

ZONING CHANGE REVIEW SHEET

CASE: C14-84-310(RCT) Riverside Gardens RCT **P.C. DATE:** June 14, 2011

ADDRESS: 6716 East Riverside Drive

OWNER/APPLICANT: Equity Secured Capital, L.P. (Vincent M. DiMare, Jr.)

AGENT: Carlson, Brigrance & Doering, Inc. (Charles Brigrance)

AREA: 18.25 acres (794,970 ft²)

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

PLANNING COMMISSION RECOMMENDATION: 6/14/11: The Planning Commission approved the staff recommendation for the termination of the restrictive covenant on consent (7-0, Kirk absent, 1 vacancy).

DEPARTMENT COMMENTS: This property is subject to a restrictive covenant filed in 1984 (C14-84-310) that created a 1.27 acre no building setback. The property is currently under different ownership and has requested a zoning change for the construction of an SF-4A housing development (C14-2010-204). As staff and the Planning Commission have recommended the approval of the zoning case, staff further recommends the termination of the restrictive covenant in order to facilitate the completion of the proposed project.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-NP, MF-3-NP	Undeveloped
<i>North</i>	SF-3-NP, MH-NP	Single Family, Mobile Home
<i>South</i>	CS-MU-NP	Undeveloped
<i>East</i>	CS-MU-NP, GR-MU-NP, CS-NP, MF-3-CO-NP	Multifamily, Convenience Storage
<i>West</i>	CS-MU-NP, SF-3-NP	General Retail Sales Convenience, Multifamily

NEIGHBORHOOD PLAN: Montopolis Neighborhood Plan

TIA: Waived

WATERSHED: Carson Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: No

HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

Vargas Neighborhood Association
El Concilio coalition of Mexican American Neighborhood Associations
Montopolis Neighborhood Association
Montopolis Area Neighborhood Alliance
Southeast Austin Neighborhood Alliance
Riverside Meadows Homeowners Association
Crossing Garden Homeowners Association

CASE HISTORIES

NUMBER	REQUEST	COMMISSION	COUNCIL
C14-01-0060	Montopolis Neighborhood Plan	Approved (7-2); 8/7/2001	Approved (6-1); 9/27/2001
C14-84-310; C14-84-310RC	I-SF-3 to MF-3 and CS; Restrictive Covenant for development buffer	Approved (5-4); 10/23/1984	Approved rezoning and RC; 3/6/1986
C14-2010-0204	MF-3-NP and CS-NP to SF4A-NP	Approved (7-2); 4/12/2011	Scheduled for public hearing 6/23/11

EXISTING CONDITIONS**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 Country Club East 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%

According to flood plain maps, there is no floodplain within, or adjacent to the project boundary.

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

No trees are located on this property. 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.

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.

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.

Water and Wastewater

If 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, offsite main extensions, system upgrades, utility relocations and or abandonments required. The water and wastewater plan must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. 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.

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:

Existing Street Characteristics:

Name	ROW	Pavement	Classification	Daily Traffic
Montopolis Drive	70'	40'	Collector	Not Available

No additional right-of-way is needed at this time.

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].

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There are existing sidewalks along Montopolis Drive.

According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, bicycle facilities are existing and/or recommended along the adjoining streets as follows:

Street Name	Existing Bicycle Facilities	Recommended Bicycle Facilities
Montopolis Drive	Shared Lane	Bike Lane

Capital Metro bus service (route no. 350) is/are available along Montopolis Drive.

CITY COUNCIL DATE: June 23, 2011

ACTION:

ORDINANCE READINGS: 1st

2nd

3rd

ORDINANCE NUMBER:

CASE MANAGER: Stephen Rye

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

RESTRICTIVE COVENANT

CM-94-310

THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

WHEREAS, Rivertech Joint Venture ("Owner") is the owner of the following property described, to-wit: Being a tract of land containing 22.427 acres out of the Santiago Del Valle Grant, Travis County, Texas and being more particularly described by metes and bounds in Exhibit "A" ("Property").

WHEREAS, the City of Austin and Owner have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desires to set forth such agreements in writing;

NOW, THEREFORE, Rivertech Joint Venture 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, does hereby agree with respect to the Property, such agreement to be deemed and considered as a covenant running with the land, and which shall be binding upon him, his successors, heirs and assigns as follows, to wit:

1) No building or portion thereof shall be constructed or maintained within the area described by metes and bounds in Exhibit "B".

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 covenant 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 way effect 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 any 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 Property at the time of such modification, amendment or termination.

EXECUTED, this 28th day of August, 1985.

RIVERTech JOINT VENTURE

By: Gregory C. Barnes
Gregory C. Barnes, Co-Owner

By: A. H. Cadwallader
A. H. Cadwallader, Co-Owner

By: Mat Mathias
Mat Mathias, Co-Owner

THE STATE OF TEXAS)
)
COUNTY OF TEXAS)

Before me, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Gregory C. Barnes, A. H. Cadwallader and Matt Mathias, Co-Owners of Rivertech Joint Venture, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said joint venture.

Given under my hand and seal of office, this the 28th day
of August, 1985.

My Commission Expires:

James H. Brock
Notary Public in and for the
State of Texas
COMMISSION EXPIRES JANUARY PUBLIC
NOTARY PUBLIC LICENSE #23297
(Name - Typed or Printed)

4-785.97

EXHIBIT "A"

22.427 acres of land out of the Santiago Del Valle Grant, Travis County, Texas, and being more particularly described by metes and bounds as follows:

FIELD NOTES 22.427 ACRES OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS BEING A PORTION OF THE TRACT DESCRIBED IN A DEED TO JOHN W. O'BOYLE AND RECORDED IN VOLUME 5381, PAGE 2223 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a galvanized bolt found for the original southwest corner of the 22.427 acre John W. O'Boyle tract of land in the north line of old East Riverside Drive, thence North $45^{\circ} 21' 59''$ East for 41.71 feet to a 1/2 inch steel pin set in the north side of a 0.5207 acre tract of land deeded to the City of Austin by John W. O'Boyle for the widening of East Riverside Drive for the southwest corner of this tract and the POINT OF BEGINNING;

THENCE with the old fence line along the west line of said 22.427 acre tract, North $45^{\circ} 21' 59''$ East for 1,265.59 feet to a 1/2 inch steel pin set for the southeast corner of Lawrence Street;

THENCE with east line of Lawrence Street along the west line of said 22.427 acre tract, North $45^{\circ} 31' 00''$ East for 524.86 feet to a 1/2 inch steel pin set for the northwest corner of this tract;

THENCE with north line of said 22.427 acre tract, South $44^{\circ} 27' 00''$ East for 561.16 feet to a 1/2 inch steel pin found on the west line of Frontier Valley Drive for the northeast corner of this tract;

THENCE with the west line of Frontier Valley Drive along the east line of said 22.427 acre tract, South $45^{\circ} 33' 00''$ West for 1,641.09 feet to a 1/2 inch steel pin found at the point of curvature of a curve whose intersection angle is $72^{\circ} 38'$, whose tangent distance is 20.6 feet and whose radius is 27.21 feet;

THENCE following the said curve to the right an arc distance of 34.45 feet, the chord of which bears South $81^{\circ} 52' 00''$ West for 32.25 feet to a 1/2 inch steel pin found at the point of intersection of tangent;

THENCE with the north line of said 0.5207 acre tract, being the new north line of East Riverside Drive, North $61^{\circ} 21' 07''$ West for 561.92 feet to the POINT OF BEGINNING.

Restrictive Covenant
Exhibit "B"

C14-84-316

Barnes-Connally
Riverside & Frontier Valley
Travis County, Texas

FN 3094 (MD)
November 15, 1985
KH&A Job No. 6991

DESCRIPTION OF 1.27 ACRE TRACT OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT SITUATED IN TRAVIS COUNTY, TEXAS; SAID 1.27 ACRE TRACT BEING USED FOR A BUFFER ZONE AND BEING A PORTION OF A 22.427 ACRE TRACT AS DESCRIBED IN VOLUME 8883, PAGE 237, TRAVIS COUNTY, TEXAS DEED RECORDS AS SHOWN ON THE ATTACHED SKETCH AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING at an iron rod found for the southwest corner of said 22.427 acre tract said point being on the north line of East Riverside Drive;

THENCE with the west line of said 22.427 acre tract N 45° 22' 23" E, a distance of 1230.47 feet to a point for the southwest corner of said 1.27 acre tract and the POINT OF BEGINNING;

THENCE continuing with the west line of said 22.427 acre tract and the west line of said 1.27 acre tract the following two (2) courses and distances:

1. N 45° 22' 23" E, a distance of 35.00 feet to an iron rod found for an angle point, and
2. N 45° 30' 35" E, a distance of 564.96 feet to an iron rod found for the northwest corner of said 22.427 acre tract and said 1.27 acre tract;

THENCE with the north line of said 22.427 acre tract and said 1.27 acre tract S 44° 26' 57" E a distance of 556.34 feet to a point for the northeast corner of said 1.27 acre tract;

THENCE leaving the north line of said 22.427 acre tract and crossing said 22.427 acre tract for the following four (4) courses and distances:

1. S 45° 13' 00" W, a distance of 50.00 feet to an angle point,
2. N 44° 26' 57" W, a distance of 506.30 feet to an angle point,
3. S 45° 30' 35" W, a distance of 549.96 feet to an angle point, and
4. N 44° 26' 43" W, a distance of 49.92 feet to the POINT OF BEGINNING and containing 1.27 acres more or less.


THE STATE OF TEXAS |
COUNTY OF TRAVIS |

KNOW ALL MEN BY THESE PRESENTS:

That I, John F. Wilder, a Registered Public Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the description herein was prepared from public record.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 15th day of November, 1985, A.D.

BEPEY, HUSTON & ASSOCIATES, INC.
Engineering & Environmental Consultants
P.O. Box 519
Austin, Texas 78767


John F. Wilder
Registered Public Surveyor
No. 4285 - State of Texas



