

ZONING CHANGE REVIEW SHEET

CASE: C14-2008-0143

The Project at Sixth & Congress – East

P. C. DATE: 08-26-2008

ADDRESS: 120 E. 5th Street & 121 E. 6th Street

AREA: 1.0137 acres

APPLICANT: Walton Stacy Office Partners IV, L. P.
(Tom Stacy)

AGENT: Armbrust & Brown, L. L. P.
(Lynn Ann Carley)

NEIGHBORHOOD PLAN AREA: None

CAPITOL VIEW: No

T.I.A.: Waived – See the Transportation Reviewer's
comments and Restrictive Covenant.

HILL COUNTRY ROADWAY: No

WATERSHED: Town Lake

DESIRED DEVELOPMENT ZONE: Yes

ZONING FROM: CBD – Central Business District, CBD-Cure – Central Business District – Central Urban Redevelopment District.

ZONING TO: CBD-CURE – Central Business District – Central Urban Redevelopment District.

SUMMARY STAFF RECOMMENDATION:

Staff recommends CBD-CURE – Central Business District – Central Urban Redevelopment District with the applicant entering into a Restrictive Covenant that replaces and modifies the Restrictive Covenant terminated under case # C14-06-0069 (RCT). The CURE overlay would allow a floor to area ratio of 20-1.

The Restrictive Covenant would have three parts - 1. That the applicant participate in the City of Austin Great Streets program for any new development on the property. 2. That the applicant submit an Access Study to the Transportation Review Section of Watershed Protection & Development Review Department for any proposed project on the property and 3. That the development be restricted to 17,193 vehicle trips per day.

PLANNING COMMISSION RECOMMENDATION:

The motion to approve staff's recommendation for CBD-CURE zoning; was approved on the Consent Agenda by Commissioner Jay Reddy, Commissioner Mandy Dealey second the motion on a vote of 7-0. Commissioners Paula Hui and Perla Cavazos were absent.

DEPARTMENT COMMENTS:

This property was rezoned from Central Business District (CBD) to Central Business District – Central Urban Redevelopment District (CBD-CURE) with case number C14-06-0069. There was also a companion zoning case, C14-06-0071 for adjacent properties that the applicant owns. The purpose of the zone change request was to utilize the CURE overlay to modify the Floor-to-Area-Ratio (FAR) from the standard 8-1 in the CBD zoning district to a 30-1 FAR.

The staff recommendation was to approve the zone change request with the stipulation that the applicant enter into a Restrictive Covenant (RC) on the property. The RC had three parts to it – 1. That the applicant participate in the City of Austin Great Streets program for any new development on the property.

2. That the applicant submit an Access Study to the Transportation Review section of Watershed Protection & Development Review Department for any proposed project on the property and 3. That the development be restricted to 14,221 vehicle trips per day. The RC was agreed to by the applicant and a single RC was executed that covered both zoning cases, C14-06-0069 & C14-06-0071

This property lies within the Convention Center Overlay District (CC), the East Sixth / Pecan Street Overlay District (PS) and a National Register Historic District.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
SITE	CBD/CBD-CURE	Office Building
NORTH	CBD	Hotel/Restaurant
SOUTH	CBD-H	Office/Retail
EAST	CBD-H/CBD	Bank
WEST	CBD-CURE	Office Building

CASE HISTORIES:

CASE NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-01-0029	From CBD to CBD-CURE	Approved CBD-CURE [Vote: 8-1]	Approved CBD-CURE [Vote: 7-0]
C14-06-0071	From CBD-CURE to CBD-CURE	Approved CBD-CURE [Vote: 8-0]	Approved CBD-CURE [Vote: 5-0]
C14-06-069	From CBD to CBD-CURE	Approved CBD-CURE [Vote: 8-0]	Approved CBD-CURE [Vote: 5-0]

NEIGHBORHOOD ORGANIZATION:

- Homeless Neighborhood Assn.
- Downtown Austin Neighborhood Coalition
- Pecan Street Owner's Association
- Downtown Austin Alliance
- Austin Warehouse District Association
- Old Pecan Street Association
- Sentral Plus East Austin Koalition
- Austin Neighborhood Council
- Downtown Austin Neighborhood Association

SCHOOLS:

Matthews Elementary School
 O' Henry Middle School
 Austin High School

ENVIRONMENTAL:

1. The site is not located over the Edwards Aquifer Recharge Zone. This site lies on, or very close to, the divide between the Waller Creek and the Town Lake watersheds, which are both classified as Urban Watersheds by Chapter 25-8 of the City's Land Development Code. They are both 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. At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rim rock, caves, sinkholes, and wetlands.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

TRANSPORTATION:

1. No additional right-of-way is needed at this time.
2. A traffic impact analysis was waived for this case because the applicant agreed limit trips to not more than 17,193 trips per day in conjunction with adjacent and associated case C14-2008-0144. Applicant also agrees to submit an access study during the site plan application process in order to evaluate driveway LOS for the proposed project.

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Bus Routes
E 6 th Street	80'	60'	Arterial	Yes	Yes	Multiple Routes
Brazos Street	80'	60'	Arterial	Yes	Yes	
E 5 th Street	80'	60'	Arterial	Yes	Yes	

SITE PLAN:

1. This site is located within the National Register Historic District (LDC 25-2-351). Are the existing structures historically significant? Would the proposed rezoning meet the intent of the National Register Historic District?
2. Any new development is subject to Subchapter E. Design Standards and Mixed Use, except where Great Streets regulations would supersede. Additional comments will be made when the site plan is submitted.

CITY COUNCIL DATE: September 25th, 2008**ACTION:****ORDINANCE READINGS:** 1ST 2ND 3RD **ORDINANCE NUMBER:****CASE MANAGER:** Clark Patterson
 Clark.patterson@ci.austin.tx.us**PHONE:** 974-7691



ZONING

- SUBJECT TRACT
- ZONING BOUNDARY
- PENDING CASE

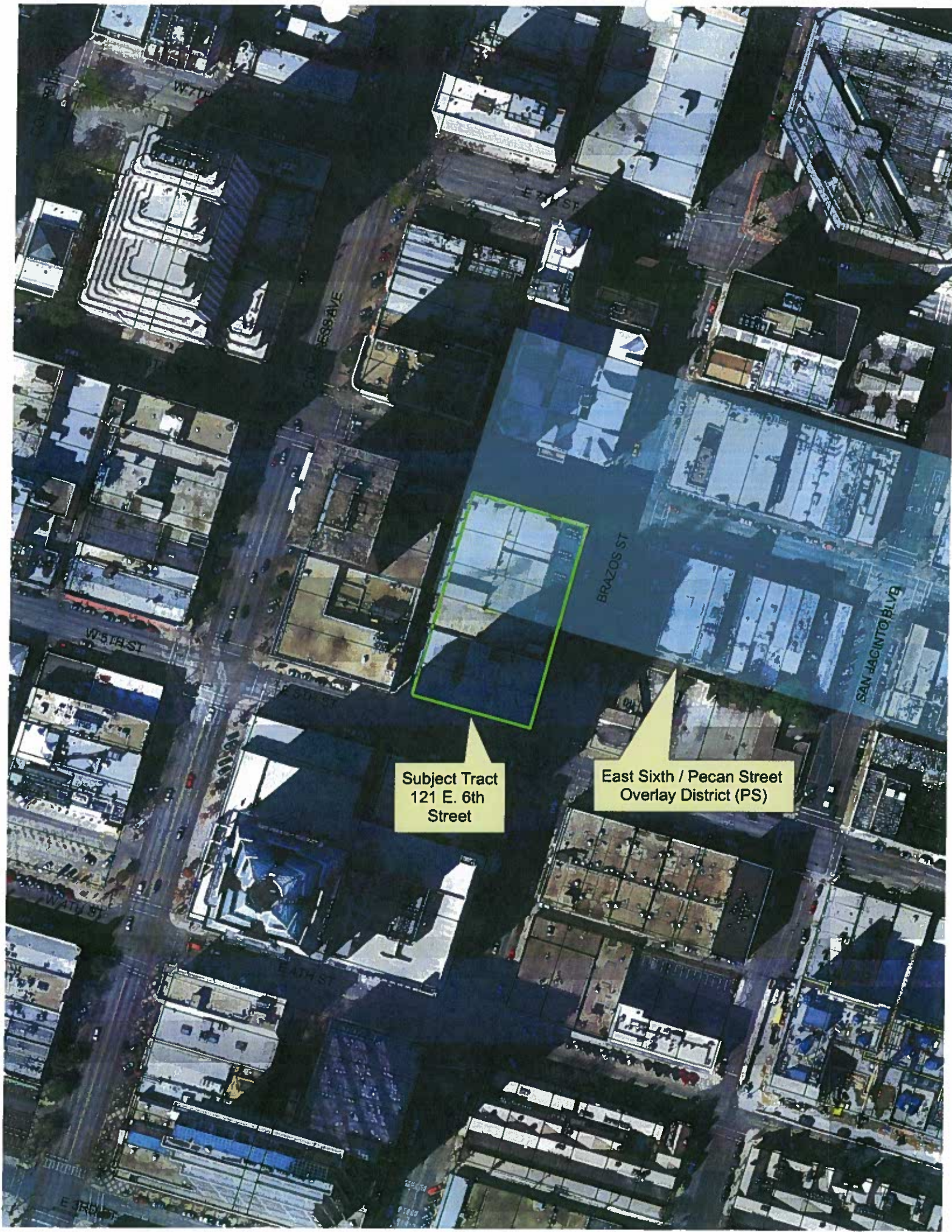
ZONING CASE#: C14-2008-0143
 ADDRESS: 121 E 6TH ST & 120 E 5TH ST
 SUBJECT AREA: 1.0137 ACRES
 GRID: J22
 MANAGER: C. PATTERSON

OPERATOR: S. MEEKS



1" = 400'

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.



Subject Tract
121 E. 6th
Street

East Sixth / Pecan Street
Overlay District (PS)

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 120 EAST 5TH STREET AND 121 EAST 6TH STREET
3 FROM CENTRAL BUSINESS DISTRICT (CBD) DISTRICT AND CENTRAL
4 BUSINESS DISTRICT-CENTRAL URBAN REDEVELOPMENT DISTRICT (CBD-
5 CURE) COMBINING DISTRICT TO CENTRAL BUSINESS DISTRICT-
6 CENTRAL URBAN REDEVELOPMENT DISTRICT (CBD-CURE) COMBINING
7 DISTRICT.
8

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

10
11 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to
12 change the base district from central business district (CBD) district and central business
13 district-central urban redevelopment district (CBD-CURE) combining district to central
14 business district-central urban redevelopment district (CBD-CURE) combining district on
15 the property described in Zoning Case No. C14-2008-0143, on file at the Neighborhood
16 Planning and Zoning Department, as follows:
17

18 Lots 6, 7, 8, 9, 10, 11, and 12, Block 56, Original City of Austin, according to the
19 map or plat on file in the General Land Office of the State of Texas (the
20 "Property"),
21

22 locally known as 120 East 5th Street and 121 East 6th Street, in the City of Austin, Travis
23 County, Texas, and generally identified in the map attached as Exhibit "A".
24

25 **PART 2.** The site development regulations for the Property within the boundaries of the
26 CURE combining district established by this ordinance are modified as follows:
27

28 Development of the Property may not exceed a floor-to-area ratio (F.A.R.) of 20.0
29 to 1.0.
30

31 Except as specifically restricted under this ordinance, the Property may be developed and
32 used in accordance with the regulations established for the central business district (CBD)
33 base district and other applicable requirements of the City Code.
34
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2
3 **PART 3.** This ordinance takes effect on _____, 2008.
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5
6 **PASSED AND APPROVED**
7

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9
10 _____, 2008

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§
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Will Wynn
Mayor

11
12
13
14
15 **APPROVED:** _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk

RESTRICTIVE COVENANT

OWNER: Walton Stacy Office Partners IV, L.P., a Delaware limited partnership

ADDRESS: 823 Congress Avenue, Suite 1111, Austin, Texas 78701

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, 2, and 3, Block 56, Original City of Austin, Travis County, Texas, according to the map or plat on file at the General Land Office of the State of Texas. (Zoning Case No. C14-2008-0144); and

Lots 6, 7, 8, 9, 10, 11 and 12, Block 56, Original City of Austin, Travis County, Texas, according to the map or plat on file at the General Land Office of the State of Texas. (Zoning Case No. C14-2008-0143)

WHEREAS, Walton Stacy Office Partners IV, L.P., a Delaware limited partnership, the owner of the Property (the "Owner") 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, 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, its heirs, successors, and assigns.

1. The Owner shall design and construct streetscape improvements in full compliance with the City of Austin Great Streets design criteria as the criteria existed on June 8, 2006. 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.
2. At the time of site plan, the Owner shall submit to the Transportation Review Section of the Watershed Protection and Development Review Department an access study that provides an evaluation of driveway functions for the proposed project on the Property.
3. 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 17,193 trips per day.

4. 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.
5. 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.
6. 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.
7. 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 _____, 2008.

OWNER:

**Walton Stacy Office Partners IV, L.P.,
a Delaware limited partnership**

By: Walton Stacy Congress GP IV, L.L.C.,
a Delaware limited liability company,
its General Partner

By: Walton Stacy Congress Investors IV, L.P.,
a Delaware limited partnership,
its Sole Member

By: _____
Tom Stacy, Authorized Agent

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2008, by Tom Stacy, as authorized agent of Walton Stacy Congress Investors IV, L.P., a Delaware limited partnership, sole member of Walton Stacy Congress GP IV, L.L.C., a Delaware limited liability company, general partner of Walton Stacy Office Partners IV, L.P., a Delaware limited partnership, on behalf of the limited partnerships, and limited liability companies.

Notary Public, State of Texas

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