

## ZONING CHANGE REVIEW SHEET

**CASE:** C14-79-074(RCT)

**P.C. DATE:** February 28, 2012

**ADDRESS:** 7016 East Ben White Boulevard WB

**OWNER/APPLICANT:** CSK Partners, LLC (Chris Whitt)

**AGENT:** Garrett-Ihnen Civil Engineers (Steve Ihnen)

**AREA:** 28.9 acres (1,258,884 ft<sup>2</sup>)

**SUMMARY STAFF RECOMMENDATION:** Staff recommends a termination of the restrictive covenant subject to this property.

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission approved the staff recommendation to terminate the restrictive covenant on the property; (9-0).

**DEPARTMENT COMMENTS:** This 31.4 acre property is currently zoned LI-NP and CS-NP and is currently undeveloped. The applicant seeks to rezone the property to CS-MU-NP to facilitate the development of a mixed-use residential and retail project. A neighborhood plan amendment request (NPA-2011-0005.02) was filed and approved in December of 2011 to change the future land use map of the Montopolis Neighborhood Plan from Commercial and Industry to Mixed-use. The applicant has also filed two restrictive covenant termination requests for the property (C14-79-074RCT and C14-79-285RCT) that will terminate covenants from 1979 that require a planned development agreement (PDA) for and industrial use on the property (074); and limit the uses on the property to the promotion, sale or lease of mobile or modular homes, or uses allowed under Community Commercial (GR) district zoning (285).

**EXISTING ZONING AND LAND USES:**

|              | <b>ZONING</b>         | <b>LAND USES</b>               |
|--------------|-----------------------|--------------------------------|
| <i>Site</i>  | CS-NP, LI-NP          | Undeveloped                    |
| <i>North</i> | SF-3-NP, GR-MU-NP     | Single Family, Undeveloped     |
| <i>South</i> | LI-CO-NP, CS-MU-CO-NP | Mobile home sales, Undeveloped |
| <i>East</i>  | LI-NP                 | Warehouse                      |
| <i>West</i>  | LI-NP                 | Undeveloped                    |

**NEIGHBORHOOD PLAN:** Montopolis Neighborhood Plan

**TIA:** Waived

**WATERSHED:** Carson Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**HILL COUNTRY ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

Montopolis Neighborhood Association  
Del Valle Community Coalition  
Southeast Combined Neighborhood Alliance  
Montopolis Area Neighborhood Alliance  
Southeast Corner Alliance of Neighborhoods  
Carson Ridge Neighborhood Association  
Onion Creek Homeowners Association  
Crossing Garden Homeowners Association  
Montopolis Tributary Trail Association

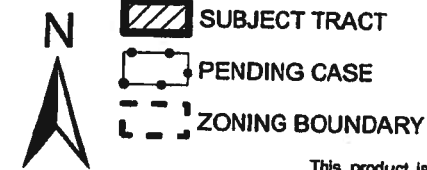
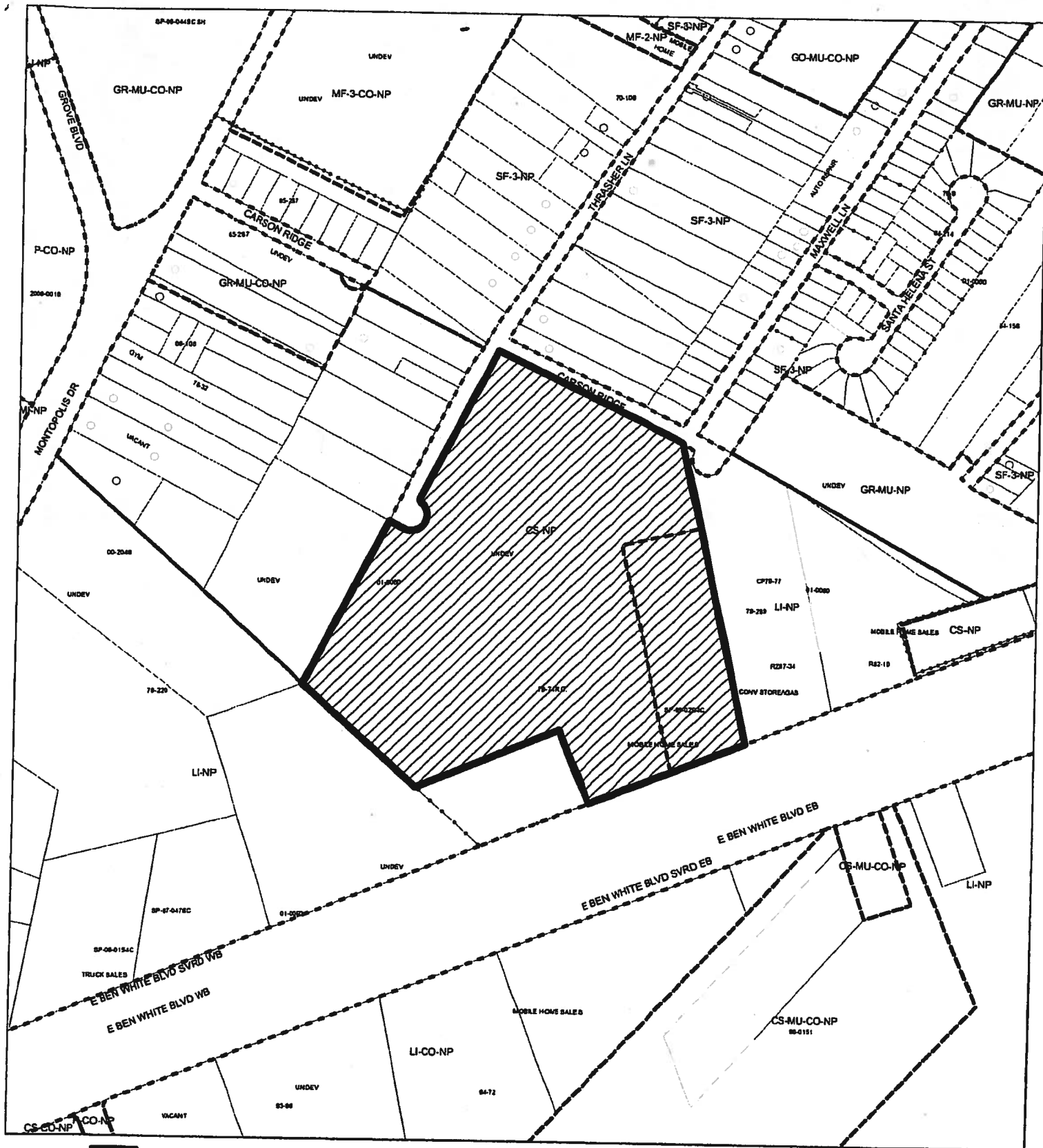
**CASE HISTORIES**

| <b>NUMBER</b>    | <b>REQUEST</b>                         | <b>COMMISSION</b>   | <b>COUNCIL</b>     |
|------------------|--|---------------------|--------------------|
| C14-01-0060      | Montopolis Neighborhood Plan           | Approved 8/7/2001   | Approved 9/27/2001 |
| NPA-2011-0005.02 | Montopolis Neighborhood Plan Amendment | Approved 10/25/2011 | Approved 12/8/2011 |

**CITY COUNCIL DATE:** March 22, 2012**ACTION:** Approved a Postponement request by the Staff to April 5, 2012 (6-0, Council Member Morrison – absent).

April 5, 2012

**ORDINANCE NUMBER:****CASE MANAGER:** Stephen Rye**PHONE:** 974-7604  
[stephen.rye@ci.austin.tx.us](mailto:stephen.rye@ci.austin.tx.us)



1" = 400'

## ZONING

ZONING CASE#: C14-79-074(RCT)

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.









File

RESTRICTIVE COVENANT

129.19  
THE STATE OF TEXAS  
COUNTY OF TRAVIS

C14-79-074 90

2-05-1345

WHEREAS, Travis 51, Ltd., a Limited Partnership, is the owner of the following described property, to-wit:

As described in Attachment "A" hereto.

WHEREAS, the City of Austin and Travis 51, Ltd., have agreed that the above described property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, Travis 51, Ltd., for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, do hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on them, their successors and assigns, as follows, to-wit:

1. Prior to any construction or development on the referenced property which would require zoning classification under the Zoning Ordinance of the City of Austin, Texas, of "DL", e.g. light industrial zoning, the owners shall negotiate and enter into a Planned Development agreement with the City of Austin, and until such agreement is executed no use shall be placed on the property which would not be allowed in "C" Commercial zoning district of the City of Austin Zoning Ordinance.
2. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenants and to prevent said person or entity from violating or attempting to violate such agreement or covenant.
3. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment or court order, the same shall in no wise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.
4. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

Orig: City Clerk  
xc: Bldg. Insp.  
Planning  
8/2/79

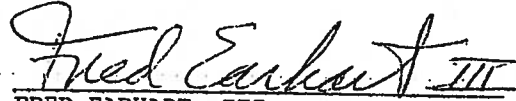
DEED RECORDS  
Travis County, Texas

6805 2100

5. This agreement may be modified, amended or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and (b) by the owners of the above described property at the time of such modification, amendment or termination.

2-05-1346

EXECUTED this the 4th day of June, 1979.

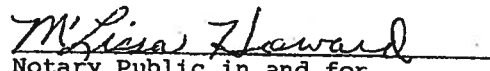
  
FRED EARHART, III  
General Partner of  
Travis 51, Limited

THE STATE OF TEXAS X  
COUNTY OF HARRIS X

Before me, the undersigned authority, on this day personally appeared FRED EARHART, III, General Partner of Travis 51, Limited, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said Limited Partnership.

Given under my hand and seal of office on this the 4th day of June, 1979.

NOTARY SEAL

  
Notary Public in and for  
Harris County, T e x a s

M'LICSA HOWARD  
Notary Public in and for Harris County, Texas  
My Commission Expires Nov. 6, 1980

*from D. F. Priest*

# FIELD NOTES

FIELD NOTES FOR 30.72 ACRES OF LAND OUT OF SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS WHICH TRACT OF LAND CONTAINING 30.72 ACRES IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point in the north line of Ben White Boulevard at the most southerly southwest corner of a tract of land described in a deed to Augustine Ramirez of record in Volume 2208 at Page 163 of the Deed Records of Travis County, Texas;

2-05-134

THENCE, N 19° 04' W 400 feet to a point;

THENCE, S 70° 56' W 495.81 feet to an iron stake;

THENCE, W 45° 09' W 95.91 feet to a nail in a post;

THENCE, N 44° 57' W 392.95 feet to an iron stake at the most westerly corner of the said Ramirez Tract same being the most westerly corner of a tract of land described in a deed to John Joseph and Donald Thomas of record in Volume 2208 at Page 148 of the Deed Records of Travis County, Texas, as described in the first tract in the said deed;

THENCE, with the west line of the said Ramirez Tract N30° 23' E 588.95 feet to an iron stake at the end of Thrasher Lane;

THENCE, crossing the south end of Thrasher Lane S 59° 50' E 50.13 feet to an iron stake;

THENCE, with the east line of Thrasher Lane N 30° 21' E 477.52 feet to a square headed bolt found and N30° 29' E 167.95 feet to an iron stake found at the most northerly corner of the said Ramirez tract;

THENCE, with the northeast line of the said Ramirez Tract S61° 29' E 242.73 feet to an iron stake found; S 61° 15' E 246.13 feet to an iron stake found and S 58° 19' E 164.97 feet to a point;

THENCE, S 9° 20' 30" E 1129.91 feet to the POINT OF BEGINNING.

FIELD NOTES FROM  
RECORDS BY:

*B. F. Priest*  
B.F. Priest, Reg. Public Surveyor.

DATE 8-18-78

RECORDERS MEMORANDUM  
ALL OR PARTS OF THE TEXT ON THIS PAGE  
WAS NOT CLEARLY LEGIBLE FOR SATISFACTORY RECORDATION

6605 2162



FILED

JUN 29 8 08 AM '79

2-05-1348

*Doris Shropshire*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS

COUNTY OF TRAVIS

I hereby certify that this instrument was FILED on the  
date and at the time stamped hereon by me, and was duly  
RECORDED in the Volume and Page of the named RECORDS  
of Travis County, Texas, as stamped hereon by me, on

JUN 29 1979



*Doris Shropshire*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

6605 2163