

## SECOND/THIRD READINGS SUMMARY SHEET

ZONING CASE NUMBER: C14-2012-0145 – 2111 Fort View Road

REQUEST:

Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2111 Fort View Road (Williamson Creek Watershed) from family residence (SF-E) district zoning to neighborhood office-mixed use-conditional overlay (NO-MU-CO) combining district zoning, with conditions.

The conditional overlay limits the number of vehicle trips per day and prohibits vehicular access to Fort View Road if the property is used for commercial or civic uses. Bicycle and pedestrian access, along with emergency services vehicles, are exempt. The Restrictive Covenant limits the hours of operation for commercial and civic uses.

In addition, a shared, cross-access easement must be recorded by the owner prior to third reading.

DEPARTMENT COMMENTS:

The Conditional Overlay and Restrictive Covenant incorporate the conditions imposed by the City Council at First Reading.

OWNER: EVEANN Enterprises, L.P. (William P. Franklin).

AGENT: One Management, Inc. (Howard Kells).

DATE OF FIRST READING: March 7, 2013, approved NO-MU-CO combining district zoning with conditions, on First Reading (7-0).

CITY COUNCIL DATE: March 28, 2013

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ASSIGNED STAFF: Lee Heckman  
e-mail: lee.heckman@austintexas.gov

**ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2012-0145  
2111 Fort View Road

**P.C. DATE:** February 12, 2013

**ADDRESS:** 2111 Fort View Road

**AREA:** 0.3964 Acres (17,267 sq. ft.)

**NEIGHBORHOOD PLAN AREA:** Galindo (South Lamar Combined Neighborhood Plan Area)

**OWNER:** Eveann Investments, LP (William G. Franklin)

**APPLICANT:** One Management, Inc. (Howard P. Kells)

**ZONING FROM:** SF-3; Family Residence

**ZONING TO:** LO and NO; Limited Office on the southern half and Neighborhood Office on the northern half (**as amended** by request of applicant on February 26, 2013)

(Offered conditions would limit vehicle trips per day to less than 2000 and limit the hours of operation as Monday through Saturday from 8:00 AM to 5:00 PM and Sunday from 12 Noon to 5:00 PM)

**SUMMARY STAFF RECOMMENDATION**

To grant NO-MU-CO; Neighborhood Office – Mixed Use – Conditional Overlay in which the conditions are as follows:

- 1) Limit vehicle trips per day to less than 2000;
- 2) Limit hours of operation as Monday through Saturday from 8:00 AM to 5:00 PM and Sunday from 12 Noon to 5:00 PM;
- 3) Prohibit vehicular access to and from the subject tract and Fort View Road for civic and commercial uses, with exceptions for emergency services and bicycle and pedestrian traffic; and
- 4) Prior to Council adoption of a rezoning ordinance, require recordation of a shared access easement between the subject property and the property at 2110 W. Ben White Boulevard

**PLANNING COMMISSION RECOMMENDATION:**

February 12, 2013 To grant NO-MU-CO; Neighborhood Office – Mixed Use – Conditional Overlay with the following conditions:

- 1) Limit vehicle trips per day to less than 2000;
- 2) Limit hours of operation as Monday through Saturday from 8:00 AM to 5:00 PM and Sunday from 12 Noon to 5:00 PM;
- 3) Prohibit vehicular access to and from the subject tract and Fort View Road for civic and commercial uses, with exceptions for emergency services and bicycle and pedestrian traffic; and
- 4) Prior to Council adoption of a rezoning ordinance, require recordation of a shared access easement between the subject property and the property at 2110 W. Ben White Boulevard

[Motion by Commissioner Chimenti; Seconded by Commissioner Nortey.  
Passed 8-0. Absent: Commissioner Hernandez]

**ISSUES: None Remaining**

There are two issues listed below were considered and resolved with Council action at First Reading on March 7, 2013.

On February 26, 2013 the applicant amended the original request – which was for LO on the entire property – to a split between LO and NO (see Exhibit B). The proposed LO portion would be approximately the southern half of the property, abutting the currently zoned LO property fronting Ben White Boulevard. The proposed NO portion would be the approximate northern half of the property. Effectively, one-half of the existing duplex would be zoned LO and the other half NO. Additional schematics of the site and building layout were provided by the applicant to the Council as late backup for the March 7, 2013, meeting (see Exhibit C).

Staff does not recommend the split LO-NO zoning. As discussed more fully below in the Basis for Land Use Recommendation, staff supports only LO zoning, and only if granted with the recommended conditions.

Moreover, although the subject property is a platted lot, abuts property owned by the same owner, and both portions would be functionally connected to and integrated with the abutting office property, there are different development standards for these two districts as relates to building coverage, impervious cover, parking, and so forth. Split zoning can create challenges and practical constraints for site planning that staff simply cannot encourage. If the property ever was redeveloped with a new facility spanning this and the adjoining tract, a distinct possibility, then redevelopment of the site with new construction would be challenged by the standards of two different zoning districts.

Subsequent to the Planning Commission's recommendation, staff has realized that granting Mixed Use (MU) combining district zoning to the recommended Neighborhood Office (NO) zoning would allow half of the duplex to be used for office uses and half to be used as residential. This scenario was not contemplated in the staff recommendation for MU zoning, nor was it contemplated in the recommended condition that vehicular access be limited for civic and commercial uses. Granting office zoning, whether NO or LO, with Mixed Use and the access prohibition condition as stated presents a potentially problematic enforcement issue. It would be entirely possible to thwart the intent of the access limitation by simply maintaining a residential component on the property.

Staff stands by its recommendation of NO-MU because it is believed continued residential uses at this location are appropriate and possible, if the entire site is used in this manner or if the property is redeveloped in a coherent manner with the abutting property. However, staff recommends that the condition prohibiting vehicular access to and from the subject tract and Fort View Road be revised to the following: If any portion of the subject tract (or tracts if split zoning is granted) is used for civic or commercial purposes, vehicular access to and from the subject tract and Fort View Road is prohibited with exceptions for emergency services and bicycle and pedestrian traffic.

**DEPARTMENT COMMENTS:**

The South Lamar Combined Neighborhood Plan effort has been suspended. As such, there is no neighborhood plan or future land use map to consult in determining the staff recommendation.

The subject tract is located at the western terminus of Fort View Road, between Manchaca Road and Victory Drive, one block north of Ben White Boulevard. It abuts commercial, office,

and residentially-zoned property. It is one of eighteen residential lots on this portion of Fort View, but would, if rezoned as recommended with conditions, effectively operate as integral part of the Victory Medical enterprise rather than a stand-alone office (please refer to Exhibits A to A-2).

The other side and other end of this block are in areas of transition. As noted in the Case Histories, there has been a number of recent rezoning cases on the Ben White side of this block and at the intersection of Fort View Road and Manchaca. Properties on Ben White are converting from residential to office, and in at least one case, commercial uses. Properties along Manchaca, especially at the intersection and north of Fort View, are also converting from single family residential to office uses. The more intense commercial uses, especially at the intersection of Ben White and Manchaca, have existed for decades. Despite the reuse and redevelopment along Manchaca and Ben White, there has been no rezoning along this portion of Fort View. However, there has been a recent resubdivision of one residential lot to three, and those newly constructed homes are currently on the market.

Staff received one response, in opposition, to the proposed zoning in response to public notice (see Exhibit D). No members of the public spoke against the proposed rezoning at the Planning Commission's public hearing nor at the public hearing at Council's First Reading.

#### **EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3	Single-family house
<i>North</i>	SF-3	Single-Family Residential
<i>West/Northwest</i>	GR	Medical Offices
<i>South/Southeast</i>	LO-CO; LO-MU; SF-3	Medical Office; Mix of Single-Family and Office; Ben White Boulevard
<i>East</i>	SF-3; CS; CS-1; LR-MU-CO;	Single-Family Residential along Fort View; at Fort View-Manchaca intersection a Restaurant, Automotive Repair Shop and Florist

**AREA STUDY:** No

**WATERSHED:** Williamson Creek

**CAPITOL VIEW CORRIDOR:** No

**TIA:** Not Required

**DESIRED DEVELOPMENT ZONE:** Yes

**HILL COUNTRY ROADWAY:** No

#### **NEIGHBORHOOD ORGANIZATIONS:**

South Central Coalition	498
Austin Neighborhoods Council	511
Onion Creek Homeowners Assoc.	627
Austin Independent School District	742
Home Builders Association of Greater Austin	786
Save Our Springs Alliance	943
Homeless Neighborhood Organization	1037
League of Bicycling Voters	1075
Perry Grid 614	1107
Super Duper Neighborhood Objectors and Appeals Organization	1200

Austin Monorail Project	1224
Sierra Club, Austin Regional Group	1228
The Real Estate Council of Austin, Inc.	1236
Austin Heritage Tree Foundation	1340
SEL Texas	1363

**SCHOOLS:**

Austin Independent School District

Joslin Elementary School

Covington Middle School

Crockett High School

**ABUTTING STREETS:**

Name	ROW	Pavement	Classification	Daily Traffic Count
Fort View Road	50'	30'	Collector	780

**NO ABUTTING TRANSIT****CASE HISTORIES:**

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
<b>West/Northwest</b>			
2142-2150 W Ben White, 2201-2327 Prather Lane, & 4000-4312 Victory Drive C14-75-029 (East of Victory, from Ben White north to School)	"A" Residence, 1 <sup>st</sup> H&A to "GR" Commercial, 1 <sup>st</sup> H&A and "C" Commercial, 1 <sup>st</sup> H&A		Approved; 10/27/1977
2142 W Ben White & 2201-2327 Prather Lane C14-72-182 (West of Victory)	"A" Residence, 1 <sup>st</sup> H&A to "C" Commercial, 2 <sup>nd</sup> H&A & "C" Commercial, 3 <sup>rd</sup> H&A		Approved; 09/14/1972
<b>Northeast</b>			
2007-2009 Bert Ave C14-79-247	"A" Residence, 1 <sup>st</sup> H&A to "BB" Residence, 1 <sup>st</sup> H&A		Approved; 04/24/1980
2007 Bert Ave	SF-3 to NO	Approved LO w/Conditions; 05/20/03	Approved LO-CO; 07/13/2003
<b>South/East</b>			
2110 W Ben White	SF-3 to LO	Approved LO w/2000	Approved LO-CO;

C14-2008-0185		trip limit condition; 06/10/2008	11/20/2008
2104 W Ben White C14-2012-0049	SF-3 to LR	Approved LR; 07/24/2012	Approved LR; 12/13/2012
2012 W Ben White C14-2008-0096	SF-3 to LO-MU	Approved; 06/10/2008	Approved; 07/24/2008
2028 W Ben White C14-2007-0051	SF-3 to GO-MU	Approved LO-MU; 06/12/2007	Approved LO-MU; 07/26/2007
2009-2011 Fort View C14-98-0078	SF-3 to CS	Approved LR w/Conditions; 07/21/1998	Approved NO w/Conditions 1 <sup>st</sup> Reading; Indefinite Postponement on 2 <sup>nd</sup> /3 <sup>rd</sup> ; Expired
4302-4304 Manchaca & 2004-2012 Ivy Trail C14-72-222	"C" 6 <sup>th</sup> H&A to "C-2" 6 <sup>th</sup> H&A	Approved, Limited use of C-2 to package store only	Approved as PC Recommended; 11/16/1972
4300 Manchaca & 2001-2005 Fort View C14-74-122	"C" 6 <sup>th</sup> H&A to C-1 6 <sup>th</sup> H&A		Approved 10/31/1974
4204 Manchaca C14-72-099	"A" Residence to "LR" Local Retail		Approved 06/08/1972
4204 & 4208 Manchaca C14-06-0115	LR & SF-3 to (LR-MU-CO)	Approved LR-MU w/Conditions; 06/27/2006	Approved LR-MU-CO; 09/28/2006
4200 Manchaca C14-2012-0117	SF-3 to LO-MU	Approved LO-MU; 11/13/2012	Approved LO-MU; 12/06/2012

**CITY COUNCIL DATE:** March 7, 2013

**ACTION:** Approved First Reading of NO-MU-CO with Conditions. [Motion by Council Member Tovo; Seconded by Council Member Morrison. Vote 7-0 vote].

**ORDINANCE READINGS:** 1<sup>st</sup> March 7, 2013. 2<sup>nd</sup> 3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Lee Heckman  
e-mail address: lee.heckman@austintexas.gov

**PHONE:** 974-7604

**STAFF RECOMMENDATION****C14-2012-0145****BACKGROUND**

The site contains an existing residential structure built in the mid-1950s and consists of approximately 2,240 square feet. The 1948-platted lot on which the structure sits is relatively flat and contains no topographical features of note. The South Lamar Combined Neighborhood Plan effort has been suspended. As such, there is no neighborhood plan or future land use map to consult in deriving the staff recommendation.

**SUMMARY STAFF RECOMMENDATION**

Staff recommends NO-MU-CO, Neighborhood Office – Mixed Use – Conditional Overlay. The conditions for the recommendation are as follows:

- 1) Limit vehicle trips per day to less than 2000;
- 2) Limit hours of operation as Monday through Saturday from 8:00 AM to 5:00 PM and Sunday from 12 Noon to 5:00 PM;
- 3) Prohibit vehicular access to and from the subject tract and Fort View Road for civic and commercial uses, with exceptions for emergency services and bicycle and pedestrian traffic; and
- 4) Prior to Council adoption of a rezoning ordinance, require recordation of a shared access easement between the subject property and the property at 2110 W. Ben White Boulevard

**BASIS FOR LAND USE RECOMMENDATION**

This request is driven by the desire to reuse an existing residential structure for medical office use, as part of the adjacent Victory Medical facility. The applicant has requested Limited Office with a cap of 2,000 vehicle trips per day and offered limited hours of operation. Staff recommends Neighborhood Office-Mixed Use, with additional conditions.

Limited office (LO) and Neighborhood Office (NO) zoning districts are very similar in that both are uses that serve neighborhood or community needs and are located in or adjacent to residential neighborhoods. An office in an LO district may contain one or more different uses, but has development regulations and performance standards designed to ensure that the use is compatible and complementary in scale and appearance with the residential environment.

An office in an NO district may only contain one use, but also has development regulations designed to preserve compatibility with existing neighborhoods through renovation and modernization of existing structures. NO offices are typically found on collector streets less than 40 feet in width, and are intended to not unreasonably affect traffic.

A primary difference in the two zoning districts, especially significant to this case in that the applicant wishes to use the existing residence as a medical office, is that medical office use is allowed in an LO (limited office) district, but not in an NO (neighborhood office) district.

Normally, staff would hesitate to recommend office zoning at this location, at this time. The subject property fronts onto Fort View Road, at its terminus, approximately 1000 feet west of the Fort View/Manchaca intersection. One must pass a number of single-family homes to reach the tract at the end of the street.

Although the Fort View/Manchaca intersection is characterized by LO-MU, LR-MU, CS, and CS-1 zoning districts, the vast majority of property along this stretch of Fort View is single-family

residential. Given the subject tract's location at the end of the street, this is not a standard case of commercial creep into a neighborhood.

This block lies between Fort View and Ben White, which has seen significant change in recent years. Three of the former residences have been rezoned to LO or LO-MU uses; a fourth was rezoned to LR-MU in December of 2012. However, all of these rezonings, and their subsequent non-residential use, has occurred on the Ben White side of this block. There has been no rezoning of property along Fort View Road. In fact, a recent resubdivision across the street from the subject tract has resulted in three new single-family homes on what once was a single-family lot.

While rezoning and reuse of the remaining residences along both Manchaca and Ben White characterize the transition this area is experiencing, this portion of Fort View remains residential. An office at the end of this residential street, and the traffic an office would generate, seems out of place; a medical office seems too intense a use.

However, this is not a stand-alone medical office and staff may support an office use at this site if it had minimal impact on Fort View residences. As with the LO-zoned office between this property and Ben White, the subject tract will be affiliated with Victory Medical at the corner of Victory and Ben White (all three tracts are under the same ownership). As envisioned, patients would access the office either directly from Ben White, or walk over from the Victory Drive office (after parking there). This office was envisioned to contain a couple of exam rooms and ancillary staff offices, as part of their skin care program.

Despite existing access and connections to Ben White and Victory Drive, staff does not think a medical office with access to residential Fort View Road, even if limited to exit-only, is justifiable. Moreover, if the property ever were to become a stand-alone medical office, or redeveloped into more than an ancillary facility to the adjacent facilities, traffic on Fort View would only increase.

Consequently, staff is recommending NO-MU – but with the stipulation that no vehicular access be allowed to Fort View for civic and commercial uses, with the exception of emergency services. This means if the property were used as residential, residents could freely traverse Fort View and the impact would be negligible, unless the property was redeveloped with additional residential units. Bicycle and pedestrian access would not be limited for any use.

Related, staff is recommending that a shared access easement between this property and the property between it and Ben White be executed and recorded prior to adoption of the rezoning ordinance, if so recommended by the Commission and granted by Council. This recorded easement would ensure that access to the tract is provided by the property abutting Ben White, even if one or both properties is conveyed to a non-affiliated owner.

Staff wholly concurs with the limited hours offered by the applicant, and the cap of less than 2,000 vehicle trips per day, which is standard in lieu of an approved traffic impact analysis. Although the prohibition against vehicular traffic from the office to Fort View could make the vehicle trip limit a moot point, staff does think the limited hours help mitigate any negative impacts to abutting residences from office operations in the evenings and on weekends.

Even with the limitation on office hours and limited access to Fort View, staff is concerned about office use at this spot. It's a uniquely situated property at the end of a mostly residential street. Granted, office use is often used as a transition between single-family residential and more



intense uses, and is thought to be more or less compatible with such residential uses. But the tract is also uniquely situated in that it can be integrated, and function - with the right restrictions - as more or less an integral part of the Victory Medical "campus" and not as an office at the end of a residential street.

Staff understands that if NO is granted, rather than the LO requested, the owner will only be able to reuse the existing structure for administrative offices and a staff lounge. In other words, the owner would be required to relocate existing administrative office uses from the Ben White property to this property, and locate what was planned for this location to the tract fronting Ben White.

Given the above discussion, staff thinks the recommendation of NO-MU with the identified conditions is warranted because it furthers the following zoning principles:

***The proposed zoning promote clearly-identified community goals, such as creating employment opportunities;***

***The proposed zoning should be consistent with the purpose statement of the district sought; and***

***Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.***

As regards the principles that ***zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character, and that granting of the zoning should not in any way set an undesirable precedent for other properties in the neighborhood or within other areas of the city***, staff thinks the recommended conditions regarding access and hours of operation limit or mitigate detrimental impacts. While neighborhood creep of office and commercial properties could occur, staff thinks the unique location, ownership, and connection between this property and the existing Victory Medical facilities helps ensure this office rezoning does not set a precedent for other properties on Fort View Road. It is unknown whether staff could support a request for another property on Fort View that sought either NO or LO zoning.

Staff does not think, given the property's location and affiliation with adjacent medical office uses, that office rezoning could be considered spot zoning. Nor would it be interpreted as a special privilege because similar situated properties could be given the same consideration. Although staff does not recommend the requested zoning district, staff thinks the NO-MU with conditions does allow for a reasonable use by the property owner.

As noted, the South Lamar Combined Neighborhood Plan effort has been suspended. As such, there is no neighborhood plan or future land use map to consult in developing the staff recommendation. The Imagine Austin Growth Concept Map, found in the Imagine Austin Comprehensive Plan, identifies this area as an Activity Center for Redevelopment. In the Comprehensive Planning notes below, protecting neighborhood character is also cited, along with the property's location at the end of a mostly residential street. Indeed, it is protection of the neighborhood character on Fort View Road that requires staff to recommend NO rather than LO, and then only NO with the limited hours of operation, access prohibitions, and other conditions as listed above.

## EXISTING CONDITIONS

### Site Characteristics

Lots along Fort View Road were platted in 1948. The existing family residence has an effective construction date of 1954 and comprises approximately 2250 square feet. The site is relatively flat and contains no known topographical or environmental constraints to redevelopment.

### Comprehensive Planning

This zoning case is located on the south side of Fort View Road, one block north of Ben White Boulevard. The property contains a duplex. Surrounding land uses include single family houses to the north and east, and medical offices to the west and south. This portion of Fort View Road is entirely residential. The request is to utilize the subject property for a medical office.

The property is located within one of five '**Activity Centers for Redevelopment (located) in an Environmentally Sensitive Area**' as identified on the Imagine Austin Growth Concept Map, found in the Imagine Austin Comprehensive Plan. Page 106 of the Imagine Austin Comprehensive Plan states, *"Five centers are located over the recharge or contributing zones of the Barton Springs Zone of the Edwards Aquifer or within water-supply watersheds. These centers are located on already developed areas and, in some instances, provide opportunities to address long-standing water quality issues and provide walkable areas in and near existing neighborhoods. State-of-the-art development practices will be required of any redevelopment to improve stormwater retention and the water quality flowing into the aquifer or other drinking water sources. These centers should also be carefully evaluated to fit within their infrastructural and environmental context. One of the Land Use and Transportation policies, LUT P21 (p. 102), clarifies the intent, "Ensure that redevelopment in the Edwards Aquifer's recharge and contributing zones maintains the quantity and quality of recharge of the aquifer."*

The following are key policies taken from Chapter 4 of the Imagine Austin Comprehensive Plan, which specifically discuss the preservation of neighborhood character, including within designated redevelopment areas:

- LUT P4. Protect neighborhood character by directing growth to areas of change that includes designated redevelopment areas, corridors and infill sites. Recognize that different neighborhoods have different characteristics and new and infill development should be sensitive to the predominant character of these communities.
- HN P11. Protect neighborhood character by directing growth to areas of change and ensuring context sensitive infill in such locations as designated redevelopment areas, corridors, and infill sites.
- HN P15. Protect neighborhood character by providing opportunities for existing residents who are struggling with rising housing costs to continue living in their existing neighborhoods.

Based on the property being located at the end of a residential street, and Imagine Austin policies referenced above, staff believes that residential rather than limited office use is consistent with the Imagine Austin Comprehensive Plan.

## **Environmental**

The site is not located over the Edwards Aquifer 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%

1. According to flood plain maps there is no flood plain within or adjacent to the project boundary.
2. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
3. Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
4. 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.
5. 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.

## **Site Planning and Compatibility Standards**

1. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.
2. The site is subject to compatibility standards. Along the north, east and south 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.

### **Transportation**

1. No additional right-of-way is needed at this time.
2. 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]
3. Fort View Road is not classified in the Bicycle Plan.
4. Capital Metro bus service is not available along Fort View Road.
5. There are no existing sidewalks along Fort View Road.
6. Existing Street Characteristics:

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification</b>	<b>ADT</b>
Fort View Road	50'	30'	Collector	780

### **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 any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. 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.





CS-V

PRATHER LN

SF-3

KEATS DR

SF-3

CS

GR

SF-3

MF-2

LO-CO

LO-CO

GATHRIGHT CV

LO

SF-3

WBEN WHITE BLVD SVRD WB

LO-CO

LO-MU

LO-MU

WBEN WHITE BLVD WB

WBEN WHITE BLVD EB

WBEN WHITE BLVD SVRD EB

GR

CS

GR

GR

CS

CS-1

CS-1

CS

LR-MU-CO

MANCHAC RD

CS

CS

CS

**SUBJECT TRACT**  
(0.2304 acres  
10,036 sq. ft.)

1 inch = 200 feet



# C14-2012-0145/ 2111 Fort View Road



Imagery: 2009

Exhibit A-2  
Aerial & Zoning

0 25 50 100  
Feet

1 inch = 50 feet

**From:** Howard Kells  
**Sent:** Tuesday, February 26, 2013 4:12 PM  
**To:** Heckman, Lee  
**Subject:** Re: 2111 Fort View

Hi Lee,

Dr. Franklin would like me to request LO on the rear half and NO of the front half of the lot before the City Council. Do you have a draft form of the reciprocal easement agreement the legal department would like us to us? I will get the Corporate Authorization Form signed and returned to you. I'm working on the getting the reciprocal easement field notes back from the surveyor. Lets plan on second & third reading on 3/21/13.

Please call, if you have any questions.

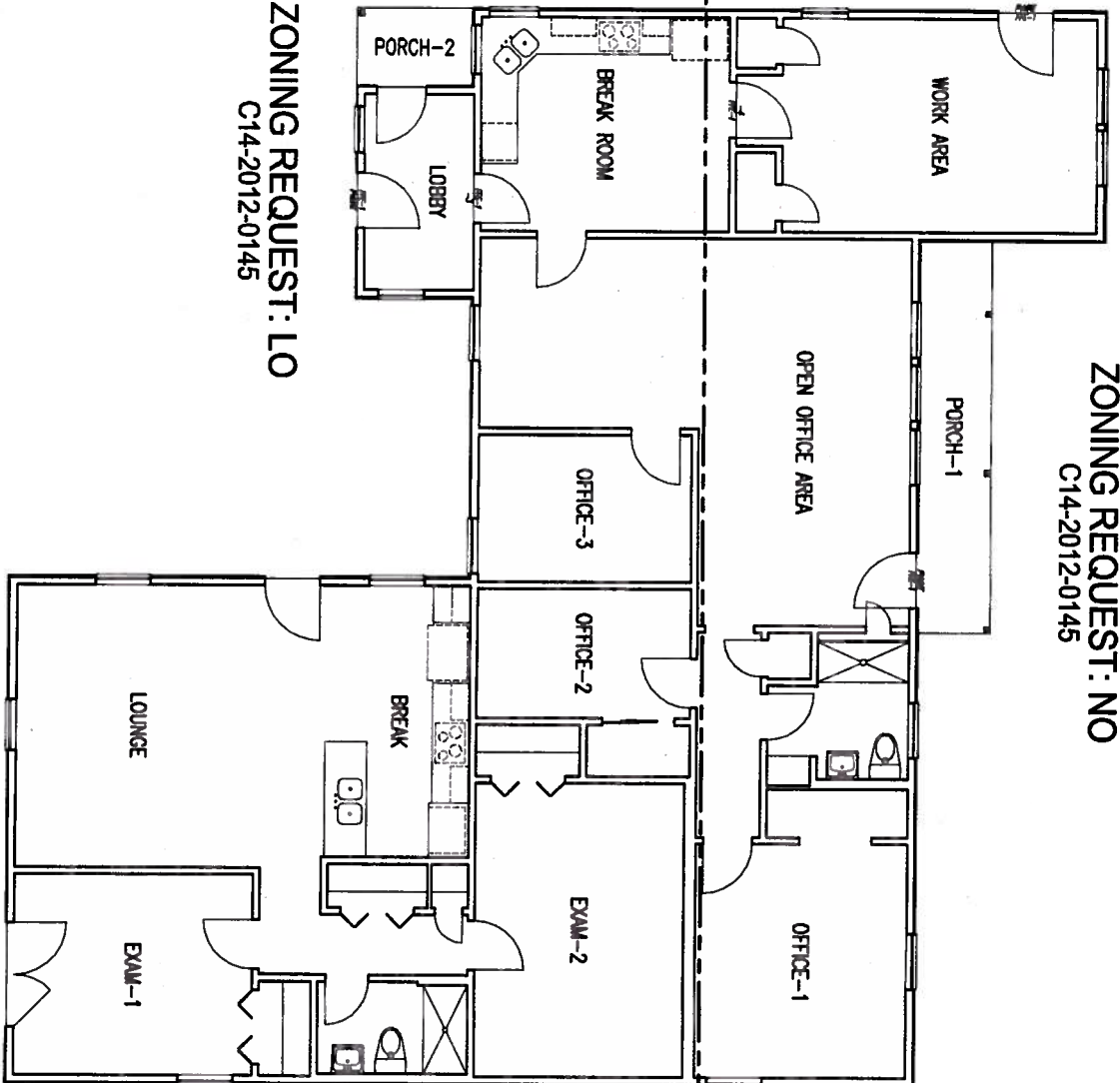
Thanks,

Howard Kells  
One • 2 Management LLC  
PO Box 90245  
Austin, Texas 78709

512 916-0123 - Office  
888 532-5123- Toll Free  
512 916-0122 - Fax  
512 844-6090 - Cellular



**ZONING REQUEST: NO**  
C14-2012-0145



**ZONING REQUEST: LO**  
C14-2012-0145



**ZONING REQUEST: DETAIL AT BUILDING**

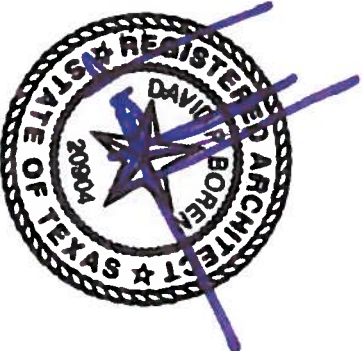
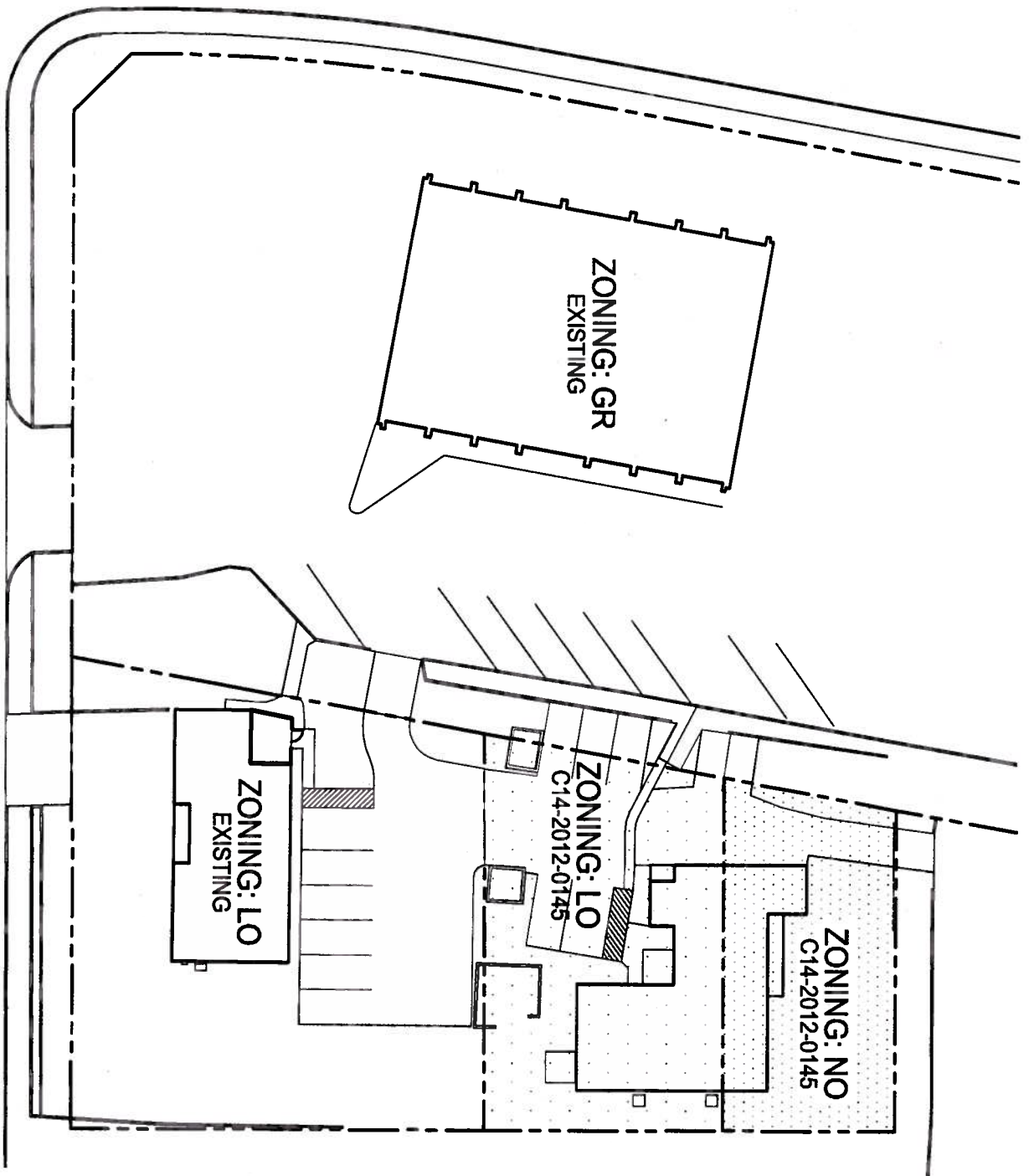
**Exhibit C - 1**

DATE: 05 MAR 13  
SCALE: 1" = 10'  
JOB #: 1250 (c)

DAVIDBOREN@BORENARCHITECTS.COM

**BOREN**  
ARCHITECTS

SHEET A4-03



ISSUED FOR REGULATORY  
APPROVAL

6 MAR 13

ZONING PLAN: EXISTING & AS REQUESTED

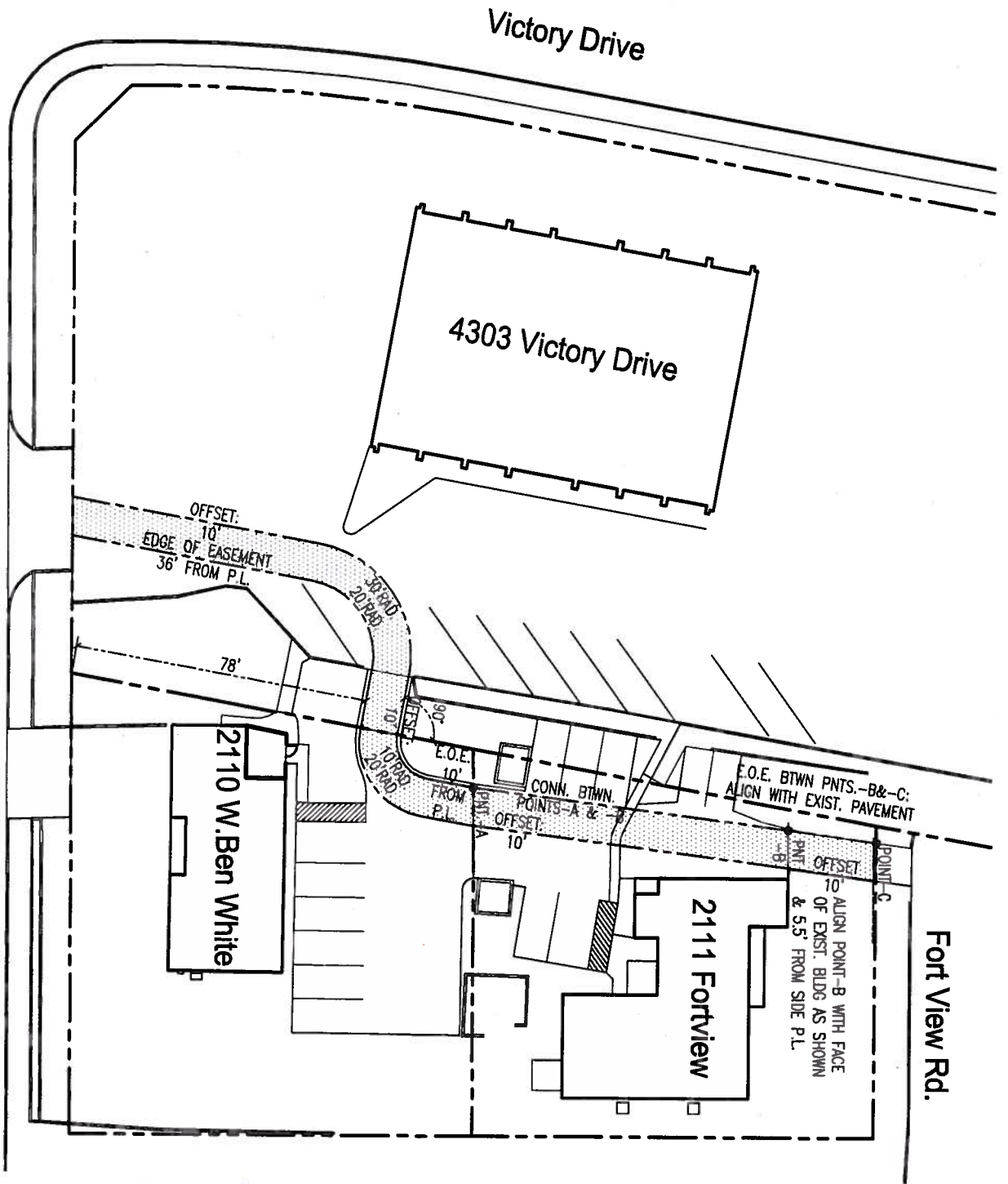
SHEET A4-02

DATE: 06 MAR 13  
SCALE: 1" = 40'  
JOB #: 1250 (c)

DAVIDBOREN@BORENARCHITECTS.COM

**BOREN**  
ARCHITECTS

512.554.5474



EASEMENT INFORMATION FOR SURVEYOR FIELD NOTES WITH PROPOSED SITE PLAN

W. Ben White Blvd.

Fort View Rd.

ISSUED FOR REGULATORY

APPROVAL  
6 MAR 13



SHEET A4-01

Exhibit C - 3

DATE: 06 MAR 13  
SCALE: 1" = 40'  
JOB #: 1250 (c)

DAVIDBOREN@BORENARCHITECTS.COM  
512.554.5474

**BOREN**  
ARCHITECTS

**From:** Kregg Elsass  
**Sent:** Tuesday, March 05, 2013 11:02 AM  
**To:** Heckman, Lee  
**Subject:** C14-2012-0145

Mr. Heckman:

My Name is William Kregg Elsass, home owner at 2102 Fort View Road, Austin, TX 78704. I am traveling on business the night of the rezoning hearing scheduled for March 7, 2013 so I will not be able to attend.

**As a resident of Fort View Road, I am writing to you in opposition of this rezoning request.**

The reason for opposition is an argument I made to both the Planning Commission and City Council when properties on Ben White were rezoned from SF 3 to LO MU. I stated at those hearings that my concern, as well as those of my neighbors, was that those rezoning's were potentially the first steps to rezone the entire strip between Ben White and Fort View into commercial use. That the integrity of the residential street would be jeopardized if that happened.

I was assured at both hearings that they would not be in agreement to radically alter the make-up of Fort View. That they too saw relative value to maintaining the integrity of Fort View as residential. They stated they were in agreement to maintain Fort View as residential only.

So, with the above mentioned rezoning at 2111 Fort View, my concern will become more of a reality if approved. I realize this corner is a bit unique as it abuts commercial property to the west but it is easy to see that this would be yet another step to erode yet another Austin residential street to commercial development.

Further, the process of "patchwork" zoning is below the level of sophistication that a City like ours should accept.

Approving the requested rezoning is not a "slippery slope argument", but instead will be factual and unfortunately, real.

Please include my comments into the public record and if at all possible, read them at the City Council meeting.

Respectfully Submitted,

**Kregg Elsass**  
Associate Principal

---

AUSTIN  
DALLAS  
DENVER  
HOUSTON  
WASHINGTON, DC  
Abu Dhabi Doha Kuwait London

PAGE SOUTHERLAND PAGE, LLP

400 W. Cesar Chavez, Suite 500 Austin, Texas 78701  
tel: 512 472 6721 dir: 512 382 3437 fax: 512 477 3211  
[www.pspaec.com](http://www.pspaec.com)

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ARCHITECTURE INTERIORS CONSULTING ENGINEERING

**Exhibit D**

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE  
2 PROPERTY LOCATED AT 2111 FORT VIEW ROAD FROM FAMILY  
3 RESIDENCE (SF-3) DISTRICT TO NEIGHBORHOOD OFFICE-MIXED USE-  
4 CONDITIONAL OVERLAY (NO-MU-CO) COMBINING DISTRICT.

5  
6 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

7  
8 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to  
9 change the base district from family residence (SF-3) district to neighborhood office-mixed  
10 use-conditional overlay (NO-MU-CO) combining district on the property described in  
11 Zoning Case No. C14-2012-0145, on file at the Planning and Development Review  
12 Department, as follows:

13  
14 Lot 1, Goodnight & Pearson Addition Subdivision, a subdivision in the City of  
15 Austin, Travis County, Texas, according to the map or plat of record in Plat Book  
16 5, Page 28, of the Plat Records of Travis County, Texas (the "Property"),

17  
18 locally known as 2111 Fort View Road in the City of Austin, Travis County, Texas, and  
19 generally identified in the map attached as Exhibit "A".

20  
21 **PART 2.** The Property within the boundaries of the conditional overlay combining district  
22 established by this ordinance is subject to the following conditions:

- 23  
24 A. A site plan or building permit for the Property may not be approved, released,  
25 or issued, if the completed development or uses of the Property, considered  
26 cumulatively with all existing or previously authorized development and uses,  
27 generate traffic that is less than 2,000 vehicle trips per day.  
28  
29 B. Vehicular access to and from the Property and Fort View Road is prohibited if  
30 any portion of the Property is used for commercial or civic uses, except for  
31 bicycle and emergency ingress and egress. All vehicular access to the Property  
32 shall be from other adjacent public streets or through other adjacent property.  
33

34 Except as specifically restricted under this ordinance, the Property may be developed and  
35 used in accordance with the regulations established for the neighborhood office (NO) base  
36 district, the mixed use combining district and other applicable requirements of the City  
37 Code.

1  
2 **PART 3.** This ordinance takes effect on \_\_\_\_\_, 2013.  
3  
4

5 **PASSED AND APPROVED**  
6

7  
8 \_\_\_\_\_, 2013  
9

§  
§  
§

10 \_\_\_\_\_  
11 Lee Leffingwell  
12 Mayor  
13

14 **APPROVED:** \_\_\_\_\_

15 Karen M. Kennard  
16 City Attorney

**ATTEST:** \_\_\_\_\_

Jannette S. Goodall  
City Clerk



**RESTRICTIVE COVENANT**

OWNER: EVEANN Enterprises, Inc., a Texas corporation

ADDRESS: 4303 Victory Drive, Austin, Texas 78704

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Lot 1, Goodnight & Person Addition Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 5, Page 28, of the Plat Records of Travis County, Texas.

WHEREAS, the Owner (the "Owner", whether one or more), of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Hours of operation for a civic or commercial use located on the Property are limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Saturday and 12:00 p.m. to 5:00 p.m. on Sunday.
2. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.



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, and (b) by the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**OWNER:**

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

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

By: \_\_\_\_\_  
Dr. William G. Franklin  
President

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS   §**

**COUNTY OF TRAVIS       §**

      This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_, 2013, by Dr. William G. Franklin, President of EVEANN Enterprises, Inc., a Texas corporation, general partner of EVEANN Investments, L.P., a Texas limited partnership, on behalf of said corporation.

---

Notary Public, State of Texas

After Recording, Please Return to:  
City of Austin  
Law Department  
P. O. Box 1088  
Austin, Texas 78767  
Attention: J. Collins, Paralegal