Zoning Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: Z-11
AGENDA DATE: Thu 02/16/2006
PAGE: 1 of 1

SUBJECT: C8S-87-098(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 restrictive covenant termination. 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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RCA Serial#: 11139 Date: 02/16/06 Original: Yes
Disposition:

Published:
Adjusted version published:

RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

CASE: C8S-87-098 (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. 00021904 pertaining to residential use and parkland dedication as referenced in Zoning case C8S-87-098 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 includes the following restriction on the property (Please see Exhibit A):

1. Before the property may be used or redeveloped for any residential purpose, adequate parkland must be provided to serve the residences, according to the standards and regulations contained in Chapter 13-3 of the Code of the City of Austin.

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).

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). The existing plat includes note #7 which states:

- *This subdivision is restricted to uses other than residential.*

Therefore, the restrictive covenant provision requiring parkland dedication in conjunction with residential uses will not apply.

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. 00098208 pertaining to land use, impervious cover, and landscaping and as referenced in Zoning case C14-87-030B(RTC) for the purpose of developing a medical office and associated parking lot for. 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

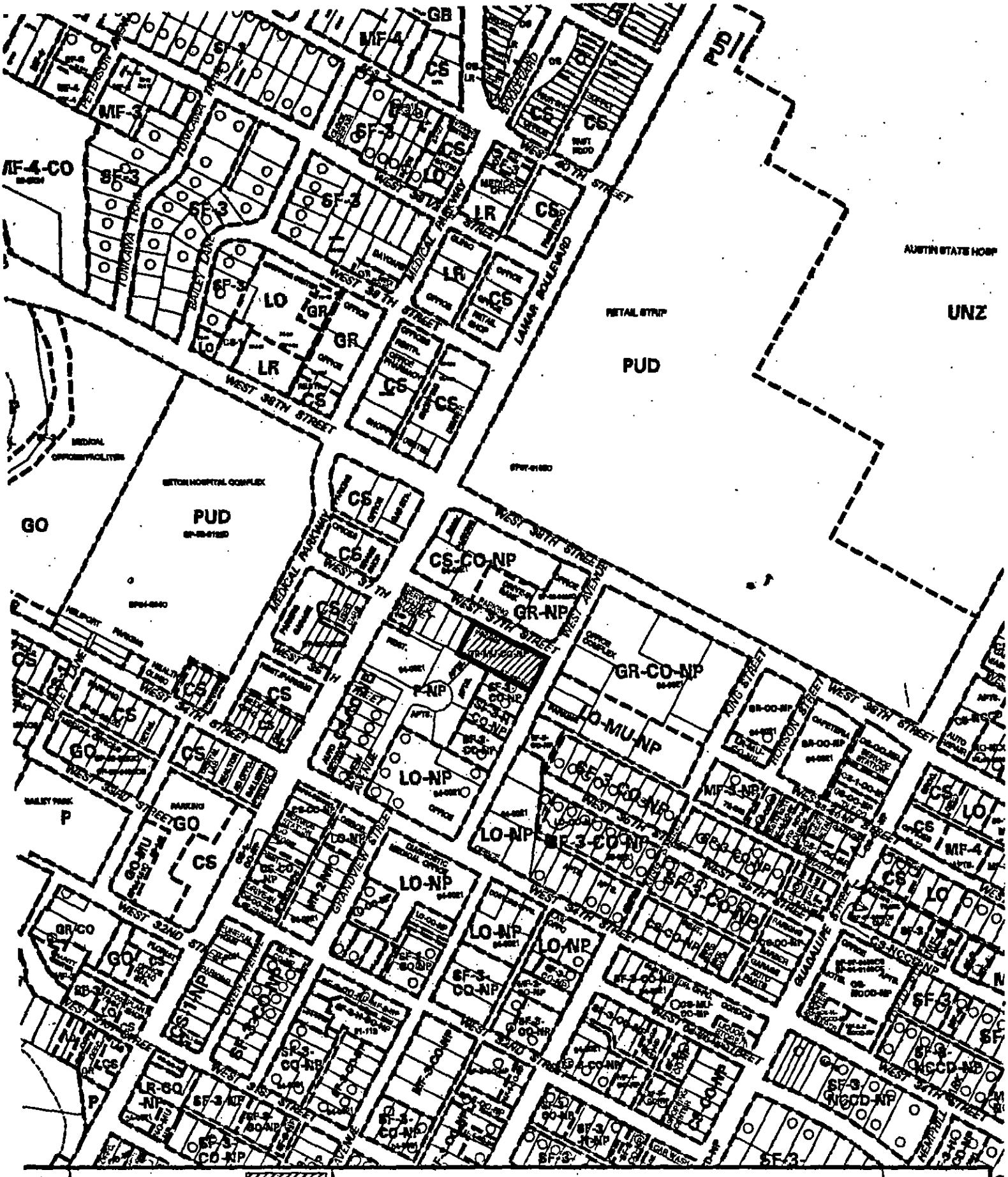
ORDINANCE NUMBER:

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

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

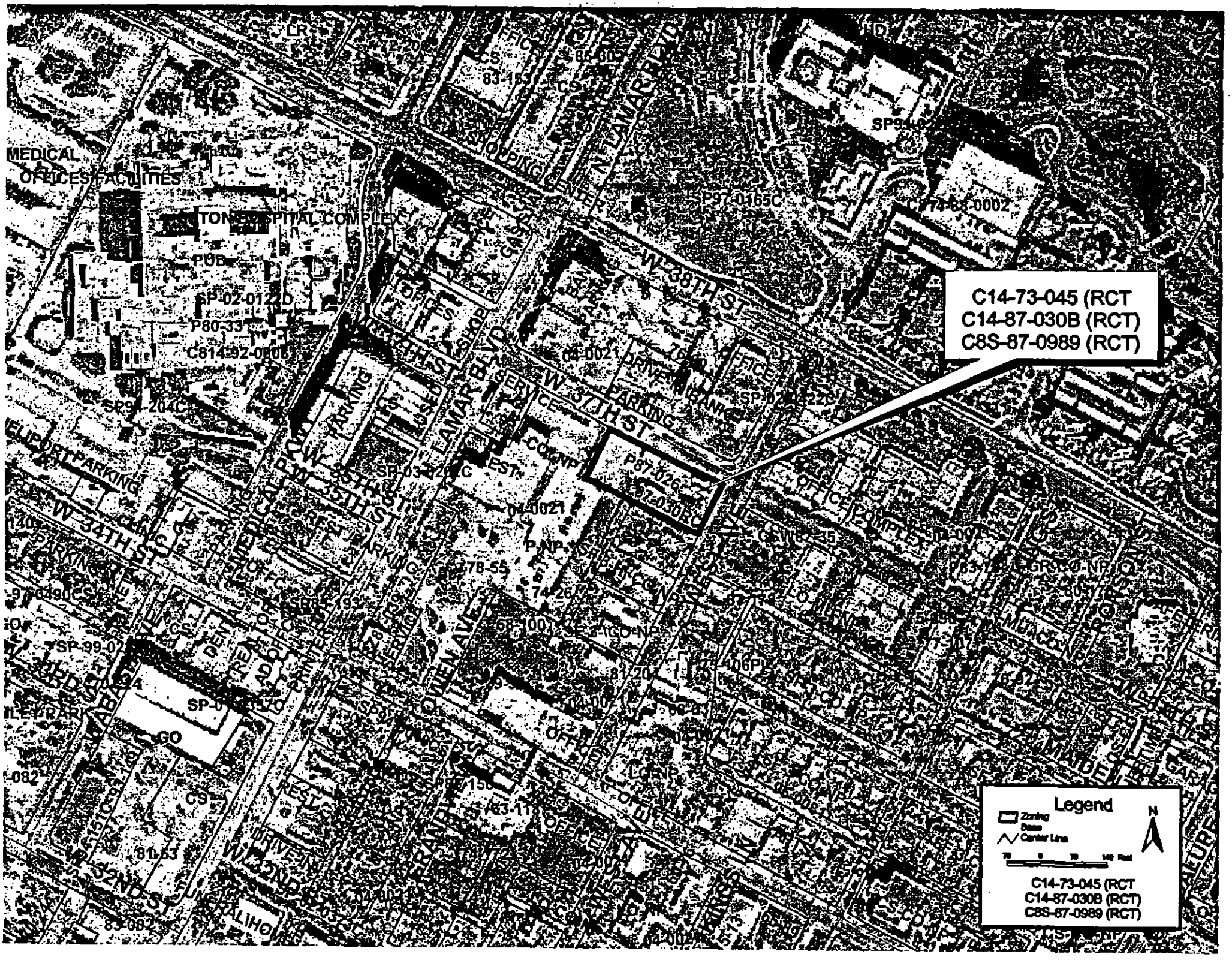
Subdivision

1. The parkland restrictive covenant is not required because the owner has prohibited residential development with a plat note. SR review has no objection to the termination of the RC.



SUBJECT TRACT	RESTRICTIVE COVENANT TERMINATION	CITY GRID REFERENCE NUMBER
PENDING CASE	CASE #: C8S-87-098(RCT)	
ZONING BOUNDARY	ADDRESS: 808 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
70 0 70 140 Feet
N
C14-73-045 (RCT
C14-87-030B (RCT)
C8S-87-0989 (RCT)
W 38TH ST
W 37TH ST
W 35TH ST
W 34TH ST
W 32ND ST
N LAMAR BLVD
LAMAR BLVD
OWEN AVE
MEDICAL PKWY
MEDICAL OFFICES/FACILITIES
HOSPITAL COMPLEX
SHOPPING CENTER
P87-026
SP97-0165C
C14-88-0002
SP-02-0122D
P80-33
PUD
PARKING
OFFICE
OFFICE COMPLEX
GO
SP-99-0
78-55
74-26
68-100
81-207
83-115
81-53
83-082
04-0021
FUNERAL HOME
DRIVE-IN BANK
REST.
SERVICE
GAS
CS
LR

DOC. NO. 00021904

FILM CODE 00004339163

CBS-87-098

RESTRICTIVE COVENANT

THE STATE OF TEXAS

COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned, of Travis County, Texas, are owners of the following described property (hereinafter referred to as "the property"), to-wit: Lot A Travis Bank Park Section 2 and,

WHEREAS, the City of Austin, Texas, a municipal corporation, and the undersigned owners of the property have agreed that the property should be impressed with certain covenants and restrictions running with the land, for benefit of the owners, the benefit of the public, and the more appropriate development and benefit of the property, and desire to set forth such agreement in writing;

NOW, THEREFORE, for and in consideration of One and No/100 Dollars ($1.00) and other good and valuable consideration in hand paid by the City of Austin, the receipt and sufficiency of which is hereby acknowledged and confessed, the undersigned owners do hereby impress upon the property, the following covenants, conditions and restrictions, which shall be deemed and considered to be covenants running with the land, and which shall be binding on the undersigned owners, their heirs, personal representatives, successors and assigns, as follows, to-wit:

1. Before the property may be used or developed for any residential purpose, adequate parkland must be provided to serve the residences, according to the standards and regulations contained in Chapter 13-3 of the Code of the City of Austin.

2. If any 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 violating or

EXHIBIT A

attempting to violate such agreement or covenant; or to take any other action authorized by ordinance or utility service regulations of the City of Austin.

3. If any part or provision on this agreement or covenant here contained shall be declared invalid, by judgment or court order, the same shall in nowise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

4. The failure at any time to enforce this agreement by 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 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(s) of the above-described property at the time of such modification, amendment or termination.

EXECUTED this the 7 day of Dec, 1987.

Nelson Johnson
Nelson Johnson
Travis Bank and Trust

STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on 12-7, 1987, by Nelson Johnson, Vice President of Travis Bank and Trust, on behalf of said corporation.

Patricia A. Densmore
Notary Public

PATRICIA A DENSMORE
Notary Public State of Texas
My Commission Expires Oct 9 1989

Return to After Recording:
H. Terrell, UCC Dept.

Forward to
Land Dev. Dept
City of Austin

FILED
1988 MAR 10 PM 12:40
DANA DE BEAUVOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

STATE OF TEXAS — COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the Official RECORDS of Travis County, Texas, on

MAR 10 1988

COUNTY CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
Travis County, Texas

10610 0606

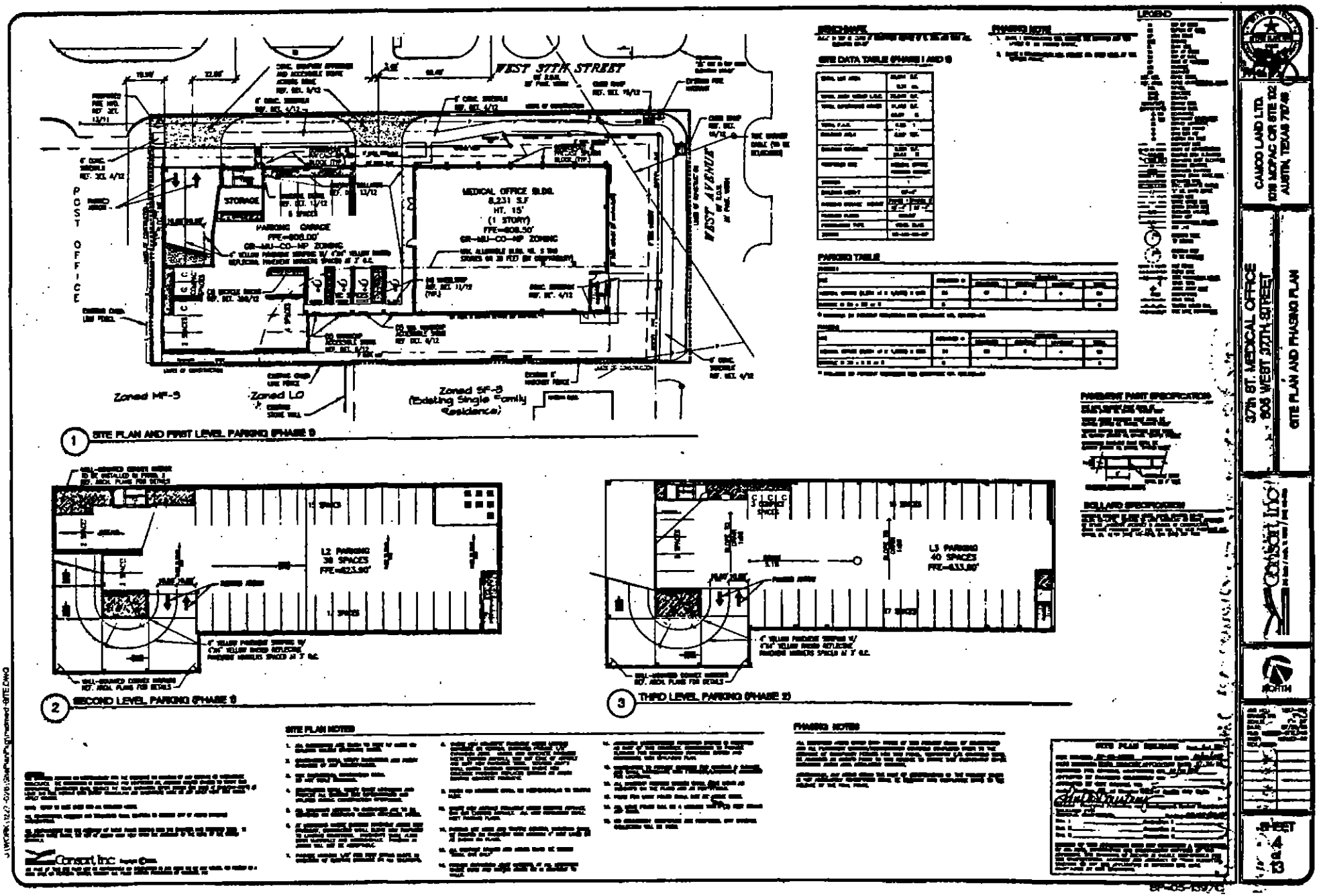
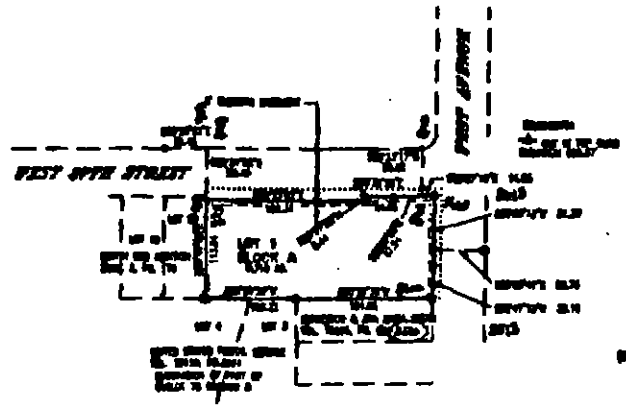

WEST 37TH STREET
WEST AVENUE
POST OFFICE
STORAGE
PARKING GARAGE
MEDICAL OFFICE BLDG.
8,231 S.F.
HT. 15'
(1 STORY)
Zoned MF-5
Zoned LO
Zoned SF-3
(Existing Single Family Residence)
1 SITE PLAN AND FIRST LEVEL PARKING (PHASE 1)
L2 PARKING
30 SPACES
2 SECOND LEVEL PARKING (PHASE 1)
L3 PARKING
40 SPACES
3 THIRD LEVEL PARKING (PHASE 2)
SITE DATA TABLE (PHASE I AND II)
PARKING TABLE
LEGEND
SITE PLAN NOTES
PHASING NOTES
CAMCO LAND LTD.
1016 MOPAC CIR STE 102
AUSTIN, TEXAS 78746
37th ST. MEDICAL OFFICE
805 WEST 37TH STREET
SITE PLAN AND PHASING PLAN
NORTH
SHEET
4
13

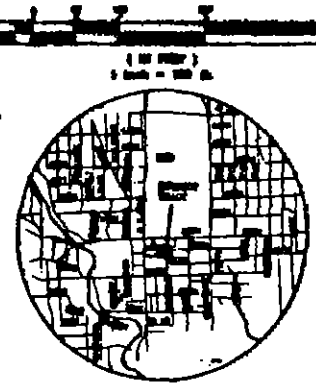
EXHIBIT B

2004 00 248

37TH STREET MEDICAL SUBDIVISION

GRAPHIC SCALE APRIL 20, 2004





LOCATION MAP

NTS

STATE OF TEXAS }
COUNTY OF TRAVIS }

KNOW ALL MEN BY THESE PRESENTS:

[illegible]

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: C8S-87-098

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, Travis Bank and Trust, a Texas corporation, as owner of all that certain property described in Zoning File No. C8S-87-098 (the "Original Property"), as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County, Texas, in Volume 10610, beginning at Page 605, (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. C8S-87-098 (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 10610, beginning at Page 605.

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