



**Neighborhood Plan - Conduct and Consider
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

AGENDA ITEM NO.: Z-1
AGENDA DATE: Thu 04/01/2004
PAGE: 1 of 2

SUBJECT: Conduct a public hearing and approve an ordinance to amend the Montopolis Neighborhood Plan for a portion of 900 Bastrop Hwy and a portion of 7300-7320 Riverside Drive, to change the Future Land Use Map from commercial to single family residential.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Neighborhood Planning **DIRECTOR'S**
DEPARTMENT:and Zoning **AUTHORIZATION:** Alice Glasco

FOR MORE INFORMATION CONTACT: Sonya Lopez, 974-7694

PRIOR COUNCIL ACTION: September 27, 2001 - City Council adopted the Montopolis Neighborhood Plan and Rezoning.

BOARD AND COMMISSION ACTION: Planning Commission hearing postponed to February 24, 2004.

BACKGROUND/DEPARTMENT COMMENTS:

Council adopted the Montopolis Neighborhood Plan and rezonings on September 27, 2001. The boundaries of the Montopolis Neighborhood Planning area are US Hwy 183 to the north and east, Grove Blvd. and Montopolis Dr. to the west, and Ben White Blvd to the south.

The portion of this property for which a plan amendment is being requested is referred to as Tract 3, which is only a part of the related zoning case. This tract was adopted as part of the Montopolis Neighborhood Plan with a commercial land use category on the future land use map due to the fact that it lies within the AO-3 Airport Overlay Zone and abuts an industrially-zoned and used piece of property. The property owner would like to develop the entire parcel, including Tract 3, as single-family residential homes. He currently has been certified under S.M.A.R.T. Housing for Tracts 1 and 2, but not for Tract 3 due to the fact that there was a Memorandum Of Understanding (M.O.U.) signed by the Neighborhood Planning & Zoning Dept.(NPZD), the Neighborhood Housing and Community Development Dept., and the Aviation Dept. which specifically states that residential development within Tract 3 would not be supported by city staff (refer to M.O.U. in backup). A plan amendment for Tract 3 to a residential category is needed in order to permit this proposed development.

A meeting was organized by NPZD inviting the Montopolis Neighborhood Planning Team members, neighborhood association leaders, and property owners within 300 feet of this tract to hear a presentation from the applicant regarding the applications for a plan amendment and rezoning. The goal of this meeting was to get a letter from the Planning Team expressing support or lack of support for the proposal.



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It was held on December 18, 2003 at the Montopolis Recreation Center, however as of this date the representatives from the planning team that attended the meeting have not yet decided whether or not they will support the requested plan amendment.



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ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NO. 010927-05, WHICH ADOPTED THE MONTOPOLIS NEIGHBORHOOD PLAN AS AN ELEMENT OF THE AUSTIN TOMORROW COMPREHENSIVE PLAN, TO CHANGE THE FUTURE LAND USE MAP FOR A PORTION OF 900 BASTROP HIGHWAY AND A PORTION OF 7300-7320 RIVERSIDE DRIVE.

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

PART 1. Ordinance No. 010927-05 adopted the Montopolis Neighborhood Plan as an element of the Austin Tomorrow Comprehensive Plan.

PART 2. Ordinance No. 010927-05 is amended to change the land use designation on the Montopolis Neighborhood Plan Future Land Use Map from commercial to single family residential for a portion of 900 Bastrop Highway and a portion of 7300-7320 Riverside Drive, as shown on the map attached as Exhibit "A" and incorporated in this ordinance.

PART 3. This ordinance takes effect on _____, 2004.

PASSED AND APPROVED

_____, 2004 §
 §
 § _____
 Will Wynn
 Mayor

APPROVED: _____
 David Allan Smith
 City Attorney

ATTEST: _____
 Shirley A. Brown
 City Clerk



City of Austin

Neighborhood Planning and Zoning Department

505 Barton Springs • P.O. Box 1088 • Austin, Texas 78767-8835 • 512-974-7668

Neighborhood Plan Amendment Declaration of Hardship

This letter certifies that Case# NPA-03-0005.03, a proposed amendment to the Montopolis Neighborhood Plan, meets at least one of the exemption criteria established below and is therefore not subject to the waiting period for filing a neighborhood plan amendment application. This letter **only** exempts the applicant from the waiting period and does not indicate a positive staff recommendation.

This case fulfills the following hardship criteria:

- ☐ Financing for a proposed project is tied to a deadline set by State or Federal application cycles that do not coincide with the once-a-year opportunity for submitting the Neighborhood Plan Amendment Application, excluding the approved exemptions outlined in the ordinance (e.g.. economic development, S.M.A.R.T. Housing, and/or superior environmental protection).
- ☒ A unique circumstance has created a situation of limited development potential under the current land use designation through no fault of the property owner, and development or redevelopment of the property under the proposed land use designation is tied to another project which is time constrained.
- ☐ Development or redevelopment of a property may impact a funded governmental or quasi-governmental Capital Improvement Project that is in the design phase and requires resolution in a timely manner.
- ☐ A funded public improvement project (ex. CIP, State highway project, etc.) by a governmental or quasi-governmental entity impacts a property and an existing adopted neighborhood plan in a manner that was not previously anticipated and requires resolution in a timely manner.

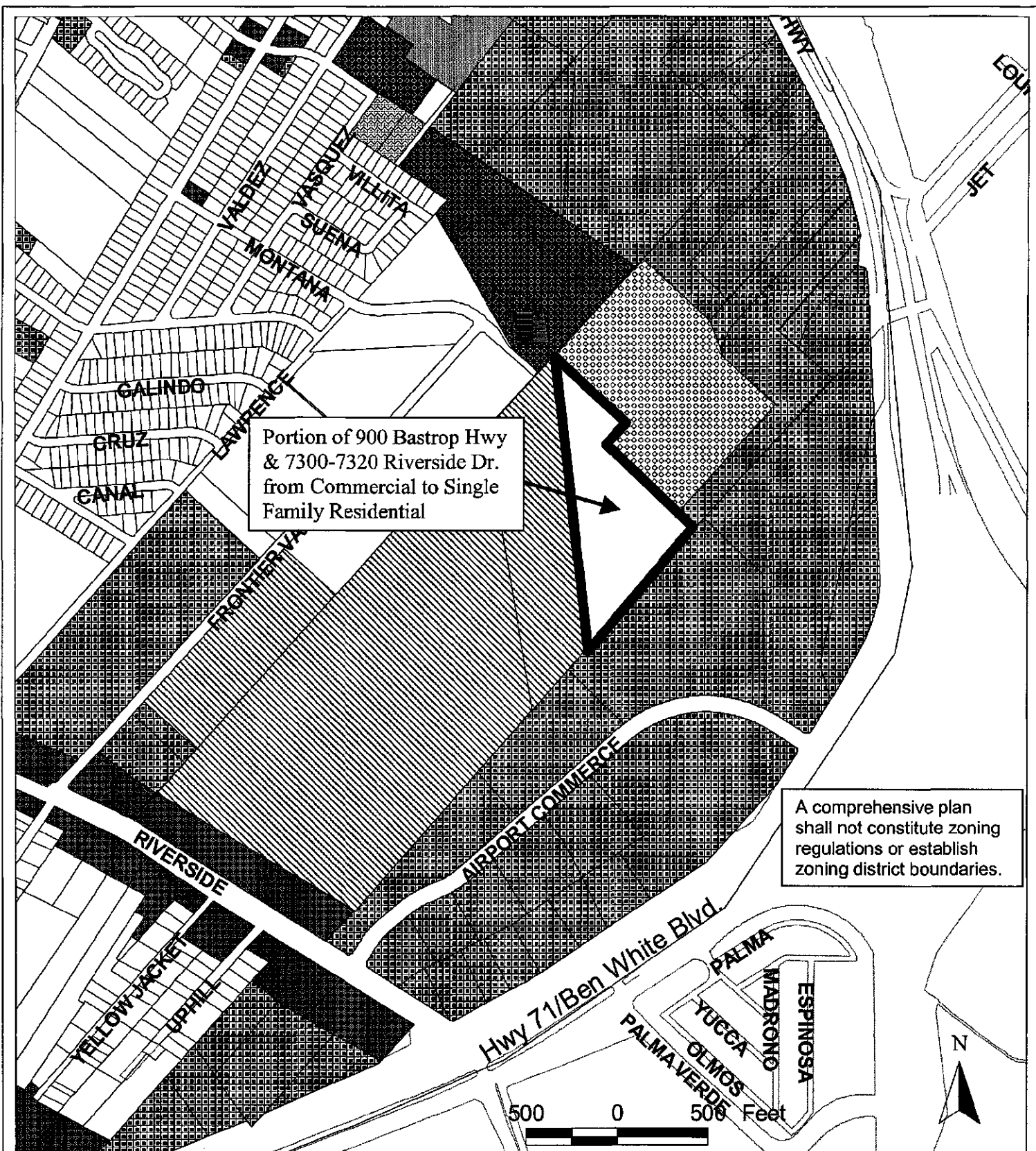
Specific case details:

Alice Glasco

Alice Glasco, Director
Neighborhood Planning and Zoning Department

2-20-04

Date



**Montopolis Neighborhood Plan
Future Land Use Map
January 29, 2004**



Neighborhood Planning
& Zoning Department

	Single Family		Industry
	Multifamily		Civic
	Commercial		Open Space
	Office		Residential Use
	Mixed Use		

NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

NEIGHORHOOD PLAN: Montopolis **CASE#:** NPA-03-0005.03.SH

ADDRESS: 900 Bastrop Hwy/7300-7320 Riverside Dr. (Tract 3)

APPLICANT/OWNER: Steiner & Son, Ltd. (Robert Steiner)

AGENT: Minter, Joseph & Thornhill, P.C. (John Joseph Jr.) **PHONE:** 512-478-1075

TYPE OF AMENDMENT:

Change in Future Land Use Designation

From: Commercial **To:** Single Family Residential

Base District Zoning Change (Refer to table)

From: CS-CO-NP **To:** SF-4A
Related Zoning Case #: C14-03-0154.SH

DEPARTMENT COMMENTS:

If the Commission or the City Council wishes to rezone this property to a new zoning district the neighborhood-combining district (NP) should be added so that the property remains within the boundaries of the neighborhood plan combining district (NPCD).

The Montopolis Neighborhood Plan was adopted on September 27, 2001. The boundaries of the Planning Area are US Hwy 183 to the north and east, Ben White to the south, and Grove Blvd. and Montopolis Dr. to the west. This property (a.k.a. Tract 3) was adopted with a commercial land use category on the future land use map. A meeting was organized by NPZD inviting the Montopolis Neighborhood Planning Team members, neighborhood association leaders, and property owners within 300 feet of this tract to hear a presentation from the applicant regarding the application for a plan amendment and rezoning. The goal of this meeting was to present the applicant's request and get a letter from the Planning Team expressing support or lack of support for the proposal. It was held on December 18, 2003 at the Montopolis Recreation Center, however the Planning Team position is still uncertain regarding their position. An update will be provided at the Planning Commission hearing on January 27th.

STAFF RECOMMENDATION:

Staff does not recommend the proposed amendment to a residential category for Tract 3 as it lies within the AO-3 Airport Overlay Zone. The adopted Montopolis Neighborhood Plan clearly states that "...all residential uses would be prohibited in the proposed airport overlay zone." The aviation ordinance states that the AO-3 prohibition against residential uses and schools (25-13-45) does not apply to these uses that are located in a neighborhood plan combining district on or before December 31, 2001, which technically exempts the Montopolis Neighborhood Plan from the ordinance. However, the purpose of the aviation ordinance, as established by the Texas Local Government Code Chapter 241, addresses the following:

§ 241.002. Legislative Findings
The legislature finds that:

- (1) an airport hazard endangers the lives and property of users of the airport and of occupants of land in the vicinity of the airport;
- (2) an airport hazard that is an obstruction reduces the size of the area available for the landing, taking off, and maneuvering of aircraft, tending to destroy or impair the utility of the airport and the public investment in the airport;
- (3) the creation of an airport hazard is a public nuisance and an injury to the community served by the airport affected by the hazard;
- (4) it is necessary in the interest of the public health, public safety, and general welfare to prevent the creation of an airport hazard;
- (5) the creation of an airport hazard should be prevented, to the extent legally possible, by the exercise of the police power without compensation; and
- (6) the prevention of the creation of an airport hazard and the elimination, the removal, the alteration, the mitigation, or the marking and lighting of an airport hazard are public purposes for which a political subdivision may raise and spend public funds and acquire land or interests in land.

PLANNING COMMISSION RECOMMENDATION:

December 23, 2003 – Postponed per staff request
 January 13, 2004 – Postponed per applicant request.
 January 27, 2004 -

NEIGHBORHOOD ORGANIZATIONS:

Southeast Corner Alliance of Neighborhoods (SCAN)
 Southeast Austin Neighborhood Alliance
 Penick Place Neighborhood Assn.
 Crossing Gardenhome Owners Assn.
 Terrell Lane Interceptor Assn.
 Barton Springs/ Edwards Aquifer Conservation Dist.
 El Concilio, Coalition of Mexican American Neigh. Assn.
 Austin Neighborhoods Council
 River Bluff Neighborhood Assoc.
 Onion Creek Homeowners Assoc.
 Montopolis Area Neighborhood Alliance
 Riverside Farms Road Neighborhood Assn.
 PODER People Organized in Defense of Earth & Her Resources

CASE HISTORIES (Zoning and/or Neighborhood Plan Amendments):

NUMBER	ITEM/REQUEST	CITY COUNCIL
C14-01-0010	From SF-2-NP and SF-3-NP to CS-CO-NP	Approved 1-30-2003
NP-01-0005	Montopolis Neighborhood Plan	Approved 9-27-01
C14-01-0060	Montopolis Neighborhood Plan Combining District Rezoning	Approved 9-27-01

CITY COUNCIL DATE: January 29, 2004 (1st reading)

ACTION:

CASE MANAGER: Sonya Lopez (plan amendment)

PHONE: 974-7694

Annick Beaudet (zoning case)

974-2975

EMAIL: sonya.lopez@ci.austin.tx.us
annick.beaudet@ci.austin.tx.us