

**ZONING REVIEW SHEET****CASE:** C14-2007-0092**P. C. DATE:** September 11, 2007**ADDRESS:** 300 San Jacinto Boulevard**OWNER:** Brazos REI POE, LLC (Matthew Hooks)**AGENT:** Drenner & Golden Stuart  
Wolff, LLP (Michele  
Rogerson)**REZONING FROM:** CBD (Central Business District)**TO:** CBD-CURE (Central Business District - Central Urban Redevelopment) combining district**AREA:** 0.811 Acres (35,327.16 square feet)**SUMMARY PLANNING COMMISSION RECOMMENDATION:***September 11, 2007:***APPROVED STAFF'S RECOMMENDATION FOR CBD-CURE-CO ZONING; BY CONSENT.**  
**[M.DEALEY, T.ATKINS 2<sup>ND</sup>] (8-0)****SUMMARY STAFF RECOMMENDATION:**

Staff recommends CBD-CURE-CO (Central Business District - Central Urban Redevelopment Conditional Overlay) combining district with conditions. The CURE combining district shall modify the floor to area ratio (FAR) from 8:1 to 20:1. The recommended conditional overlay shall restrict the daily vehicle trips to less than 3,787 unadjusted trips per day and implement recommendations from the Traffic Impact Analysis (TIA) as described in the attached TIA Memo from the Watershed Protection and Development Review Department dated September 5, 2007 (Please see Attachment A). Furthermore, under a public restrictive covenant, the applicant, at owner's expense, shall participate in the Great Streets Program for portions of public right-of-way fronting the subject site that have not been improved to Great Streets standards.

The Staff recommendation is based on the following considerations:

- 1.) The proposed land uses and zoning classification are compatible with existing CBD and commercial, office, retail, and mixed-use development along San Jacinto Boulevard and East 3<sup>rd</sup> Street;
- 2.) The underlying zoning district is not proposed to change, retaining consistency in zoning classifications in the area;
- 3.) The subject site lies within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines which recommend providing a dense, multi-tenant, pedestrian-oriented developments at street level while encouraging the densification of the downtown core;
- 4.) The subject property lies within the downtown CURE district;
- 5.) Great Streets Program participation via a public restrictive covenant, at owner's expense, has been recommended and approved by the City Council on CURE projects in the downtown core..

**DEPARTMENT COMMENTS:**

The subject property consists of a 0.811 Acres (35,327.16 square feet) site zoned CBD fronting San Jacinto Boulevard, Brazos Street, and East 3<sup>rd</sup> Street. The property is currently the site an office/paper

company. The site lies within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines recommending providing a dense, multi-tenant, pedestrian-oriented development at street level while encouraging the densification of the downtown core and within the Central Urban Redevelopment (CURE) overlay district. Redevelopment on this site will be subject to Subchapter E, Design and Mixed Use Standards and the Parkland Dedication Ordinance. Vehicular access is proposed off San Jacinto Boulevard, Brazos Street, and East 3<sup>rd</sup> Street.

The application of the CURE combining district is proposed to modify the FAR from 8:1 to 20:1, yielding an approximate maximum height of 580 feet. The proposed redevelopment of the site is a mixed-use project consisting of a hotel with approximately 220 rooms, approximately 214 residential condominiums, and 2,250 square feet of café/restaurant area.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	CBD	Warehousing / office
<i>North</i>	CBD	Apartments / Condominiums
<i>South</i>	CBD	Retail / Parking / Restaurant
<i>East</i>	CBD	Warehousing / office
<i>West</i>	CBD	Offices / Bank

**WATERSHED:** Town Lake, Waller Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**CURE DISTRICT:** Yes

**HISTORIC DISTRICT:** No

**TIA:** Yes (See Transportation comments)

**NEIGHBORHOOD ORGANIZATIONS:**

789--Friends of Las Manitas and Escuelita del Alma  
 300--Terrell Lane Interceptor Assn.  
 511--Austin Neighborhoods Council  
 402--Downtown Austin Neighborhood Assn. (DANA)  
 438--Downtown Austin Alliance  
 623--City of Austin Downtown Commission  
 742--Austin Independent School District  
 744--Sentral Plus East Austin Koalition (SPEAK)  
 767--Downtown Austin Neighborhood Coalition  
 786--Home Builders Association of Greater Austin  
 1037--Homeless Neighborhood Organization

**SCHOOLS:**

Austin Independent School District

- Matthews Elementary School
- O. Henry Middle School
- Austin High School

**CASE HISTORIES:** N/A

**RELATED CASES:**

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14H-98-0005	CBD to CBD-H	07/21/98: APVD CBD-H BY CONSENT (8-0)	08/20/98: APVD CBD-H (4-0); 1ST RDG  12/03/98: APVD CBD-H (6-0) 2ND/3RD RDGS
C14-00-2207	CBD to CBD-CURE	11/14/00: APVD STAFF REC OF CBD-CURE (6-1-1, JM-NAY, RC-ABSTAIN)	11/30/00: APVD CBD-CURE W/CONDS (6-0); ALL 3 RDGS
C14-00-2208	CBD to CBD-CURE	11/14/00: APVD STAFF REC OF CBD-CURE (6-1-1, JM-NAY, RC-ABSTAIN)  05/21/01: HISTORIC LANDMARK COMMISSION: APVD DEMOLITION PERMITS FOR 401, 413, & 415-417 CONGRESS (9-0-1, LAKY-ABSTAIN) CONTINGENT UPON SDP FOR COUSINS STONE 4TH & CONGRESS PROJECT	11/30/00: APVD CBD-CURE W/CONDS (6-0); ALL 3 RDGS
C14-05-0165	CBD to CBD-CURE	10/18/05: ZAP APVD CBD-CURE-CO W/CONDS (7-1-1, JP-NO, MH-ABSTAIN).	11/17/05: APVD CBD-CURE (7-0); ALL 3 RDGS.
C14-06-0118	MF-4 to CBD	10/24/06: APVD DMU-CO W/ CONDITIONS	12/14/06: APVD DMU-CO (6-0); ALL 3 RDGS
C14-06-0183	GR to CBD-CURE	12/12/06: APVD DMU-CO (6-2, MF/CG-NO)	3/01/07: APVD CBD-CURE-CO WITH CONDS. (6-0-1); ALL 3 RDGS
C14-06-0187	MF-4 to CBD	11/14/06: APVD STAFF ALT REC OF DMU-H-CO (8-0)	12/14/06: APVD DMU-H-CO (5-1, BD/-NO); ALL 3 RDGS
C14-07-0012	CBD to CBD-CURE	03/13/07: Apvd staff rec of CBD-CURE-CO with Conditions (8-0)	03/22/07: Apvd Ord 20070322-062 for CBD-CURE-CO (6-0); all 3 rdgs
C14-07-0013	CBD to CBD-CURE	03/13/07: Apvd staff rec of CBD-CURE-CO with Conditions (8-0)	03/22/07: Apvd Ord 20070322-063 for CBD-CURE (6-0)

**CITY COUNCIL DATE:**

November 1, 2007

December 13, 2007

January 31, 2008

February 28, 2008

March 20, 2008

April 24, 2008

**ACTION:**

This item was postponed to December 13, 2007 at the applicant's request.

This item was postponed to January 31, 2008 at the applicant's request.

This item was postponed to February 28, 2008 at the applicant's request (consent). 7-0

This item was postponed to March 20, 2008 at the applicant's request.

This item was postponed to April 24, 2008 at the applicant's request.

**ORDINANCE READINGS:** 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Jorge E. Rousselin, NPZD

**PHONE:** 974-2975

**E-MAIL:** [jorge.rousselin@ci.austin.tx.us](mailto:jorge.rousselin@ci.austin.tx.us)





300 San Jacinto Blvd.  
C14-2007-0092

**Legend**

- Zoning
- Base
- Center Line
- Major Roads

100 0 100 Feet

C14-2007-0092



## STAFF RECOMMENDATION

Staff recommends CBD-CURE-CO (Central Business District - Central Urban Redevelopment Conditional Overlay) combining district with conditions. The CURE combining district shall modify the floor to area ratio (FAR) from 8:1 to 20:1. The recommended conditional overlay shall restrict the daily vehicle trips to less than 3,787 unadjusted trips per day and implement recommendations from the Traffic Impact Analysis (TIA) as described in the attached TIA Memo from the Watershed Protection and Development Review Department dated September 5, 2007 (Please see Attachment A). Furthermore, under a public restrictive covenant, the applicant, at owner's expense, shall participate in the Great Streets Program for portions of public right-of-way fronting the subject site that have not been improved to Great Streets standards.

## BASIS FOR RECOMMENDATION

### *1. The proposed zoning should promote consistency, and orderly planning.*

The proposed zoning change and recommended conditional overlay with conditions is compatible with the surrounding area as it is surrounded by CBD zoning and adjacent to mixed-use and commercial development compatible to the proposed uses. Furthermore, the underlying base zoning shall not be changed and thus will not infringe in the consistency of zoning in the area.

### *2. The proposed zoning should be consistent with the purpose statement of the district sought.*

*LDC 25-2-311:*

*(A) The purpose of a central urban redevelopment (CURE) combining district is to promote the stability of neighborhoods in the central urban area.*

*(B) A CURE combining district may be used:*

- (1) for sustainable redevelopment of homes, multifamily housing, and small businesses;*
- (2) to accommodate high priority projects that enhance the stability of urban neighborhoods including the development of affordable housing and small businesses along principal transportation routes that serve a neighborhood;*
- (3) to improve the natural environment; and*
- (4) to encourage high quality development with architectural design and proportion compatible with the neighborhood.*

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The subject property is located within the designated CURE District and lies within the Core Downtown District as identified by the Downtown Austin Design Guidelines. The proposed redevelopment of the site will not infringe on the character of the surrounding properties.

## EXISTING CONDITIONS

### Site Characteristics

The subject property consists of a 0.811 Acres (35,327.16 square feet) site zoned CBD fronting San Jacinto Boulevard, Brazos Street, and East 3<sup>rd</sup> Street. The property is currently the site an office/paper company. The site lies within the designated Core Downtown District as identified by the Downtown Austin Design Guidelines recommending providing a dense, multi-tenant, pedestrian-oriented development at street level while encouraging the densification of the downtown core and within the Central Urban Redevelopment (CURE) overlay district. Redevelopment on this site will be subject to

Subchapter E, Design and Mixed Use Standards and the Parkland Dedication Ordinance. Vehicular access is proposed off San Jacinto Boulevard, Brazos Street, and East 3<sup>rd</sup> Street.

### **Transportation**

1. A TIA is required and has been received. Additional comments will be issued separately. (Please see TIA memo under Attachment A).

### **Environmental**

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Waller Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to flood plain maps, there is no flood plain within the project area.
5. This site is located in the downtown area and is fully developed. There are no apparent environmental features.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

### **Water and Wastewater**

1. 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 relocation, and abandonment. 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.

### **Site Plan**

1. This site is within the Convention Center Overlay. This site will also be required to meet Subchapter E, Design and Mixed Use Standards and the Parkland Dedication Ordinance.





**Date:** September 25, 2007 (Revised)  
**To:** Jorge Rousselin, Case Manager  
**CC:** Anna Martin, P.E., HDR|WHM Transportation Eng  
**Reference:** 3rd and San Jacinto (Block 21) TIA: C14-2007-0092

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The Transportation Review Section has reviewed the Traffic Impact Analysis for 3rd and San Jacinto rezoning, dated July 2007, prepared by Anna Martin of HDR|WHM Transportation Engineering.

The 3rd and San Jacinto (also known as Block 21) is a 0.8 acre site located in downtown Austin. The property is currently developed with office / warehouse building. The applicant has requested a zoning change to CBD – CURE. The estimated completion of the project is expected in the year 2010.

### **TRIP GENERATION**

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 5,024 unadjusted average daily trips (ADT).

The table below shows the adjusted trip generation by land use for the proposed development:

<b>Table 1. Trip Generation</b>						
			<b>AM Peak</b>		<b>PM Peak</b>	
<b>LAND USE</b>	<b>Size</b>	<b>ADT</b>	<b>Enter</b>	<b>Exit</b>	<b>Enter</b>	<b>Exit</b>
Hotel	220 Rooms	1,771	78	56	68	71
High rise Condominium	214 DU	930	15	67	50	31
Quality Restaurant	10,500 SF	477	0	0	27	13
Coffee / Bread / Sandwich shop	2,250 SF	609	132	117	21	24
<b>Total</b>		<b>3,787</b>	<b>225</b>	<b>240</b>	<b>158</b>	<b>139</b>

## **ASSUMPTIONS**

- 1) Traffic growth rates for the area were assumed at 4 percent annually.
- 2) In addition to these growth rates, background traffic volumes for Year 2010 included estimated traffic volumes for the following projects:
  - 200 Congress Ave Condominiums (SP-06-0583C)
  - 3rd Street and Trinity Street Restaurants (SP-05-1222C)
  - 5th Street and Brazos Parking Garage (SP-05-0031C)
- 3) Reductions were taken for pass-by for the following uses:

<b>Table 2. Summary of Pass-By, Internal Capture and Transit Reductions</b>				
<b>Land Use</b>	<b>Transit Reductions %</b>	<b>Pass-By Reductions %</b>		<b>Internal Capture Reduction %</b>
		<b>AM</b>	<b>PM</b>	
Hotel	5	0	0	10
High rise Condominium	5	0	0	10
Quality Restaurant	5	0	44	10
Coffee / Bread / Sandwich shop	5	43	33	10

## **EXISTING AND PLANNED ROADWAYS**

**3rd Street** – This roadway is currently a two-lane undivided roadway east of Brazos Street. It serves as a one-way road for westbound traffic west of Brazos Street. The 2007 tube counts conducted indicate a volume of 2,500 vehicles per day (vpd). Plans are currently underway to convert 3rd Street from the existing one-way configuration to a two-lane undivided roadway west of Brazos Street by 2010.

**San Jacinto Blvd** – This is a four-lane roadway serving southbound traffic in the vicinity of the proposed development. Twenty-four hour counts show daily volumes of approximately 5,800 vpd. CAMPO 2030 Mobility Plan recommends upgrading San Jacinto Boulevard to a four-lane divided major roadway between Martin Luther King Boulevard and Cesar Chavez Street by 2030.

**Brazos Street** – This roadway is classified as a four-lane undivided major arterial between 11th Street and Cesar Chavez Street in downtown Austin. The 2007 traffic volumes for this roadway north of 3rd Street were 5,900 vpd. The CAMPO 2030 Mobility Plan has not recommended any upgrades for Brazos Street from its current configuration.

#### **INTERSECTION LEVEL OF SERVICE (LOS)**

The TIA analyzed 3 intersections all of which are unsignalized. Existing and projected levels of service are as follows:

<b>Table 4. Level of Service</b>				
<b>Intersection</b>	<b>2007 Existing</b>		<b>2010 Site + Forecasted</b>	
	<b>AM</b>	<b>PM</b>	<b>AM</b>	<b>PM</b>
San Jacinto Boulevard and 3rd Street	A	A	A	B
Brazos Street and 3rd Street	A	B	B	B
Brazos Street and Driveway A	-	-	A	A

#### **RECOMMENDATIONS**

- 1) Prior to 3rd reading at City Council, pro rated share of fiscal is required to be posted for the following improvements:

<b>Table 5. Recommended Improvements</b>				
<b>Intersection</b>	<b>Improvement</b>	<b>Cost</b>	<b>Pro Rata Share %</b>	<b>Pro Rata Share \$</b>
3 <sup>rd</sup> St and San Jacinto Blvd	Install traffic Signal	\$145,000	28%	\$40,600
3 <sup>rd</sup> St and San Jacinto Blvd	Restripe WB to provide one left turn lane and one through lane	\$1,730	28%	\$484
3rd St and Brazos St	Install traffic Signal	\$145,000	18%	\$26,100
3rd St and Brazos St	Restripe EB to provide one left turn lane and one through lane	\$1,730	18%	\$311
<b>TOTAL</b>		<b>\$293,459</b>		<b>\$67,496</b>

- 2) Two copies of the final TIA are required to be provided prior to 3rd Reading at City Council.

- 3) Department of Public Works and Transportation has approved this TIA.
- 4) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2219.

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**Sangeeta Jain, AICP**  
Senior Planner Transportation Review Staff, WPDR



# AUSTIN DESIGN COMMISSION

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August 27, 2007

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Council Member Sheryl Cole  
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Council Member Jennifer Kim  
Council Member Lee Leffingwell  
Council Member Brewster McCracken  
Council Member Mike Martinez

## **Re: Review of the proposed 21C Austin Project at 301 Brazos Street.**

ERICA LEAK  
STAFF LIAISON

Dear Mayor and Members of the City Council,

The Design Commission recently reviewed the above referenced project as presented by representatives of 21C Austin who were requesting CBD CURE Zoning and 20:1 FAR. We support this request and offer the following comments for your consideration.

The Design Commission commends the project team for its serious and comprehensive response to the spirit and the letter of the Design Guidelines. Especially appreciated are the inclusion of full underground parking (with no at-grade parking), thoughtful job on the curb entrance/drop off area, sustainable elements including green roofs, water capture and reuse and a design that facilitates an environmentally friendly pedestrian thoroughfare. While the Museum Store provides the only retail space, the ground floor café and restaurant with patios on the sidewalks, and a generous compliment of entrances along the streets encourage pedestrian interaction along the entire street. The Commission suggests further consideration be given to a more extensive use of awnings along street fronts, particularly along 3<sup>rd</sup> Street where there is southern exposure. Awnings in addition to trees would provide protection to pedestrians from sun and rain, and more transparency in the glass facades by preventing reflection of afternoon sun.

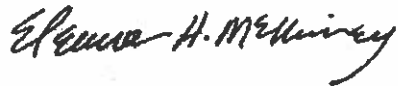
Going forward, as the streetscape design is developed, the Commission recommends continued adherence to the Downtown Austin Design Guidelines, adherence to Great Streets Standards, and adherence to the recently adopted Commercial Design Standards. These guidelines and standards include the provision of curbside and clear zones, use of pedestrian-friendly materials at street level, and streetscape & entry enhancements. The Commission has no objection to the proposed one way alley in order to accommodate loading/unloading in the alley as suggested by the project team.

It is also our understanding that the affordable housing provision will exceed the goals set by the Task force (10% of the additional square footage exceeding the 8:1 FAR) with 20,000 square feet designated for affordable Artist Lofts. While this commendable effort is entirely voluntary on the part of the project team, it is responsive to providing an important identified community benefit downtown. It is our understanding that this voluntary effort will be subject to the affordability periods outlined in the Affordable

Housing Incentives Task Force Report. In general, the project is an excellent example of a well balanced mixed use downtown project.

The Design Commission requests that the project be brought to the Commission for additional reviews as the design is further developed.

Sincerely,

A handwritten signature in cursive script, reading "Eleanor H. McKinney".

Eleanor McKinney, Chair  
Austin Design Commission

Cc:  
Austin Planning Commission  
Laura Huffman, Assistant City Manager  
Greg Guernsey, Director, Neighborhood Planning and Zoning  
File



## MEMORANDUM

TO: Mayor Will Wynn and City Council Members

FROM: Jeb Boyt, Chair  
Downtown Commission

DATE: August 21, 2007

RE: 21C Hotels and Condos - Case No. C14-2007-0092 (Proposed Rezoning to  
CBD-CURE with 20:1 FAR)

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At their Wednesday, July 18, 2007 meeting, the Downtown Commission received a presentation on the proposed 21C Hotel and Condo project. After discussion at their August 15, 2007 meeting, the Commission approved, by a 10-0 vote, the following resolution:

“The Downtown Commission supports the zoning change to CBD-CURE with 20:1 FAR as requested by the applicant.”

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Jeb Boyt, Chair  
Downtown Commission

cc: Greg Guernsey, Director, Neighborhood Planning and Zoning Department  
Jorge Rousselin, Neighborhood Planning and Zoning Department





# DOWNTOWN AUSTIN ALLIANCE

*A Vision and a Voice for Downtown*

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*Stream Realty*  
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**Mayor Will Wynn**  
*City of Austin*

**Charles Betts, Executive Director**  
*Downtown Austin Alliance*

*211 East Seventh Street, Suite 100-L*  
*Austin, TX 78701*

*Phone: (512) 469-1766*

*Fax: (512) 477-7456*

*Website: [www.downtownaustin.com](http://www.downtownaustin.com)*

*E-Mail: [daa@downtownaustin.com](mailto:daa@downtownaustin.com)*

August 8, 2007

Mr. John Philip Donisi  
Drenner & Golden Stuart Wolff, LLP  
301 Congress, Suite 1200  
Austin, Texas 78701

Mr. Donisi,

Thank you for presenting the plans for the 21c mixed-use project to the Downtown Austin Alliance Economic Development Committee. At its August 8, 2007 meeting, the Board of Directors of the Downtown Austin Alliance voted to support the requested zoning change to CBD-CURE with an FAR of 20:1.

The Alliance is pleased to support this project that will bring new residents, hotel guests, artists, and patrons to enliven a site that is currently underutilized.

Sincerely,

Kent Collins  
Chair

ORDINANCE NO. \_\_\_\_\_

1 **AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE**  
2 **PROPERTY LOCATED AT 300 SAN JACINTO BOULEVARD FROM CENTRAL**  
3 **BUSINESS DISTRICT (CBD) DISTRICT TO CENTRAL BUSINESS DISTRICT-**  
4 **CENTRAL URBAN REDEVELOPMENT DISTRICT-CONDITIONAL OVERLAY**  
5 **(CBD-CURE-CO) COMBINING DISTRICT.**

6  
7 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

8  
9 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to  
10 change the base district from central business district (CBD) district to central business  
11 district-central urban redevelopment district-conditional overlay (CBD-CURE-CO)  
12 combining district on the property described in Zoning Case No. C14-2007-0092, on file at  
13 the Neighborhood Planning and Zoning Department, as follows:

14  
15 Lots 1-6, Block 31, Original City of Austin, Travis County, Texas, according to the  
16 map or plat on file in the General Land Office of the State of Texas (the  
17 "Property"),

18  
19 locally known as 300 San Jacinto Boulevard, in the City of Austin, Travis County, Texas,  
20 and generally identified in the map attached as Exhibit "A".

21  
22 **PART 2.** The site development regulations for the Property within the boundaries of the  
23 CURE combining district established by this ordinance are modified as follows:

24  
25 Development of the Property may not exceed a floor-to-area ratio of 20.0 to 1.0.

26  
27 **PART 3.** The Property within the boundaries of the conditional overlay combining district  
28 established by this ordinance is subject to the following conditions:

29  
30 A site plan or building permit for the Property may not be approved, released, or  
31 issued, if the completed development or uses of the Property, considered cumulatively with  
32 all existing or previously authorized development and uses, generate traffic that exceeds  
33 3,787 trips per day.  
34  
35

1 Except as specifically restricted under this ordinance, the Property may be developed and  
2 used in accordance with the regulations established for the central business district (CBD)  
3 base district, and other applicable requirements of the City Code.  
4

5 **PART 4.** This ordinance takes effect on \_\_\_\_\_, 2007.  
6

7  
8 **PASSED AND APPROVED**  
9

10 §  
11 §  
12 \_\_\_\_\_, 2007 § \_\_\_\_\_  
13 Will Wynn  
14 Mayor  
15

16  
17 **APPROVED:** \_\_\_\_\_ **ATTEST:** \_\_\_\_\_  
18 David Allan Smith Shirley A. Gentry  
19 City Attorney City Clerk



## Pending Cases

1" = 400'      OPERATOR: SM

**RESTRICTIVE COVENANT**

OWNER: BRAZOS REI POE, LLC, a Texas limited liability company

ADDRESS: 200 South Fifth Street, Suite 200 North, Louisville KY 40202

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Lots 1-6, Block 31, Original City of Austin, Travis County, Texas, according to the map or plat on file in the General Land Office of the State of Texas.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by HDR/WHM Transportation Engineering Consultants, Inc., dated July 2007, or as amended and approved by the Director of the Watershed Protection and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated September 25, 2007. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. The Owner shall design and construct streetscape improvements along Brazos Street, San Jacinto Boulevard, and West 3<sup>rd</sup> Street in compliance with the City of Austin Great Streets design criteria as the criteria existed on October 18, 2007. Design, permitting and construction of streetscape improvements will be at Owner's expense. The Owner shall coordinate the design of the streetscape improvements with the Urban Design Section of the Neighborhood Planning and Zoning Department. The Urban Design Section shall inspect and approve the streetscape improvements prior to issuance of a certificate of occupancy;
3. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

4. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
5. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
6. 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, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

**OWNER:**

**BRAZOS REI POE, LLC,  
a Texas limited liability company**

By: POE Austin DT, LLC  
a Kentucky limited liability company,  
Member

By: \_\_\_\_\_  
Stephen E. Poe, its Manager

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**COMMONWEALTH OF KENTUCKY** §

**COUNTY OF JEFFERSON** §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 2007, by Stephen E. Poe, Manager of POE Austin DT, LLC, a Kentucky limited liability company, a Member of BRAZOS REI POE, LLC, a Texas limited liability company, on behalf of the limited liability companies.

\_\_\_\_\_  
Notary Public, Commonwealth of Kentucky

My commission expires: \_\_\_\_\_

**After Recording, Please Return to:**  
**City of Austin**  
**Department of Law**  
**P. O. Box 1088**  
**Austin, Texas 78767**  
**Attention: Diana Minter, Paralegal**