

## ZONING CHANGE REVIEW SHEET

**CASE:** C14-2011- 0043 – 753 Montopolis

**P.C. DATE:** June 14, 2011 (postponed by neighborhood)  
June 28, 2011 (meeting cancelled)  
July 12, 2011 (approved staff recommendation, 7-0)

**ADDRESS:** 753 Montopolis Drive

**OWNER/APPLICANT:** Babubhai Mohammad

**AGENT:** Rafiq B. Mohammad

**ZONING FROM:** CS-NP and CS-1-NP

**TO:** CS-1-NP and CS-NP

**AREA:** 0.041 acres (1,792 ft<sup>2</sup>)

**SUMMARY STAFF RECOMMENDATION:** Staff recommends approval of CS-1-NP (General Commercial Services – Liquor Sales – Neighborhood Plan) and CS-NP (General Commercial Services-Neighborhood Plan) district zoning.

**PLANNING COMMISSION RECOMMENDATION:** 7/12/11 – The Planning Commission approved the staff recommendation of CS-1-NP and CS-NP district zoning (7-0, Chimenti absent; 1 vacancy).

**DEPARTMENT COMMENTS:** This property is currently developed with two commercial businesses; a liquor sales establishment and a convenience store/salon. The tract was originally zoned for commercial liquor sales under a 1971 ordinance (711111-G; C14-71-228). The permitted CS-1 was limited to a footprint of an existing storefront. In April of 2011, the owner of the property was been contacted by the city of Austin and informed that the CS-1 property falls outside of their permitted liquor sales boundaries is therefore out of code compliance. The applicant seeks to exchange the zoning of the two similarly sized buildings to come into compliance with city and state guidelines regulating liquor stores. The existing liquor sales business has a current and valid TABC license to operate. Per state regulations, the distance of a liquor sales use must be 300 feet door to door from a church. This property has 3 churches in the vicinity, but meets the distance requirements for both the existing and proposed zoning locations.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	CS-NP, CS-1-NP	Liquor sales, convenience store, salon
<i>North</i>	GR-NP	Undeveloped, Auto sales
<i>South</i>	GR-NP	Undeveloped, Church
<i>East</i>	SF-3-NP	Undeveloped, Single Family
<i>West</i>	GO-CO-NP	Church, Single Family

**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**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>COUNCIL</b>
C14-01-0060	Montopolis Neighborhood Plan	Approved (7-2); 8/7/2001	Approved (6-1); 9/27/2001

**BASIS FOR RECOMMENDATION**

***1. Zoning should allow for reasonable use of the property.***

The existing zoning categories on the property will remain unchanged and allow the current uses to continue operating under compliance with regulatory requirements.

***2. No change in conditions has occurred within the area indicating that there is a basis for changing the originally established zoning and/ or development restrictions for the property.***

The existing zoning and uses are not requested to change and will continue operation under existing standards.

**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 28, 2011

**ACTION:**

**ORDINANCE READINGS:** 1st

2<sup>nd</sup>

3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Stephen Rye

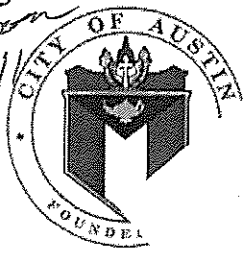
**PHONE:** 974-7604  
[stephen.rye@ci.austin.tx.us](mailto:stephen.rye@ci.austin.tx.us)



### ZONING

ZONING CASE#: C14-2011-0043  
 LOCATION: 753 MONTOPOLIS DR  
 SUBJECT AREA: 0.41 ACRES  
 GRID: L19  
 MANAGER: STEPHEN RYE

*STUBBINS*  
*5-5-11*



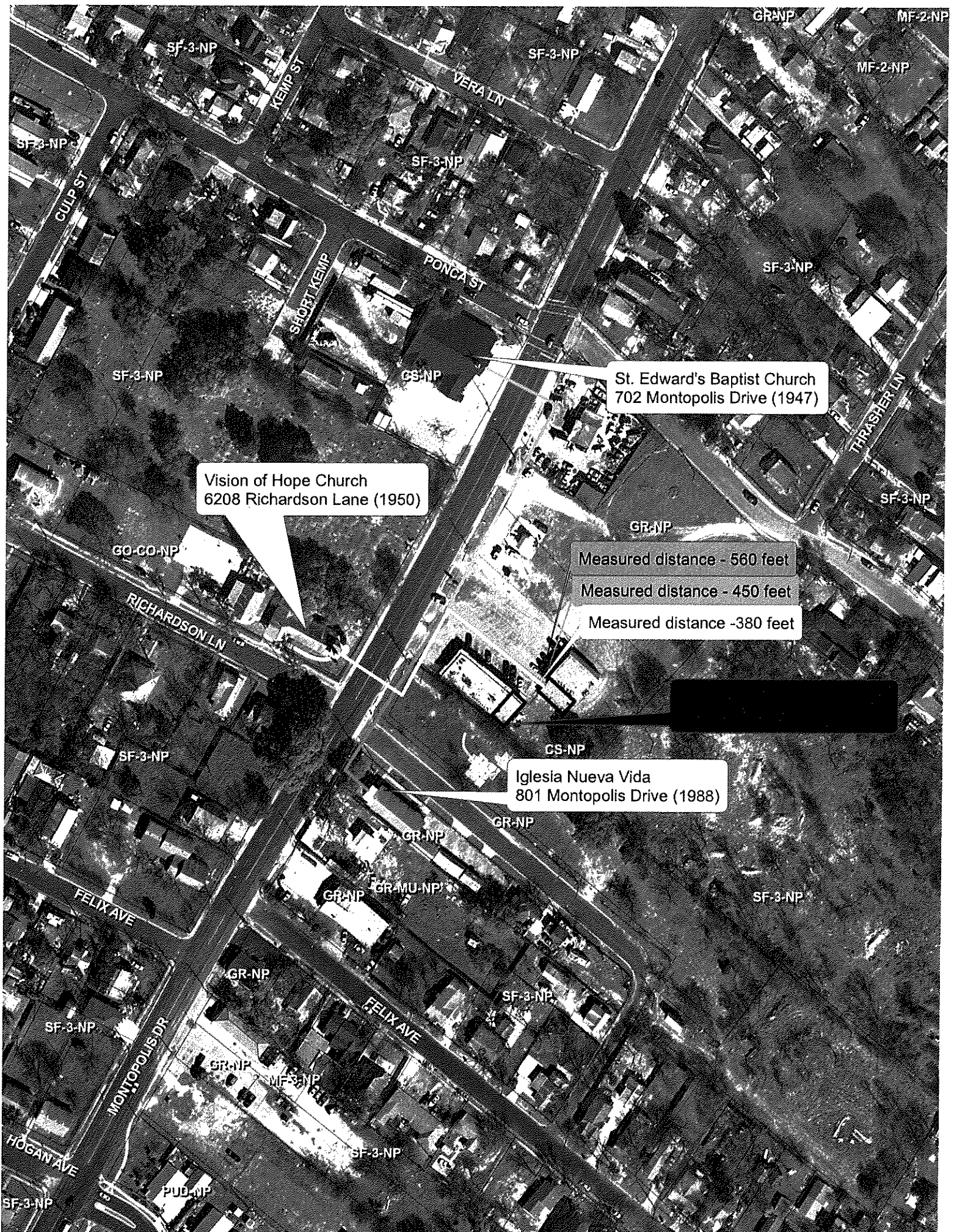
- N
- SUBJECT TRACT
- PENDING CASE
- ZONING BOUNDARY

1" = 200'

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.







SF-3-NP

SF-3-NP

GR-NP

MF-2-NP

MF-2-NP

SF-3-NP

SF-3-NP

SF-3-NP

SF-3-NP

CS-NP

St. Edward's Baptist Church  
702 Montopolis Drive (1947)

Vision of Hope Church  
6208 Richardson Lane (1950)

GO-CO-NP

GR-NP

SF-3-NP

Measured distance - 560 feet

Measured distance - 450 feet

Measured distance - 380 feet

SF-3-NP

CS-NP

Iglesia Nueva Vida  
801 Montopolis Drive (1988)

GR-NP

GR-NP

GR-NP

GR-MU-NP

SF-3-NP

GR-NP

SF-3-NP

SF-3-NP

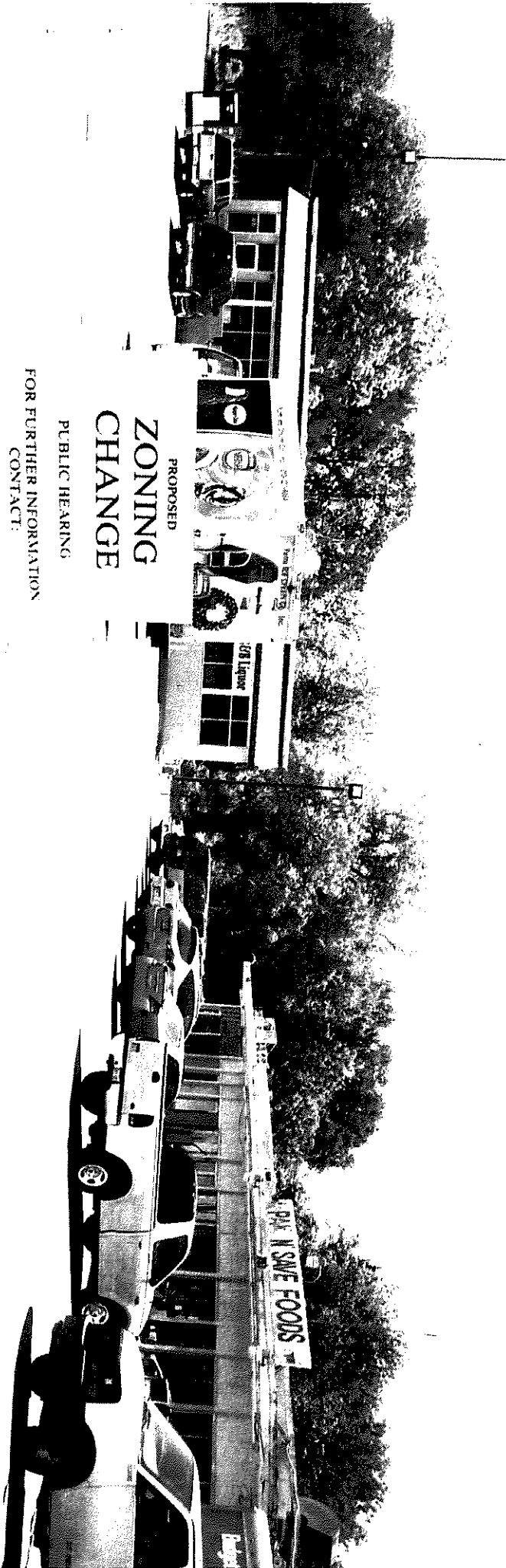
GR-NP

MF-3-NP

SF-3-NP

PUD-NP

SF-3-NP



PROPOSED  
**ZONING  
CHANGE**

PUBLIC HEARING

FOR FURTHER INFORMATION  
CONTACT:

PLANNING & DEVELOPMENT  
REVIEW DEPARTMENT  
ZONING REVIEW SECTION  
974-7668

Please reference file number...

*C14-2011-0043*



City of Austin  
DO NOT REMOVE

5/5/2011



5/5/2011

## Rye, Stephen

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**From:** Gibbs, Carol  
**Sent:** Monday, May 09, 2011 3:42 PM  
**To:** Rye, Stephen  
**Subject:** FW: C14-2011-0043 753 Montopolis Drive

Stephen,

I see Del mistyped your email address... so in case he didn't re-send it, here it is...

Carol Gibbs / Neighborhood Advisor / Neighborhood Assistance Center  
City of Austin Planning & Development Review Dept.  
505 Barton Springs Rd., Rm. 530 Austin, TX 78704  
Phone: 512-974-7219 Fax: 512-974-2269  
[www.ci.austin.tx.us/neighborhood](http://www.ci.austin.tx.us/neighborhood)  
[Carol.Gibbs@ci.austin.tx.us](mailto:Carol.Gibbs@ci.austin.tx.us)

**Please note:** E-mail correspondence to and from the City of Austin is subject to requests for required disclosure under the Public Information Act

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**From:** DELwingoss@aol.com [mailto:DELwingoss@aol.com]  
**Sent:** Monday, May 09, 2011 3:37 PM  
**To:** Setephen.Rye@ci.austin.tx.us  
**Cc:** JAdams8384@aol.com; Gibbs, Carol  
**Subject:** C14-2011-0043 753 Montopolis Drive

I am contacting you to register my opposition to this proposed zoning change to permit the sale of liquor from this location. Just looking at the small map provided, the back of that liquor store will be right across the street from a Church. There are three churches adjacent to this location.

The St Edwards Baptist Church at the S.E. Corner of Ponca and Montopolis, another church at the south east corner of Richardson and Montopolis directly behind the proposed location for liquor store and another church at the north east corner of Richardson and Montopolis.

The largest empty tract of land east of this location has been purchased by Austin Habitat for Humanity and in the near future will be built out with homes for lower income families. This proposed zoning change would allow a liquor store right in the middle of three churches and in the heart of this neighborhood

I realize the Planning and Zoning Department doesn't concern itself with the crime in our neighborhood but as a Montopolis resident, I do. I look at the crime reported over a 48 hour period and most of it is drug and alcohol related, family violence, assault, aggravated assault, burglary of a vehicle, burglary of a residence, theft, DWI, robbery by assault, etcetera. While I understand that liquor is legal and a personal choice, I think the positioning of a liquor store is better suited along the East Riverside Corridor, Hwy 71 and/or Hwy 183 and not in the heart of what is a residential district.

Respectfully,

Delwin Goss  
6410 Ponca Street  
Austin, Texas 78741  
[Delwingoss@aol.com](mailto:Delwingoss@aol.com)  
512-389-2133 H  
512-507-7615 C

"The world is moved along not only by the mighty shoves of its heroes, but also by the aggregate of the tiny pushes of each honest worker." - Helen Keller 1880-1968,

**Rye, Stephen**

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**From:** Gregory McDaniel [gjm1954@gmail.com]  
**Sent:** Friday, May 06, 2011 11:37 AM  
**To:** Rye, Stephen  
**Subject:** Ref Case # C14-2011-0043  
**Attachments:** Why I do not want the liquor store.png

Mr Rye.

I live on the corner of Ponca St and Thrasher Lane. There is a small open field between my home and the proposed liquor store that Mr Mohammad wants to open. There is a well worn path from the side walk in front of my home that leads directly to the area where he wants to sell liquor. ( see the attachment) I already have a problem with the cans and bottles that are being discarded onto my side walk and thrown over my fence from persons that walk to the convenience store, purchase items, walk out of the store, open and consume the product as they walk back into the neighborhood and then throw the empty containers down onto the ground. People driving to the store often cut through the open field driving recklessly goint to the store, with their boom boom musci blasting and disrupting our neighborhood. Allowing liquor to be sold here will only add more traffic and problems.

My two teen age boys play foot ball and throw frizbies in our yard with their cousin and when the balls or disk go over the fence they have to go and get them. I have on 2 occasions in the last month found syringes with needles attached discarded onto the cities right of way between the street and my fence on the corner of Ponca St. Thrasher Lane. I have had to clean broken glass from the bottles that were smashed on the curb. I don't not want these items around us, and feel like allowing a liquor stor to open in this location will only add to my cleaning problems.

I am attaching a Ariel picture from google maps to show where my home is, and where the store it proposed to be located. PLEASE do not add to my problems by allowing a liquor store to open right in my front yard.

The file was modified with microsoft paint, so it should open with out a problem

Sincerely,

Greg McDaniel  
617 Thrasher Lane  
Austin, TX  
78741  
512-618-2349

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Greg McDaniel

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Greg McDaniel

5/9/2011

**Rye, Stephen**

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**From:** Rye, Stephen  
**Sent:** Friday, June 10, 2011 8:58 AM  
**To:** 'Jesse Palacios'  
**Subject:** RE: Case Number: C14-2011-0043

Mr. Palacios,

Yes, that would be the case. Any business with commercial zoning of general retail (GR) or a higher category is allowed to sell beer and wine under the 51% provision by under TABC regulations. I agree that your concerns are valid and I encourage you to bring this to attention to the Planning Commission and City Council. I will include your comments in the staff report.

The planning staff does not see this case as one in which we are granting the property owner the right to sell liquor. This property has had those entitlements since the implementation of the Montopolis neighborhood plan in 2001. Since we are dealing with existing land uses, we feel it is appropriate to recommend that the applicant be allowed to adjust his current zoning in order to come into compliance.

Thank you,

Stephen

Stephen Rye  
City of Austin  
Planning and Development Review Department  
Current Planning Division  
(512) 974-7604  
(512) 974-6054 fax

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**From:** Jesse Palacios [mailto:jtpalacios@hotmail.com]  
**Sent:** Thursday, June 09, 2011 10:34 PM  
**To:** Rye, Stephen  
**Subject:** RE: Case Number: C14-2011-0043

Mr. Rye,

I am impressed by the promptness in your response and its clarity and thoroughness. Thank you! Does this mean that as long as the convenience store's receipts don't exceed 51% of its sales, we will now have two businesses in the same retail strip selling alcoholic beverages?

Respectfully,

Jesse Palacios

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Subject: RE: Case Number: C14-2011-0043  
Date: Thu, 9 Jun 2011 15:24:57 -0500  
From: Stephen.Rye@ci.austin.tx.us  
To: jtpalacios@hotmail.com

6/14/2011

Mr. Palacios,

The owner is requesting a zoning change in order to sell liquor. He is currently operating outside of the necessary zoning requirements and has been cited. As long as he has a zoning case pending, the citation is also considered pending.

The convenience store already has the correct zoning to sell beer and wine, as long as the sales do not exceed 51% of the receipts.

You are correct in that the applicant is seeking to swap the zoning categories on the property to be in compliance with zoning regulations. You are also correct that our map need to be updated. The vacant building is actually the auto sales use on the corner of Montopolis and Ponca.

Staff has recommended the change based on the fact that the requested zoning already exists on the site. Since the uses will not change, the existing zoning categories have been determined to be an appropriate land use for the property.

Let me know if you need any additional information or clarification.

Thanks,

Stephen Rye  
City of Austin  
Planning and Development Review Department  
Current Planning Division  
(512) 974-7604  
(512) 974-6054 fax

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**From:** Jesse Palacios [mailto:jtpalacios@hotmail.com]

**Sent:** Thursday, June 09, 2011 3:17 PM

**To:** Rye, Stephen

**Subject:** Case Number: C14-2011-0043

Mr. Rye,

Two questions for you regarding the request for rezoning of the property at 753 Montopolis Drive:

(1) I take it that the owner of the property is requesting a Zoning Change so that he can sell liquor at the above address. Is that correct? If so, can he sell liquor prior to the official zone change? A liquor store at that site has been in operation for over a month now.

(2) Should the change occur does this mean that the convenience store in the same retail strip will no longer be licensed to sell beer and wine since I see what appears to be a flip-flop of designations?

The map on the reverse side of the Notice of Public Hearing we have received is confusing. It needs to be updated; the "conv. store" designation appears to be outside the subject tract area when in reality, at least the way I read the Notice, it is one of the two subject tracts. Where is the "vacant bldg."? Is it referring to the laundry mat that's been there for several years now?

I am opposed to the liquor store because of the traffic that has compounded the use of the field between the strip mall area and Ponca St to the north. It is an open field and drivers have already created rutted paths to and from Ponca St where they jump the curb. During rainy times this area becomes a pool of water and remains there for days. When it dries it becomes dusty and a shortcut for pedestrians.

I am also opposed to the liquor store because I don't believe we need an additional alcohol retailer in this residential neighborhood. This is an economically disadvantaged neighborhood; making it easier for area residents to spend their hard-earned wages on liquor. This reminds me of the opposition to the proposed horsetrack between Montopolis and the split at Highways 71 and 183 several years ago. Not at the same level, I concede, but the same effect.

6/14/2011

Your response prior to the hearing on the 14th will be appreciated.

Respectfully,

Jesse Palacios

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. 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 development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. 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 is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2011-0043

Contact: Stephen Rye, 512-974-7604

Public Hearing: June 14, 2011, Planning Commission  
July 28, 2011, City Council

FRANK T. MURKEL  
Your Name (please print)

309 BONNETT ST.

Your address(es) affected by this application

Franky Morreal

Signature

Date

Daytime Telephone: 636-6807

☐ I am in favor  
☒ I object

Comments: A lot of people have contacted me and do not want a liquor store in our neighborhood. I will only have a negative impact. I am very upset that this store is open before getting the proper permit. That only shows the disrespect this owner has for this neighborhood.  
Frank Morreal  
Robert Neighborhood Assoc.

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Stephen Rye

P. O. Box 1088

Austin, TX 78767-8810

## PETITION

Case Number: **C14-2011-0043**  
**753 MONTOPOLIS DR**

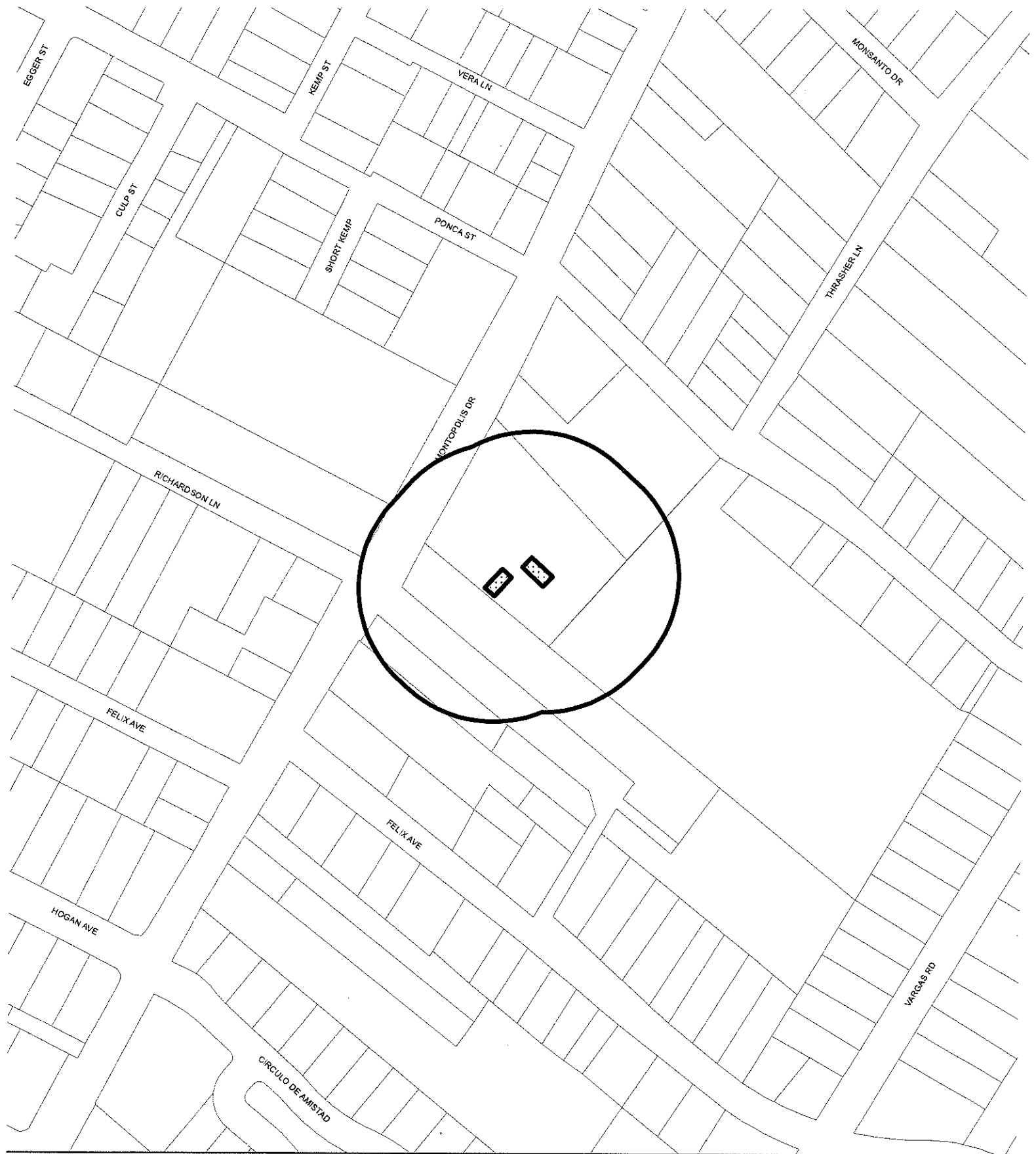
Date: 7/15/2011

Total Square Footage Owned by Petitioners Within 200' of Subject Tract:	177,115.46
Total Square Footage of Buffer:	178328.50
Percentage of Square Footage Owned by Petitioners Within Buffer:	0.00%



Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.

#	TCAD ID	Address	Owner	Signature	Petition Area	Percent
1	0305160129	718 MONTOPOLIS DR	DEL VALLE BURIAL ASSOCIATION (SAN JOSE CEMETERY)	no	2807.24	0.00%
2	0305160130	6208 RICHARDSON LN	TEXAS CONFERENCE ASSOC OF SEVENTH DAT ADVENTIST	no	4,944.33	0.00%
3	0305160252	717 MONTOPOLIS DR	BBJM INC	no	20446.12	0.00%
4	0305160222	801 MONTOPOLIS DR	CHURCH OF NEW LIFE TEMPLO NUEV TEMPLO NUEVA VIDA	no	20126.91	0.00%
5	0305160210	805 MONTOPOLIS DR	FONSECA FELIPE ALVAREZ	no	822.35	0.00%
6	0305160240	737 MONTOPOLIS DR	PEREZ JOSE C & GLORIA E	no	39536.00	0.00%
7	0305160216	6317 PONCA ST 753 MONTOPOLIS DR	SANDOVAL JESUS	no	28286.65	0.00%
8	0305160236		BBJM INC	no	60145.86	0.00%
9						0.00%
10						0.00%
11						0.00%
12						0.00%
13						0.00%
14						0.00%
15						0.00%
16						0.00%
17						0.00%
18						0.00%
19						0.00%
20						0.00%
21						0.00%
22						0.00%
23						0.00%
24						0.00%
Total Area of Petitioner:					177,115.46	Total % 0.00%



BUFFER

PROPERTY\_OWNER

SUBJECT\_TRACT

## PETITION

CASE#: C14-2011-0043

ADDRESS: 753 MONTOPOLIS DR

GRID: L19

CASE MANAGER: STEPHEN RYE



This map has been produced by G.I.S. Services for the sole purpose of geographic reference.  
No warranty is made by the City of Austin regarding specific accuracy or completeness.

## VALID PETITION

Date: June 23, 2011

File Number: C14-2011-0043-753

Address of

Rezoning Request: 753 Montopolis Dr.

To: Austin City Council

We, the undersigned owners of property in the Montopolis Neighborhood Planning Area affected by the zoning change described in Case Number C14-2011-0043-753 petition the City Council with our opposition and hereby protest the requested rezoning of the property located at 753 Montopolis Dr., Austin, TX 78741 from CS-NP and CS-1-NP to CS-1-NP and CS-NP.

We believe ALL of the property located at 753 Montopolis Drive should be zoned as CS-1-P (General Commercial Services district) and NONE of the property should be zoned as CS-1 (Commercial Liquor Sales district) because this property is across the street from three churches, Iglesia Nueva Vide Centro Pentecostes, Vision of Hope Church, and St. Edward Missionary Baptist Church, and the San Jose Cementerio, and near a school bus stop.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature

Printed Name

Address

Date

<i>[Signature]</i>	Rodríguez	1516 Peppy Reed Lane	06/27/2011
<i>[Signature]</i>	Cory Canada	6319 Parca St.	6/27/2011
<i>[Signature]</i>	Jaime Rocha	801 Montopolis Dr.	7/6/2011
<i>[Signature]</i>	St. Edwards Missionary Baptist Church	702 Montopolis Dr.	July 7/2011
<i>[Signature]</i>	HENRY N TORRES	Vision of Hope	7-7-11

Contact Name: \_\_\_\_\_

Phone: \_\_\_\_\_