

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This Third Amendment to Development Third Amendment (“Third Amendment”) is between the City of Bee Cave, Texas (formerly, the Village of Bee Cave, Texas), a general law municipality located in Travis County, Texas (the "City") and Spillman Investment Group, Ltd., a Texas limited partnership ("Owner").

INTRODUCTION

A. Spillman Development Group, Ltd., a Texas limited partnership (“Spillman Development”) and the City executed a Development Agreement effective as of August 22, 2000 (as amended by that certain First Amendment to Development Agreement dated May 13, 2003 and as further amended by the “Second Amendment” defined herein below, collectively, the “Agreement”) governing the development of approximately 492.314 acres of land located within the extraterritorial jurisdiction of the City more fully described in the Agreement.

B. Pursuant to that certain Partial Assignment of Development Agreement dated as of November 20, 2001 (the “Initial Assignment”), Spillman Development assigned its rights and interests under the Agreement to Owner to the extent the Agreement related to approximately 231.148 acres of land owned by Owner (the “Assigned Tract”).

C. Pursuant to that certain Partial Assignment of Development Agreement dated as of May 30, 2002 (the “Second Assignment”), Owner assigned its rights and interests under the Agreement to Palisades Developers, Ltd. (“Palisades”) to the extent the Agreement related to approximately 181.861 acres of land out of the Assigned Tract which Owner had conveyed to Palisades.

D. Pursuant to that certain Second Amendment to Development Agreement dated February 7, 2007, the City and Owner have previously amended the Agreement.

E. Owner has retained its fee title to, and its rights under the Agreement with respect to (among other property), that certain 13.941 acre portion of the Assigned Tract which is described on Exhibit A attached hereto and incorporated herein by reference (the "Retail/Office Land"). The Retail/Office Land is located within the extraterritorial jurisdiction of the City (“ETJ”) and its boundaries are depicted on the concept plan attached as Exhibit B (“Concept Plan”). This Third Amendment confirms that all of the Retail/Office Land is located within the ETJ of the City.

F. Pursuant to that certain Assignment of Development Rights dated as of April 16, 2004 and recorded as Document No. 2004072420 in the Official Public Records of Travis County, Texas (the “Retail/Office Land Assignment”), Spillman Development assigned to Owner all of its rights and interests under the Agreement with respect to an approximately 2.849 acre tract of land more specifically described in Exhibit B attached to the Retail/Office Land Assignment.

G. Owner intends to develop the Retail/Office Land as a master-planned, mixed-use community that may include retail uses, office uses and the other allowable uses listed on Page 2 of the Concept Plan (the "Project").

H. Upon execution of this Third Amendment, development of this Project shall be governed solely by the terms of this Third Amendment and any subsequent amendments to this Third Amendment, provided, however, because the Retail/Office Land was subject to the Agreement which was executed in 2000 and this Third Amendment amends the Agreement, the Project shall be subject to the City of Bee Cave ordinances in effect in 2000 when the Agreement was originally executed.

I. Because the Retail/Office Land constitutes a significant area of the City's ETJ and has been and will be developed in phases under a master development plan, Owner and the City wish to enter into this Third Amendment, which will provide an alternative to the City's typical regulatory process for development in its ETJ, encourage innovative and comprehensive master-planning of the Retail/Office Land, provide certainty of regulatory requirements throughout the term of this Third Amendment and encourage the creation of a high-quality project for the benefit of the present and future residents of the City and the Project.

J. In order to facilitate the Project, City acknowledges and agrees that the development of the Retail/Office Land and any future amendments related to this Third Amendment shall only require the participation and approval of Owner, its successor and/or assigns, and shall not require the approval or consultation of any other entity or owner subject to the Agreement.

K. Owner and the City agree to work with each other in good faith to enhance and preserve the general area for the citizens of the City and surrounding areas. Such cooperation shall include development of the Retail/Office Land in a manner which respects the environmental sensitivity of the area, planning for a regional utility system, and providing public access to at least some of the recreational amenities developed on the Retail/Office Land.

L. Owner and the City now desire to amend the Agreement as provided for in this Third Amendment.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the agreements set forth below, the parties agree as follows.

ARTICLE I. DEFINITIONS

Section 1.01 Definitions. In addition to the terms defined elsewhere in this Third Amendment or in the City's ordinances, the following terms and phrases used in this Third Amendment will have the meanings set out below:

Third Amendment: This Third Amendment to Development Agreement between the City and the Owner.

City Administrator: The City Administrator of the City.

Effective Date of this Third Amendment: The date when one or more counterparts of this Third Amendment, individually or taken together, bear the signature of all parties.

LCRA: The Lower Colorado River Authority.

ARTICLE II.
MASTER DEVELOPMENT PLAN

Section 2.01 Phased Development. Owner intends to develop the Retail/Office Land in phases, according to the site phasing information set out on the Concept Plan. Owner may modify the phasing plan from time to time. Owner shall notify the City of changes in writing in the phasing plan.

Section 2.02 Concept Plan and Building Elevations.

a. For purposes of this Third Amendment, the Concept Plan means and includes the land use map, the land use chart and all other matters set out on Exhibit B attached hereto. The land uses which are marked in the land use chart included within Exhibit B as "allowable" are permitted within the Project, but the uses marked therein as "not allowed" are prohibited within the Project. The City hereby confirms its approval of the Concept Plan, attached hereto as Exhibit B. Preliminary plats and final subdivision plats that generally comply with the Concept Plan, applicable City ordinances as modified by this Third Amendment, and state law will be approved by the City when submitted for review and approval in accordance with standard ordinance procedures of the City. The concept plan attached as Exhibit B to the Agreement (insofar, but only insofar, as the same relates to and concerns the Retail/Office Land), is hereby amended, superseded and replaced in its entirety with the Concept Plan attached to this Third Amendment as Exhibit B.

b. If required by the City Administrator, the Owner will, concurrently with the Owner's processing of a site plan for the development of the Project: (i) submit to the City a traffic impact analysis covering the Project; and (ii) cooperate with the City's traffic engineers in the development of recommendations for inclusion in the traffic impact analysis.

c. The Project may include a total of up to 365,640 square feet of impervious cover.

d. The Project shall include between four hundred sixty (460) and five hundred seven (507) required parking spaces. In addition, if Owner demonstrates to the reasonable satisfaction of the City Administrator that additional parking is needed to serve the actual demands of the Project, then Owner, at Owner's option and election, may construct up to sixty (60) additional parking spaces in the area shown as "Potential Future Parking" on the Concept Plan, provided such additional parking spaces are constructed with permeable concrete. If the additional parking spaces are constructed, such additional parking spaces will be included within the calculation of impervious cover within the Project, regardless of the fact that such additional parking spaces are constructed with a permeable surface.

e. Buildings A through H, as shown on the Concept Plan are limited to one (1) story in height, with a maximum building height of thirty-five feet (35') above slab elevation. Buildings I, J and K, as shown on the Concept Plan, are limited to three (3) stories in height, with a maximum height limitation of fifty feet (50') above slab elevation.

f. The buildings within the Project shall be constructed in a manner which is generally consistent with the conceptual building elevations depicted on Exhibit C attached to this Third Amendment and incorporated herein by reference; provided, however, that: (i) actual construction must be in conformance with the current version of the requirements of Section 32.05.005 (Exterior Construction and Design Requirements) of the City of Bee Cave Code of Ordinances in existence on the Effective Date of this Third Amendment; and (ii) in addition to the stone and stucco depicted on the building elevations on Exhibit C, the Owner will incorporate a third accent element (metal, wood or brick) into the buildings and will vary the colors of the materials to provide architectural accenting within the Project.

Section 2.03 Review Process. The City acknowledges that Owner intends to proceed with the development of the Retail/Office Land within a compressed time schedule, and that efficient City reviews are necessary for the effective implementation of Owner's development program. Therefore, the City agrees that it will review and respond with substantive comments or approval to all construction and development applications and any requests for approvals under this Third Amendment within the shorter of sixty (60) days or any time frames established by any statutory or internal City timeframes for development reviews. The City further agrees that if, at any time, Owner believes that an impasse has been reached with the City staff, its consultants or other representatives on any development issue affecting The Project, Owner may immediately appeal to the City Administrator for a resolution and that the City Administrator's decision is immediately appealable to the City Council at its next regularly scheduled City Council meeting. The City will post the items in a timely manner in accordance with applicable law. The City further agrees that in order to facilitate the Project, the development of the Retail/Office Land shall be exempt from the approval or consultation of any other entity or owner subject to the Agreement other than Owner or Owner's successor and/or assigns.

Section 2.04 Term of Approvals. The Concept Plan will be effective for the term of this Third Amendment, including any renewals as provided by Section 6.01.

Section 2.05 Amendments. Due to the fact that the Project comprises a significant land area and its development will occur in phases over a number of years, modifications to the Concept Plan may become desirable due to changes in market conditions or other factors. Owner may make minor changes to the Concept Plan (Exhibit B) in accordance with current City of Bee Cave Ordinances.

Section 2.06 Review/Submittal Fees. Owner shall pay the City's standard application, review and development fees which are in effect at the time of any submittals by the Owner and which are applicable to all other development applicants. Upon approval of the Development Agreement, Owner shall reimburse the City for its reasonable out of pocket legal costs incurred by the City in reviewing and preparing this Third Amendment and the Project.

Section 2.07 Building Code Compliance. Permanent structures constructed on the Retail/Office Land shall comply with the international building code and the design guidelines adopted by the City in effect at the time the construction is commenced. Such building code and design guidelines shall apply uniformly to all property within the corporate limits of the City. The City shall provide timely inspections and shall provide adequate staff and resources so as not to unreasonably delay any construction activities on the Retail/Office Land.

Section 2.08 Ordinance Compliance.

a. The current versions of the following ordinances of the City in existence on the Effective Date of this Third Amendment will be applicable to development activities within the Project: (i) Section 32.05.002 (Landscape Requirements) and Section 32.05.003 (Fencing, Walls and Screening Requirements) of the City of Bee Cave Code of Ordinances; (ii) Section 32.05.005 (Exterior Construction and Design Requirements) of the City of Bee Cave Code of Ordinances; and (iii) Section 32.05.012 (Lighting and Glare Standards) of the City of Bee Cave Code of Ordinances. Signage for the Project shall be governed by the City of Bee Cave Ordinance in effect on the date that an application for a sign is made by Owner.

b. Except as provided in the immediately preceding subpart (a) of this Section 2.08, and as provided elsewhere in this Third Amendment, the Project will be governed by the development ordinances of the City which were in existence on August 22, 2000.

Section 2.09 Water Quality Requirements.

a. The City and the Owner agree and acknowledge that the "Nonpoint Source Pollution Control" ordinance applicable to the Project will be Ordinance 90-1, adopted on February 13, 1990; except, however, that the Best Management Practices ("BMPs") for the Project shall utilize a storm water treatment system sufficient to achieve removal of eighty percent (80%) of total suspended solids, total phosphorous, oil and grease.

b. Underground filtration of storm water runoff is permitted within the Project only if approved by the City in connection with the approval of a nonpoint source pollution plan for the Project (the "NPS Plan"). As a condition to granting approval of an NPS Plan utilizing underground filtration of storm water, the City shall require the Owner to enter into a monitoring and maintenance agreement in form and content reasonably acceptable to the City.

c. If Owner chooses to utilize an underground storm water filtration system, Owner shall also submit with its site plan application, a monitoring and maintenance agreement for approval by the City that meets the requirements of the 80% water pollution removal standards; and (ii) furnishes all necessary associated maintenance. Owner shall provide the City with quarterly reports documenting the results of the selected system. After the earlier of (i) the one year anniversary of the installation and operation of the selected system, or (ii) rainfall sufficient to determine the success of the selected system determined by the City, if the monitoring shows the system operating in compliance with the water quality standards set out herein, Owner may cease providing the quarterly reports to the City; provided, however, all maintenance requirements shall remain in effect. In the event the water quality standards set out herein are not achieved, Owner shall submit an amended site plan application to the City for NPS approval which will utilize additional or above ground BMP sufficient to achieve the 80% removal of total suspended solids, oil, grease and phosphates. The Concept Plan is based in part on employing underground BMPs approved by the City consisting of a combination of retention/detention, sedimentation, filtration and possibly re-irrigation. If the Owner desires to employ above-ground BMPs consisting of a combination of retention/detention, sedimentation, filtration and re-irrigation then Owner will provide a site plan for City's review and approval displaying the location and adequacy of such above ground BMPs. Utilization of above ground BMPs in lieu of the underground BMPs depicted in the Concept Plan shall not require an amendment to the Concept Plan so long as the site plan is approved with such BMPs.

ARTICLE III.
ANNEXATION

Section 3.01 Annexation.

a. The Retail/Office Land will be annexed as follows: Owner shall petition the City to annex the Retail/Office Land concurrently with or prior to its application for: (i) any final subdivision plat covering the Retail/Office Land (regardless of whether such proposed final plat provides for a single lot or multiple lots); and/or (ii) any final site plan or site development permit for the Project. The City shall use reasonable efforts to annex the Retail/Office Land within sixty (60) days of its receipt of the petition, and in all events will complete such annexation within ninety (90) days of receipt of the petition.

b. Immediately upon completion of the annexation by the City of the Retail/Office Land in the Project, the City will commence the zoning of the Retail/Office Land in accordance with this Third Amendment to permit all of the "Allowable Uses" listed in the Concept Plan.

ARTICLE IV.
PARK AND RECREATIONAL AMENITIES

Section 4.01 Park Land and Improvements. In recognition of the character of the Spillman Development plan as described in the Agreement as a master-planned community and in acknowledgment of the substantial public access and private parkland, greenbelts, trails and park improvements provided for in the Agreement, the City agrees that no additional parkland dedication or park and fees will be required from Owner. Owner agrees that Owner will, prior to the occupancy of any buildings within the Project: (i) dedicate an easement for the extension of the existing Falconhead hiking path within the waterway area in the Retail/Office Land located adjacent to Ranch Road 620; and (ii) construct a hiking path within such dedicated easement, similar to the existing Falconhead hiking path.

ARTICLE V.
AUTHORITY AND VESTING OF RIGHTS

Section 5.01 Authority. This Third Amendment is entered into under the statutory authority of Section 212.172 of the Texas Local Government Code. The parties intend that this Third Amendment guarantee the continuation of the extraterritorial status of portions of the Retail/Office Land except as provided in this Third Amendment; authorize certain land uses and development on the Retail/Office Land in accordance with the Concept Plan attached hereto as Exhibit B; provide for the uniform review and approval of plats and development plans for the Retail/Office Land; provide exceptions to certain ordinances; and provide other terms and consideration, including the continuation of land uses and zoning after annexation of the Retail/Office Land.

Section 5.02 Vesting of Rights. The Agreement constituted an application by Owner for the subdivision and development of the Spillman Development project, of which this Retail/Office Land is a part, and initiated the subdivision and development permit process applicable to this Project (except as otherwise modified by this Third Amendment). The City acknowledges that Owner has vested authority to develop the Project in accordance with this Third Amendment. It is the intent of the City and Owner that these vested development rights include the character of

land uses, the general location of roadways, the design standards for streets and roadways, and development of the Retail/Office Land in accordance with the standards and criteria set forth in this Third Amendment and applicable City ordinances.

Section 5.03 Landowner's Right to Continue Development. In consideration of Owner's agreements hereunder, the City agrees that it will not, during the term of this Third Amendment, impose or attempt to impose: (a) any moratorium on building or development within the Project or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting preliminary plats, final plats, site plans, building permits, certificates of occupancy or other necessary approvals, within the Project. The preceding sentence does not apply to temporary moratoriums uniformly imposed throughout the City due to an emergency constituting imminent threat to the public health or safety, provided that such a moratorium will continue only during the duration of the emergency.

ARTICLE VI. TERM, ASSIGNMENT AND REMEDIES

Section 6.01 Term. The term of this Third Amendment will commence on the Effective Date and continue for fifteen (15) years, unless terminated on an earlier date under other provisions of this Third Amendment or by written agreement of the City and Owner. Upon the expiration of fifteen (15) years, this Third Amendment may be extended, at Owner's request, with City Council approval, for up to two (2) successive fifteen (15) year periods.

Section 6.02 Termination and Amendment by Agreement. This Third Amendment may be terminated or amended as to the Retail/Office Land at any time by mutual written consent of the City and Owner or may be terminated or amended only as to a portion of the Retail/Office Land by the mutual written consent of the City, the owners of the portion of the Retail/Office Land affected by the amendment or termination and Owner.

Section 6.03 Assignment.

a. This Third Amendment, and the rights and obligations of Owner, in whole or in part, may be assigned by Owner to a subsequent developer and/or builder of all or a portion of the Retail/Office Land upon written notice to the City. Any assignment will be in writing, specifically set forth the assigned rights and obligations and be executed by the proposed assignee.

b. Owner will provide to the City prior written notice of any assignment or partial assignment of Owner's rights and obligations under this Third Amendment. If Owner assigns its rights and obligations as to a portion of the Retail/Office Land, then the rights and obligations of any assignee and Owner will be severable, and Owner will not be liable for the nonperformance of the assignee and vice versa. In the case of nonperformance by one developer, the City may pursue all remedies against that nonperforming developer, but will not impede development activities of any performing developer as a result of that nonperformance.

c. This Third Amendment is not intended to be binding upon, or create any encumbrance to title as to, any ultimate consumer who purchases any portion of Retail/Office Land.

d. Upon Owner's request and at Owner's expense and subject to City's approval, City and Owner may elect to seek legislative validation of this Third Amendment and statutory authorization to extend the term of this Third Amendment beyond fifteen (15) years.

Section 6.04 Remedies.

a. If the City defaults under this Third Amendment, the Owner shall give written notice to City. If the City fails to commence the cure of an alleged default specified in the notice within a reasonable period of time, not less than forty-five (45) days, after the date of the notice, and thereafter to diligently pursue such cure to completion, Owner may terminate this Third Amendment or seek injunctive relief from a court of proper jurisdiction.

b. If Owner defaults under this Third Amendment, the City shall give written notice to Owner. If Owner fails to commence the cure of an alleged default specified in the notice within a reasonable period of time, not less than forty-five (45) days, after the date of the notice, and thereafter to diligently pursue such cure to completion, the City may terminate this Third Amendment or seek injunctive relief from a court of proper jurisdiction.

c. Each party waives any action for damages against the other except for the recovery of attorneys' fees, as per subparagraph d below.

d. If either party defaults, the prevailing party in the dispute will be entitled to recover its reasonable attorney's fees, expenses and court costs from the non prevailing party.

Section 6.05 Cooperation.

a. The City and Owner each agree to cooperate with each other as may be reasonably necessary to carry out the intent of this Third Amendment, including but not limited to the execution of such further documents as may be reasonably necessary.

b. The City agrees to cooperate with Owner at Owner's expense, in connection with any waivers, permits or approvals Owner may need or desire from Travis County Water Control Improvement District No. 17, Travis County, TCEQ, United States Environmental Protection Agency, United States Fish & Wildlife Service or any other regulatory authority in order to carry out the Concept Plan.

c. In the event of any third party lawsuit or other claim relating to the validity of this Third Amendment or any actions taken hereunder, Owner and the City agree to cooperate in the defense of such suit or claim, and to use their respective reasonable efforts to resolve the suit or claim without diminution in their respective rights and obligations under this Third Amendment. Owner and the City will each be responsible for its own attorneys' fees and other expenses which may be incurred in connection with any such lawsuit or claim.

d. Owner or the City may initiate mediation on any issues in dispute between Owner and the City and the other party shall participate in good faith. The cost of mediation shall be a joint expense.

ARTICLE VII.
MISCELLANEOUS PROVISIONS

Section 7.01 Notice. Any notice given under this Third Amendment must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Third Amendment, or (iv) by facsimile with confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or 3 days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

City:	City of Bee Cave 4000 Galleria Parkway Bee Cave, Texas 78738 Attn: City Administrator
With Required Copy to:	Bickerstaff Heath Delgado Acosta LLP 816 Congress Avenue, Suite 1700 Austin, TX 78701 Attn: Patty Akers
Owner:	Spillman Investment Group, Ltd. 828 West 6th Street Austin, Texas 78703 Attn: Stephen W. Gurasich, Jr.
With Required Copy to:	Armbrust & Brown, L.L.P. 100 Congress Avenue, Suite 1300 Austin, TX 78701 Attn: Samuel D. Byars

The parties may change their respective addresses to any other address within the United States of America by giving at least five (5) days' written notice to the other party. Owner may, by giving at least five (5) days' written notice to the City, designate additional parties to receive copies of notices under this Third Amendment.

Section 7.02 Severability; Waiver. If any provision of this Third Amendment is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Third Amendment not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Third Amendment which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible. Any failure by a party to insist upon strict performance by the other party of any material provision of this Third Amendment will not be deemed a waiver or of any other provision and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Third Amendment.

Section 7.03 Applicable Law and Venue. The interpretation, performance, enforcement and validity of this Third Amendment are governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Travis County, Texas.

Section 7.04 Entire Third Amendment. This Third Amendment contains the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Third Amendment. This Third Amendment can be amended only by written agreement signed by the parties. This Third Amendment supersedes all other agreements between the parties concerning the subject matter.

Section 7.05 Exhibits, Headings, Construction and Counterparts. All schedules and exhibits referred to in or attached to this Third Amendment are incorporated into and made a part of this Third Amendment for all purposes. The paragraph headings contained in this Third Amendment are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. The parties acknowledge that each of them have been actively and equally involved in the negotiation of this Third Amendment. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Third Amendment or any exhibits. If there is any conflict or inconsistency between the provisions of this Third Amendment and otherwise applicable City ordinances, the terms of this Third Amendment will control. This Third Amendment may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Third Amendment will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the parties.

Section 7.06 Time. Time is of the essence of this Third Amendment. In computing the number of days for purposes of this Third Amendment, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

Section 7.07 Authority for Execution. The City certifies, represents, and warrants that the execution of this Third Amendment is duly authorized and adopted in conformity with City ordinances. Owner hereby certifies, represents, and warrants that the execution of this Third Amendment is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership Third Amendment of each entity executing on behalf of Owner.

Section 7.08 Exhibits. The following exhibits are attached to this Third Amendment, and made a part hereof for all purposes:

Exhibit A - The Retail/Office Land

Exhibit B - The Concept Plan for the Project

Exhibit C - Building Elevations

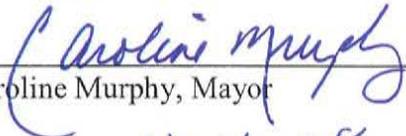
ARTICLE VIII.
AMENDMENT TO THE AGREEMENT

Section 8.01 Amendment to the Agreement. The City and the Owner hereby agree that all of the provisions in the Agreement relating to or affecting the Retail/Office Land are hereby amended, superseded and replaced in their entirety by this Third Amendment.

The undersigned parties have executed this Third Amendment on the dates indicated below.

CITY OF BEE CAVE

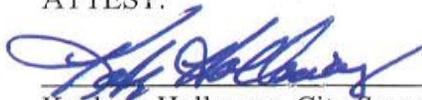
By: _____


Caroline Murphy, Mayor

Date: _____

12-16-08

ATTEST:

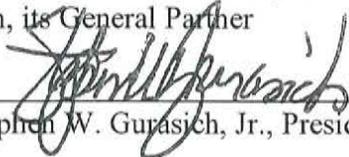


Kaylynn Holloway, City Secretary

SPILLMAN INVESTMENT GROUP, LTD., a
Texas limited partnership

By: SDG MANAGEMENT, INC., a Texas
corporation, its General Partner

By: _____


Stephen W. Gurasich, Jr., President

Date: _____

12-17-08

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me the 16th day of December, 2008, by Caroline Murphy, Mayor of the City of Bee Cave, Texas, a general law municipality, on behalf of the City.

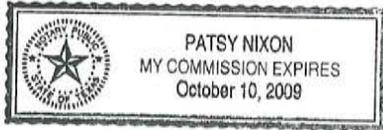


[Signature]
Notary Public Signature

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me the 17th day of December, 2008, by Stephen W. Gurasich, Jr., President of SDG Management, Inc., a Texas corporation, general partner of Spillman Investment Group, Ltd., a Texas limited partnership, on behalf of the limited partnership.



[Signature]
Notary Public Signature

EXHIBIT "A"

13.941 Acre
Falcon Head
Parcel L-2
Page 1

THE RETAIL/OFFICE LAND

J. Beck Survey No. 91
07526.10
October 9, 2007

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

FIELDNOTE DESCRIPTION of a 13.941 acre tract of land in the J. Beck Survey No. 91, Travis County, Texas and being a part of that 234.807 acres conveyed to Spillman Investment Group, Ltd., in six (6) parcels, by Special Warranty Deed recorded as Document No. 2001016512 in the Official Public Records of Travis County, Texas; said 13.941 acre tract of land is more particularly described as follows:

COMMENCING at a brass right-of-way monument found on the southwesterly right-of-way line of RM 620 (variable width right-of-way) and being the common easterly corner of that 464.976 acre tract of land described in Executor's Distribution Deed to Henry J. Spillman, Jr., Golda Lynn Garnett and John Franklin Spillman recorded as Document No. 2001016510 of the Official Public Records of Travis County, Texas, most westerly corner of that 0.449 acre tract conveyed to the State of Texas by Right of Way Deed recorded in Volume 10186, Page 869 Deed Records of Travis County, Texas and northeast corner of the remainder of that 36.171 acre tract of land described in deed to Kenneth C. Margolis, Trustee as recorded in Volume 8730, Page 729 of the Deed Records of Travis County, Texas.

THENCE, leaving the southwesterly right-of-way line of RM 620, with the easterly line of said 464.976 acre tract, same being the northwesterly line of said 36.171 acre tract, the following two (2) courses:

- 1) S64°00'06"W, a distance of 141.47 feet to a ½" iron rod found for an angle point;
- 2) S67°01'57"W, a distance of 65.00 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for the northeast corner of Parcel "L-2" (14.023 acres) as described in the aforesaid deed to the Spillman Investment Group, Ltd. and the POINT OF BEGINNING of the herein described tract;

THENCE, with the common southeasterly line of said Parcel "L-2" and northwesterly line of said 36.171 acre tract, the following two (2) courses:

- 1) S67°01'57"W, a distance of 187.29 feet to a ½" iron rod found for an angle point;
- 2) S63°12'31"W, a distance of 411.39 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for the most southerly corner of

said Parcel "L-2", same being the most easterly corner of that 10.00 acre tract of land (Tract "A") conveyed to John Franklin Spillman, Sr. by Partition Deed recorded as Document No. 2001126099 of the Official Public Records of Travis County, Texas;

THENCE, N42°41'49"W, with the common southwesterly line of said Parcel "L-2" and northeasterly line of said 10.00 acre tract, at 640.31 feet passing a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for the most northerly corner of the 10.00 acre tract and continuing for a total distance of 670.34 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found on the southerly right-of-way line of Falcon Head Boulevard, a variable width right-of-way according to the Spillman Ranch, Phase Once, Section One subdivision recorded as Document No. 200200274 of the Official Public Records of Travis County, for the most westerly corner of Parcel "L-2" and the herein described tract;

THENCE, with the southeasterly right-of-way line of Falcon Head Boulevard, the following seven (7) courses:

- 1) Northeasterly with a curve to the left having a radius of 2340.00 and a central angle of 04°42'45" (chord bears N42°31'59E, 192.41 feet) for an arc distance of 192.46 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found;
- 2) N53°31'02"E, with a line non-tangent to the previous curved course, a distance of 5.16 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for the point of curvature of a curve to the left;
- 3) Northeasterly along said curve to the left having a radius of 488.00 feet, a central angle of 32°39'17" (chord bears N37°11'24"E, 274.38 feet) for an arc distance of 278.13 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for a point of tangency;
- 4) N20°51'45"E, a distance of 16.76 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for the beginning of a non-tangent curve to the left;
- 5) Northeasterly with said curve to the left having a radius of 2340.00 feet and a central angle of 01°43'28" (chord bears N32°04'34"E, 70.42 feet) for an arc distance of 70.42 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for a point of tangency;
- 6) N31°12'50"E, a distance of 285.15 feet to a ½" iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for the point of curvature of a curve to the right;

- 7) Northeasterly with said curve to the right having a radius of 50.00 feet and a central angle of $97^{\circ}53'56''$ (chord bears $N80^{\circ}09'48''E$, 75.41 feet) for an arc distance of 85.43 feet to a $\frac{1}{2}$ " iron rod with plastic cap stamped "Capital Surveying Co. Inc." found on the southwesterly right-of-way line of RM 620 for a point of compound curvature;

THENCE, southeasterly with the southwesterly right-of-way line of RM 620, with a curve to the right having a radius of 1075.92 feet and a central angle of $17^{\circ}26'32''$ (chord bears $S42^{\circ}09'59''E$, 326.27 feet) for an arc distance of 327.53 feet to a $\frac{1}{2}$ " iron rod with plastic cap stamped "Capital Surveying Co. Inc." found;

THENCE, leaving the southwesterly right-of-way line of RM 620, with the northeasterly line of the aforesaid Parcel "L-2", same being the northerly and westerly lines of a remainder of the aforesaid 464.976 acre tract for the following three (3) courses:

- 1) $N80^{\circ}10'39''W$, a distance of 124.22 feet to a $\frac{1}{2}$ " iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for corner;
- 2) $S22^{\circ}08'30''E$, a distance of 520.00 feet to a $\frac{1}{2}$ " iron rod with plastic cap stamped "Capital Surveying Co. Inc." found for an angle point;
- 3) $S30^{\circ}54'30''E$, a distance of 265.00 feet to the POINT OF BEGINNING, CONTAINING within these metes and bounds 13.941 acres of land area.

I, George E. Hopkins, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 9 day of OCTOBER, 2007.

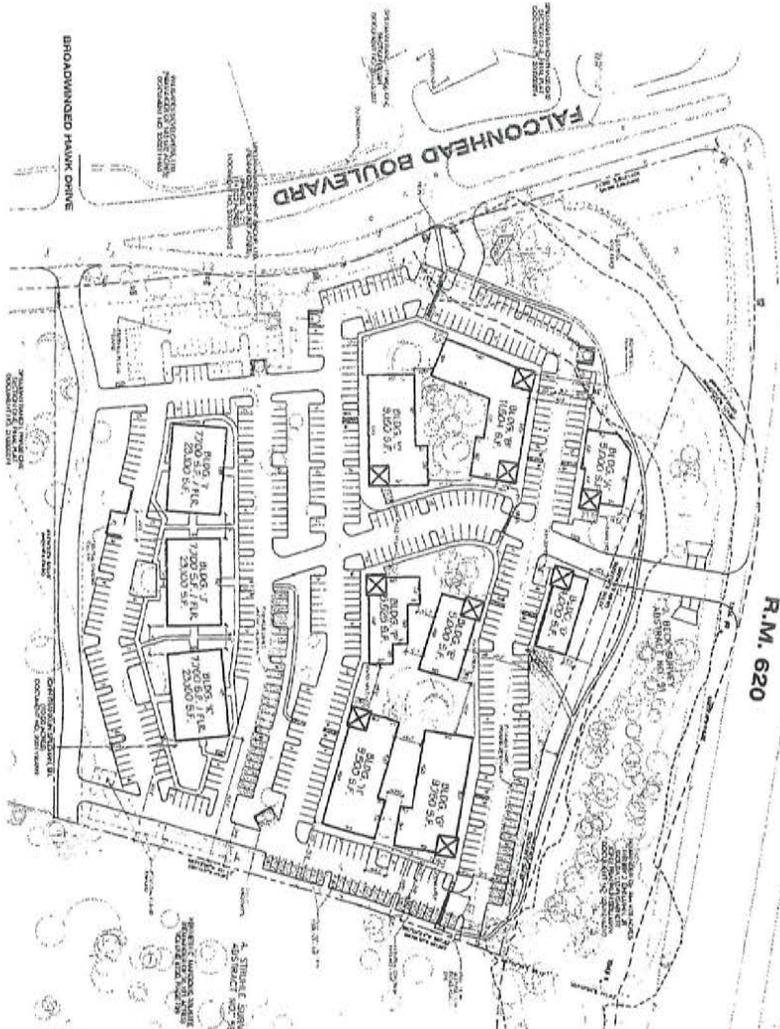



GEORGE E. HOPKINS
Registered Professional Land Surveyor
No. 4685 - State of Texas

EXHIBIT "B"

CONCEPT PLAN

PROPOSED MIXED USE DEVELOPMENT FOR
GATEWAY TO FALCONHEAD
BAKERSFIELD INVESTMENT GROUP, LLC
 11-28-08



M.S. WALKER
 & Associates, Inc.
 Design/Build General Contractor
 Construction Management

PROJECT NO. 08-001
 SHEET NO. 01 OF 01
 DATE: 11-28-08

SITE PHASING

PHASE 1 - BUILDINGS N, B, T, AND J
 PHASE 2 - BUILDINGS C, E, F, AND F
 PHASE 3 - BUILDINGS G, H, AND K
 ANTICIPATED START OF 2010
 ANTICIPATED START OF 2011

SITE AREA

PARCEL	13.94 AC.	607,153 S.F.
FRONT ADJACENCE	2.85 AC.	124,121 S.F.
TOTAL SITE AREA	16.79 AC.	731,285 S.F.

ACTUAL SITE COVERAGE

PERVIOUS COVER	346,646 S.F.	50%
IMPERVIOUS COVER	385,640 S.F.	50%
TOTAL SITE AREA	731,286 S.F.	100%

BUILDING ANALYSIS

OFFICE AREA	59,429 S.F.
RETAIL AREA	81,771 S.F.
TOTAL RETAIL/OFFICE AREAS	138,228 S.F.

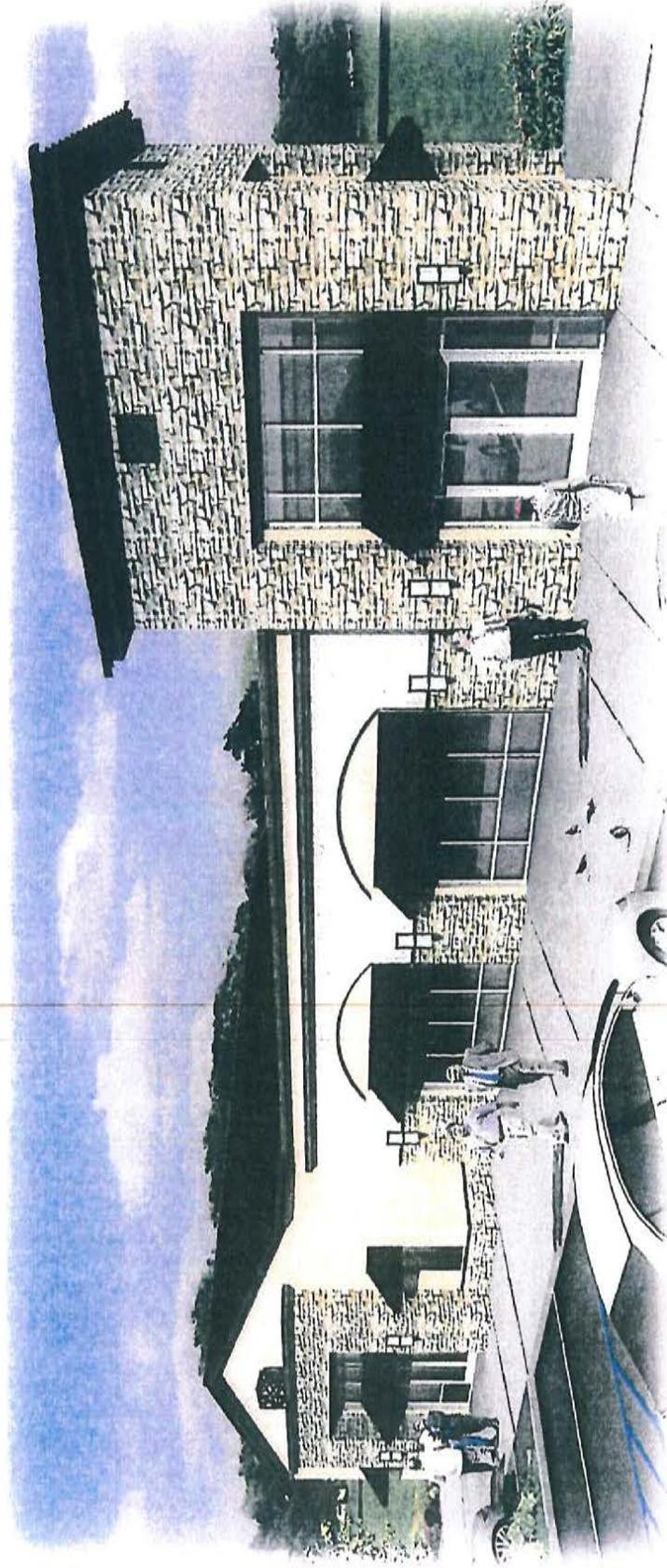
PARKING ANALYSIS

TOTAL STANDARD SPACES	494
TOTAL HANDICAP SPACES	13
Van Accessible: (11)	
TOTAL PARKING PROVIDED	507
TOTAL PARKING REQUIRED	507
TOTAL SPACE RATIO	1.041,000
FUTURE OVERFLOW PARKING	80 STALLS

SPILLMAN RANCH
EXHIBIT B
RETAIL and NEIGHBORHOOD SERVICES USE CHART

ZONING USE	ALLOWABLE	NOT ALLOWED	ZONING USE	ALLOWABLE	NOT ALLOWED
Administrative and Business Offices	X		Indoor Sports and Recreation	X	
Agricultural Sales and Services		X	Kennels		X
Art and Craft Studio (limited)	X		Laundry Services	X	
Art and Craft Studio (general)	X		Liquor Sales		X
Art and Craft Studio (Industrial)		X	Marina		X
Automotive Rentals		X	Medical Offices	X	
Automotive Repair Services		X	Monument Retail Sales		X
Automotive Sales		X	Offsite Accessory Parking	X	
Automotive Washing (of any type)		X	Offsite Entertainment		X
Building Maintenance Services		X	Outdoor Sports and Recreation		X
Business or Trade School		X	Pawn Shop Services		X
Business Support Services	X		Personal Improvement Services	X	
Campground	X		Personal Services	X	
Cocktail Lounge		X	Pet Services	X	
Commercial Off-Street Parking	X		Professional Office	X	
Communications Services	X		Recreational Equipment Maintenance and Storage		X
Construction Sales and Services	X		Recreational Equipment Sales		X
Consumer Convenience Services	X		Research Assembly Services		X
Consumer Repair Services	X		Research Services	X	
Convenience Storage		X	Research Testing Services	X	
Equipment Repair Services		X	Research Warehousing Services		X
Equipment Sales		X	Restaurant (drive-in, fast food)		X
Exterminating Services		X	Restaurant (limited)	X	
Financial Services	X		Restaurant (general)	X	
Food Sales	X		Scrap and Salvage		X
Funeral Services	X		Service Station		X
General Retail Sales (convenience)	X		Stables		X
General Retail Sales (convenience with gas sales)		X	Theater	X	
General Retail Sales (general)	X		Vehicle Storage		X
Hotel - Motel	X		Veterinary Services (with indoor kennels only)	X	
Indoor Entertainment	X				

EXHIBIT C
BUILDING ELEVATIONS



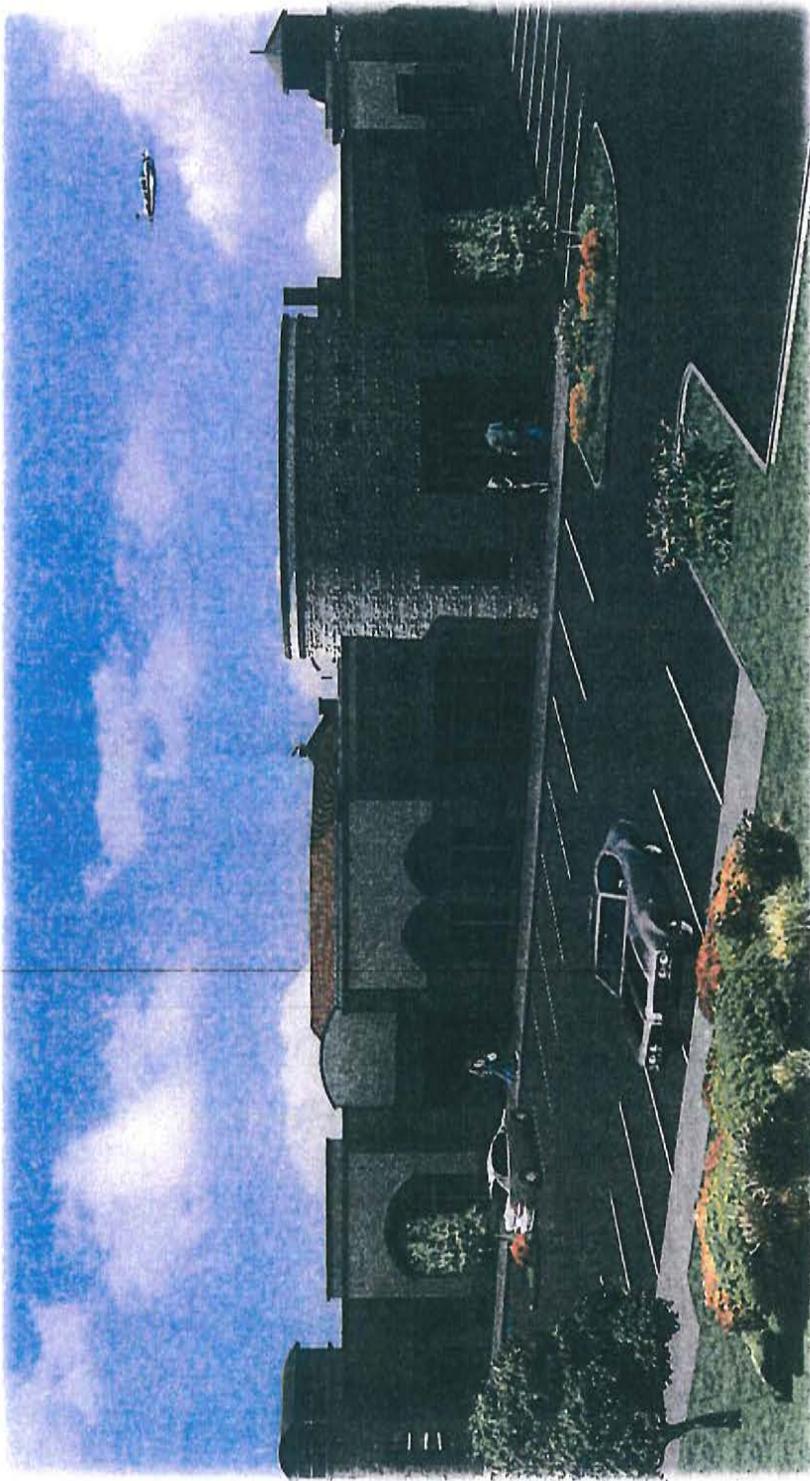
BUILDING 'A'
GATEWAY TO FALCONHEAD

12-02-08

12-23-08
CM

**M.S. WALKER
& Associates, Inc.**

*Design-Build General Contractor
Construction Management*



BUILDING 'B'
GATEWAY TO FALCONHEAD

12-02-08

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**M.S. WALKER
& Associates, Inc.**

*Design-Build General Contractor
Construction Management*



BUILDING 'C'
GATEWAY TO FALCONHEAD

12-02-08
CMAA
12-02-08

M.S. WALKER
& Associates, Inc.
Design-Build General Contractor
Construction Management



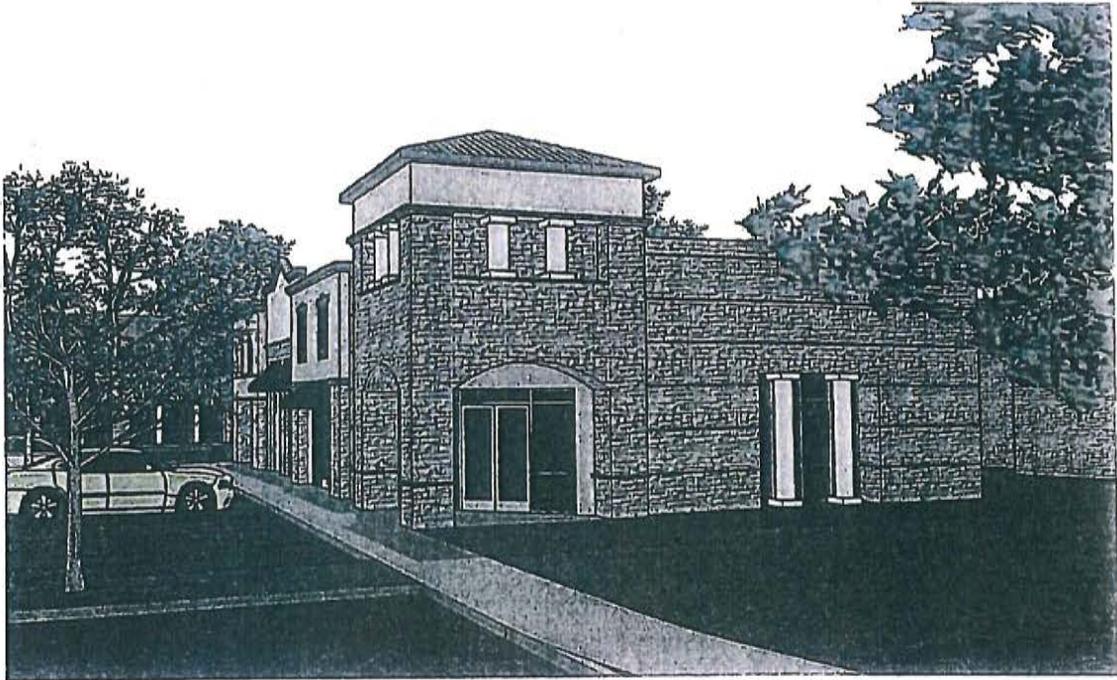
BUILDING 'D'
GATEWAY TO FALCONHEAD

12-02-08

12-5-08
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M. S. WALKER
& Associates, Inc.

Design - Build General Contractor
Construction Management



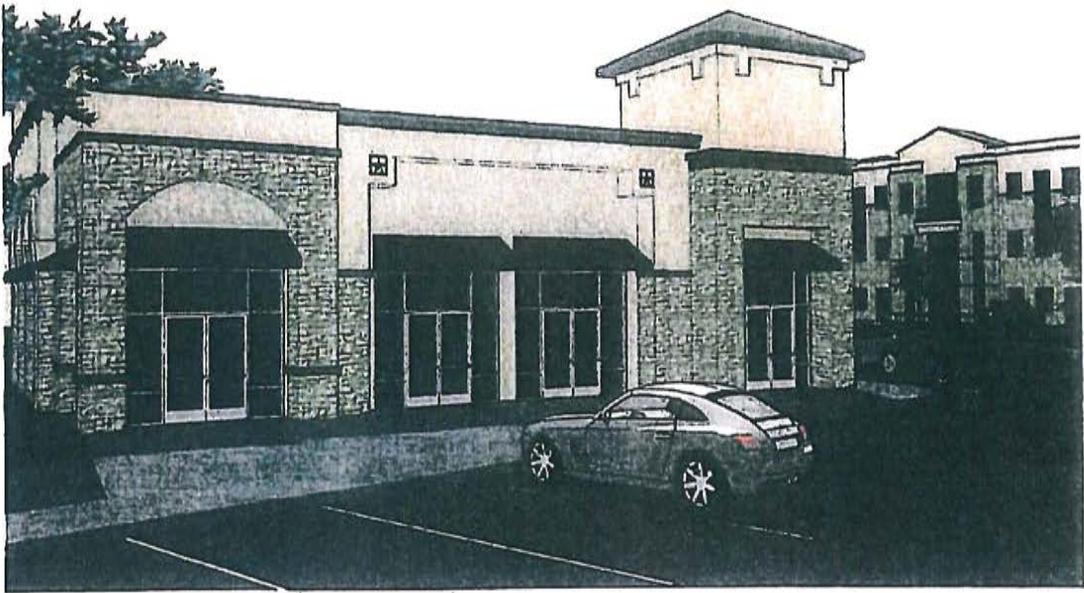
BUILDING 'E'



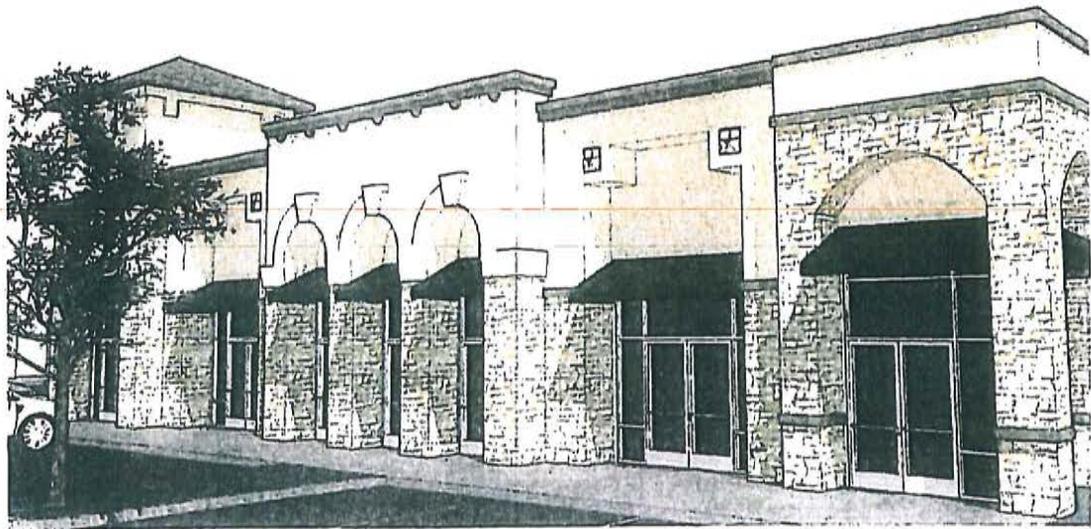
BUILDING 'E'

GATEWAY TO FALCONHEAD

GJM
12-23-08

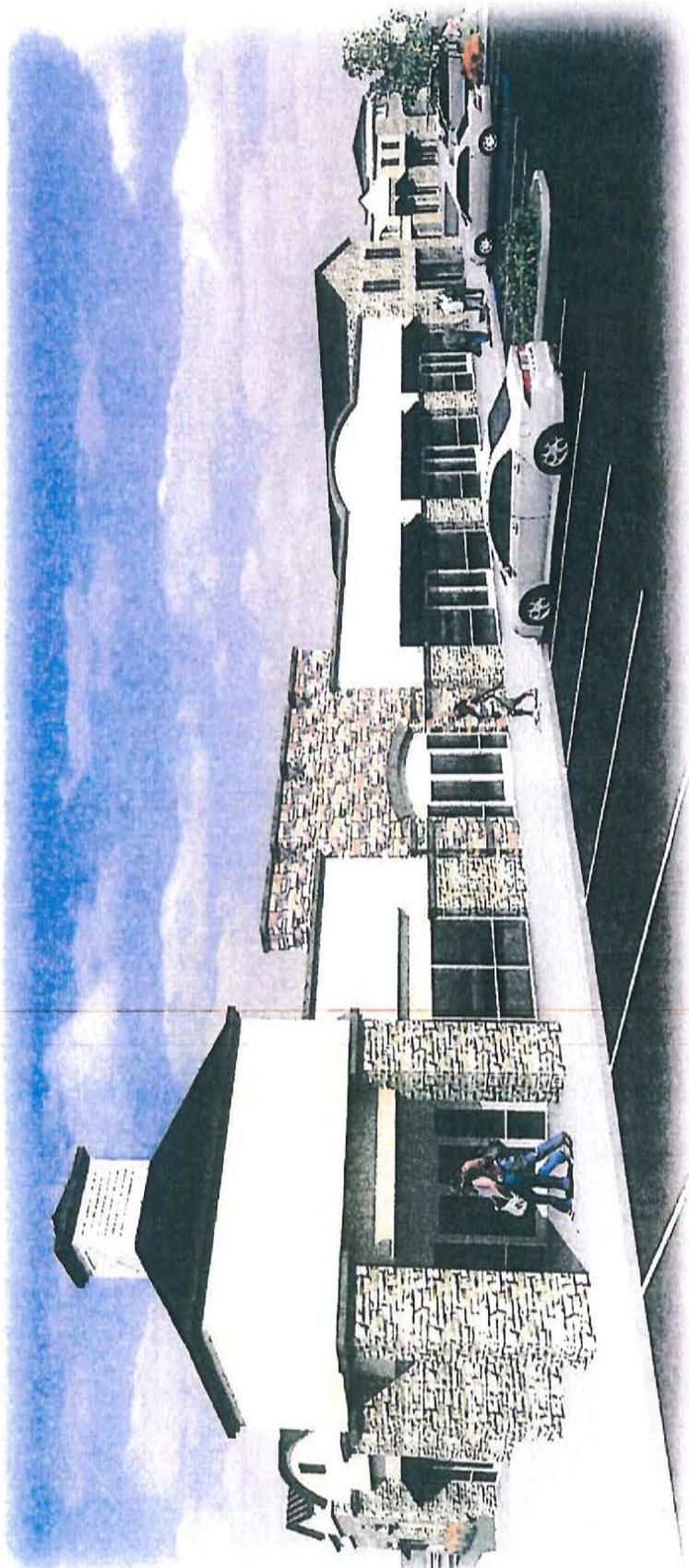


BUILDING 'F'



BUILDING 'F'

Cym
12-23-08



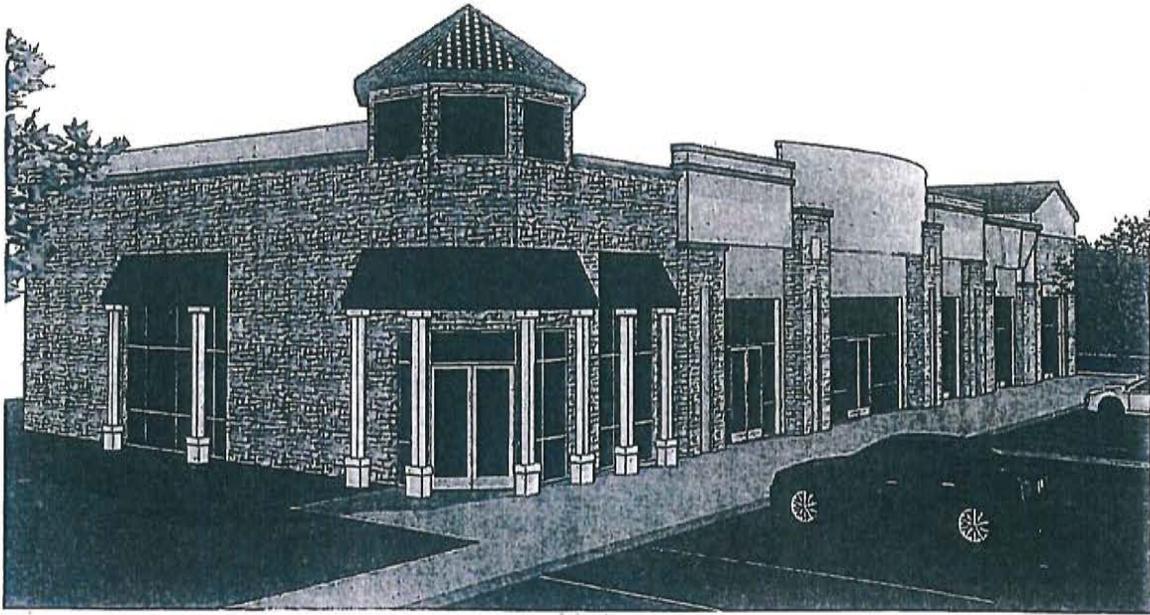
BUILDING 'G'
GATEWAY TO FALCONHEAD

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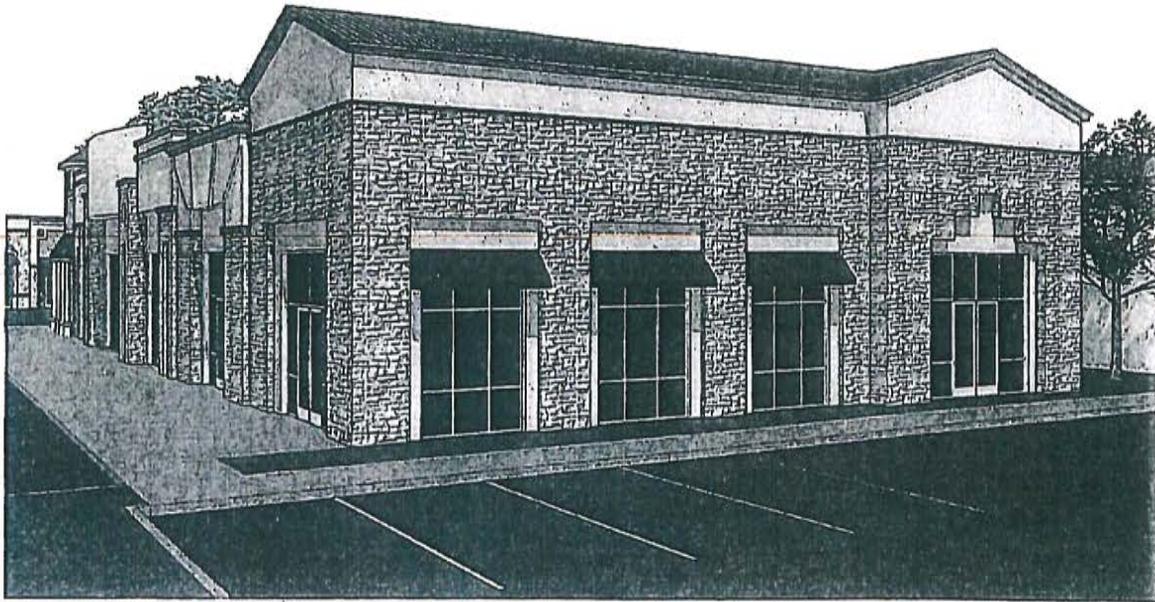
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JW

M.S. WALKER
& Associates, Inc.

Design-Build General Contractor
Construction Management



BUILDING 'H'

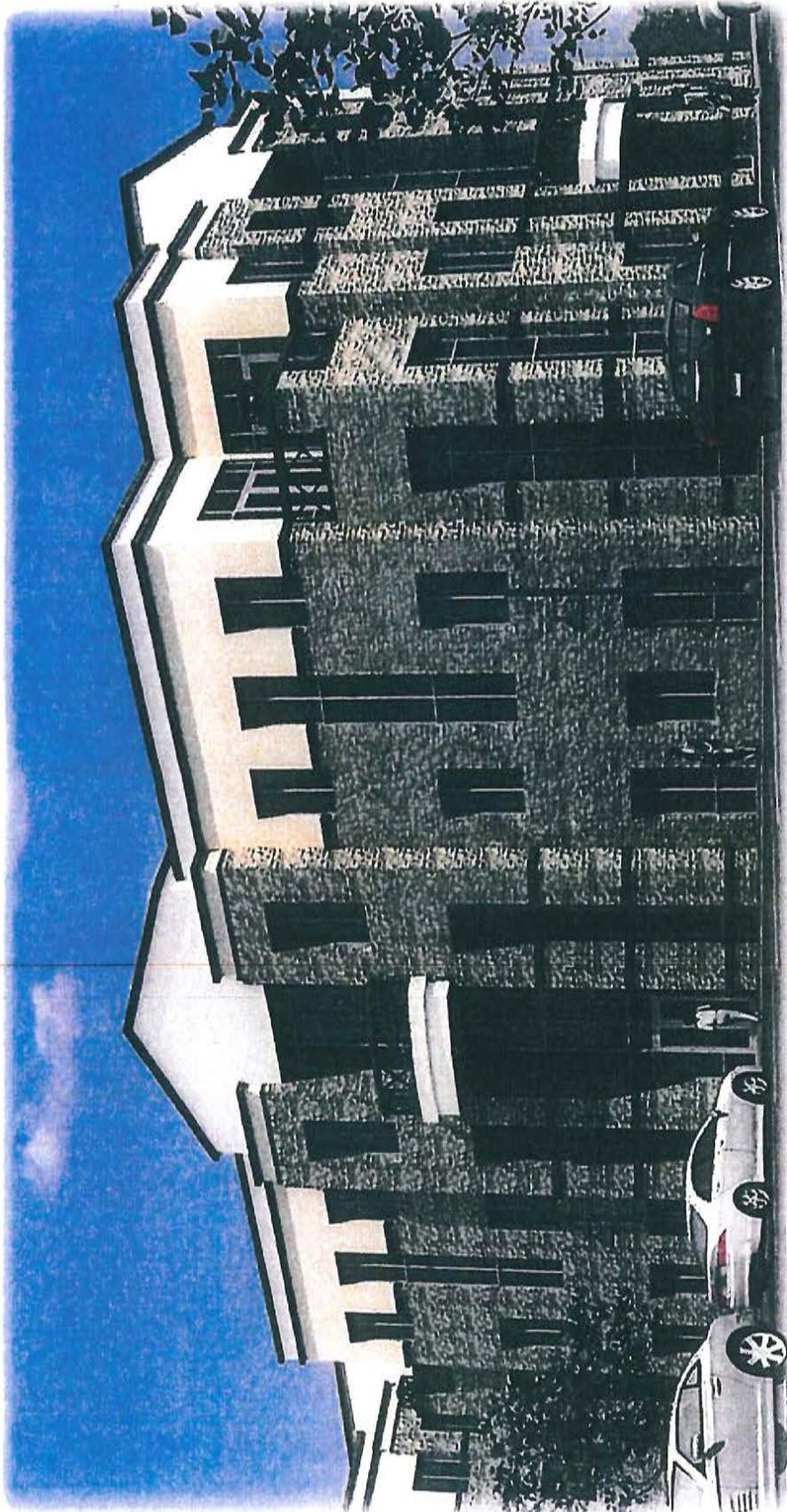


BUILDING 'H'

M.S. WALKER
& Associates, Inc.

*Design-Build General Contractor
Construction Management*

CM
12-23-08



BUILDING 'I'

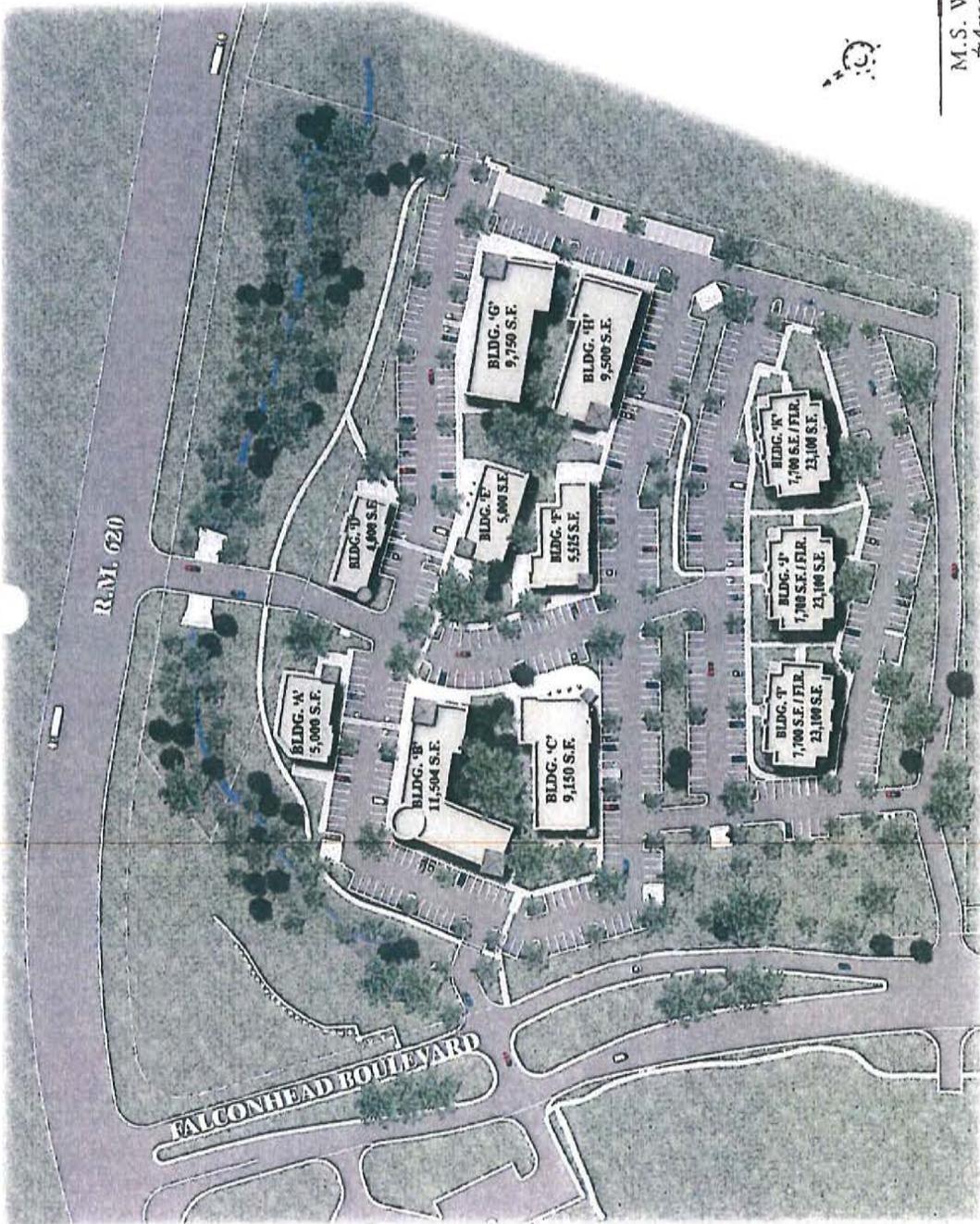
GATEWAY TO FALCONHEAD

12-02-08

12-3-08
MSW

**M.S. WALKER
& Associates, Inc.**

*Design-Build General Contractor
Construction Management*



**M.S. WALKER
& Associates, Inc.**
*Design-Build General Contractor
 Construction: Manning, L.L.C.*

GATEWAY TO FALCONHEAD

12-02-08
 80-23-21
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GATEWAY TO FALCONHEAD

Building "A" - Texas Tuscan

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Curved Tile - Red Flashed

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Golden Hued w/ Rust/Dusty Rose Accents

STOREFRONT AND GLAZING

- Dark Bronze Aluminum Storefront w/ tinted bronze glazing

ACRYLIC PLASTER

- Light Tan
- Medium Tan
- Dark Tan

AWNINGS

- Fabric Awnings - Rust or Brown

GATEWAY TO FALCONHEAD

Building "D" - Brown Hill Country

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Standing Seam Metal - Brown Umber

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Blende

STOREFRONT AND GLAZING

- Dark Bronze Aluminum Storefront w/ tinted bronze glazing
- Clear Aluminum Storefront w/ tinted gray glazing

ACRYLIC PLASTER

- Light Tan
- Medium Tan
- Dark Tan

AWNINGS

- Metal Awnings - match metal roof where occurring

GATEWAY TO FALCONHEAD

12-02-08

12-11-08

GATEWAY TO FALCO...AD

Building "B" - Gray Hill Country

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Standing Seam Metal - Earthen Gray

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Blende

STOREFRONT AND GLAZING

- Clear Aluminum Storefront w/ tinted gray glazing

ACRYLIC PLASTER

- Light Gray
- Medium Gray
- Dark Gray

AWNINGS

- Fabric Awnings - Hunter Green

ACCENTS/ACCESSORIES

- Square Copper buttons
- 'Cast Iron' look columns
- Horizontal Steel - Rust

GATEWAY TO FALCONHEAD

Building "E" - Texas Tuscan

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Curved Tile - Red Flashed

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Golden Hued w/ Flashed Brown Brick Accents

STOREFRONT AND GLAZING

- Dark Bronze Aluminum Storefront w/ tinted bronze glazing

ACRYLIC PLASTER

- Light Tan
- Medium Tan
- Dark Tan

ACCENTS/ACCESSORIES

- Precast/ GFRP Decorative Columns
- Freestanding Stone Columns w/Lantern Cap

GATEWAY TO FALCONHEAD

Building "C" - Texas Tuscan

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Curved Tile - Red Flashed

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Golden Hued w/ Rust/Dusty Rose Accents

STOREFRONT AND GLAZING

- Dark Bronze Aluminum Storefront w/ tinted bronze glazing

ACRYLIC PLASTER

- Light Tan
- Medium Tan
- Dark Tan

AWNINGS

- Fabric Awnings - Rust or Brown

ACCENTS/ACCESSORIES

- Freestanding Stone Columns w/Lantern Cap
- 'Cast Iron' look columns
- Horizontal Steel - Rust or Chipolite where occurring
- Precast/GFRP Eagle

GATEWAY TO FALCONHEAD

Building "F" - Brown Hill Country

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Standing Seam Metal - Brown Umber

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Blende

STOREFRONT AND GLAZING

- Dark Bronze Aluminum Storefront w/ tinted bronze glazing

ACRYLIC PLASTER

- Light Tan
- Medium Tan
- Dark Tan

ACCENTS/ACCESSORIES

- Square Copper buttons

M. S. WALKER

Associates, Inc.

10000 Beech Grove, Fort Worth, TX 76116
Construction, Architecture

GATEWAY TO FALCONHEAD
Building "G" - Gray Hill Country

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Standing Seam Metal - Earthen Gray

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Golden Hued w/ Rust/Dusty Rose Accents
- Texas Limestone - Blonde

STOREFRONT AND GLAZING

- Clear Aluminum Storefront w/ tinted gray glazing

ACRYLIC PLASTER

- Light Gray
- Medium Gray
- Dark Gray

AWNINGS

- Fabric Awnings - Rust or Black where occurring

GATEWAY TO FALCONHEAD
Building "I & K"

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Standing Seam Metal - Brown Umber

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Golden Hued w/ Rust/Dusty Rose Accents

STOREFRONT AND GLAZING

- Dark Bronze Aluminum Storefront w/ tinted bronze glazing

ACRYLIC PLASTER

- Light Tan
- Medium Tan
- Dark Tan

ACCENTS/ACCESSORIES

- Fabricated 'Lantern' Light/Decorative Motif

GATEWAY TO FALCONHEAD

12-02-08

8037-11
M.S.

GATEWAY TO FALCONHEAD
Building "H" - Texas Tuscan

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Curved Tile - Red Flashed

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Golden Hued w/ Rust/Dusty Rose Accents

STOREFRONT AND GLAZING

- Dark Bronze Aluminum Storefront w/ tinted bronze glazing

ACRYLIC PLASTER

- Light Tan
- Medium Tan
- Dark Tan

ACCENTS/ACCESSORIES

- Precast/ GFRP Decorative Columns
- "Cast Iron" look columns
- Horizontal Steel - Rust or Chipotle where occurring

GATEWAY TO FALCONHEAD
Building "J"

MASTER MATERIAL PALETTE

All colors/materials designated are earth tones per Bee Cave Standards

ROOFING (AT PITCHED ELEMENTS)

- Standing Seam Metal - Brown Umber

STONE (ASHLAR W/PRECAST LINTELS AND SILLS)

- Texas Limestone - Golden Hued w/ Flashed Brown Brick Accents

STOREFRONT AND GLAZING

- Dark Bronze Aluminum Storefront w/ tinted bronze glazing

ACRYLIC PLASTER

- Light Tan
- Medium Tan
- Dark Tan

ACCENTS/ACCESSORIES

- Fabricated 'Lantern' Light/Decorative Motif

M.S. WALKER
Associates, Inc.

Design-Build General Contractor
Cincinnati, Ohio