RESTRICTIVE COVENANT TRMINATION REVIEW SHEET

CASE: C14-82-091(RCT) **P.C. DATE:** April 24, 2007

ADDRESS: 2101, 2103 and 2105 Rio Grande Street

OWNER: David M Fender Family Partnership **AGENT:** Mike McHone

EXISTING ZONING: LO-NP (Limited Office-Neighborhood plan)

AREA: Approximately 8,672 square feet

REQUEST: Terminate existing restrictive covenant under File No. C14-82-091 requiring site plan approval by the Austin City Council for redevelopment on the site.

SUMMARY PLANNING COMMISSION RECOMMENDATION:
April 24, 2007
APPROVED STAFF'S RECOMMENDATION TO TERMINATE THE RESTRICTIVE COVENANT; BY CONSENT.
[J.REDDY, P.CAVAZOS 2ND] (9-0)

SUMMARY STAFF RECOMMENDATION:

Staff recommends termination of the existing restrictive covenant on the subject property. The termination of the existing restrictive covenant will not have a detrimental impact on the existing land uses in the area and will be compatible with surrounding development.

DEPARTMENT COMMENTS:

The subject property consists of an approximate 8,672 square feet site fronting Rio Grande Street zoned LO-NP. On April 21, 1983, the property was rezoned from "B" Residence – 1st Height and Area to "O-1" Office – 1st Height and Area by Ordinance No. 83-0421-I (Please see Attachment A). Along with the rezoning, a restrictive covenant was imposed requiring site plan approval by the Austin City Council for redevelopment on the site.

In 2004, the City Council enacted the Central Austin Combined neighborhood Plan which also implemented the University Neighborhood Overlay (UNO) district. In 2006, additional height was granted for this site.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	LO-NP	Offices
North	MF-4-NP	Apartments
South	MF-4-NP	Apartments
East	MF-4-NP	Apartments
West	NO-NP / GO-NP	Offices

WATERSHED: Shoal Creek **DESIRED DEVELOPMENT ZONE:** Yes

CAPITOL VIEW CORRIDOR: N/A **HILL COUNTRY ROADWAY:** N/A

NEIGHBORHOOD ORGANIZATIONS:

69--University Area Partners
511--Austin Neighborhoods Council
698--West Campus Neighborhood Association
742--Austin Independent School District
744--Sentral Plus East Austin Koalition (SPEAK)
754--Central Austin Neighborhoods Planning Area Committee
786--Home Builders Association of Greater Austin
937--Taking Action Inc.

SCHOOLS:
Austin Independent School District

- Bryker Woods Elementary School
- O. Henry Middle School
- Austin High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-82-091	"B" Residence – 1st Height and Area to "O-1" Office 1st Height and Area	APVD. O-1, 1ST H&A	08/05/82: APVD O-1, 1ST H&A; 1ST RDG. 04/21/83: APVD O-1, 1ST H&A; 2ND/3RD RDG

CITY COUNCIL DATE: **ACTION:**
June 7, 2007

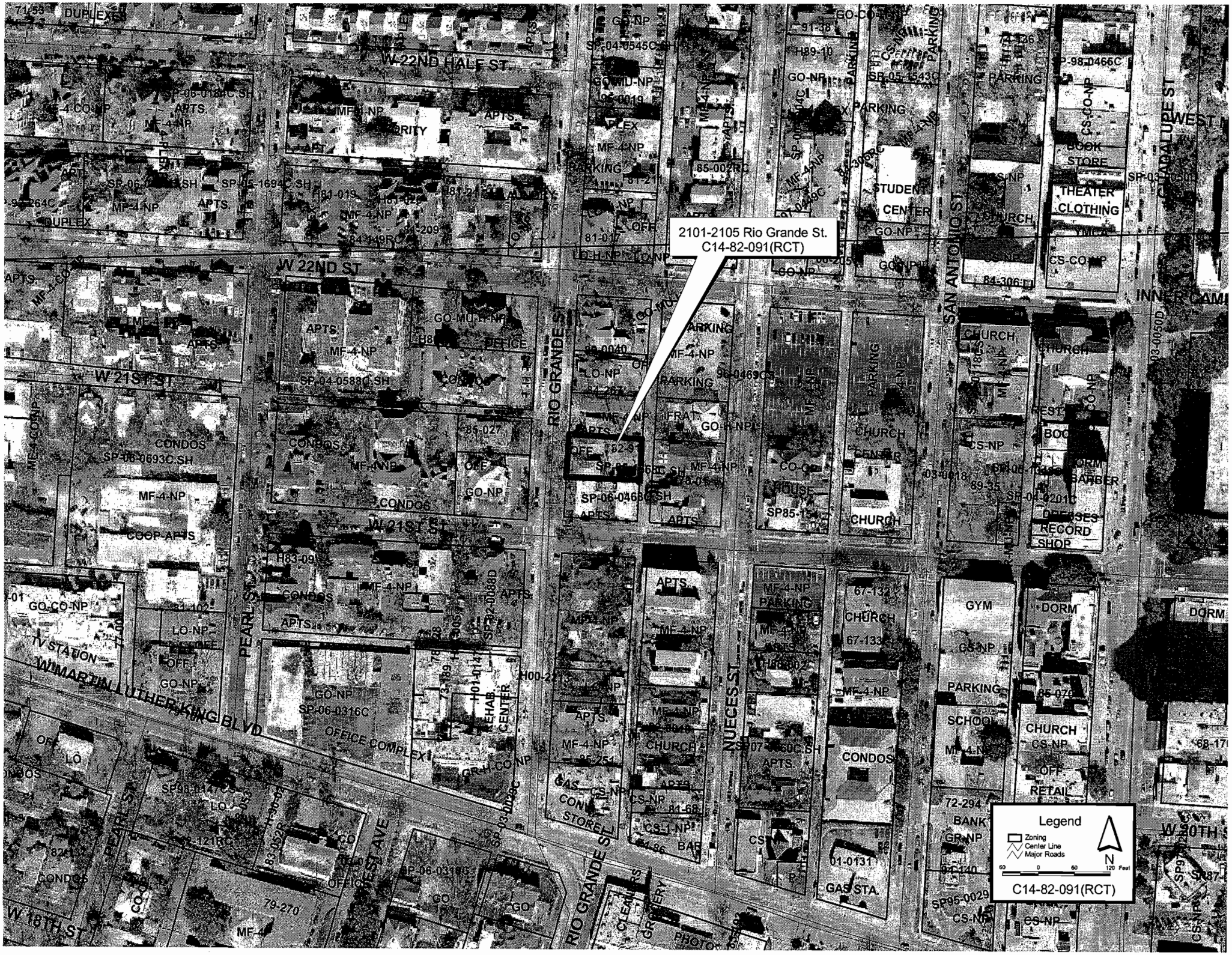
ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Jorge E. Rousselin, NPZD **PHONE:** 974-2975

E-MAIL: jorge.rousselin@ci.austin.tx.us

N	SUBJECT TRACT	RESTRICTIVE COVENANT TERMINATION	CITY GRID REFERENCE NUMBER
	PENDING CASE	CASE #: C14-82-091(RCT)	
	ZONING BOUNDARY	ADDRESS: 2101-2105 RIO GRANDE ST	DATE: 07-03
1"=400'	CASE MGR: J ROUSSELIN	SUBJECT AREA (acres): N/A	INTLS: SM J23


2101-2105 Rio Grande St.
C14-82-091(RCT)
W 22ND HALF ST
W 22ND ST
W 21ST ST
RIO GRANDE ST
SAN ANTONIO ST
NUECES ST
PEARL ST
MARTIN LUTHER KING BLVD
W 18TH ST
W 30TH ST
Legend
Zoning
Center Line
Major Roads
C14-82-091(RCT)

ORDINANCE NO. 83-0421-I

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1981 AS FOLLOWS: A PORTION OF LOT 5, LOUIS HORST'S SUBDIVISION OF OUTLOT 23½, DIVISION D, LOCALLY KNOWN AS 2103 RIO GRANDE STREET, FROM "B" RESIDENCE, SECOND HEIGHT AND AREA DISTRICT TO "O-1" OFFICE, FIRST HEIGHT AND AREA DISTRICT, SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Chapter 13-2 of the Austin City Code of 1981 is hereby amended to change the USE and HEIGHT and AREA designations from "B" Residence, Second Height and Area District to "O-1" Office, First Height and Area District on the property described in File C14-82-091, to-wit:

> All of that certain tract or parcel of land being a portion of Lot 5, Louis Horst's Subdivision of Outlot 23½, Division "D", a subdivision in the City of Austin, Travis County, Texas, as recorded in Volume Z, Pages 594 and 613 of the Deed Records of Travis County, Texas, said tract of land being more particularly described by metes and bounds as follows:

BEGINNING at an iron pipe found at the southwest corner of the said Lot 5, being at the northwest corner of Lot 6, being in the east r.o.w. line of Rio Grande Street for the southwest corner hereof;

THENCE, along the west line of said Lot 5, being the east line of Rio Grande Street, as found developed on the ground, N 18° 54' E for a distance of 35.00 feet to an X cut in a concrete drive for the northwest corner hereof;

THENCE, along the north line of the herein described tract, S 70° 58' E for a distance of 122.54 feet to an iron pin set in the east line of the said Lot 5, being in the west line of a 20 foot alley for the northeast corner hereof;

THENCE, along the east line of said Lot 5, being the west line of the said 20 foot alley, S 19° 00' W for a distance of 35.00 feet to an iron pipe found at the southeast corner of the said Lot 5, being at the northeast corner of the said Lot 6 for the southeast corner hereof;

ATTACHMENT A

THENCE, along the south line of said Lot 5, being the north line of said Lot 6, N 70° 58' W for a distance of 122.48 feet to the PLACE OF BEGINNING,

locally known as 2103 Rio Grande Street in the City of Austin, Travis County, Texas.

PART 2. It is hereby ordered that the USE and HEIGHT and AREA maps accompanying Chapter 13-2 of the Austin City Code of 1981 and made a part thereof shall be changed so as to record the change ordered in this ordinance.

PART 3. The rule requiring that ordinances shall be read on three separate days is hereby suspended, and this ordinance shall become effective ten (10) days following the date of its passage.

PASSED AND APPROVED

April 21, 1983

John Trevino, Jr.
Mayor Pro Tem

APPROVED: Albert DeLaRosa
Albert DeLaRosa
City Attorney

ATTEST: James E. Aldridge
James E. Aldridge
Acting City Clerk

:saf

C14-82-091

MAY 26 '83 RESTRICTIVE COVENANT 1.00 2.00 no dig

THE STATE OF TEXAS

COUNTY OF TRAVIS MAY-2-83 6509 * 13.00 3-18-4771

WHEREAS, Frederick B. Parke of Travis County, Texas, is the owner of the following described property, to-wit:

Portion of Lot 5, Louis Horst Subdivision of outlot 23 1/2, Division D, more particularly described by metes and bounds in Exhibit "A" which is attached hereto and made a part hereof. FBP *

WHEREAS, the City of Austin and Frederick B. Parke have agreed that the above described property should be impressed with certain covenants and restriction running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, Frederick B. Parke for and in consideration of One and No/100 Dollars ($1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land, and shall be binding on him, his successors and assigns, as follows, to-wit:

1. No improvements shall be constructed on the above described property except those indicated on a site plan heretofore approved by the Austin City Council, a copy of which plan is attached hereto and made a part hereof, marked EXHIBIT B. FBP

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

4. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so. 3-18-4772

5. This agreement may be modified, amended or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the above described property at the time of such modification, amendment or termination.

EXECUTED, this the 31 day of MARCH, 1983.

Frederick B. Parke
(Owner's Signature)

THE STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared FREDERICK B. PARKE known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 31 day of MARCH, 1983.

Kathleen A. Pike

FIELD NOTES
FOR
STEWART TITLE COMPANY

3-18-4773

PORTION OF LOT 5

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND BEING A PORTION OF LOT 5, LOUIS HORST'S SUBDIVISION OF OUTLOT 23 1/2, DIVISION "D", A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AS RECORDED IN PLAT BOOK Z, PAGE 594 AND Z, PAGE 613 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pipe found at the Southwest corner of the said Lot 5, being at the Northwest corner of Lot 6, being in the East r.o.w. line of Rio Grande Street for the Southwest corner hereof;

THENCE along the West line of said Lot 5, being the East line of Rio Grande Street, as found developed on the ground, N 18° 54' E for a distance of 35.00 feet to an X cut in a concrete drive for the Northwest corner hereof;

THENCE along the North line of the herein described tract, S 70° 58' E for a distance of 122.54 feet to an iron pin set in the East line of the said Lot 5, being in the West line of a 20 foot alley for the Northeast corner hereof;

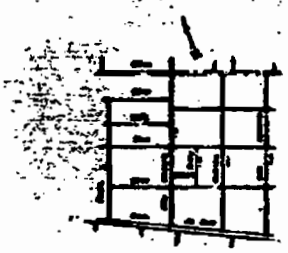
THENCE along the East line of said Lot 5, being the West line of the said 20 foot alley, S 19° 00' W for a distance of 35.00 feet to an iron pipe found at the Southeast corner of the said Lot 5, being at the Northeast corner of the said Lot 6 for the Southeast corner hereof;

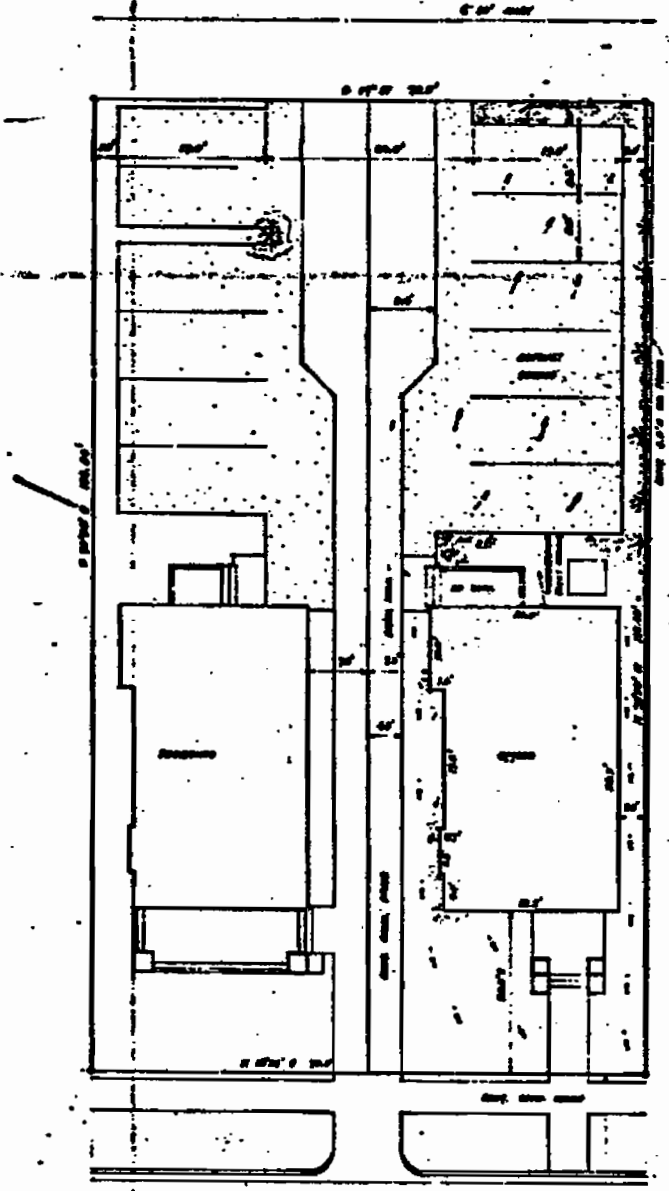
THENCE along the South line of said Lot 5, being the North line of said Lot 6, N 70° 58' W for a distance of 122.48 feet to the PLACE OF BEGINNING.

AS SURVEYED BY:

W. HARVEY SMITH
REGISTERED PUBLIC SURVEYOR NO. 720
January 25, 1982

3-18-4774





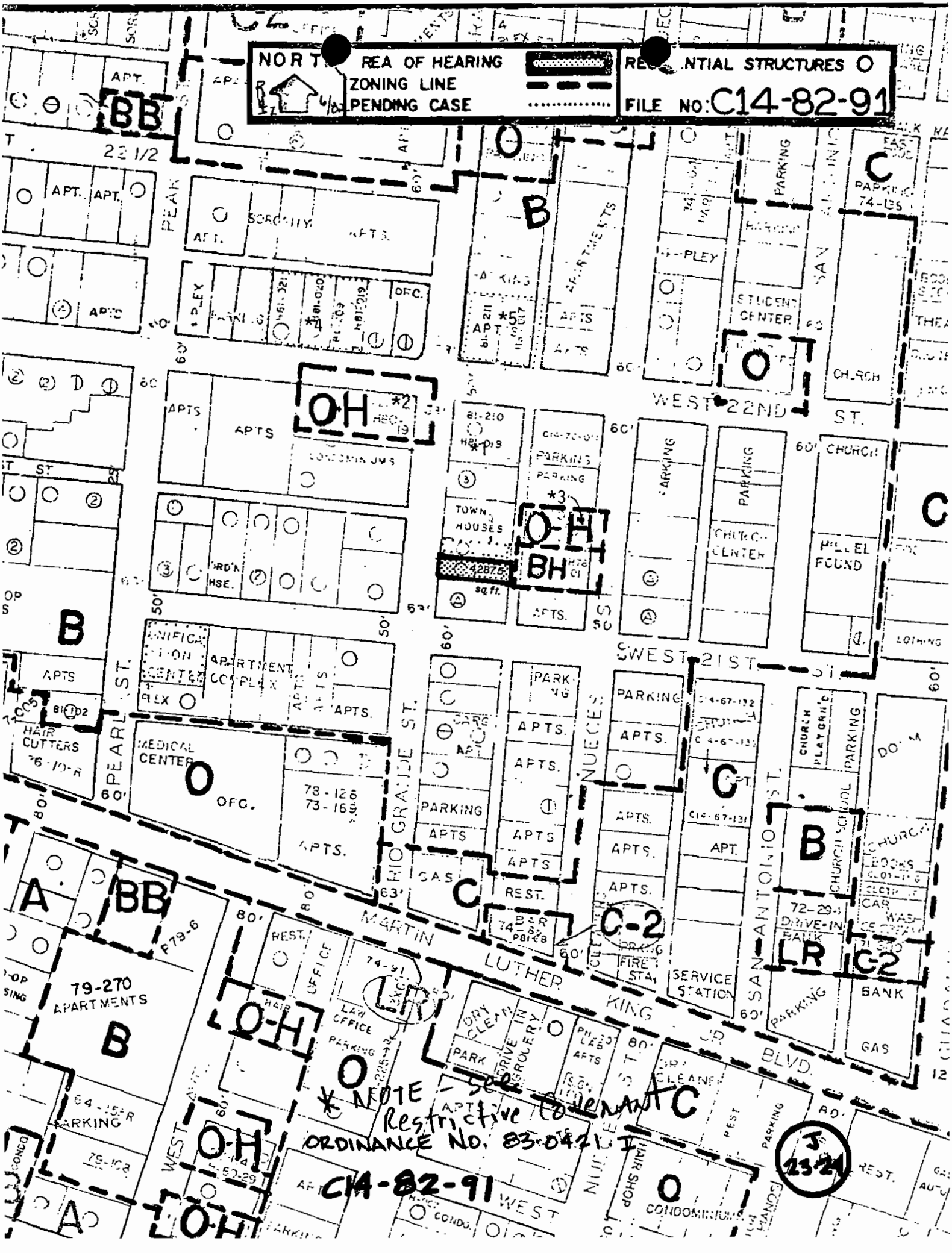
SITE PLAN RELEASE NOTES :

1. Require compliance with Ordinance and Building Code requirements prior to issuance of Certificate of Occupancy.
2. All improvements on tract shall be in accordance with the released site plan. Any revisions or additional improvements will require site plan and restrictive covenant amendment prior to construction on site.

Richard H. Little
Director of Planning

A PROPOSED OFFICE
BIRD BIG GRANDE CO.
AUSTIN, TRAVIS COUNTY, TEX.

Site Plan


NORTH
REA OF HEARING
ZONING LINE
PENDING CASE
RESIDENTIAL STRUCTURES O
FILE NO: C14-82-91
WEST 22ND ST.
WEST 21ST ST.
MARTIN LUTHER KING JR BLVD.
RIO GRANDE ST.
NUECES ST.
SAN ANTONIO ST.
PEARL ST.
PEAR
APT.
APTS.
SORORITY
PLEX
OFC.
PARKING
STUDENT CENTER
CHURCH
CHURCH CENTER
HILLEL FOUND
TOWN HOUSES
CONDOMINIUMS
ORD'N HSE.
APARTMENT COMPLEX
MEDICAL CENTER
HAIR CUTTERS
78-126
73-169
79-270 APARTMENTS
LAW OFFICE
DRY CLEAN
DRIVE-IN GROCERY
SERVICE STATION
CHURCH SCHOOL
CHURCH BOOKS
72-294
DRIVE-IN BANK
BANK
GAS
CONDOMINIUMS
HAIR SHOP
REST.
BAR
FIRE STA.
BB
O
B
C
OH
O-H
BH
C-2
LR
A
J 23-24
* NOTE - See Restrictive Covenant
ORDINANCE NO. 83-0421-I
C14-82-91