayed by any occurrence not the fault of Owner such as an act of God, Owner shall be excused from performance for such period of time as is reasonably necessary.
11. Any notice to be given to Owner shall be in writing and may be effected by personal delivery in writing or registered or certified mail, return receipt requested addressed to the proper party, at the following addresses:

Owner :                      Two Lawnmowers LP  
                                    1301 W. Hwy. 71  
                                    Austin, Texas 78738

With a copy to:            David Armbrust  
                                    Armbrust & Brown, L.L.P.  
                                    100 Congress Avenue, Suite 1300  
                                    Austin, Texas 78701-2744

12. In the event of default, City shall provide Owner written notice of such alleged default and at least thirty (30) days to cure such default. If Owner fails to cure such default within such thirty (30) day period, City may bring an action against Owner in a court of proper jurisdiction to require Owner to perform Owner's duties under the Agreement as City's exclusive remedy. City may not bring an action for damages. In the event City prevails in such proceedings, Owner shall be responsible for City's attorneys' fees and costs of court.
13. This Agreement may be modified or terminated by written instrument signed by the City Administrator and Owner and recorded in the real property records of Travis County, Texas.

In witness whereof, this Agreement has been executed in duplicate originals by the parties hereto this 11<sup>th</sup> day of March, 2010.

**TWO LAWNMOWERS LP**

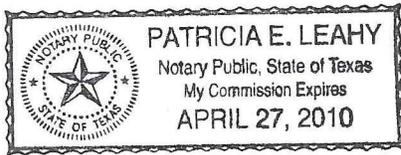
By: \_\_\_\_\_

James Timothy O'Connor, Manager

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me this 11<sup>th</sup> day of March, 2010, by James Timothy O'Connor, Manager of Two Lawnmowers LP, a Texas limited partnership.



\_\_\_\_\_  
Notary Public, State of Texas