



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

AGENDA ITEM NO.: Z-1
AGENDA DATE: Thu 04/22/2004
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: April 13, 2004 - Planning Commission supported the staff recommendation to deny the plan amendment request on a vote of 6-2-1.

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. This tract was adopted as part of the Montopolis Neighborhood Plan with a commercial land use category on the future land use map. The property owner would like to develop the entire property, including Tract 3, as single-family residential homes.

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 stated that residential development within the AO-3 airport overlay zone would not be supported by city staff (refer to M.O.U. in related zoning case backup). A plan amendment for this Tract to a residential category is needed in order to permit this proposed development, however, staff is not supportive of this request as this Tract lies within the AO-3 zone.

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. It was held on December 18, 2003 at the Montopolis Recreation Center. To date, staff has received only negative comments from members of the planning team not supporting the proposed plan amendment.



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

AGENDA ITEM NO.: Z-1
AGENDA DATE: Thu 04/22/2004
PAGE: 2 of 2

They are in support of the single-family housing project on the related tracts but for this tract (Tract 3) they have quality of life concerns due to the property's location within the AO-3 airport overlay zone and its adjacency to an industrial site to the north, which deals with the manufacturing of modular homes.



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

AGENDA ITEM NO.: Z-1
AGENDA DATE: Thu 04/22/2004
PAGE: 2 of 2

They are in support of the single-family housing project on the related tracts but for this tract (Tract 3) they have quality of life concerns due to the property's location within the AO-3 airport overlay zone and its adjacency to an industrial site to the north, which deals with the manufacturing of modular homes.

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.

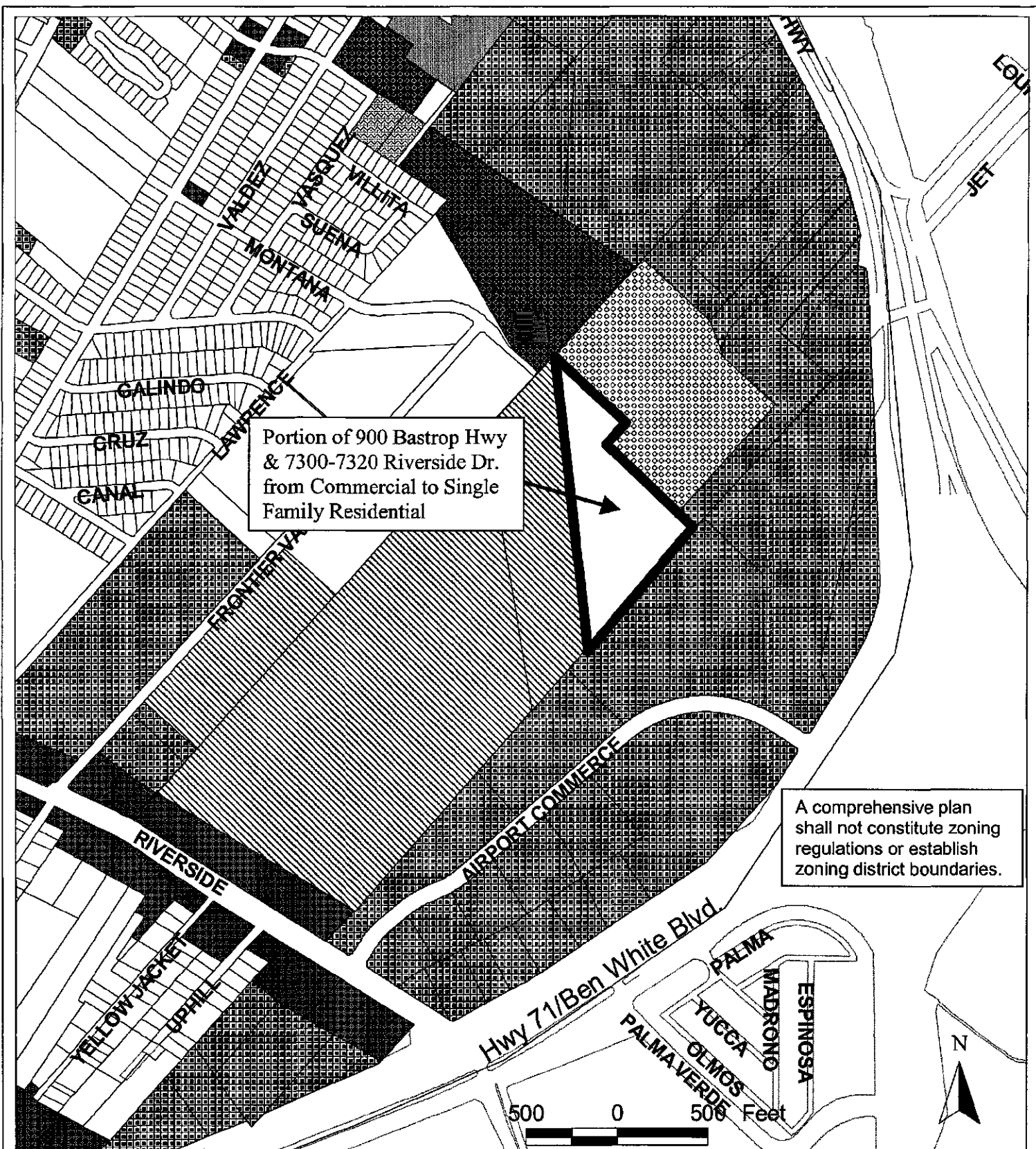
Specific case details:

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

NEIGHBORHOOD 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

NEIGHBORHOOD PLAN AMENDMENT REVIEW SHEET

NEIGHBORHOOD PLAN: Montopolis **CASE#:** NPA-03-0005.03

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

Case Details

(This plan amendment application has been accepted out of cycle since the project does meet the plan amendment exemption criteria for a hardship case. The letter from the director of the Neighborhood Planning & Zoning Dept. outlining the rationale behind supporting this case as a hardship is included with the backup.)

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.

The property in question (a.k.a. Tract 3) is surrounded by undeveloped land to the east, west and south and is bordered on the north by an existing industrial use with industrial zoning. This property was adopted with a commercial land use category on the future land use map and the surrounding properties have either a residential, commercial or industrial designation. This property is located within the AO-3 airport overlay zone, which was created in 2001 when the aviation ordinance was adopted. This means that residential uses are prohibited unless a property meets one of the exemption criteria stipulated in the ordinance. Technically, properties within the Montopolis Neighborhood Planning Area are exempt from the aviation ordinance. As the neighborhood plan was being taken forward for adoption around the same time as the aviation ordinance, it was determined that the Montopolis plan would not be subject to it, and that Council would have the discretion to adopt future land uses and zoning districts for properties within the overlay zone. As stated earlier, this particular property was adopted by Council with a future land use designation of commercial.

Applicant Request

The applicant's proposal is to change the land use category on the future land use map for Tract 3 from commercial to single-family residential. The plan amendment has been requested to accommodate a single-family housing development on this property and the large tract of land to the south.

Public Meeting & Community Input

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 conduct a presentation from the applicant regarding the proposed plan amendment and rezoning. The goal of this meeting was to present the applicant's request and to identify the Planning Team's position regarding the proposal. It was held on December 18, 2003 at the Montopolis Recreation Center. As of this date, the only responses staff has received have been to deny the request for a plan amendment to residential on Tract 3. The Neighborhood Plan is very supportive of adding more single-family housing to the Montopolis area and the community expressed as much during and after this meeting. Residents strongly support the SMART Housing project being proposed for the remainder of the property. However, with respect to Tract 3, residents raised quality of life concerns about locating homes within an area so close to the airport and the proximity of this tract to the industrial property to the north.

STAFF RECOMMENDATION:

Staff does not recommend the proposed amendment to a residential category for Tract 3 for two main reasons:

- One, even though the Montopolis Neighborhood Plan does encourage the development of single-family housing within the planning area, it does not recommend any type of residential uses within Tract 3 due to the fact that it lies within the airport overlay zone. Planning staff agrees that due to the proximity of the property to the airport, and statements from Aviation staff regarding the projected increase in airport operations, residential development within the AO-3 zone is not advisable. A memorandum of understanding (refer to related zoning case #C14-03-0154 backup) was signed between the Aviation Dept., Neighborhood Planning & Zoning Dept., and the Neighborhood Housing and Community Development Dept. stating that residential development within the AO-3 overlay zone is not supported.
- Second, Tract three abuts a large tract of land to the north that is currently used for the manufacturing of modular homes. The future land use map shows it as suitable for industrial uses now and in the long-range future. It is a departmental policy to not support adjacent incompatible land uses unless efforts are made to mitigate potential adverse impacts between the uses. The information thus far provided by the applicant does not indicate that that has been done.

PLANNING COMMISSION RECOMMENDATION:

December 23, 2003 – Postponed per staff request

January 13, 2004 – Postponed per applicant request.

January 27, 2004 – Postponed per applicant request.

February 24, 2004 – Public hearing closed. Decision deferred to March 23, 2004

March 23, 2004 – Postponed to April 13, 2004 per applicant request

April 13, 2004 – Planning Commission recommended to support staff recommendation in denial of the proposed plan amendment (6-2-1)

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: April 22, 2004

ACTION:

CASE MANAGER: Sonya Lopez (plan amendment)
 Annick Beaudet (zoning case)

PHONE: 974-7694
 974-2975

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