

ZONING CHANGE REVIEW SHEET

CASE: C14-2008-0118 – Westgate Professional Center **Z.A.P. DATE:** July 15, 2008

ADDRESS: 4701 West Gate Boulevard

OWNER: Westgate Professional Center
Partnership, Ltd. (Michael B. Elliott)

AGENT: DuBois Bryant & Campbell
(Henry H. Gilmore)

ZONING FROM: LO; GO **TO:** LR **AREA:** 0.18 acres
(8,118 square feet)

SUMMARY STAFF RECOMMENDATION:

The Staff recommendation is to grant neighborhood commercial (LR-CO) combining district zoning. The Conditional Overlay prohibits the following uses: off-site accessory parking, residential treatment and service station.

ZONING AND PLATTING COMMISSION RECOMMENDATION:

July 15, 2008: *APPROVED LR-CO DISTRICT ZONING, AS STAFF RECOMMENDED. BY CONSENT.*

[K. JACKSON; J. SHIEH – 2ND] (7-0) J. MARTINEZ – ABSENT

ISSUES:

The Applicant has discussed this case with representatives of the Western Trails Neighborhood Association and is in agreement with the Staff recommendation.

DEPARTMENT COMMENTS:

The subject rezoning area contains two office spaces, and is part of a larger office development that extends between Westgate Boulevard and Sagebrush Trail. In general, the west part of the area is zoned limited office (LO) district and the east portion is zoned general office (GO) district. The West Gate Shopping Center is to the north (CS), there are offices to the west (LO; GO), four-plexes, duplexes and single family residences to the south and an office, a church and four-plexes to the west (CS; MF-2). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View) and B (Recorded Plat).

The Applicant is requesting neighborhood commercial (LR) zoning to accommodate the renovation of the spaces for a business that consists of a compounding pharmacy, retail sales, and food sales uses. Based on proximity of a large commercially zoned area to the north, maintaining LO and GO zoning adjacent to the residential areas to the south, and location at the intersection of an arterial and a collector street, Staff recommends the Applicant's request with a Conditional Overlay that excludes three of the more intense LR uses.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	LO; GO	Two office spaces
<i>North</i>	CS	West Gate shopping center with cinema, restaurant and retail uses
<i>South</i>	SF-3	Four-plex; Duplexes; Single family residences
<i>East</i>	GO; LO	Offices
<i>West</i>	CS; MF-2	Restaurant; Child care facility; Office; Church; Four-plexes

AREA STUDY: N/A**TIA:** Is not required**WATERSHED:** Williamson Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** No**SCENIC ROADWAY:** No**NEIGHBORHOOD ORGANIZATIONS:**

378 – Western Trails Neighborhood Association
 428 – Barton Springs / Edwards Aquifer Conservation District
 446 – Westgate Boulevard / Jones Road Neighborhood Association
 511 – Austin Neighborhoods Council 627 – Onion Creek Homeowners Association
 742 – Austin Independent School District
 786 – Home Builders Association of Greater Austin
 943 – Save Our Springs Alliance 1108 – Perry Grid 644
 1113 – Austin Parks Foundation 1037 – Homeless Neighborhood Association

SCHOOLS:

Sunset Valley Elementary School Covington Middle School Crockett High School

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-03-0065 – Tejas Liquors	CS to CS-1	To Grant CS-1-CO with the CO prohibiting adult- oriented businesses	Approved CS-1-CO as Commission recommended (5-22- 03).

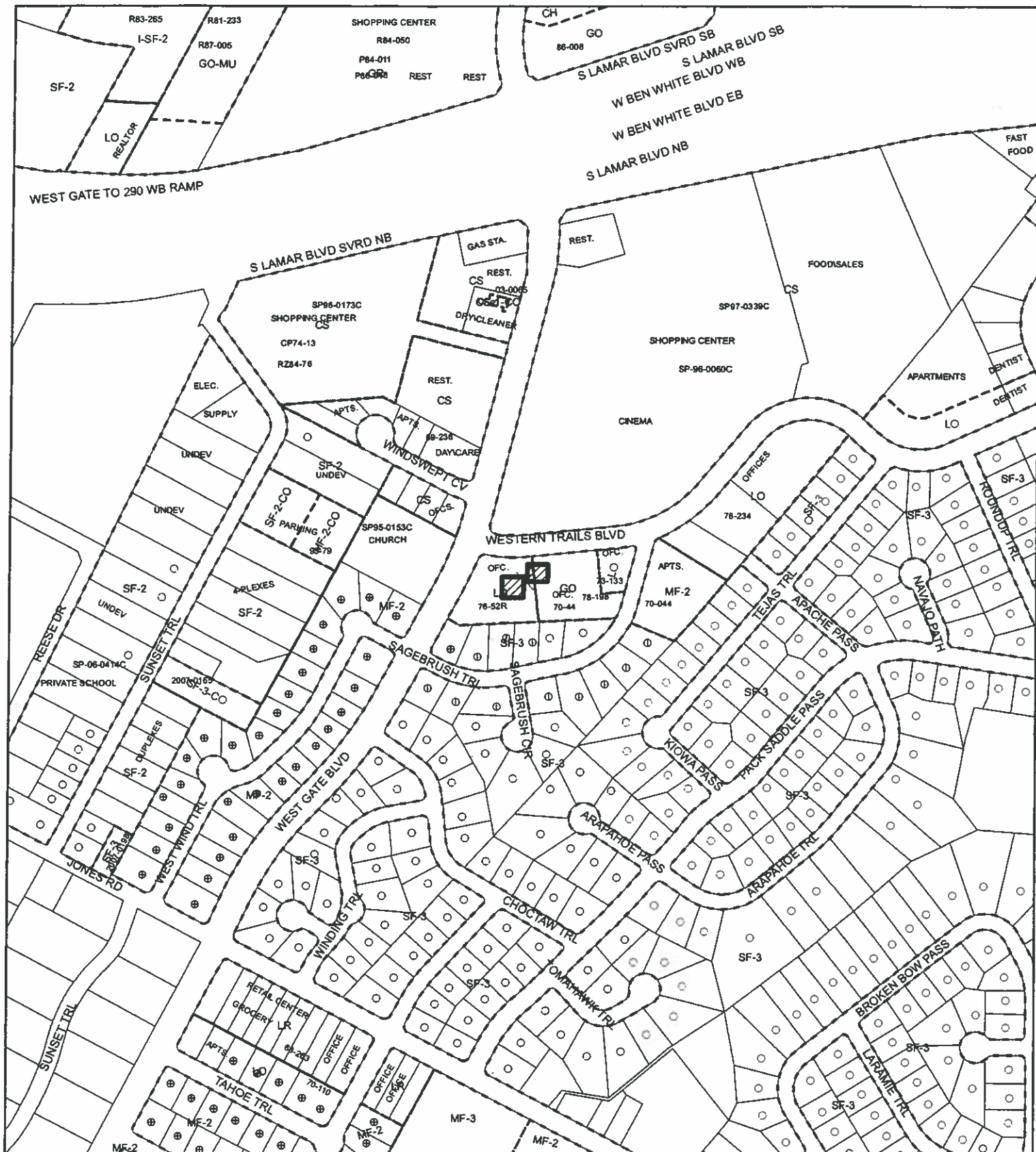
RELATED CASES:




The rezoning area represents a portion of Lot 1 of the Commercial Corner plat, recorded in August 1973 (C8s-73-178) and a portion of Lot B-2, Block D of the Resubdivision of Blocks A, C and D of West Gate Square Commercial plat, recorded in August 1969 (C8s-69-116). Please refer to Exhibit B.

ABUTTING STREETS:

Name	ROW	Pavement	Class	Sidewalk	Bus Route	Bike Route
West Gate Boulevard	90 feet	55 feet	Arterial	East side	311, 338	Priority 1
Western Trails Boulevard	70 feet	40 feet	Collector	Both sides	16, 328, 331	Priority 1
Sagebrush Trail	50 feet	30 feet	Local	No	No	No

CITY COUNCIL DATE: August 21, 2008**ACTION:****ORDINANCE READINGS:** 1st2nd3rd**ORDINANCE NUMBER:****CASE MANAGER:** Wendy Rhoades
e-mail: wendy.rhoades@ci.austin.tx.us**PHONE:** 974-7719



-  **SUBJECT TRACT**
-  **ZONING BOUNDARY**
-  **PENDING CASE**

OPERATOR: S. MEEKS

ZONING

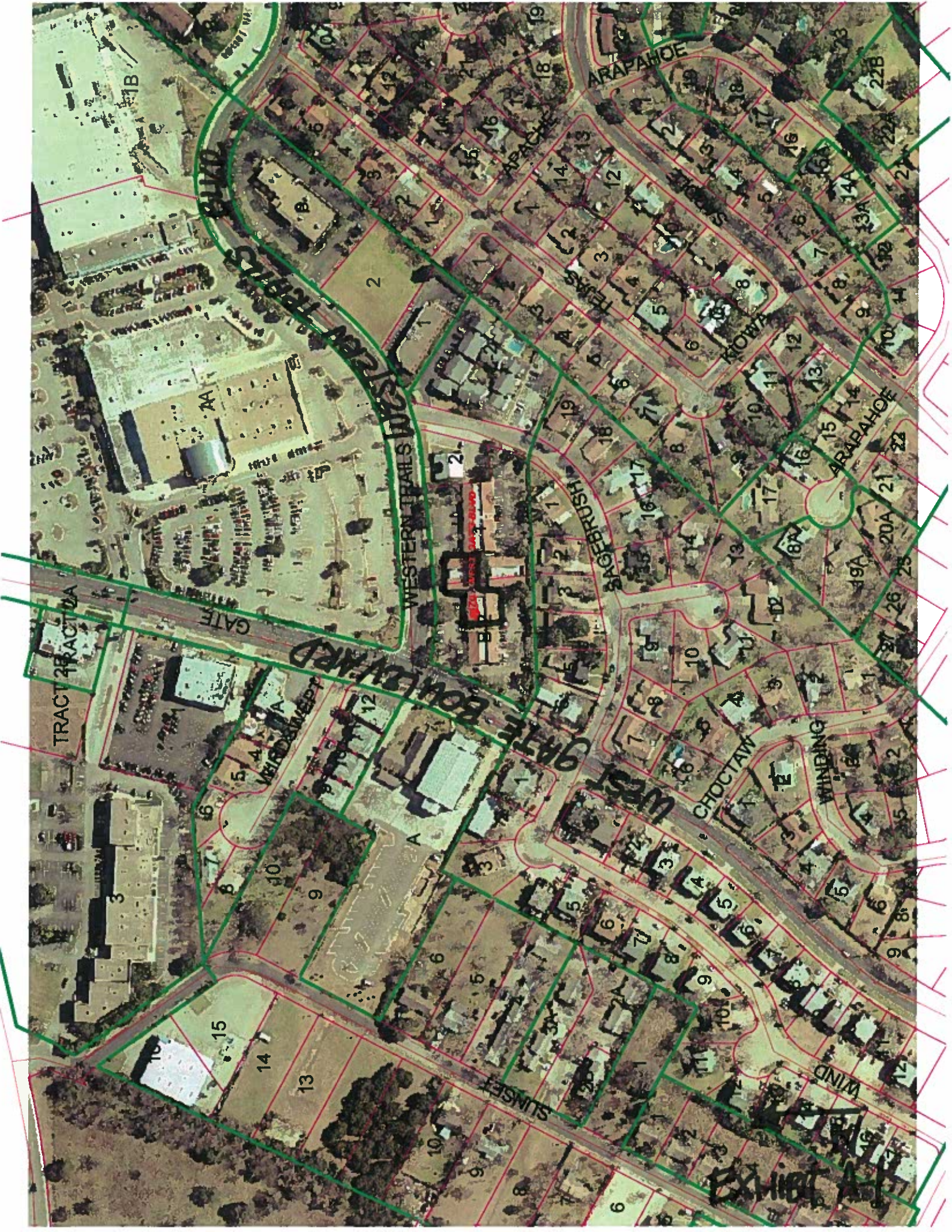
ZONING CASE#: C14-2008-0118
 ADDRESS: 4701 WEST GATE BLVD
 SUBJECT AREA: 0.18 ACRES
 GRID: F19
 MANAGER: W. RHOADES

EXHIBIT A

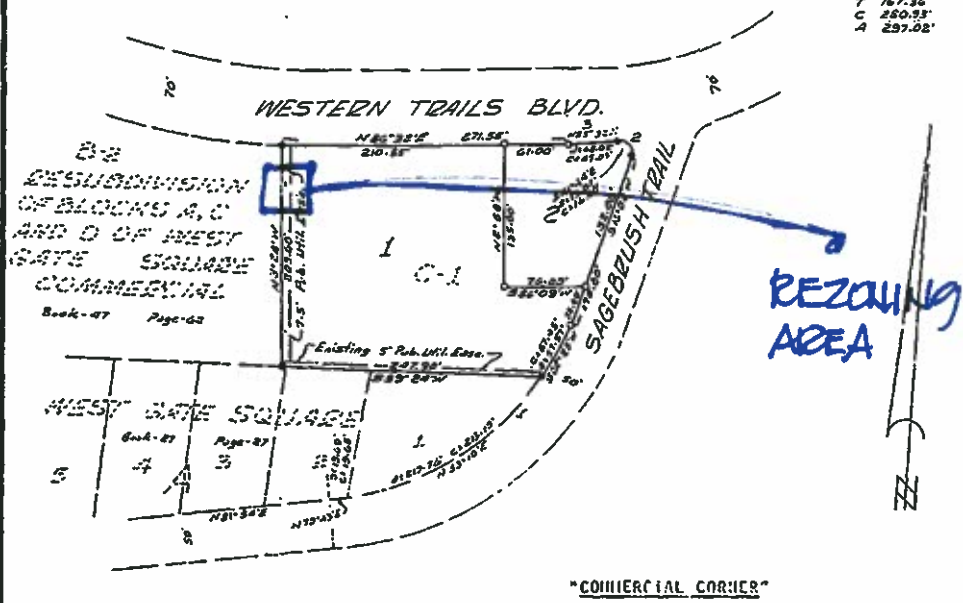


1" = 400'

This map has been produced by G.I.S. Services for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Curve	1	2	3
I	65° 42'	115° 31'	6° 01'
T	258.37'	9.46'	157.55'
T	167.36'	15.00'	24.05'
C	280.93'	16.00'	28.03'
A	297.02'	19.07'	48.05'



LEGEND
 • I. P. Found
 ○ I. P. Set
 Scale: 1" = 100'

STATE OF TEXAS
 COUNTY OF TRAVIS: KNOW ALL MEN BY THESE PRESENTS
 That I, Bill Milburn, owner of Lot C-1,
 Resubdivision of Blocks A, C and D of West Gate
 Square Commercial, a subdivision, in the City of
 Austin, Travis County, Texas, according to a plat
 of record in Book 47 at Page 62 of the Plat Records
 of Travis County, Texas, conveyed to me, with other
 properties, by deed of record in Volume 3747 at
 Page 2101 of the Deed Records of Travis County,
 Texas, do hereby resubdivide said lot in accordance
 with the attached plat, said resubdivision to be
 known as "COMMERCIAL CORNER" and do hereby dedicate
 to the public the streets and easements shown hereon.
 WITNESS MY HAND THIS 10 DAY OF July
 A.D. 1973.

Bill Milburn
 FILED FOR RECORD, this the 10 day of August
 A.D. 1973 at 10:45 o'clock P..M.
 Doris Shropshire, Clerk County Court, Travis County,
 Texas.

By Richard E. Little
 Deputy
 APPROVED FOR ACCEPTANCE:
Richard E. Little
 Richard R. Little, Director of Planning
 DATE August 8, 1973

SURVEYED BY D. F. Priest DATE 7-3-73
 D. F. Priest, Reg. Public Surveyor

STATE OF TEXAS
 COUNTY OF TRAVIS
 Before me, the undersigned authority, on this day
 personally appeared Bill Milburn, known to me to be the
 person whose name is subscribed to the foregoing instrument
 and he acknowledged to me that he executed the same for the
 purposes and considerations therein expressed.
 WITNESS MY HAND AND SEAL OF OFFICE, this the 10 day
 of July A.D. 1973.

Gary Nichols
 Notary Public in and for Travis County, Texas

STATE OF TEXAS
 COUNTY OF TRAVIS
 I, Doris Shropshire, Clerk of the County Court within
 and for the County and State aforesaid, do hereby certify
 that the within and foregoing instrument of writing with its
 certificate of authentication was filed for record in my
 office on the 10 day of August A.D. 1973 at 10:45
 o'clock P..M. and duly recorded on the 10
 day of August A.D. 1973 at 12:47 o'clock P..M. in the
 Plat Records of said County in Book 66 at Page 7.
 WITNESS MY HAND AND SEAL OF THE COURT of said County,
 the date last written above.
 Doris Shropshire, Clerk County Court, Travis County,
 Texas.

Richard E. Little
 Deputy
 ACCEPTED AND AUTHORIZED FOR RECORD by the Planning Commission
 of the City of Austin, Texas, on the 10 day of Aug
 A.D. 1973.

W. J. Pincus Joan Allen Math
 Chairman Secretary

EXHIBIT B
 RECORDED
 73 175

[illegible][illegible][illegible][illegible]

[Signature]
J.P. Collins, Treasurer
Wells Fargo Bank, Inc.

[illegible]

Money difficult to get from County, 1922

STATE OF TEXAS
COUNTY OF TARRANT
District No. 1, the undersigned authority, do this day personally appeared H. T. Edcey, Sheriff of Tarrant County, Texas, do in the presence and after being sworn and acknowledged to me that he executed and true and correct copy of the set and deed of said Charpentier and his wife, and that he is the duly authorized officer.
GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 14th day of
1914.

ACCEPTED AND AUTHORIZED FOR RECORD BY THE PLANNING COMMISSION OF THE CITY OF ARIZONA, 2
AD 156.

STATE OF TEXAS
COUNTY OF TARRANT
I, John H. Hines, Clerk of the County Court, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County Court of Tarrant County, Texas.

3-12-11

6 day of Aug. 1875 at 11³⁰ o'clock a.m.
 filed for record, this day
 filed by the undersigned Clerk County Court, Taylor County, Texas.
 R. L. P. 11

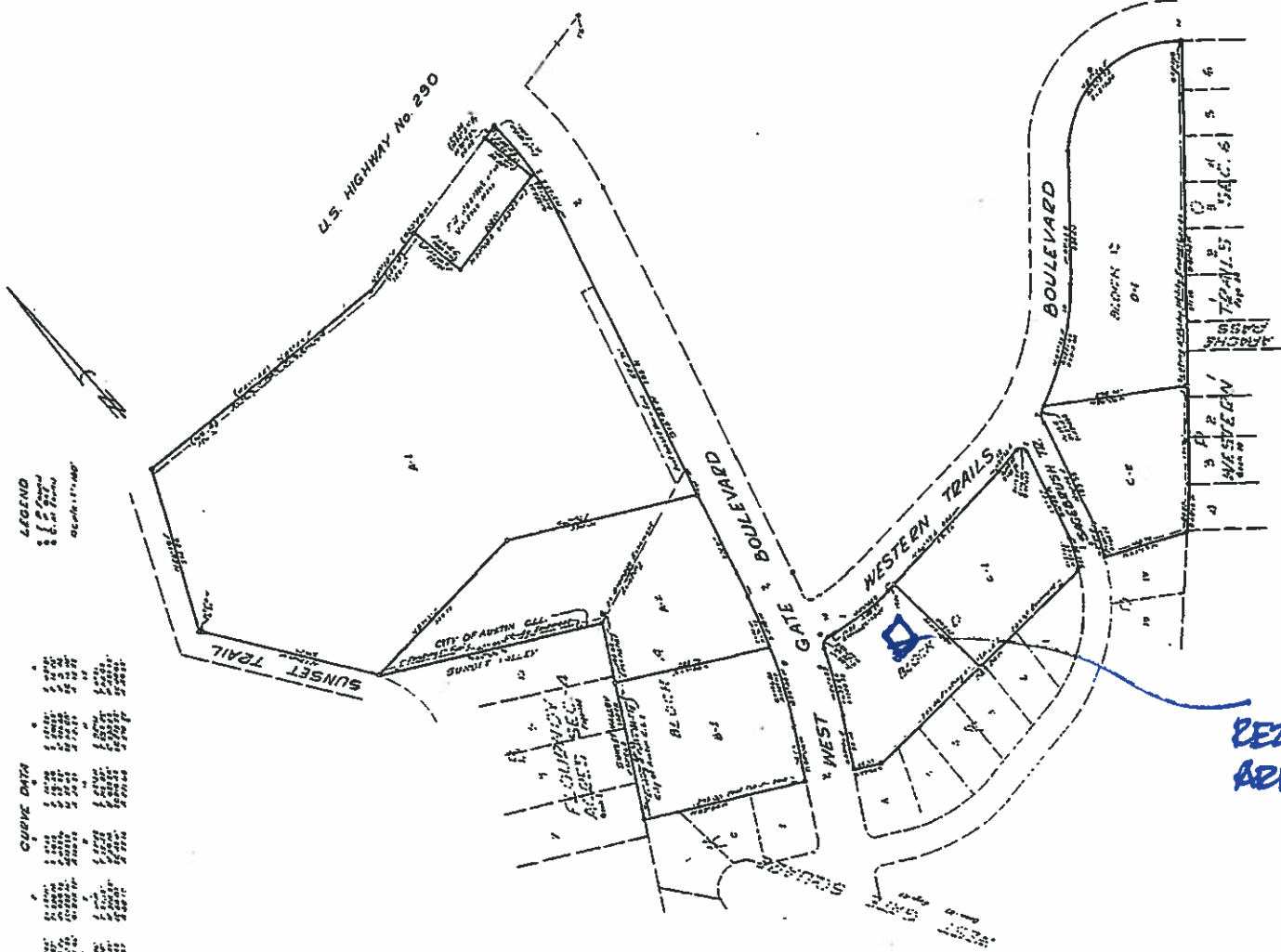
APPROVED FOR ACCEPTANCE ON THE 5TH DAY OF _____

A.D. 1969.
By: *W. M. Gibson*
Hoyta M. Osborn, Director of Planning.

Figure 1. The effect of the number of trials on the mean number of correct responses. The number of correct responses increased with the number of trials. The error bars represent the standard error of the mean.

Wachstein für Let B-2-5ae Volume 5539 Page 2196 Read Careful.
Aug 6-19 Reg. 11-8 5215 7.50

EXHIBIT B
RECORDED
DAT



SUMMARY STAFF RECOMMENDATION:

The Staff recommendation is to grant neighborhood commercial (LR-CO) combining district zoning. The Conditional Overlay prohibits the following uses: off-site accessory parking, residential treatment and service station.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

- 1. The proposed zoning should be consistent with the purpose statement of the district sought.*

The LR, Neighborhood Commercial district is intended for shopping facilities that provide limited business services and offices to the residents of the neighborhood, such as consumer repair services, food sales, service stations, and pet services. The purpose statement listed in the City of Austin *Land Development Code* states: "The Neighborhood Commercial district is the designation for a commercial use that provides business service and office facilities for the residents of a neighborhood. Site development regulations and performance standards applicable to a LR district use are designed to ensure that the use is compatible and complementary in scale and appearance with the residential environment."

- 2. Zoning changes should promote an orderly and compatible relationship among land uses.*

Based on proximity of a large commercially zoned area to the north, maintaining LO and GO zoning adjacent to the residential areas to the south, and location at the intersection of an arterial and a collector street, Staff recommends the Applicant's request with a Conditional Overlay that excludes three of the more intense LR uses.

EXISTING CONDITIONS**Site Characteristics**

The subject lot is developed with two office spaces. There appear to be no significant topographical constraints on the site.

Impervious Cover

The maximum impervious cover allowed by the LR zoning district is 80%, a consistent figure between the zoning and watershed regulations.

Environmental

The site is located within the 1,500 foot transition zone to the Edward's Aquifer Recharge Zone. A geological study would need to be conducted to determine whether or not the site lies within the recharge zone. The site is in the Desired Development Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed

regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

The site is currently developed, but at this time site specific information is unavailable regarding existing trees and other vegetation.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

At this time, no information has been provided as to whether this property has any pre-existing approvals that preempt current water quality or Code requirements.

Transportation

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extensions, system upgrades, utility relocations and or abandonments required. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

Compatibility Standards

The site is existing and this is a change of use only. Any new construction would need to comply with Commercial Design Standards, and compatibility requirements to the south.

Rhoades, Wendy

From: Henry Gilmore [mailto:hgilmore@dbcllp.com]
Sent: Friday, July 11, 2008 7:50 AM
To: Rhoades, Wendy
Subject: FW: re-zoning request in Western Trails
Attachments: Scan001.PDF

See below regarding support of the Western Trails Neighborhood Association. Will bring copies of the email as well in case someone asks about it. Thanks so much. Henry

Henry H. Gilmore
DuBois, Bryant & Campbell, LLP
700 Lavaca, Ste. 1300
Austin, Texas 78701
Tel. (512) 381-8026
Fax (512) 457-8008
Email: hgilmore@dbcllp.com
Website: www.dbcllp.com

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From: Henry Gilmore
Sent: Friday, July 11, 2008 7:46 AM
To: 'Bryan Hebert'
Cc: 'Mike Elliott'; Linda Fontaine
Subject: RE: re-zoning request in Western Trails

Bryan,

Just keeping you up to speed. Staff is recommending the request as well. We'll be going before the Planning Commission on Tuesday. I doubt you need to show up but I will distribute copies of your email below if asked to document the support of the Western Trails Neighborhood Association. Thanks so much for your support and will keep you posted as to progress of the case. Henry

Henry H. Gilmore
DuBois, Bryant & Campbell, LLP
700 Lavaca, Ste. 1300
Austin, Texas 78701
Tel. (512) 381-8026
Fax (512) 457-8008

7/14/2008

Email: ~~hgilmore@dbcllp.com~~

Website: www.dbcllp.com

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From: Bryan Hebert [~~mailto:bryandavidhebert@gmail.com~~]

Sent: Friday, June 13, 2008 2:40 PM

To: Henry Gilmore

Subject: Re: re-zoning request in Western Trails

Mr. Gilmore -

After conferring with board members of the Western Trails Neighborhood Association (WTNA), and as the chair of the WTNA Zoning Committee, I am writing to inform you and your client that the WTNA has no objections to the current proposal to re-zone portions of the lot at Western Trails/Westgate for use by White Crane.

Thank you very much for soliciting our input on this matter, and we look forward to welcoming White Crane to the neighborhood.

Bryan Hebert
WTNA Zoning Committee

On Mon, Jun 9, 2008 at 8:58 AM, Henry Gilmore <~~hgilmore@dbcllp.com~~> wrote:

Brian,

Thanks so much for your message. Here are the responses to the questions raised:

1) Both buildings will be utilized by White Crane. Initially, Building C will be occupied because Building B's current lease will not expire until May 31, 2010. Thereafter, White Crane will expand into Building B.

2) The theme of the Westgate Professional Center is medical services with an emphasis on holistic medicine. It is anticipated that White Crane will sign a lease for a 5 year initial term with at least two 5 year extension options thereafter. If for some reason White Crane leaves in the future, it is anticipated that a tenant that fits the Center's theme will replace it.

3) There are no future plans or intent to seek rezoning of the remaining property or buildings at the Center. The rezoning request is solely to accommodate White Crane's needs and for no other tenant or use. The owner voluntarily chose to limit the rezoning request to the

7/14/2008

footprint of the buildings needed for White Crane and not any additional property. If at some point in the future a rezoning is needed for another building, the Owner will of course consult with and work with your neighborhood group.

As mentioned in my earlier phone conversation, we would be please to have you or anyone else in the neighborhood group who is interested to come out and visit the White Crane operation on South Congress Avenue.

Please don't hesitate to get back with any additional questions. Thanks so much, Henry Gilmore

Henry H. Gilmore
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Website: www.dbcllp.com

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From: Bryan Hebert [<mailto:bryanhebert@comcast.net>]
Sent: Thursday, June 05, 2008 10:12 AM
To: Henry Gilmore
Subject: re-zoning request in Western Trails

Mr. Gilmore -

I have passed along to members of the Western Trails Neighborhood Association information on the proposed re-zoning at Westgate and Western Trails. A few concerns have arisen that I hope you can address:

- (1) Why are two buildings being re-zoned if White Crane is the only business moving into the area?
- (2) If White Crane were to leave in the future, what sort of businesses might be allowed to move into the vacant space?
- (3) Does your client have plans to seek future re-zoning of other property at Westgate and Western Trails?

Feel free to respond by email or phone (791-3541). I will pass along your answers to the WTNA.

Thanks

7/14/2008