Zoning Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: Z-9
AGENDA DATE: Thu 02/16/2006
PAGE: 1 of 1

SUBJECT: C14-73-045(RCT) - 37th Street Medical Office - Conduct a public hearing and approve a restrictive covenant termination for the property locally known as 805 West 37th Street (Shoal Creek Watershed). Planning Commission Recommendation: To approve the request to terminate the restrictive covenant. Applicant: CAMCO Building II, Ltd. (J. David Trotter). Agent: Consort, Inc. (Steve King). City Staff: Jorge E. Rousselin, 974-2975.

REQUESTING DEPARTMENT:	Neighborhood Planning and Zoning	**DIRECTOR'S AUTHORIZATION:**	Greg Guernsey

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RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

CASE: C14-73-045 (RCT)

P.C. DATE: December 13, 2005
January 10, 2006
January 24, 2006

ADDRESS: 805 West 37th Street

OWNER: CAMCO Building II, Ltd.
(J. David Trotter)

AGENT: Consort Inc. (Steve king)

EXISTING ZONING: GR-MU-CO-NP (Community Commercial-mixed use-conditional overlay-neighborhood plan) combining district

AREA: 0.710 Acres (30,927.6 square feet)

SUMMARY PC RECOMMENDATION:

January 24, 2006:
APPROVED STAFF'S RECOMMENDATION TO TERMINATE THE RESTRICTIVE COVENANT.
[C.GALINDO, J.REDDY 2ND] (9-0)

SUMMARY STAFF RECOMMENDATION (PLEASE REFER TO EXHIBITS):

Staff recommends termination of the restrictive covenant under document No. 81-7482 pertaining to a privacy fence as referenced in Zoning case C14-73-045 (RTC) for the purpose of developing a medical office and associated parking lot.

DEPARTMENT COMMENTS:

The subject property is currently an existing surface parking lot accessed from West 37th Street. The existing restrictive covenant under document No. 81-7482 includes the following restriction on the property (Please see Exhibit A):

1. That the undersigned or his successors in title shall construct and thereafter maintain on the south and east lines of the subject property, a privacy fence not less than 6 feet in height simultaneously with the construction of any improvements on said property.

The property owner has constructed a six-foot tall, masonry privacy fence along the south property line as required by the existing restrictive covenant. The east property line referenced in the restrictive covenant no longer exists as it was the west property line of the old Gaffney Street right-of-way which has been vacated. To meet the requirements of the restrictive covenant, a fence would have to be constructed at a diagonal, trough the central portion of the subject tract. This tract is furthermore subject to compatibility standards as specified in 25-2-1051 through 25-2-1082.

The applicant has requested to terminate the existing restrictive covenant for the propose of developing an 8,000 square foot medical office building. An approved site plan exists under SP-05-1397C (Please see Exhibit B).

Furthermore, the subject property was rezoned on August 26, 2004 to GR-MU-CO-NP under Ordinance 040826-57 enacting the Central Austin Combined Neighborhood Plan. The property is subject to the following conditions under the ordinance:

1. The subject property may be developed as a neighborhood mixed use building special use as set forth in Sections 25-2-1502 through 25-2-150;
2. The maximum height is 40 feet from ground level;
3. Drive-in service is prohibited as an accessory use to commercial uses;
4. The following uses are prohibited uses:
   - Automobile rentals
   - Automobile sales
   - Construction sales and services
   - Indoor sports and recreation
   - Outdoor sports and recreation
   - Service station
   - Automobile repair services
   - Automobile washing (of any type)
   - Drop-off recycling collection facilities
   - Outdoor entertainment
   - Pawn shop services

1. The following uses are conditional uses:
   - Business or trade school;
   - College and university facilities;
   - Commercial off-street parking;
   - Group home, Class II;
   - Hospital services (general);
   - Hotel-motel;
   - Indoor entertainment;
   - Research services;
   - Residential treatment;
   - Transitional housing

Staff recommends termination of the restrictive covenant under document No. 81-7482 pertaining to a privacy fence as referenced in Zoning case C14-73-045 (RTC) for the purpose of developing a medical office and associated parking lot. The staff recommendation is intended to encourage a balance in land uses and the development of undeveloped land in the inner city core.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	GR-MU-CO-NP	Parking lot/ Undeveloped land
North	GR-NP	Parking garage / Medical offices
South	P-NP / SF-3-CO-NP	Single family residential / Post office
East	LO-MU-NP	Office complex
West	P-NP	Post office

NEIGHBORHOOD PLAN AREA: Central Austin Combined – West University **TIA:** N/A

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

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

NEIGHBORHOOD ORGANIZATIONS:

33--Heritage Neighborhood Assn.
511--Austin Neighborhoods Council
742--Austin Independent School District
754--Central Austin Neighborhoods Planning Area Committee
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
C14P-87-026	Site Plan approval for Travis Bank remote parking facility.	11/03/87: PC Approval of CUP (9-0).	N/A
C8-04-0069.0A	Re-subdivision of Travis Bank Park Section 2 Subdivision.	06/08/04: PC disapproval by consent.	N/A Administrative approval on 08/10/04.
C14-04-0021	Central Austin Combined Neighborhood Plan various rezonings.	05/06/04: PC approved Staff recommendation (8-0)	05/19/04: Approved 3rd Reading. (6-0)

RELATED CASES:

On August 10, 2004, Travis Bank Park, Section 2 plat was re-platted as 37th Street Medical Subdivision under recorded document # 200400248 (Please see Exhibit C).

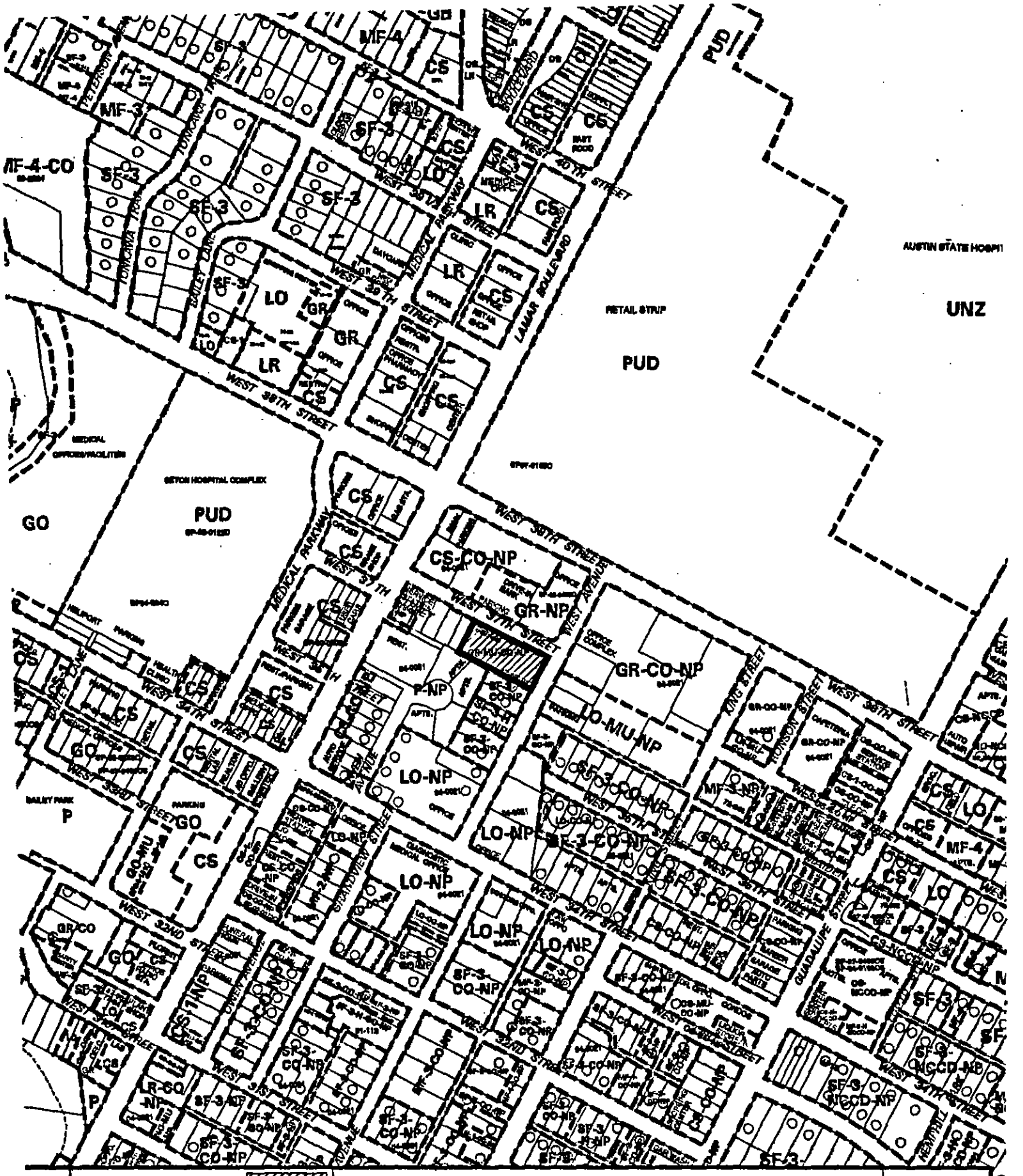
CITY COUNCIL DATE: February 16, 2006 **ACTION:**

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

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

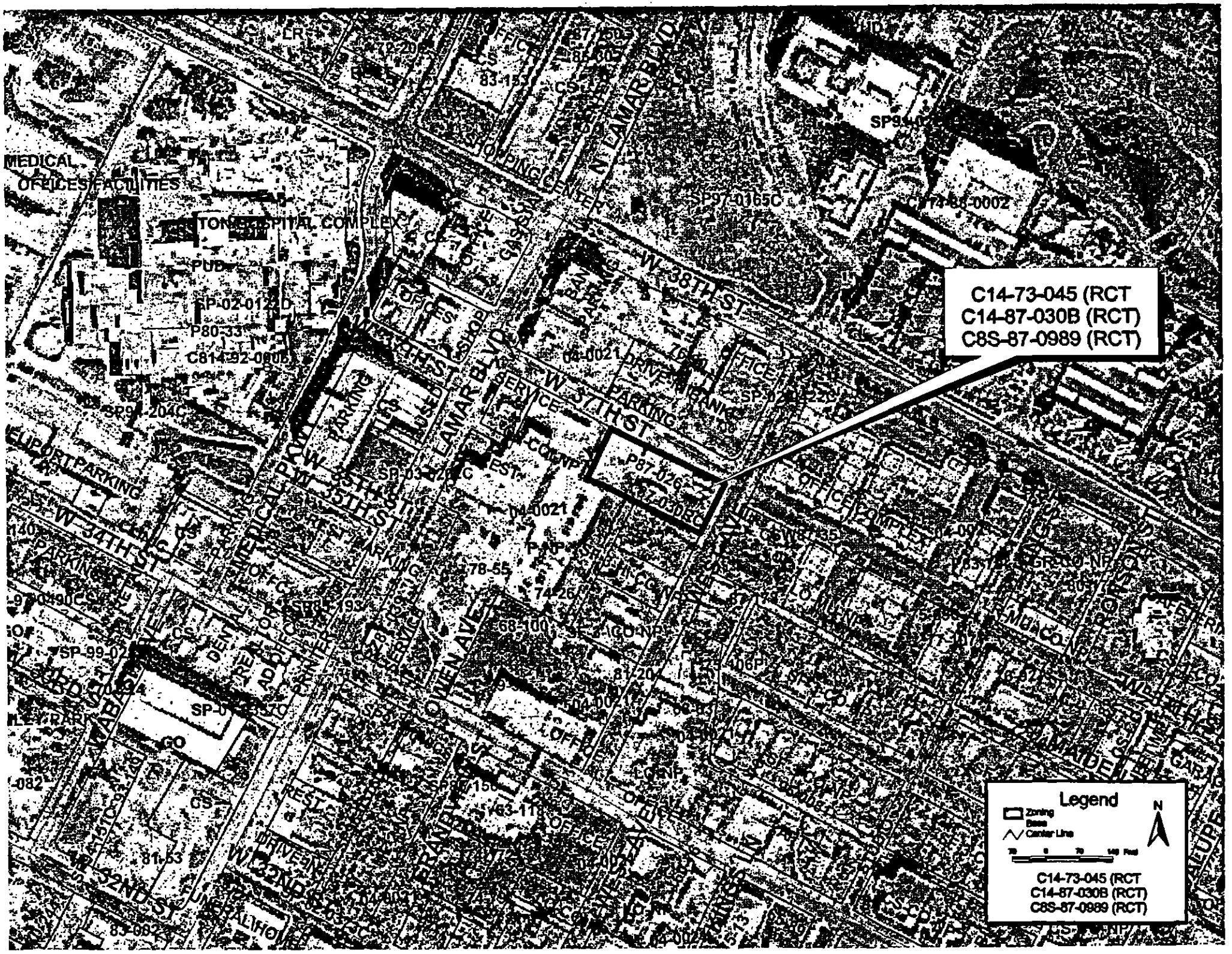
E-MAIL: jorge.rousselin@ci.austin.tx.us

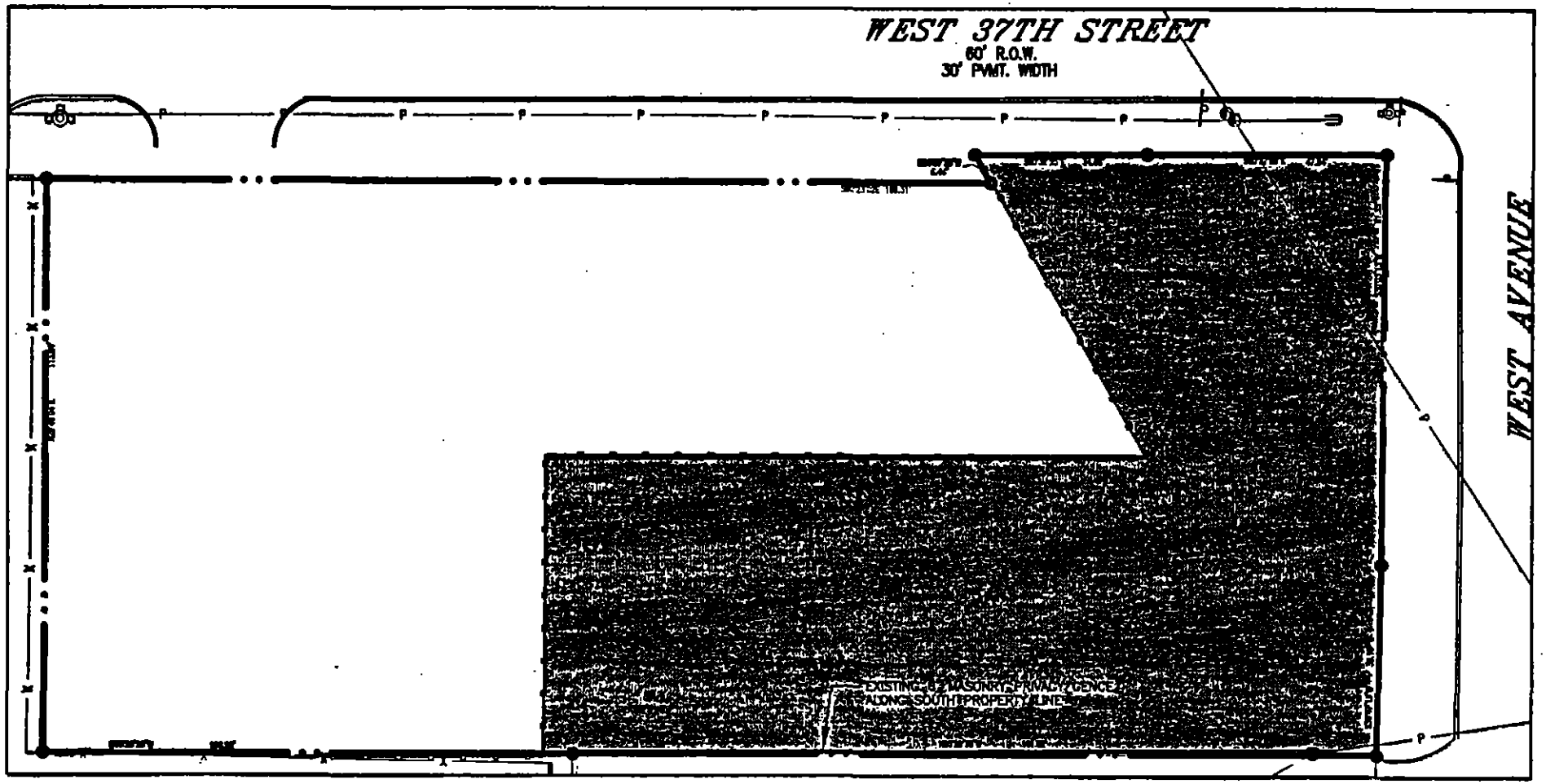


N

SUBJECT TRACT	RESTRICTIVE COVENANT TERMINATION	CITY GRID REFERENCE NUMBER
PENDING CASE	CASE #: C8S-87-098(RCT)	
ZONING BOUNDARY	ADDRESS: 805 W 37TH ST — DATE: 05-10	J25
CASE MGR: J.ROUSSELIN	SUBJECT AREA (acres): 2.978 — INTLS: SM	

1" = 400'


C14-73-045 (RCT
C14-87-030B (RCT)
C8S-87-0989 (RCT)
Legend
Zoning
Base
Center Line
N
C14-73-045 (RCT
C14-87-030B (RCT)
C8S-87-0989 (RCT)
W 38TH ST
W 37TH ST
N LAMAR BLVD
LAMAR BLVD
W 35TH ST
W 34TH ST
MEDICAL PKWY
OWEN AVE
W 32ND ST
MEDICAL OFFICES FACILITIES
SETON HOSPITAL COMPLEX
PUD
SP-02-0124D
P80-33
C814-92-0006
SP97-0165C
SHOPPING CENTER
OFFICES
PARKING
DRIVE-IN BANK
SERVICE
P87-026
87-030RC
04-0021
HELIPORT PARKING
SP97-204C
OFFICE COMPLEX
78-55
74-26
68-100
81-20
81-63
83-153
CS
GO
LR
REST



LEGEND

AREA INCLUDED IN RESTRICTIVE COVENANT (ZONING CASE #C14-87-0308). (REQUIRES COMPLIANCE WITH 'LO' SITE DEVELOPMENT REGULATIONS AND CHAP. 13-2A LANDSCAPE REGULATIONS)

FENCE LOCATION REQUIRED IN RESTRICTIVE COVENANT. (ZONING CASE #C14-73-045)

C14-73-045 (RCT)

W 37TH ST. MEDICAL OFFICE

4 50

81-7482

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

WHEREAS, the undersigned is the owner of Lots 21 and 22 and the north 59.75 feet of Lots 23 and 24, of Northend Addition, a subdivision of a portion of Outlot 76, Division "D," in the City of Austin, Travis County, Texas, according to the map or plat of said subdivision recorded in Book 2, Page 179, Plat Records of Travis County, Texas, to which plat and its record reference is here made for further description, and said Lot 22 and the north 59.75 feet of Lots 23 and 24 being described on Exhibit A, which exhibit is attached hereto and made a part hereof for all purposes, which land is located in the City of Austin, Travis County, Texas; and

WHEREAS, the City of Austin is desirous of said property being developed properly and appropriately so that such City will be able to plan the future expansion of its utility and street systems in the area; and

WHEREAS, the City of Austin and the undersigned have agreed that the above described property owned by the undersigned should be impressed with a covenant and restriction running with the land and desire to set forth such agreement in writing:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the undersigned, the owner of the above described property in the City of Austin, Travis County, Texas, for a full valuable consideration to him in hand paid by the City of Austin, a municipal corporation, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described as set forth above, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding upon him, his heirs, executors, administrators, successors and assigns, as follows, to wit:

EXHIBIT A

1. That the undersigned or his successors in title shall construct and thereafter maintain on the south and east lines of the subject property, a privacy fence not less than 6 feet in height simultaneously with the construction of any improvements on said property.

2. If any person or persons 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 the person or persons violating or attempting to violate such agreement or covenant, or either to prevent him or them from so doing or to collect damages for such violation.

3. If any part or provision of the agreement or covenant herein contained shall be declared invalid by a Judge or Court order, the same shall in no wise affect any of the other provisions of this agreement, and such remaining portion of the agreement shall remain in full force and effect.

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.

5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority vote 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 owner of the above described property at the time of such modification, amendment, or termination.

Executed this 2nd day of July, 1973.

Emile Jamail

EMILE JAMAIL

By Richard C. Baker

Richard C. Baker,
Attorney in Fact

THE STATE OF TEXAS :

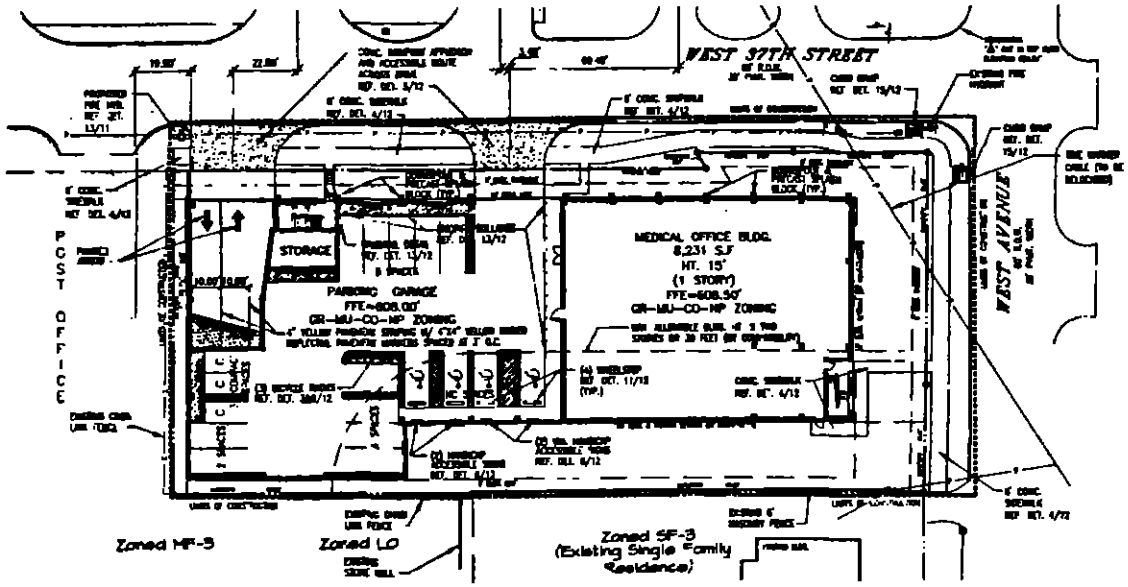
COUNTY OF TRAVIS : Before me, the undersigned authority, on this day personally appeared Richard C. Baker, attorney in fact for Emile Jamail, known to me to be the person whose name is subscribed to the

above and foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

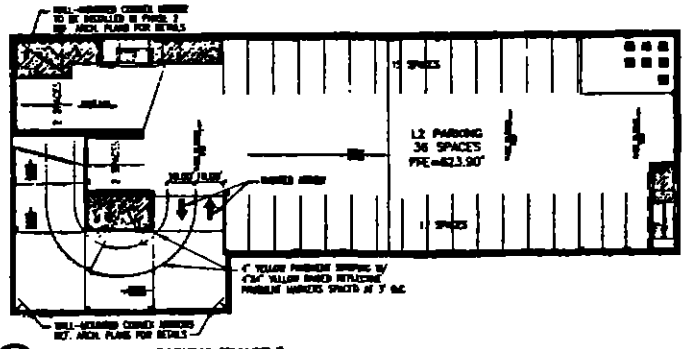
Given under my hand and seal of office, this 2nd day of July, 1973.

Notary Public, Travis County, Texas

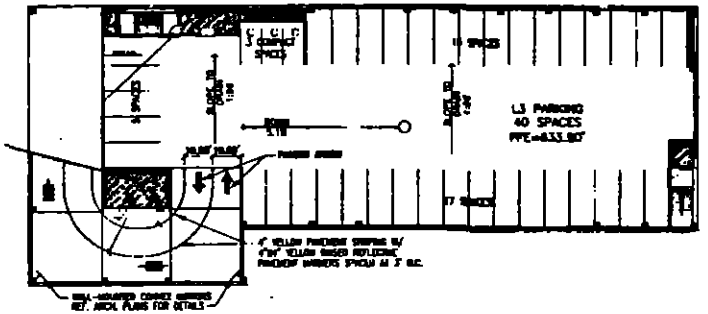
NOTARY SEAL



1 SITE PLAN AND FIRST LEVEL PARKING (PHASE 1)



2 SECOND LEVEL PARKING (PHASE 1)



3 THIRD LEVEL PARKING (PHASE 2)

BENCHMARK

PHASING NOTE

SITE DATA TABLE (PHASE I AND II)

PARKING TABLE

LEGEND

PAVEMENT PAINT SPECIFICATION

BOLLARD SPECIFICATION

SITE PLAN NOTES

PHASING NOTES

SITE PLAN RELEASE

EXHIBIT B

CAMCO LAND LTD.
1018 MOPAC CIR STE 102
AUSTIN, TEXAS 78746

37th ST. MEDICAL OFFICE
905 WEST 37TH STREET

SITE PLAN AND PHASING PLAN

Consort Inc

NORTH

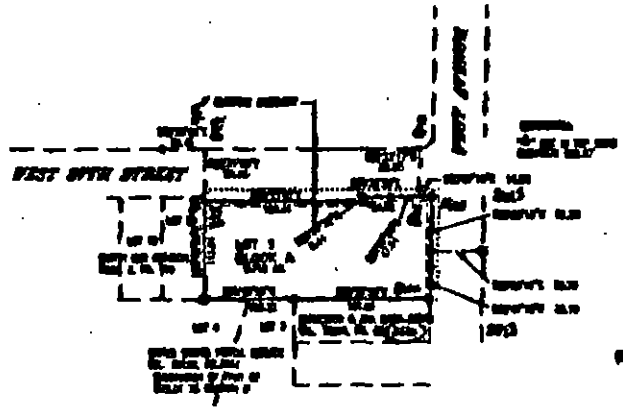
SHEET
4
of
13

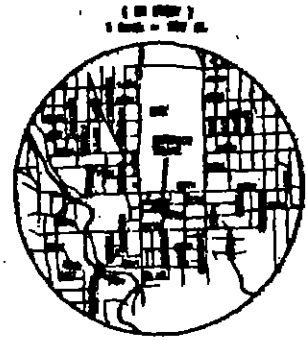
BY-05-597C

2004100248

37TH STREET MEDICAL SUBDIVISION

GRAPHIC SCALE APRIL 30, 2004





LOCATION MAP

NOTES

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21.

STATE OF TEXAS }
COUNTY OF TRAVIS }

KNOW ALL MEN BY THESE PRESENTS:

OWNER OF LAND THIS THE 15th DAY OF July, 2004, A.D.

STATE OF TEXAS }
COUNTY OF TRAVIS }

THE APPROVAL AND ACCEPTANCE OF THIS PLAT BY THE CITY OF AUSTIN, THIS THE DAY OF August, 2004

APPROVED, ACCEPTED AND AUTHORIZED FOR RECORD BY THE DIRECTOR, WATERSHED PROTECTION & DEVELOPMENT REVIEW DEPARTMENT, CITY OF AUSTIN, COUNTY OF TRAVIS, THIS THE 16th DAY OF August, 2004, A.D.

DIRECTOR, WATERSHED PROTECTION AND DEVELOPMENT REVIEW DEPARTMENT

STATE OF TEXAS }
COUNTY OF TRAVIS }

I, DANA DEBEAUVOIR, CLERK OF TRAVIS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING AND ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE DAY OF AND DULY RECORDED ON THE DAY OF IN THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF TRAVIS COUNTY, TEXAS.

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK, THIS THE 23

DANA DEBEAUVOIR, COUNTY CLERK, TRAVIS COUNTY, TEXAS

V. BENAVIDES

FILED FOR RECORD AT 4:12 O'CLOCK P.M. THIS THE 23 DAY

DANA DEBEAUVOIR, COUNTY CLERK, TRAVIS COUNTY, TEXAS

V. BENAVIDES

OWNER, INC.
710 BONE STREET
AUSTIN, TEXAS 78703

07/24/04

Cimarron Inc.

EXHIBIT C
C8-04-0069.0A

SHEET 1 OF 1
C8-04- 0069.0A

FROM: Tim Blackwood
3505 West Ave.

TO: The Planning Commission of the City of Austin

RE: Case Nos.## C14-87-030B (RCT)
C14-73-045 (RCT)
C8S-87-098 (RCT)

ADDRESS: 805 West 37th Street

I request a postponement of the referenced cases from January 10, 2006 until January 24, 2006 because I wish to speak in opposition to the applications but must be out of town on business on January 10, 2006.

Signed:

Dated: 1-8-2006

TERMINATION OF RESTRICTIVE COVENANT
FOR
ZONING CASE: C14-73-045

Owner:	Camco Building II, Ltd., a Texas limited partnership
Address:	1016 Mopac Circle; Suite 102, Austin, Texas 78746
City:	The City of Austin, a home-rule city, municipal corporation and political subdivision of the State of Texas, in Travis County, Texas.
City Council:	The City Council of the City of Austin.
Consideration:	Ten and No/100 Dollars ($10.00) and other good and valuable consideration paid by the Owner to the City of Austin, the receipt and sufficiency of which is acknowledged.

WHEREAS, Emile Jamail, as owner of all that certain property described in Zoning File No. C14-73-045 (the "Original Property"), as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County, Texas, in Volume 4681, beginning at Page 1700, (the "Restrictive Covenant"), imposed certain restrictions and covenants on the Original Property by the Restrictive Covenant of record; and,

WHEREAS, the Restrictive Covenant provided that the covenant could be modified, amended, or terminated by joint action of both (a) a majority of the members of the City Council and (b) the Owner of the Property at the time of such modification, amendment or termination; and,

WHEREAS, Camco Building II, Ltd., a Texas limited partnership, is the sole and current owner (the "Owner") of the Original Property on the date of this termination and desires to terminate the Restrictive Covenant; and,

WHEREAS, the City Council and the Owner, as the sole and current owner of the Original Property, agree the Restrictive Covenant should be terminated;

NOW, THEREFORE, for and in consideration of the premises and mutual promises, covenants, and agreements hereinafter set forth, the City of Austin and the Owner, agree as follows:

1. The Restrictive Covenant is terminated by this termination. Each and every one of the terms, conditions, and provisions of the Restrictive Covenant, as set forth in the Restrictive Covenant, shall have no force or effect on and after the effective date of this termination.

2. The City Manager, or his designee, shall execute, on behalf of the City, this Termination of Restrictive Covenant for Zoning File No. C14-73-045 (the "Termination of Restrictive Covenant") as authorized by the City Council of the City of Austin. This Termination of Restrictive Covenant shall be filed in the Real Property Records of Travis County, Texas, which will terminate the document of record in Volume 4681, beginning at Page 1700.

EXECUTED this the _____ day of _____, 2006.

OWNER:

Camco Building II, Ltd., a Texas limited partnership

By: Joca, Inc., a Texas corporation,
General Partner

By: _____
J. David Trotter,
Vice President

CITY OF AUSTIN:

By: _____
Laura J. Huffman,
Assistant City Manager,
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____ 2006, by J. David Trotter, Vice President of Joca, Inc., a Texas corporation, on behalf of said corporation, and the corporation acknowledged this instrument as General Partner on behalf of Camco Building II, Ltd., a Texas limited partnership.

_____
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the _____ day of _____ 2006, by Laura J. Huffman, as Assistant City Manager of the City of Austin, a municipal corporation, on behalf of said municipal corporation.

_____
Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1546
Austin, Texas 78767-1546
Attention: Diana Minter, Legal Assistant