

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PINEY POINT VILLAGE, TEXAS, IN ACCORDANCE WITH DIVISION 4 OF ARTICLE II OF CHAPTER 74 OF THE CITY'S CODE OF ORDINANCES, ESTABLISHING AND APPROVING ISSUANCE OF A SPECIFIC USE PERMIT FOR THE PERMITTING OF CERTAIN COLUMBARIUM IMPROVEMENTS ON THE ST. FRANCIS ESPISCOPAL CHURCH TRACT; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, the City of Piney Point Village (the "City") finds it to be in the best interest of the health, safety, and welfare of its citizens to approve the following improvements on the St. Francis Episcopal Church Tract (the "Tract") subject to certain conditions; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINEY POINT VILLAGE, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct and are hereby adopted.

Section 2. The City hereby establishes and approves issuance of a specific use permit, as outlined by the terms of this Ordinance, to permit the following previously installed columbarium improvements on the Tract. Such improvements are further identified in a site plan, interior plan, and related specifications, as provided for in Exhibit "A," attached hereto and made a part of this Ordinance. City Council approval of the proposed improvements provided for in this Ordinance is subject to adherence to the site plan, interior plan, and related specifications provided for in Exhibit "A," and other stipulations as stated below:

1. The columbarium shall maintain the following distances from the below stated landmarks:
 - a. 140 feet from the east property line, adjacent to Piney Point Road.
 - b. 280 feet from the north property line, adjacent to Cheska Hollow Subdivision.
 - c. 310 feet from the south property line, adjacent to the Ecclesia Church site.
 - d. 670 feet from the west property line, adjacent to the Habersham Subdivision.
2. No cremation shall take place or cremains sealed on the Tract.
3. The columbarium shall remain 9'-2" tall and 8'-10" wide, and shall have no more than 90 niches, each measuring 10½" by 10½".
4. The niches are not for sale to the general public; in order to obtain a niche in the columbarium, a person must be a member of St. Francis Episcopal Church and complete all application documents, including the following:
 - a. An "application for interment rights to space(s) in the columbarium," which must be completed and approved by the rector.
 - b. A "certificate of interment rights" conveyed to the grantee in consideration of the contribution of the reservation fee.
 - c. A "certificate of use" accepted by the grantee, which provides, in part, the process for transferring cremains to the custody of the Bishop of the Diocese of Texas for relocation if St. Francis Episcopal Church ceases to exist.
 - d. An "inscription order form" for the wording to be engraved on the tag on the niche.

Section 3. Any person who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed (i) \$2,000.00 for violation of any provision that governs fire safety, zoning or public health or sanitation, including dumping of refuse, or (ii) \$500.00 for all other violations. No penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the State of Texas. Each day of any violation shall constitute a separate offense.

Section 4. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Piney Point Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 5. All ordinances or parts of ordinances inconsistent or in conflict herewith, are, to the extent of such inconsistency or conflict, hereby repealed.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2018.

Mark Kobelan
Mayor

ATTEST:

Karen Farris
City Secretary

EXHIBIT "A"

**Site Plan, Interior Plan, and Related Specifications for Columbarium Improvements
to St. Francis Episcopal Church Tract**



ST. FRANCIS EPISCOPAL CHURCH

September 6, 2018

Planning and Zoning Commission

Mr. Vincent L. Marino, Chair
Ms. Diane Wege, Member
Mr. Charles Peterman, Member
Ms. Sue Curtis, Member
Mr. Don Jones, Member
Ms. Lenni Burke, Member

City of Piney Point Village
7676 Woodway
Suite 300
Houston, Texas 77063

Dear Planning and Zoning Commissioners:

St. Francis Episcopal Church, 345 Piney Point Road, City of Piney Point Village, Texas, is applying for a Specific Use Permit for its existing columbarium that is located **inside** the church building, in an area referred to as the narthex.

Construction of the current church was completed in 2001. It replaced the original church, the construction of which began with the establishment of the church in 1949 which was prior to the City of Piney Point Village being incorporated. On the plan drawings for the new structure there was an alcove inside the church in the narthex, and this is where the columbarium has been placed. Once the new church building was completed in 2001, the pews, church accoutrements, and columbarium were all installed at about the same time. Why was an additional Specific Use Permit not requested at that time for the columbarium? We do not have an answer to that other than perhaps the thinking then was that the columbarium was "furniture" so to speak as it was installed at the time that the furniture, pews, and other religious accessories were installed. The church staff at that time are no longer with St. Francis. But the important point we want to emphasize is that St. Francis Episcopal Church is in process of correcting that oversight.

St. Francis Episcopal Church held an open house on Sunday afternoon, August 26, 2018, from 3:45 to 4:45 p.m. Forty eight individual invitations were sent to the surrounding neighbors, the Mayor, City Council members, the Planning and Zoning Commissioners, and the Building Official. A report on the open house is included in the packet.

Why did St. Francis Episcopal Church want a columbarium? Charles Fulton, the head of the Episcopal Church Building Fund, says that cremations are much more common today than they were 40 years ago, and a columbarium within a church allows parishioners to pay their respects to their loved ones when they attend church. Because of this, columbariums are becoming more common in Episcopal churches throughout the nation.

A columbarium is not a cemetery. A columbarium is a depository for the cremains of the deceased. The cremation takes place at a licensed funeral home; **never** does a cremation take place at the church; the cremains are placed in a container at the funeral home and then sealed. That container is delivered to St. Francis Episcopal Church as part of the funeral service for the deceased, and then the sealed container is interred in a niche in the columbarium which is also sealed.

The columbarium is 9'-2" tall and 8'-10" wide, and it has 90 niches, each measuring 10½" by 10½" and 30 are occupied. The niches are **not** for sale. In order to obtain a niche in the columbarium, a person must be a member of St. Francis Episcopal Church and various documents must be completed:

- a. There is an "application for interment rights to spaces(s) in the columbarium" which must be completed and then approved by the rector.
- b. Afterwards, there is a "certificate of interment rights" that is conveyed in consideration of the contribution of the reservation fee.
- c. Then, there is a "conditions of use" that the grantee accepts and agrees to. Points in this document include what happens to the cremains in the columbarium should the church cease to exist. The Diocese of Texas owns the property on which St. Francis Episcopal Church stands, and it is the Bishop of the Diocese of Texas who will direct to where the cremains will be transferred.
- d. Lastly, there is an "inscription order form" for the wording to be engraved on the tag on the niche.

Thank you for your consideration of this Specific Use Permit request from St. Francis Episcopal Church and we look forward our meeting with you.

Peace and Grace,

A handwritten signature in black ink that reads "Stuart A. Bates" with a small cross symbol at the end of the name.

The Rev. Stuart A. Bates
Rector
St. Francis Episcopal Church



ST. FRANCIS EPISCOPAL CHURCH

Sent by both regular and certified mail return receipt requested

September 4, 2018

Subject: Invitation to attend a public hearing for a request for a Specific Use Permit for the St. Francis Episcopal Church columbarium that was installed in 2000/2001

Dear St. Francis Episcopal Church Neighbors:

St. Francis Episcopal Church is applying for a Specific Use Permit for its existing columbarium that is located in the narthex which is located inside the church, not visible from the street or walkways.

This letter is to let you know about and to invite you to the **Planning and Zoning Commission meeting on Thursday, September 27, 2018, at 7:00 p.m.** during which the church's application for a Specific Use Permit will be presented and discussed. The City of Piney Point requires that a Specific Use Permit be issued for the columbarium referenced in the City of Piney Point Code of Ordinances, Chapter 74, Section 125 through Section 130.

If the Planning and Zoning Commission grants a recommendation, the second meeting for the Specific Use Permit will be with the **City Council, Monday, October 22, 2018, 6:30 p.m.**

Both meetings will be held at the City of Piney Point City Hall located at **7676 Woodway, Suite 300, Houston, Texas 77063.**

Below is information about the columbarium at St. Francis Episcopal Church:

The "new" St. Francis church building was completed and occupied in 2001. The columbarium was installed at that time in the narthex which is located inside the church. Distances from columbarium to:

- The east property line (Piney Point Road) is 140 feet;
- The north property line (Cheska Hollow Subdivision) is 280 feet;
- The south property line (Ecclesia Church) is 310 feet; and
- The west property line (Habersham Subdivision) is 670 feet.

A columbarium is not a cemetery; it is a depository for the cremains of the deceased. The cremation takes place at a licensed funeral home, **never** at the church; the cremains are put into a sealed container at the funeral home and delivered to St. Francis as part of the funeral service for the deceased. The sealed container is interred in a niche in the columbarium. The niches are sealed.

- Columbarium is 9'-2" tall and 8'-10" wide.
- There are 90 niches, each measuring 10 ½" by 10 ½".
- 30 niches are either occupied or reserved.

Should St. Francis Episcopal Church cease to exist, the land reverts back to the Diocese of Texas which owns the property, and it is the Bishop of the Diocese of Texas who will direct to where the remains will be transferred.

The packet containing the information to the Planning and Zoning Commission and to City Council will be available on the City's website at <http://www.cityofpineypoint.com> beginning **Monday, September 24, 2018 through September 27, 2018**. You may also visit City of Piney Point City Hall after September 24, 2018, to review the same packet. City Hall is open Monday through Thursday, 7:30 a.m. to 12 p.m. and 1:00 p.m. to 4:30 p.m. and Friday 7:30 a.m. to 12 p.m.

If you have questions, please contact Louise Richman, Member of St. Francis Episcopal Church Vestry and Treasurer at 713-301-8164 or louiserichman@sbcglobal.net. Thank you very much.

Peace and Grace,

A handwritten signature in black ink that reads "Stuart A. Bates" with a small cross symbol at the end of the name.

The Rev. Stuart A. Bates
Rector
St. Francis Episcopal Church

Application for Interment Rights to Space(s) in
The Columbarium of St Francis Episcopal Church
Houston, Texas

Date: _____, 2 _____

Full Name of Applicant: _____

Mailing Address: _____ Telephone Hm: _____

_____ Wk: _____

Member of : _____
(Name and location of church)

Number of spaces requested: _____

Full names of each member of applicant's immediate family, other than applicant, for whom space is intended and for whom approval is requested (several alternates may be named):

	Relation to Applicant
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I designate as my successor in use, to be so entered upon the records of the Church, and authorize to act in my stead in the event of my own prior demise or permanent mental incapacity:

1. _____, if living, otherwise
2. _____, if living, otherwise
3. _____

In the event, however, that legal heirs or representatives other than the above named individuals are established by due process of law, to the satisfaction of the Rector with the advice and consent of two-thirds of the vestry, or due to events now unforeseen, the Rector with the advice and consent of two-thirds of the vestry may recognize a person or persons other than the above to be the applicant's successor in use, and it is agreed that no liability or claim by reason thereof shall be asserted against St. Francis Episcopal Church, its Rectors, Wardens or Vestry.

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CERTIFICATE OF INTERMENT RIGHTS

FOR

THE COLUMBARIUM

OF

ST. FRANCIS EPISCOPAL CHURCH

OF HOUSTON, TEXAS

This is to certify that in consideration of the contribution of the reservation fee, the receipt and sufficiency of which are hereby acknowledged, St. Francis Episcopal Church of Houston, Texas (hereinafter the "Church"), as Grantor, does hereby grant and convey to

as Grantee, solely for and subject to the limited conditions of use annexed hereto and incorporated herein by reference, the right of use of the following spaces(s) situated in the Columbarium of the Church as the location(s) and designating number(s) of such space(s) are shown on the charts, records, and plot plans of the Columbarium on file in the office of the Church.

In witness whereof, the Church has caused this instrument to be signed and its seal to be affixed hereto by its duly authorized officers, this ____ day of _____, 2____.

St. Francis Episcopal Church
of Houston, Texas

By: _____
Rector

and

By: _____
Junior Warden

Seal

Certificate Number _____

In making this application, I understand and agree that if it is approved and the reservation of space is consummated, my use of the interment rights to the spaces shall at all times be subject to the operation of St. Francis Episcopal Church as now existing or which may from time-to-time be promulgated by the Vestry of St. Francis Episcopal Church.

I agree to make a cash payment to the Church, upon approval of this application, in the amount of:

\$ _____

Signature of Applicant: _____

Approval as to qualification(s) of the listed person(s) for spaces(s):

Rector

Date: _____

Application approved and accepted:

Rector

Date: _____

Applicant notified of action:

Secretary of Church

Date: _____

Payment received:

Date: _____

CONDITIONS OF USE

The foregoing Certificate of Interment Rights (hereinafter the "Certificate") and all rights granted therein are expressly subject to the following conditions, exceptions, reservations and restrictions, and the Grantee named therein covenants and agrees that:

- A. The contribution of the reservation fee to the Church is not refundable except in the sole discretion of the Vestry.
- B. The Church expressly reserves the right, in its sole discretion, to refuse any request to inter or permit the interment of the remains of any person. In the event of such a refusal, the Church shall offer to refund and shall tender to the record owner or to the person entitled thereto all monies originally contributed (without interest) for the space in which interment is refused; provided however, that if the remains of one person are already interred in such space and the Church refuses a request to inter or permit the interment of the remains of a second person in the same space, the Church shall offer to refund and shall tender one-half of the monies originally contributed (without interest) for the space in which a second interment is refused.
- C. The use of the space in the Columbarium is limited and restricted to the interment of the cremated remains of persons who are members of St. Francis Episcopal Church, their families, or others as may be permitted in writing by the Rector acting with the advice and consent of two-thirds of the Vestry.
- D. The rights granted and conveyed by and in the Certificate may not be sold, transferred, assigned, or conveyed except as may be permitted in writing by the Rector acting with the advice and consent of two-thirds of the Vestry.
- E. No tablet, embellishment, monument, statuary or memorial of any sort shall be placed upon, near, or adjacent to the Columbarium except as may be permitted in writing by the Rector acting with the advice and consent of two-thirds of the Vestry.
- F. The property and space in which interment rights are granted and conveyed by and in the Certificate and the use thereof, are and the rights of the Grantee are now and shall at all times be subject to all applicable laws and ordinances, statutes, and regulations and shall also be subject to all new, additional or amended Conditions of Use that may hereafter be promulgated, which are and will be maintained and recorded in the office of the Church, where they will be available for inspection and copying during ordinary business hours. Grantee, by accepting the Certificate, acknowledges the existence and binding effect of such laws and conditions and consents and agrees to be bound by each and every one of them as the same may be amended from time to time.
- G. Grantee expressly understands, acknowledges, and agrees that (i) the Columbarium is neither a perpetual care cemetery, permanent maintenance cemetery, nor agreed care cemetery (hereinafter collectively referenced to as a "Cemetery"); (ii) the Columbarium has not been dedicated as a Cemetery, will not be dedicated as a Cemetery, and is not intended to be a Cemetery; and (iii) the limited right to use the space is not intended to grant, does not grant, and shall

never be construed as granting the Grantee or any person claiming, by, through or under a Grantee any property or ownership rights or legal title to the space in the Columbarium which runs with the land.

- H. The Church expressly reserves the right at any time to move the Columbarium to another location on the Church property or to another location if the Church is moved from its present location to a new location. If for any reason the Church ceases to exist, all remains in the Columbarium shall be removed to such location or otherwise be transferred as the Bishop of the Diocese of Texas may direct.
- I. Neither the Diocese, the Church, nor their clergy, wardens, vestry, agents, employees nor representatives shall be liable for damage to or loss of interred remains. The Church shall take reasonable precaution to protect remains placed within the Columbarium and the interests of Grantee; but the Church shall not be responsible for loss or damage from causes beyond its control, including but not limited to loss or damage by the elements, an Act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasion, insurrections, riots, civil commotion, or any order of any civil or military authority, whether the damage be direct or collateral. All conditions, exceptions, reservations, and restrictions contained or referred to herein shall be binding upon the Grantee, and the Grantee's heirs, devisees, executors, administrators, successors, and assigns. Nothing herein contained shall be deemed to restrict the Church's use of any other portion or section of St. Francis Episcopal Church. Only the Church or its successor(s) in interest may enforce any conditions, exceptions, reservations or restrictions, heretofore or hereafter placed upon the use of the Columbarium.

Accepted and Agreed to this _____ day of _____, 2_____.

Grantee

(4)

Inscription Order Form

To: St. Francis Episcopal Church

Subject to the conditions for use for **The Columbarium of St. Francis Episcopal Church**, you are hereby requested and authorized to have placed upon the front of the space, number _____, in which the cremated remains of _____ have been, or are scheduled to be interred, the engraved inscription(s) as follows:

Last Name: _____

First and any other(s): _____

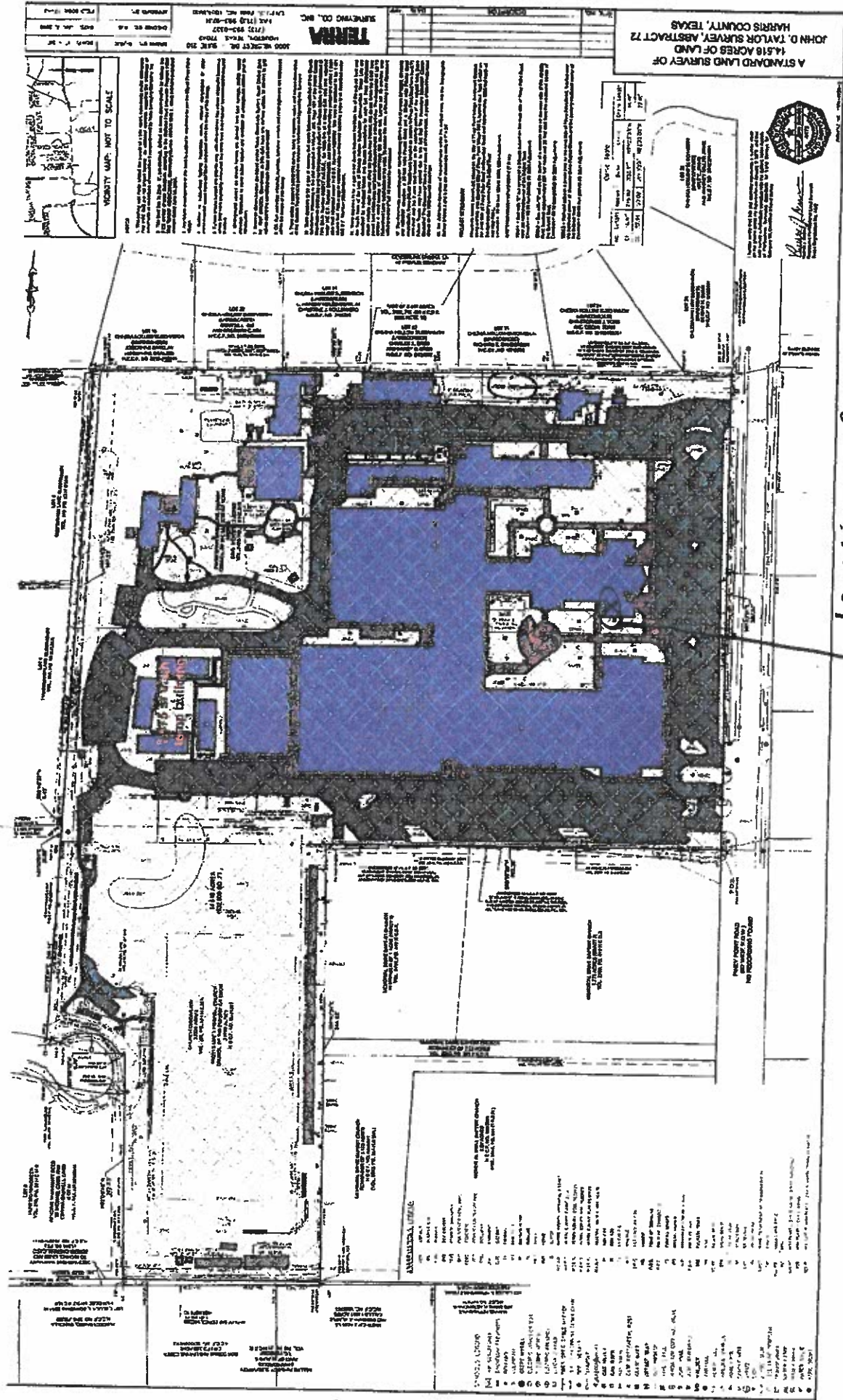
Date of Birth: _____ Date of Death: _____

My signature certifies the correctness of the above inscription text and any changes shall be at my expense.

Signed: _____ Date: _____, 20____

Authority for Request: _____

St. Francis Episcopal Church



A STANDARD LAND SURVEY OF
14.818 ACRES OF LAND
JOHN D. TAYLOR SURVEY, ABSTRACT 72
HARRIS COUNTY, TEXAS

Location of existing columbarium -
in the narthex, inside the church.