O03/1

CITY OF AUSTIN
Board of Adjustment
Decision Sheet

DATE: Monday February 12, 2018 **CASE NUMBER: C15-2018-0004**

_____Brooke Bailey
_____William Burkhardt
_____Christopher Covo
_____Eric Goff
_____Melissa Hawthorne
_____Bryan King
_____Don Leighton-Burwell
_____Rahm McDaniel
_____Veronica Rivera
_____James Valadez
_____Michael Von Ohlen
_____Kelly Blume (Alternate)
_____Martha Gonzalez (Alternate)
_____Pim Mayo (Alternate)

APPLICANT: Nikelle Meade

OWNER: Eveann Investment LP

ADDRESS: 4303 VICTORY DR, 2106, 2108, 2110 W Ben White Blvd., 2111 Fort View Drive

VARIANCE REQUESTED: The applicant has requested variance(s) from Article 10, Compatibility Standards:

A. Section 1063 (B) (Height Limitations and Setbacks for Large Sites) to decrease the required setback from a property in an urban family residence (SF-5) or more restrictive zoning district or on which a use permitted in SF-5 or more restrictive zoning district is located from 25 feet (required) to 0 feet (requested); and to

B. Section 1063 (C) (1) (Height Limitations and Setbacks for Large Sites) to increase the required height limitation for a structure that is 50 feet or less from property in a SF-5 or more restrictive zoning district or permitted use from two stories and 30 feet (required) to three stories and 40 feet (requested); and to

C. Section 25-2-1067 (G) (Design Regulations) to permit a parking area or driveway 25 feet or less from a lot that is in an SF-5 or more restrictive district or on which a use permitted in an SF-5 or more restrictive district is located

in order to erect a three-story office building, screening wall and detached three-story parking structure on five tracts in a "GR", Community Commercial zoning district, a "LO-CO", Limited Office - Conditional Overlay zoning district, and a

"NO-MU-CO", Neighborhood Office – Mixed Use – Conditional Overlay zoning district.

BOARD'S DECISION: Jan 8, 2018 POSTPONED TO FEBRUARY 12, 2018; Feb 12, 2018 POSTPONED TO MARCH 12, 2018

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
   (b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

Leane Heldenfels
Executive Liaison

William Burkhardt
Chairman

O03/3

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2018-0004

LOCATION: 4303 VICTORY DR4303 VICTORY DR; 2106, 2108, and 2110 W. Ben White Blvd; and 2111 Fort View Dr

1 " = 250 '

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

O03/4

CITY OF AUSTIN
Development Services Department
One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment
General/Parking Variance Application

WARNING: Filing of this appeal stops all affected construction activity.

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, click here to Save the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 4303 Victory Dr.; 2106, 2108, and 2110 W. Ben White Blvd.; 2111 Fort View Rd.

Subdivision Legal Description:

See Appendix A

Lot(s): _____ Block(s): _____

Outlot: _____ Division: _____

Zoning District: See Appendix A

I/We Nikelle Meade on behalf of myself/ourselves as authorized agent for Eveann Enterprises, Inc., William Franklin, et al affirm that on Month October, Day 12, Year 2017, hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

◉ Erect ○ Attach ○ Complete ○ Remodel ○ Maintain ○ Other: _____

Type of Structure: Parking structure, office building, and wall.

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

§25-2-1063(B) - Structure within 25 feet of SF-5 or more restrictive zoning or use;
§25-2-1063(C) - Height / stories of structures within 50 feet of SF-5 or more restrictive zoning;
§25-2-1067(G) - Parking within 25 feet of SF-5 or more restrictive zoning or use.

Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use
The zoning regulations applicable to the property do not allow for a reasonable use because:

The zoning regulations applicable to the site do not allow for a reasonable use because of the impact on the ability to provide parking in this area, which is a combination of residential and commercial uses, and where there is a shortage of parking available to both uses. Providing adequate parking for the commercial uses would allow the residential streets to be safer for pedestrians and residential vehicle traffic. For the office building and wall, the site is designated for commercial development, but without variances there is no reasonable way to provide sufficient parking without detrimentally impacting the adjacent single-family residential.

Hardship

a) The hardship for which the variance is requested is unique to the property in that:

This site is uniquely situated in an area with too little parking between two high-speed, high-traffic commercial streets and a narrow, 2-lane single-family residential street. Because of the site's unusual location, commercial patrons will park on the adjacent residential streets if adequate commercial parking is not provided, which creates a safety issue for pedestrians and vehicular traffic attempting to access the single-family residences.

b) The hardship is not general to the area in which the property is located because:

There are no other similarly-situated properties in the area with this unique configuration and location, and no other similarly-situated properties in the area where parking can be added to existing impervious cover given their uses and parking requirements. In addition, this site is uniquely shaped and positioned between a highway and residential area, and across from a major retail store, and this confluence of factors is not general to the area.

Area Character
The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The site abuts two major roadway corridors and a big box commercial use across the street, the adjacent conforming property is owned and occupied by the applicant, and the zoning is intended for commercial uses such as currently on the site. The proposed parking structure will enhance the compatibility of the existing use with the adjacent single-family uses by directing parking and traffic off the single-family residential street. The proposed construction will not access the single family residential street and will provide a buffer.

Parking (additional criteria for parking variances only)
Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

N/A

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

N/A

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A

Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: _____ Date: 12/12/2017

Applicant Name (typed or printed): Nikelle S. Meade

Applicant Mailing Address: 111 Congress Avenue. Suite 1400

City: Austin State: Texas Zip: 78701

Phone (will be public information): (512) 479-1147

Email (optional – will be public information): [redacted]

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature: _____ Date: 12/12/2017

Owner Name (typed or printed): Eveann Investments. L.P./William Franklin/Eveann Enterprises. Inc.

Owner Mailing Address: 4403 Victory Drive

City: Austin State: Texas Zip: 78704

Phone (will be public information): (512) 479-1147

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: Nikelle Meade

Agent Mailing Address: 111 Congress Avenue. Suite 1400

City: Austin State: TX Zip: 78701

Phone (will be public information): (512) 479-1147

Email (optional – will be public information) [redacted]

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Appendix A – Site Information

The planned project is comprised of adjacent lots that together form one contiguous project site, as indicated by the "Site Boundary" line on the plans included with the application.

Tracts within the Project Site Boundaries

1. 4303 Victory Drive .....("Tract 1")
2. 2110 W. Ben White Blvd. .....("Tract 2")
3. 2108 W. Ben White Blvd. .....("Tract 3")
4. 2106 W. Ben White Blvd. .....("Tract 4")
5. 2111 Fort View Road .....("Tract 5")

Legal Descriptions

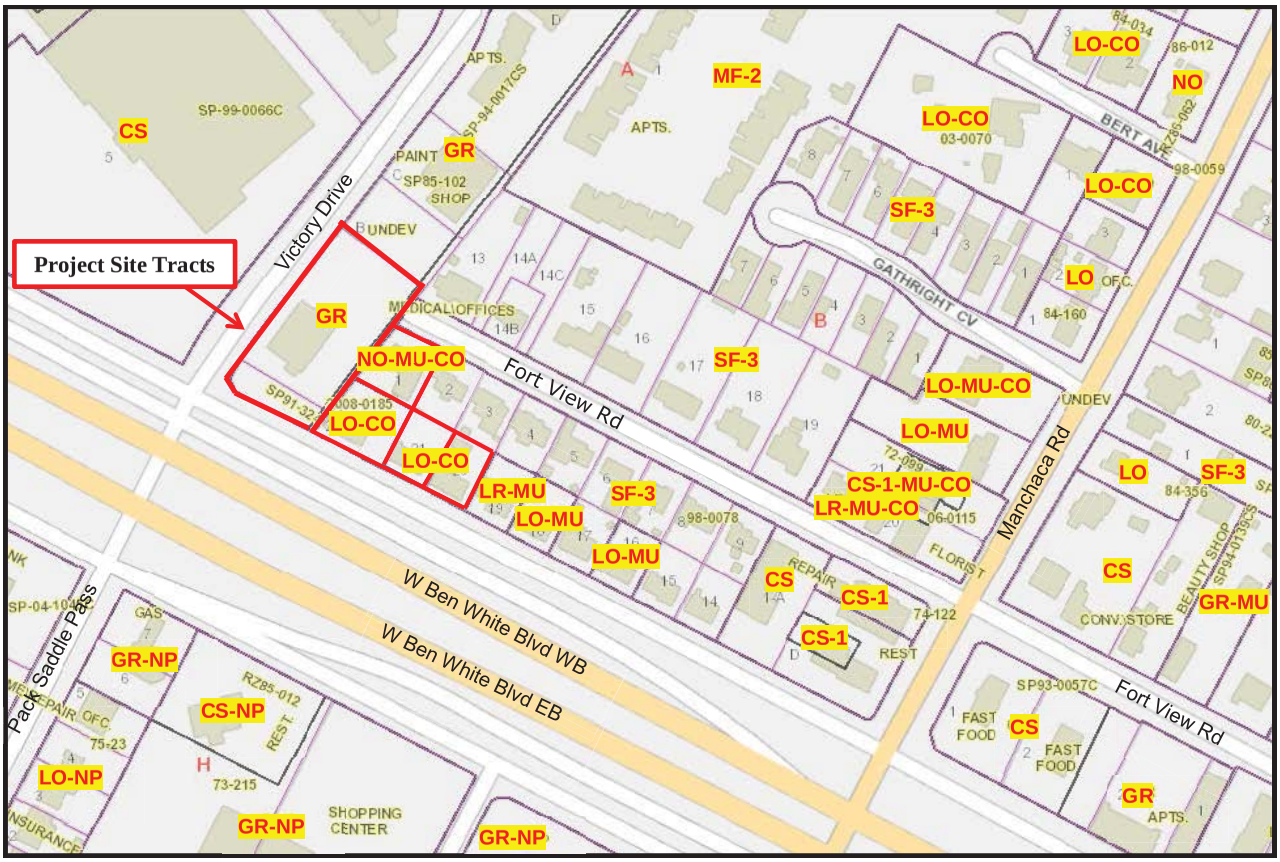
1. Lot A, Barton Market Square, Section Two-A, a subdivision in Travis County, Texas, according to the map or plat of record in Volume 82, Page 241, 242, of the Plat Records of Travis County, Texas (commonly known as 4303 Victory Drive) (Tract 1 of the Project Site)

2. Lots 1, 20, 21, and 22, Goodnight and Pearson Addition Subdivision, a subdivision in Travis County, Texas, as recorded in Volume 5, Page 28 of the Plat Records of Travis County, Texas (commonly known as 2111 Fort View Road, and 2106, 2108, and 2110 W. Ben White Blvd., respectively) (Tracts 5, 4, 3, and 2 of the Project Site, respectively)

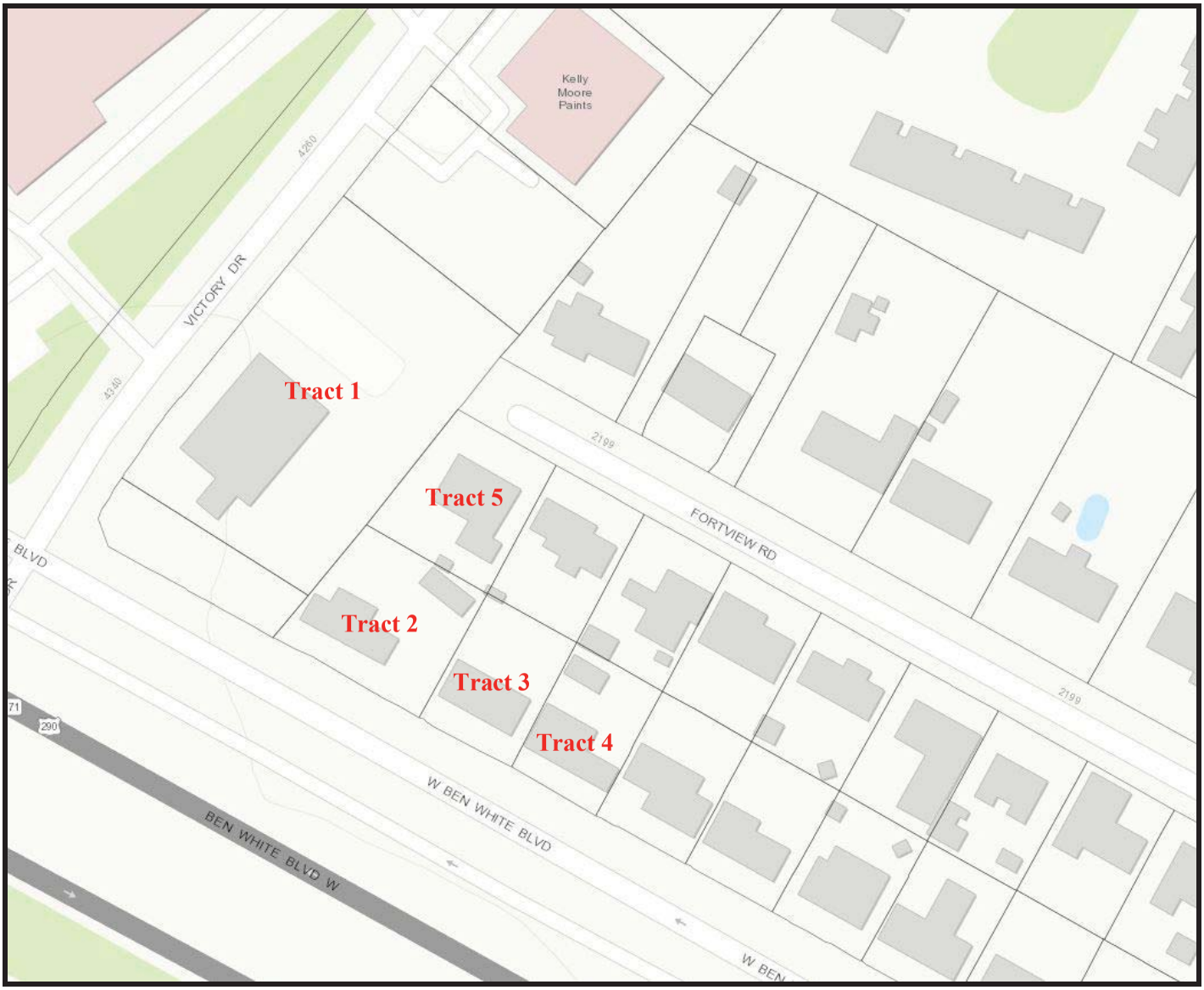
Zoning Districts

1. GR (Tract 1)
2. LO-CO (Tracts 2, 3, and 4)
3. NO-MU-CO (Tract 5)

Zoning of Area Properties



Project Site Tracts



O03/11

AGENT DESIGNATION LETTER

December 14, 2017

City of Austin
505 Barton Springs Road
One Texas Center
Austin, Texas 78704

Re: Letter Appointing Agent Regarding Variance Application and related matters for property located at 4303 Victory Drive, Austin, TX 78704 (the "**Property**")

To Whom It May Concern:

The undersigned, as the owner of the above-referenced Property, hereby appoints Husch Blackwell LLP (Nikelle Meade), as agent in connection with the above-referenced matter.

Eveann Investments, L.P.,
a Texas limited partnership

By: Eveann Enterprises, Inc.,
a Texas corporation,
its General Partner

By: William G Franklin
William G. Franklin, President

O03/12

AGENT DESIGNATION LETTER

December 14, 2017

City of Austin
505 Barton Springs Road
One Texas Center
Austin, Texas 78704

Re: Letter Appointing Agent Regarding Variance Application and related matters for property located at 2110 W. Ben White Blvd., Austin, TX 78704 (the "**Property**")

To Whom It May Concern:

The undersigned, as the owner of the above-referenced Property, hereby appoints Husch Blackwell LLP (Nikelle Meade), as agent in connection with the above-referenced matter.

Eveann Investments, L.P.,
a Texas limited partnership

By: Eveann Enterprises, Inc.,
a Texas corporation,
its General Partner

By: William G. Franklin
William G. Franklin, President

O03/13

AGENT DESIGNATION LETTER

December 14, 2017

City of Austin
505 Barton Springs Road
One Texas Center
Austin, Texas 78704

Re: Letter Appointing Agent Regarding Variance Application and related matters for property located at 2108 W. Ben White Blvd., Austin, TX 78704 (the "**Property**")

To Whom It May Concern:

The undersigned, as the owner of the above-referenced Property, hereby appoints Husch Blackwell LLP (Nikelle Meade), as agent in connection with the above-referenced matter.

Eveann Enterprises, Inc.,
a Texas corporation

By: William G. Franklin
William G. Franklin, President

O03/14

AGENT DESIGNATION LETTER

December 14, 2017

City of Austin
505 Barton Springs Road
One Texas Center
Austin, Texas 78704

Re: Letter Appointing Agent Regarding Variance Application and related matters for property located at 2106 W. Ben White Blvd. (the "**Property**")

To Whom It May Concern:

The undersigned, as the owner of the above-referenced Property, hereby appoints Husch Blackwell LLP (Nikelle Meade), as agent in connection with the above-referenced matter.

William Franklin

William Franklin

AUS-6453461-1

AGENT DESIGNATION LETTER

December 14, 2017

City of Austin
505 Barton Springs Road
One Texas Center
Austin, Texas 78704

Re: Letter Appointing Agent Regarding Variance Application and related matters for property located at 2111 Fort View Road, Austin, TX 78704 (the "**Property**")

To Whom It May Concern:

The undersigned, as the owner of the above-referenced Property, hereby appoints Husch Blackwell LLP (Nikelle Meade), as agent in connection with the above-referenced matter.

Eveann Investments, L.P.,
a Texas limited partnership

By: Eveann Enterprises, Inc.,
a Texas corporation,
its General Partner

By: William G Franklin
William G. Franklin, President

Proposed Findings

Variances are being requested from the following sections of Subchapter C, Article 10 (*Compatibility Standards*) of the Land Development Code:

Section 25-2-1063(B) (*Height Limitations and Setbacks for Large Sites*), to decrease the required setback of a structure from a property in a SF-5 or more restrictive zoning district or permitted use from 25 feet (required) to:

A. Fewer than 25 feet (requested) in Tract 1, in order to erect a new parking garage; and

B. Fewer than 25 feet (requested) in Tracts 2, 3, and 4, in order to erect a screening wall for a new medical administrative building.

Section 25-2-1063(C)(1) (*Height Limitations and Setbacks for Large Sites*), to increase the required height limitations for a structure that is 50 feet or less from property in a SF-5 or more restrictive zoning district or permitted use, from two stories and 30 feet (required) to:

A. Between two stories and 30 feet and three stories and 40 feet (requested) in Tract 1, in order to erect a new parking garage; and

B. Between two stories and 30 feet and three stories and 40 feet (requested) in Tracts 2, 3, and 4, in order to erect a new medical administrative building.

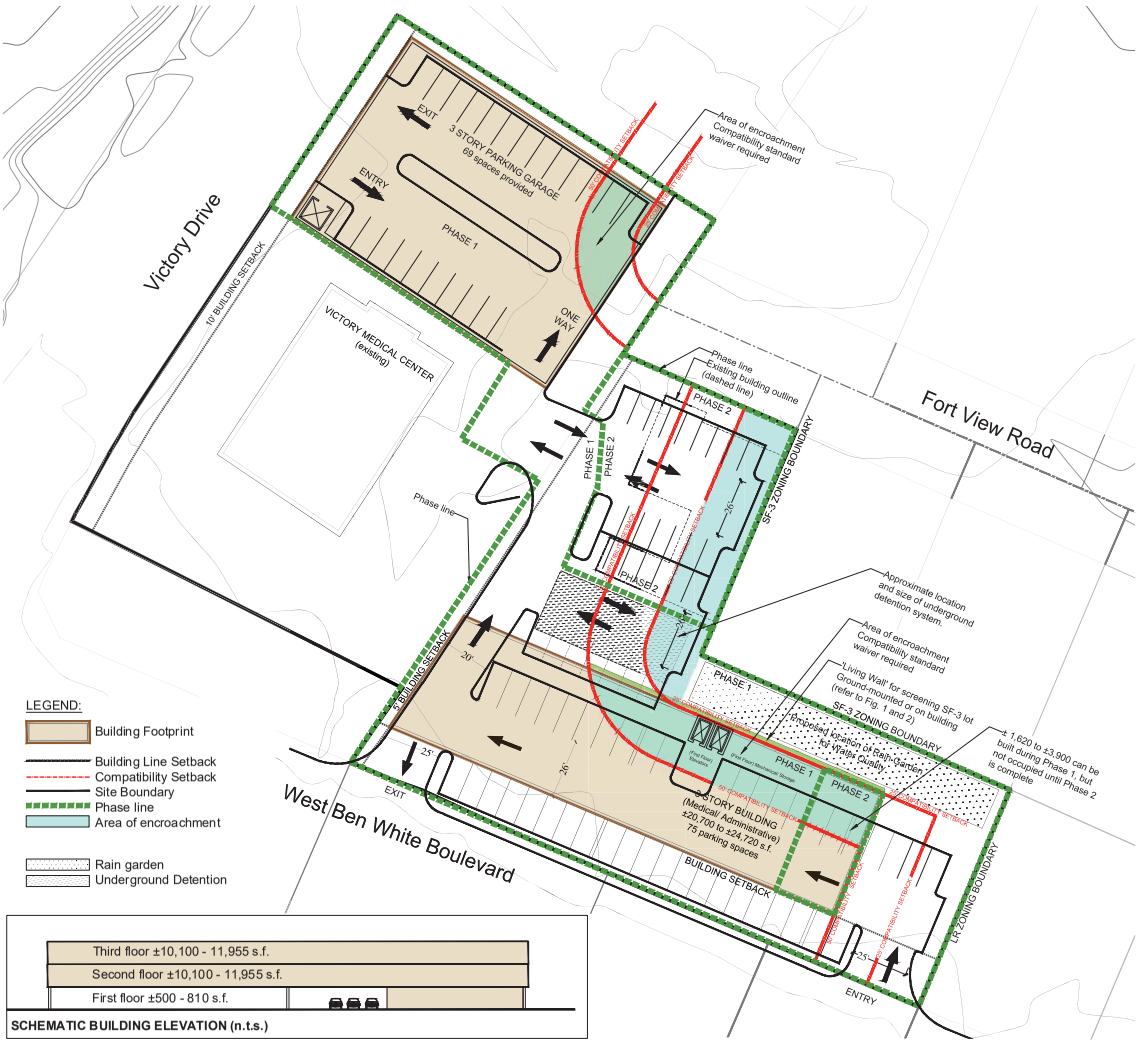
Section 25-2-1067(G) (*Design Regulations*), to reduce the required setback for a parking area or driveway from a property in a SF-5 or more restrictive zoning district or permitted use from 25 feet (required) to fewer than 25 feet (requested) to allow for the construction of:

A. A parking garage on Tract 1;

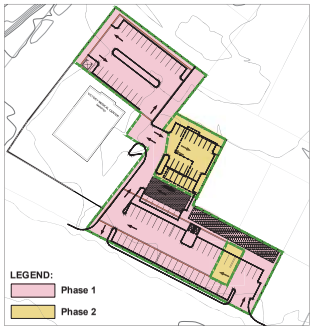
B. Surface parking under a new building on Tracts 2, 3, and 4; and

C. Surface parking on Tract 5;

O03/17



PHASING PLAN



Administrative/ Medical
with parking garage

LAND-USE SUMMARY:	
Building	S.F.
Medical/ Administrative	±20,700 to ±24,720 s.f.
Parking Summary:	
Required	Provided
90 - 104 spaces (Admin) (Medical)	±104 spaces 73 surface parking spa 31 garage sps (net gain)

NOTE:
Parking calculated at at 1:200 (Medical)
Parking calculated at at 1:275 (Administrative)

Building Summary:	
First Floor	±500 - 810 s.f.
Second Floor	±10,100 - 11,955 s.f.
Third Floor	±10,100 - 11,955 s.f.
TOTAL	**±20,700 to ± 24,720 s.f.**

Phasing Summary:	
Phase 1	
Building floor area	Parking provided
±16,800 - 23,100 s.f.	±81 spaces (Garage and surface)
Phase 2	
Building floor area	Parking provided
±1,620 - 3,900 s.f.	±23 space (Garage and surface)
Total Phase Build-out	
Building floor area	Parking provided
±20,700 to ±24,720 s.f.	**±104 spaces**

This plan is conceptual in nature and is subject to change at any time. Due to its conceptual nature, this plan is not to be used for engineering purposes.

DRAFT
12.14.2017

Note:
Does not take into consideration Tree Removal Permits.

SCALE: 1" = 20'

CLIENT INFORMATION:
Dr. William Franklin
Victory Medical
1010 Land Creek Way
PH: (512) 780-9911
silbertson@victorymed.com

VICTORY MEDICAL
CONCEPTUAL SITE PLAN
3 STORY BUILDING WITH PARKING GARAGE

Project Address:
Victory Drive
Austin, Texas

LSI# 17-0701
Date: 12.14.17

LAND STRATEGIES INC.
1010 LAND CREEK CR
SUITE 100
AUSTIN, TX 78746
PH: (512) 328-6000
FAX: (512) 328-6172
LSI@landstrat.COM
PAUL LINEHAN & ASSOCIATES

SHEET 34 OF

O03/18

From: [redacted]
[redacted]
Subject: C15-2018-0004, 4303 Victory Dr POSTPONEMENT REQUEST
Date: Monday, January 08, 2018 9:41:15 AM

Dear Ms. Heldenfels,
We live at 2109 Fort View Road and are requesting a postponement on the BOA hearing for this case to allow neighbors to communicate concerns and understand how these variances will affect us.
Thank you,
Mary Lovell & Richard Llewellyn
ph 512.282.2818

BCC to Ms. Meade

003/19

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern *(it may be delivered to the contact person listed on a notice)*; or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our website:
www.austintexas.gov/department/development-services

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission; or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2018-0004, 4303 Victory Dr.
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, Mon January 8, 2018

JUAN PHAM
Your Name (please print)

☐ I am in favor
☒ I object

1105 FORTVIEW ROAD
Your address(es) affected by this application

Signature — 1/8/18 *Date*

Daytime Telephone: 512 961 6756

Comments: TOO LOUD & OBNOXIOUS. LARGE BUILDING OBSTRUCTING VIEWS. LOWERS PROPERTY VALUES. CONSTRUCTION WILL TAKE TOO LONG. WOULD NOT ALLEVIATE TRAFFIC ON FORTVIEW ROAD BUT PEOPLE DO NOT PARK THERE FOR ACCESS TO SEN WHITE.

Comments must be returned by 10am the day of the hearing to be seen by the Board at this hearing. They may be sent via:

Mail: City of Austin-Development Services Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088
*(**Note:** mailed comments must be postmarked by the Wed prior to the hearing to be seen by the Board at this hearing.)*

Fax: (512) 974-6305

Email: leane.heldenfels@austintexas.gov

From: [redacted]
[redacted]
[redacted]
Subject: Request for Postponement - Item O-9 - C15-2018-0004; 4303 Victory Drive
Date: Monday, February 12, 2018 9:22:32 AM

Leane,

On behalf of the applicant in Case No. O-9 on tonight's agenda, we are requesting a second postponement of the case and ask that it be postponed to the March 12th meeting of the Board. We are working with the neighbors in the vicinity of the subject property to address any concerns and have not completed those discussions. We believe we will be able to complete those discussions prior to the March 12th meeting.

I am copying our nearest neighbors, Mark Tosch, Richard Llewellyn, and Mary Lovell.

Please let me know if you have any questions about our request or need any additional information. Thank you.

Nikelle Meade
Partner

HUSCH BLACKWELL LLP
111 Congress Avenue, Suite 1400
Austin, TX 78701-4093
Direct: 512.479.1147
Mobile: 512.992.6001
Fax: 512.226.7373
[redacted]
View Bio | View VCard
Named a first-tier national real estate law firm by* U.S. News-Best Lawyers *in 2017

From: [redacted]
[redacted]
[redacted]
Subject: Re: Request for Postponement - Item O-9 - C15-2018-0004; 4303 Victory Drive
Date: Monday, February 12, 2018 9:36:30 AM

Hello Leane,

This is Mark Totsch and I am one of the concerned neighbors. I would also like to request a postponement as I am out of town on business and still have several questions about the proposed construction. I would like to be at the hearing as this would directly impact my wife and I. If you can't postpone please let me know so I have time to talk to my wife as she would have to talk on my behalf at this meeting.

Thanks,

Mark Totsch
(c) 913.634.3534

On Mon, Feb 12, 2018 at 9:21 AM, Meade, Nikelle <[redacted] wrote:

> Leane,
>
> On behalf of the applicant in Case No. O-9 on tonight's agenda, we are requesting a second postponement of the case and ask that it be postponed to the March 12th meeting of the Board. We are working with the neighbors in the vicinity of the subject property to address any concerns and have not completed those discussions. We believe we will be able to complete those discussions prior to the March 12th meeting.
>
> I am copying our nearest neighbors, Mark Tosch, Richard Llewellyn, and Mary Lovell.
>
> Please let me know if you have any questions about our request or need any additional information. Thank you.
>
> **Nikelle Meade**
> **Partner**
>
> **HUSCH BLACKWELL LLP**
> 111 Congress Avenue, Suite 1400
> Austin, TX 78701-4093
> Direct: 512.479.1147
> Mobile: 512.992.6001
> Fax: 512.226.7373
> [redacted]