

ZONING CHANGE REVIEW SHEET

CASE: C14-2008-0185 - Victory Medical & Family Care

P.C. DATE: October 14, 2008

CC DATE: November 20, 2008

ADDRESS: 2110 West Ben White Blvd WB

AREA: 0.276 acres (1022.56 s.f.)

OWNER/APPLICANT: 4303 Victory Drive Austin Texas 78704 (Dr. William Franklin)

AGENT: Vaughn & Associates, Inc. (Rick Vaughn)

ZONING FROM: SF-3

ZONING TO: LO

SUMMARY STAFF RECOMMENDATION:

Staff recommends LO-CO (Limited Office – Conditional Overlay) district zoning in the context of its location on an arterial roadway as it would provide for a reasonable re-use of the property to occur in relation to the office zoning use located to the west and single family residences to the east. The conditional overlay would limit the number of vehicle trips per day to 2,000.

ZONING AND PLANNING COMMISSION RECOMMENDATION:

November 2, 2004: MOTION MADE TO APPROVE NO-MU-CO- ZONING; CONDITIONAL OVERLAY TO PROHIBIT PROFESSIONAL OFFICE.

[K.J.; J.M. 2ND] (4-5) C.H.; T.R.; B.B.; M.W.; J.P. – NAY [MOTION FAILED]

- COMMISSION INSTRUCTED STAFF TO LOOK INTO THE APPROPRIATENESS OF A CITY INITIAED CASE FOR THE LOTS FRONTING BEN WHITE 'NO' OR 'LO' ZONING DISTRICT BETWEEN THE VICTORY MEDICAL BUILDING ZONED GR AND THE AUTO REPAIR USE ZONED CS. THE CASE WAS WITHDRAWN BEFORE FIRST READING AT CITY COUNCIL*

October 14, 2008: Approved staff recommendation for LO-CO by consent (8-0).

DEPARTMENT COMMENTS:

The subject rezoning area consists of one platted lot, accesses the Ben White Boulevard frontage road as well as an alley along the west property line, and is zoned family residence (SF-3) district. This segment of Ben White Boulevard between Manchaca and Ben White (zoned CS and CS-1), medical offices at the corner of Victory and Ben White (GR), and single family residences in between (SF-3). There are also single family residences (SF-3) to the north, facing Fortview Road. Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

Staff recommends LO-CO (Limited Office – Conditional Overlay) district zoning in the context of its location on an arterial roadway as it would provide for a reasonable re-use of the property to occur in relation to the office zoning use located to the west and single family residences to the east. The conditional overlay would limit the number of vehicle trips per day to 2,000.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	SF-3	Single Family residence
<i>North</i>	SF-3; MF-2	Single Family residences; Apartments
<i>South</i>	Ben White Blvd	
<i>East</i>	SF-3; CS; CS-1	Single Family residences; Auto repair
<i>West</i>	GR; CS	Medical offices; Paint store; Apartments; Shopping center

AREA STUDY: South Lamar Neighborhood Planning Area**TIA:** Waived**WATERSHED:** Williamson Creek**DESIRED DEVELOPMENT ZONE:** YES**CAPITOL VIEW CORRIDOR:** NO**HILL COUNTRY ROADWAY:** NO**NEIGHBORHOOD ORGANIZATIONS:**

Western Trails Neighborhood Association
 Barton Springs/Edwards Aquifer Conservation District
 Save Barton Creek Association
 Barton Springs Coalition
 South Central Coalition
 Austin Neighborhoods Council
 Save Our Springs Alliance

SCHOOLS:

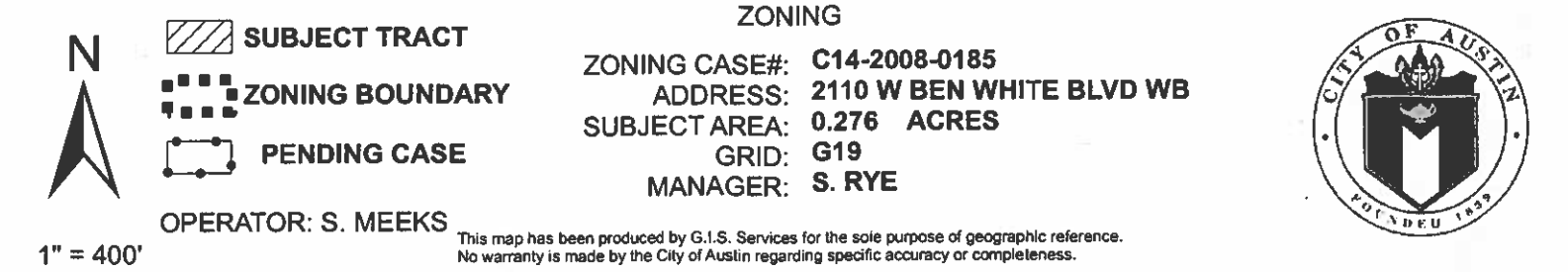
Galindo Elementary School
 Porter Junior High School
 Travis High School

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-98-0078 2009 Fortview Road	SF-3 to CS	To deny staff recommendation of LR-CO (7-21-98)	Approved NO-CO with conditions: no access to Fortview, 6' privacy fence, setbacks and vegetative buffers, location of dumpsters and parking; Restrictive Covenant for hours of operation on 1 st Reading (11-5-98); indefinite postponement then withdrawn prior to 2 nd and 3 rd readings.

RELATED CASES:

C14-04-0154 2110 West Ben White Blvd WB	SF-3 to LO-MU	To deny LO-MU. Motion made to grant staff recommendation of NO-MU-CO with prohibited professional office use. (11/2/04)	Case withdrawn before 1 st reading at Council.
--	---------------	---	---





**C14-2008-0185 2110 West Ben White Boulevard
From SF-3 (Family Residence) to LO (Limited Office)**

BASIS FOR RECOMMENDATION

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

The LO (Limited Office) district is intended for small office use predominantly serving neighborhood or community needs; such as professional, semi-professional or medical offices.

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

Staff recommends LO-CO (Limited Office – Conditional Overlay) district zoning in the context of its location on an arterial roadway as it would provide for a reasonable re-use of the property to occur in relation to the office zoning use located to the west and single family residences to the east. The conditional overlay would limit the number of vehicle trips per day to 2,000.

EXISTING CONDITIONS

Site Characteristics

The property is developed with a single family residence and there appears to be no significant topographical constraints on the site. The subject rezoning area consists of one platted lot, accesses the Ben White Boulevard frontage road as well as an alley along the west property line, and is zoned family residence (SF-3) district.

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Williamson Creed Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. The maximum impervious cover allowed by the NO-MU zoning district would be 70%, which is based on the more restrictive zoning regulations. 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%

In the Water Quality Transition Zones, impervious cover is limited to 30%. According to flood plain maps, there is no flood plain in, or within close proximity of, the project location.

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

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.

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, system upgrades, utility adjustments, and utility relocation. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The water and wastewater utility construction must be inspected by the City. The landowner must pay all associated and applicable City fees.

Stormwater Detention:

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program if available.

TRANSPORTATION:

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Bus Routes
W Ben White Blvd	365'	335'	Highway	Yes	No	328 Ben White

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

Right of Way:

No additional right of way dedication will be needed.

SITE PLAN:

The site is subject to compatibility standards. Along the north, east, and west property lines the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
- Additional design regulations will be enforced at the time a site plan is submitted.

CITY COUNCIL DATE: November 20, 2008

ACTION:

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Stephen Rye

PHONE: 974-7604
stephen.rye@ci.austin.tx.us

3 pgs

GENERAL WARRANTY DEED WITH FIRST AND SECOND VENDOR'S LIEN

THE STATE OF TEXAS

KNOW ALL PERSONS BY THESE PRESENTS THAT:

COUNTY OF TRAVIS

Ellen Jean Gebert Hogue, an unmarried person, Individually and as Substitute Trustee of the Leroy A. Gebert Living Trust, and Dwain Roy Gebert (also known as Dwain Gebert), Ralph Douglas Gebert and Randy Paul Gebert, all married persons not joined herein by their spouses as the subject property does not constitute all or any portion of their respective residential and/or business homestead(s), the said Dwain Roy Gebert, Ralph Douglas Gebert and Randy Paul Gebert, all acting herein by and through their duly authorized agent and attorney-in-fact, Ellen Jean Hogue (also known as Jean Hogue) (hereinafter referred to as "Grantor," whether one or more), for and in consideration of the sum of (1) Ten and 00/100 Dollars (\$10.00) cash and other good and valuable consideration to Grantor in hand paid by Leonard Franklin (hereinafter referred to as the "Grantee," whether one or more), whose mailing address is 27 Mott Lane, Houston, Texas 77024, the receipt and sufficiency of which are hereby acknowledged, (2) the execution and delivery by Grantee of its one certain promissory note (the "First Note") in the principal sum of \$90,000.00 dated of even date herewith, payable to the order of Texas Capital Bank National Association, a national banking association (hereinafter referred to as the "First Noteholder") and bearing interest as therein provided, containing the usual clauses providing for acceleration of maturity and attorneys' fees, the payment of which note is secured by a first and superior vendor's lien (the "First Vendor's Lien") herein retained and is additionally secured by a Deed of Trust (the "First Deed of Trust") dated of even date herewith to Timothy A. Loudermilk, Trustee, and (3) execution and delivery by Grantee of its one certain promissory note (the "Second Note") in the original principal sum of \$90,000.00 dated of even date herewith, payable to the order of Grantor, and bearing interest as therein provided, containing the usual clauses providing for acceleration of maturity and attorneys' fees, the payment of which Note is secured by a secondary vendor's lien herein retained (the "Second Vendor's Lien") and is additionally secured by a deed of trust (the "Second Deed of Trust") dated of even date herewith to Robert F. DuBois III, Trustee, does hereby GRANT, SELL, CONVEY, ASSIGN and DELIVER unto the Grantee the following described real property situated in Travis County, Texas, together with all rights and appurtenances thereto:

Lot 22, of Goodnight & Pearson Addition, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 5, Page 28, of the Plat Records of Travis County, Texas;

subject, however, to the lien for current taxes which are not yet due and payable, which current taxes are hereby assumed by Grantee; and further subject to all restrictions, conditions, reservations, easements and other matters of record in the Real Property Records of the County in which all or any part of the described premises are located.

TO HAVE AND TO HOLD the above-described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its heirs, personal representatives, successors and assigns, as appropriate, forever; and Grantor does hereby bind itself, its heirs, personal

representatives, successors and assigns, as appropriate, to WARRANT AND FOREVER DEFEND all and singular the said premises unto the Grantee, its heirs, personal representatives, successors and assigns, as appropriate, against every person whomsoever lawfully claiming or to claim the same or any part thereof. This Deed is made with full substitution and subrogation of Grantee in and to all covenants and warranties by others heretofore given or made with respect to the above described premises and each part thereof.

But it is expressly agreed that (1) the First Vendor's Lien, as well as the superior title in and to the Property, is retained against the Property and hereby assigned to the First Noteholder until the First Note and all interest thereon have been fully paid according to the face, tenor, effect and reading thereof, and (2) the Second Vendor's Lien, as well as the superior title in and to the Property, is retained against the Property by the Grantor until the Second Note and all interest thereon have been fully paid according to the face, tenor, effect and reading thereof; provided, that the Second Vendor's Lien and Second Deed of Trust shall be subordinate and inferior to the First Vendor's Lien and First Deed of Trust, and all renewals, extensions, rearrangements and modifications of said First Vendor's Lien and First Deed of Trust. This deed shall become absolute upon payment of all sums secured by the First Vendor's Lien and the Second Vendor's Lien.

The First Vendors's Lien herein retained shall be released automatically when the First Deed of Trust is released and the Second Vendor's Lien herein retained shall be released automatically when the Second Deed of Trust is released.

IN WITNESS WHEREOF, this General Warranty Deed is executed by Grantor on the date set forth in the acknowledgment hereto TO BE EFFECTIVE AS OF the 5th day of April 2001.

Ellen Jean Gebert Hogue

Ellen Jean Gebert Hogue, Individually and as Substitute Trustee of the Leroy A. Gebert Living Trust

Dwain Roy Gebert

Dwain Roy Gebert

By: Ellen Jean Hogue

Ellen Jean Hogue, Attorney-in-Fact

Ralph Douglas Gebert

Ralph Douglas Gebert

Randy Paul Gebert

Randy Paul Gebert

By: Ellen Jean Hogue

Ellen Jean Hogue, Attorney-in-Fact

By: Ellen Jean Hogue

Ellen Jean Hogue, Attorney-in-Fact

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 5 day of APRIL 2001, by Ellen Jean Gebert Hogue, Individually, as Substitute Trustee of the Leroy A. Gebert Living Trust, and as attorney-in-fact for Dwain Roy Gebert, Ralph Douglas Gebert and Randy Paul Gebert.



[Signature]
Notary Public in and for
the State of Texas

AFTER RECORDING RETURN TO:

Leonard Franklin

RR 2110 BEN WHITE
AUSTIN TX 78704

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

[Signature]
34-74-2001
CORDA 5-3-98
DANN DEERINGER, COUNTY CLERK
TRAVIS COUNTY, TEXAS