

ZONING CHANGE REVIEW SHEET

CASE: C14-79-285(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: 2.5 acres (108,900 ft²)

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:

	ZONING	LAND USES
<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

NUMBER	REQUEST	COMMISSION	COUNCIL
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

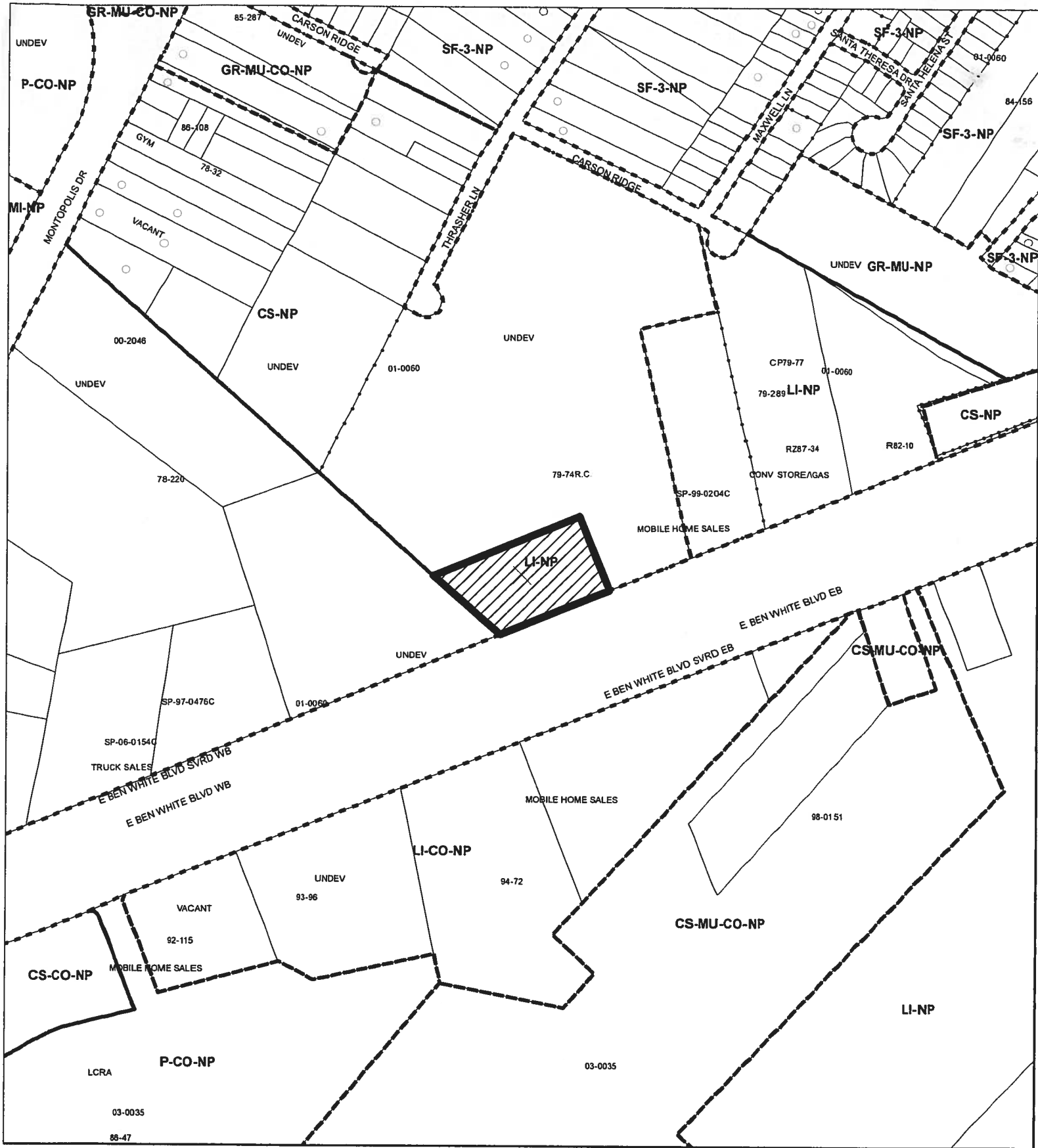
ACTION: Approved a Postponement request by the Staff to April 5, 2012 (6-0, Council Member Morrison – absent).

April 5, 2012




ORDINANCE NUMBER:

CASE MANAGER: Stephen Rye

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



1" = 400'

-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

ZONING CASE C14-79-285(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.





(C14-79-285)

7.00

THE STATE OF TEXAS |

COUNTY OF TRAVIS | MAR 10-80 8057 * 7.00 RESTRICTIVE COVENANT

2-24-1513

WHEREAS, TOWNHOME DEVELOPMENT CORPORATION, a Texas Corporation,
is the owner of the following described property, to-wit:

As described in Attachment "A" attached hereto and made
a part hereof by reference.

WHEREAS, the City of Austin and Townhome Development Corporation,
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, Townhome Development Corporation, 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 upon 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
owner shall negotiate and enter into a Planned Development Agreement with
the City of Austin, and until such Agreement is executed no use other than
the promotion, sale or lease of mobile or modular homes or those uses
allowed in a "GR" General Retail Zoning District of the City of Austin
Zoning Ordinance shall be allowed.

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.

2-24-1544

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.

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.

EXECUTED, this, the 5 day of February,
A. D., 1980.

TOWNHOME DEVELOPMENT CORPORATION,

By Fred Earhart III President
FRED EARTHART, III.
President

(NO SEAL)

THE STATE OF TEXAS |
COUNTY OF |

BEFORE ME, the undersigned authority, on this day personally appeared FRED EARTHART, III., President of TOWNHOME DEVELOPMENT CORPORATION, a corporation, 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 corporation.

Given under my hand and seal of office on this, the 5 day of February, A. D., 1980.

NOTARY SEAL

Kathy L. 082
Notary Public in and for
County, State of TEXAS

My commission expires:
Notary Public - Harris County
My Commission Expires July 27, 1981
Notary Public - Harris County

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FIELD NOTES

FIELD NOTES FOR 3.65 ACRES OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT IN TRAVIS COUNTY, TEXAS, BEING A PART OF THAT CERTAIN TRACT OF LAND CONVEYED TO AUGUSTINE RAMIREZ BY DEED OF RECORD IN VOLUME 3835 OF PAGE 1996 DEED RECORDS, TRAVIS COUNTY, TEXAS, AND ALSO BEING A PART OF THAT TRACT OF LAND DESCRIBED AS FIRST TRACT AND A PART OF THAT TRACT OF LAND DESCRIBED AS SECOND TRACT IN A DEED TO JOHN JOSEPH AND DONALD THOMAS OF RECORD IN VOLUME 2208 OF PAGE 418, DEED RECORDS TRAVIS COUNTY, TEXAS, WHICH TRACT OF LAND CONTAINING 3.65 ACRES IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

2-24-1545

TO LOCATE THE PLACE OF BEGINNING start at an iron stake located at the Southwest Corner of that tract of land described in a Deed to select properties and recorded in Volume 2208 at Page 161, Deed Records of Travis County, Texas;

THENCE, with the North line of Ben White Boulevard, S 70°56' W 1115.42 feet to an iron stake;

BEGINNING at said iron stake N 19°04' W 400.00 feet to an iron stake set;

THENCE, S 70°56' W 495.81 feet to an iron stake set in the West line of the Second Tract set forth and described in a Deed to John Joseph and Donald Thomas of Record in Volume 2208, at Page 418, Deed Records of Travis County, Texas.

THENCE, S 44°51' E 445.36 feet to the R.O.W. of Ben White Boulevard; THENCE N 19° 04' E to Point of Beginning.

EXHIBIT "A"

STATE OF TEXAS
I hereby certify that this instrument was filed on the
date and at the time stated herein by me and was duly
RECORDED, in the Volume and Page of the record indicated
of Travis County, Texas, as stamped herein by me, CL



MAR 10 1980

Louis H. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

CERTIFIED COPY

FILED

MAR 10 8 37 AM '80

Louis H. Thompson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

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