

SECOND/THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-2011-0058 707 West Avenue Rezoning

REQUEST: Approve second/third reading of an ordinance amending Chapter 25-2 of the Austin City Code rezoning the property locally known as 705, 707, 709, 711 West Avenue & 710 West 7th Street (Shoal Creek Watershed) from General Office (GO) to General Commercial Services, Conditional Overlay (CS-CO) combining district zoning.

DEPARTMENT COMMENTS:

The conditions imposed by City Council on 1st reading have been incorporated into the ordinance and attachments.

APPLICANT: Cirrus Logic, Inc. (Thurman Case)

AGENT: Armbrust & Brown (Richard Suttle)

DATE OF FIRST READING: August 25^h, 2011

The public hearing was held open and the motion to approve the first reading of the ordinance for general commercial services-conditional overlay (CS-CO) combining district zoning was approved on consent on Council member Spelman's motion, Council Member Morrison's second on a 7-0 vote.

CITY COUNCIL HEARING DATE: September 22nd, 2011

ORDINANCE NUMBER:

CITY COUNCIL ACTION:

ASSIGNED STAFF: Clark Patterson

ZONING CHANGE REVIEW SHEET

CASE: C14-2011-0058 707 West Avenue Rezoning **P.C. DATE:** 07/26/11

ADDRESS: 705, 707, 709, 711 West Avenue
& 710 West 7th Street

AREA: 0.444 Acres

APPLICANT: Cirrus Logic, Inc.
(Thurman Case)

AGENT: Armbrust & Brown, P.L.L.C.
(Richard Suttle)

NEIGHBORHOOD PLAN AREA: Downtown

CAPITOL VIEW: Yes

T.I.A. No

HILL COUNTRY ROADWAY: No

WATERSHED: Shoal Creek

DESIRED DEVELOPMENT ZONE: Yes

ZONING FROM: GO – General Office

ZONING TO: CS – General Commercial Services

SUMMARY STAFF RECOMMENDATION:

Staff recommends CS-CO, General Commercial Services - Conditional Overlay. The Conditional Overlay would prohibit the following uses: Agricultural sale and services, Automotive rentals, Automotive repair services, Automotive sales, Blood plasma service, Building maintenance services, Campground, Commercial off street parking, Construction sales and services, Convenience storage Drop off recycling collection facility, Equipment repair services, Equipment sales, Funeral services, Kennels, Monument retail sales, Plant nursery, Pawn shop services, Service station, Stables, Vehicle storage, and Veterinary services and would make the following uses a conditional use: Cocktail lounge, liquor sales and Bail bond services and would limit the vehicle trips to 2,000 per day.

PLANNING COMMISSION RECOMMENDATION:

The motion to approve staff's recommendation with the addition of the Mixed Use overlay for CS-MU-CO district zoning; was approved by Commissioner Tina Bui's motion, Commissioner Alfonso Hernandez seconded the motion on a vote of 5-1-1; Commissioner Danette Chimenti voted against the motion, Commissioner Richard Hatfield abstained; Commissioner Mandy Dealey was absent; 1 vacancy on the commission.

DEPARTMENT COMMENTS:

The property is currently developed with a two story office building with an adjacent three story parking garage. The applicant, Cirrus Logic, Inc. is currently constructing a multi-story office building on property that it owns on the Northwest corner of West Avenue and 6th Street which was granted DMU-CURE zoning with ordinance number 20050728 in 2005. The new facility will be approximately 135,000 square feet and will be able to accommodate up to 500 employees at full capacity. The building is expected to be completed and ready for occupancy by the end of summer 2012. The property was granted CURE which increased the permitted height on the property to one hundred thirty six feet (136'). Cirrus Logic, Inc. is a premier supplier of high-precision analog and

digital signal processing components for audio and energy markets. The applicant has indicated that they need a structure close to the one under construction that they can use for Electronic Prototype Assembly, Electronic Testing and Research Services. The first zoning district that permits those uses is General Commercial Services (CS). The subject property is located on the Northeast corner of 7th Street and West Avenue and is in the Northwest District of the Downtown Austin Plan. The Downtown Austin Plan calls for this property to convert to Downtown Mixed Use with a sixty foot height limit (DMU-60). The applicant has been meeting with the neighborhood, Original Austin Neighborhood Association, to work out an agreement that would satisfy both parties. To date the neighborhood has issued a letter stating their position and it is included in your back up. The applicant has agreed to prohibit the listed uses in the letter. The prohibited uses are those that are not found in the Downtown Mixed Use zoning district. By agreeing to prohibit those uses, you are ostensibly left with a "DMU-60" with three additional uses, those being Electronic Prototype Assembly, Electronic Testing and Research Services. This case was heard by the Downtown Commission on July 20th and they voted 10-0-1 to support the zone change request.

BASIS FOR RECOMMENDATION:

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

Granting the requested zoning, as stated in the staff recommendation, would result in a land use that would be no more intense than what would be granted in the Downtown Austin Plan.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
SITE	GO	Office
NORTH	GO/MF-4	Office
SOUTH	GO/GR	Office building
EAST	GO	Office
WEST	GO	Retail/services

CASE HISTORIES:

CASE NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-05-0040	From GO to DMU-CURE-CO	Approved DMU-CURE-CO [Vote: 7-0]	Approved DMU-CURE-CO [Vote: 7-0]
C14-06-0007	From CS to CBD-CO	Approved CBD-CO [Vote: 7-0]	Approved CBD-CO [Vote: 5-0]
C14-06-0183	From GR to CBD-CURE-CO	Approved CBD-CO-CURE [Vote: 7-0]	Approved CBD-CO-CURE [Vote: 7-0]

NEIGHBORHOOD ORGANIZATION:

- 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
- Austin City Lofts HOA
- West End Austin Alliance
- Original Austin Neighborhood Assoc.

SCHOOLS:

Matthews Elementary School, O' Henry Middle School, Austin High School

SITE PLAN:

- SP 1. This site is within the Capitol View Corridor, and the maximum height allowed within the view corridor is strictly enforced. For any new development, an application for a Capitol View Corridor Height Determination must be submitted to Intake and demonstrate compliance prior to site plan review. For more information, contact the Development Assistance Center at 974-6370.
- SP 2. This tract is also located within the Criminal Justice Center Overlay District (§ 25-2-650), and the following uses are prohibited:
- (1) bail bond services uses, cocktail lounge uses, or liquor sales uses that would otherwise be a permitted use as a conditional use; and
 - (2) pawn shop services uses is a prohibited use.
- SP 3. Any new construction may require compliance with Subchapter E, Commercial Design Guidelines for Urban Roadways. Additional comments will be made during the site plan review.
- SP 4. Site plans will be required for any new development other than single-family or duplex residential.

ENVIRONMENTAL:

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal 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. 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 rimrock, 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:

TR1: Existing Street Characteristics:

Name	ROW	Pavement	Classification	Daily Traffic
West Avenue	80'	36'	Collector	Not Available
West 7 th Street	80'	36'	Collector	Not Available

TR2: No additional right-of-way is needed at this time.

TR3: A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day [LDC, 25-6-117].

TR4: There are existing sidewalks along West 7th Street. There are no existing sidewalks along West Avenue.

TR5: 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
West Avenue	Wide Curb	Wide Curb
West 7 th Street	Shared Lane	Shared Lane

TR6: Capital Metro bus service (route nos. 4, 21, & 103) is available along West 6th Street at West Avenue.

CITY COUNCIL DATE: August 18th, 2011
September 22nd, 2011

ACTION: Approved first reading.

ORDINANCE READINGS: 1ST 2ND 3RD

ORDINANCE NUMBER:

CASE MANAGER: Clark Patterson
Clark.patterson@ci.austin.tx.us

PHONE: 974-7691

SUBJECT TRACT

CAPITOL VIEW CORRIDOR





ZONING

ZONING CASE#: C14-2011-0058

LOCATION: 705, 707, 709 & 711 WEST AVE &
711 W 7TH ST

SUBJECT AREA: 0.444 ACRES

GRID: J22

MANAGER: CLARK PATTERSON



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

1" = 400'

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.

Date: July 23, 2011
File Number: C14-2011-0058
Address of Rezoning Request: 707 West Avenue

To: Austin City Council

We, the undersigned owners of properties affected by the zoning change described in the referenced file, do hereby oppose and protest the proposed zoning change to CS in any form, including CS with conditions.

Signature

Printed Name

Address

James Powell James Powell 715 West Avenue

James Powell James Powell 717 West Avenue

Devon Dicker Devon Dicker 706 Rio Grande

Paul Parsons PAUL PARSONS 704 Rio Grande

Beat Pence BEAT PENCE 708 Rio Grande

Ben Procter BEN PROCTER 705 W. 8th

BRAR Rock-Neagon 702 Rio Grande
General Partner
Robinson Macfar House, L.P.

PETITION

Case Number: **C14-2011-0058**
707 WEST AVE

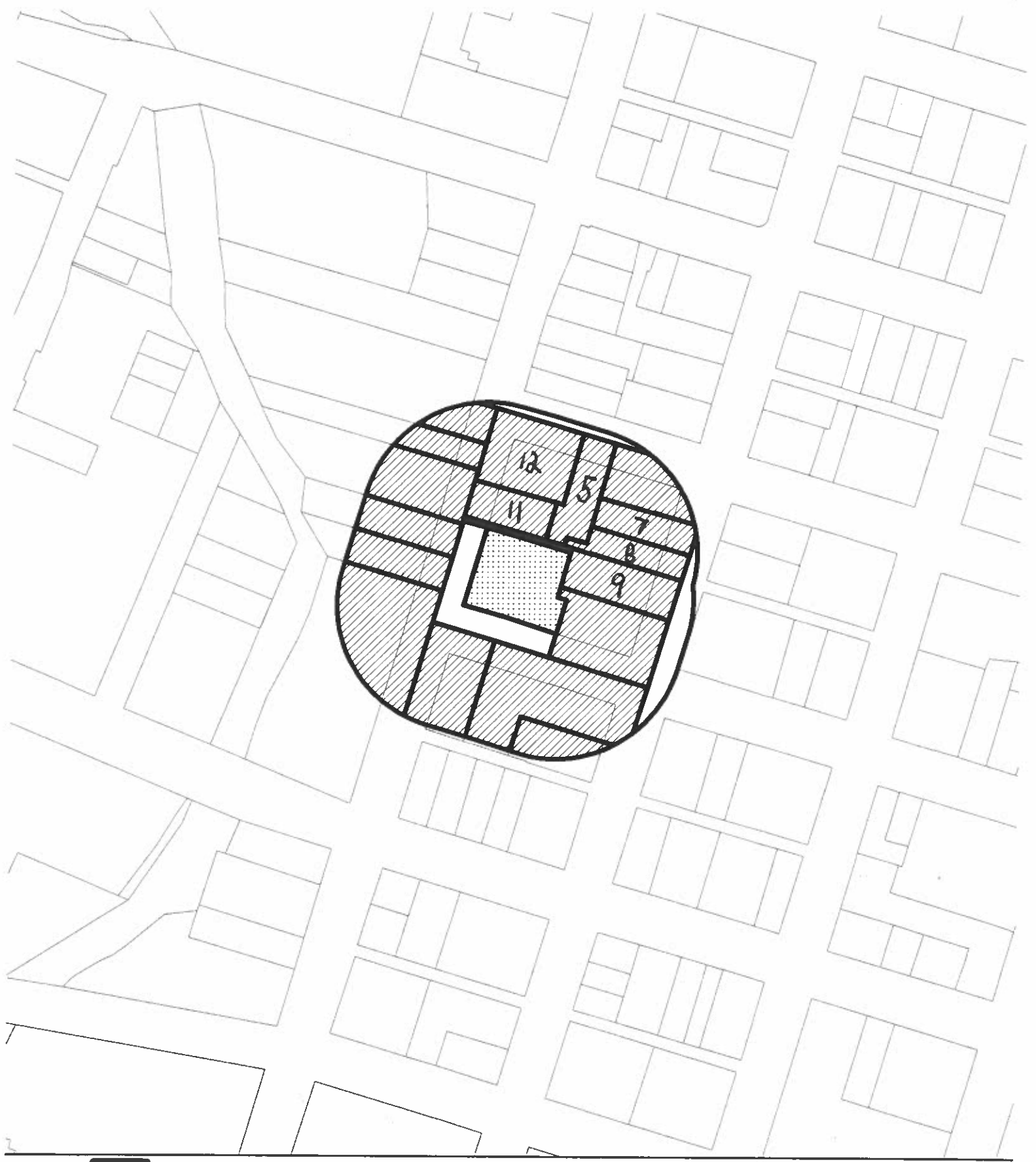
Date: 8/18/2011




Total Square Footage Owned by Petitioners Within 200' of Subject Tract:	212,018.26
Total Square Footage of Buffer:	236,346.18
Percentage of Square Footage Owned by Petitioners Within Buffer:	21.06%



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	0107000302	710 WEST AVE 706 G WEST	RAMSER STEWART	no	5515.46	0.00%
2	0107000303	AVE	BRYSON JOE G	no	13,762.97	0.00%
3	0107000306	702 WEST AVE	CIRRUS LOGIC INC	no	8969.24	0.00%
4	0107000325	606 WEST AVE	CIRRUS LOGIC INC	no	34332.79	0.00%
5	0107000401	705 W 8 ST 708 RIO	PROCTER BEN R	yes	9613.45	4.07%
6	0107000403	GRANDE ST 706 RIO	BEARTOOTH LTD	no	10373.79	0.00%
7	0107000404	GRANDE ST 704 RIO	DIKEOU DEVON	yes	7755.77	3.28%
8	0107000405	GRANDE ST 702 RIO	PARSONS PAUL ROBINSON-MACKEN	yes	7200.66	3.05%
9	0107000406	GRANDE ST 700 RIO	HOUSE L P	no	11725.09	0.00%
10	0107000407	GRANDE ST	SHEPHERD HARRIET L POWELL JAMES	no	18543.96	0.00%
11	0107000409	715 WEST AVE	SHELTON	yes	8171.47	3.46%
12	0107000410	717 WEST AVE	POWELL JAMES S POWELL JAMES	yes	17029.2889	7.21%
13	0107000412	WEST AVE	SHELTON 711 WEST 7TH STREET	no	1310.29	0.00%
14	0107000601	711 W 7 ST 606 RIO	PARTNERSHIP L'AQUARELLE	no	16,362.16	0.00%
15	0107000601	GRANDE ST	PARTNERSHIP LTD	no	6434.21	0.00%
16	0107000610	701 W 7 ST	LOWA LTD	no	30,055.69	0.00%
17	0208000512	800 WEST AVE	WELLS JOSEPH T	no	4,861.97	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:					49,770.63	Total % 21.06%



-  BUFFER
-  PROPERTY_OWNER
-  SUBJECT_TRACT

PETITION
CASE#: C14-2011-0058



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Important: Select the Viewpoint/Corridor Name (below) FIRST.

[illegible]

ORDINANCE NO. 20050728-Z021

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 800 WEST 6TH STREET, 602, 606, AND 700 WEST AVENUE FROM GENERAL OFFICE (GO) DISTRICT AND DOWNTOWN MIXED USE (DMU) DISTRICT TO DOWNTOWN MIXED USE- CONDITIONAL OVERLAY-CENTRAL URBAN REDEVELOPMENT DISTRICT (DMU-CO-CURE) COMBINING DISTRICT.

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

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from general office (GO) district and downtown mixed use (DMU) district to downtown mixed use-conditional overlay-central urban redevelopment district (DMU-CO-CURE) combining district on the property described in Zoning Case No. C14-05-0040, on file at the Neighborhood Planning and Zoning Department, as follows:

Lots 1-6, Outlot 1, Division E, J.H. Robinson Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 1, Page 28, of the Plat Records of Travis County, Texas (the "Property"),

locally known as 800 West 6th Street, 602, 606, and 700 West Avenue, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A".

PART 2. The regulations for the Property within the boundaries of the CURE combining district established by this ordinance are modified as follows:

The maximum height of a building or structure or portion of a building or structure is 136 feet.

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

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 2,000 trips per day.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the downtown mixed use (DMU) base district and other applicable requirements of the City Code.

PART 4. This ordinance takes effect on August 8, 2005.

PASSED AND APPROVED

July 28, 2005

§
§
§

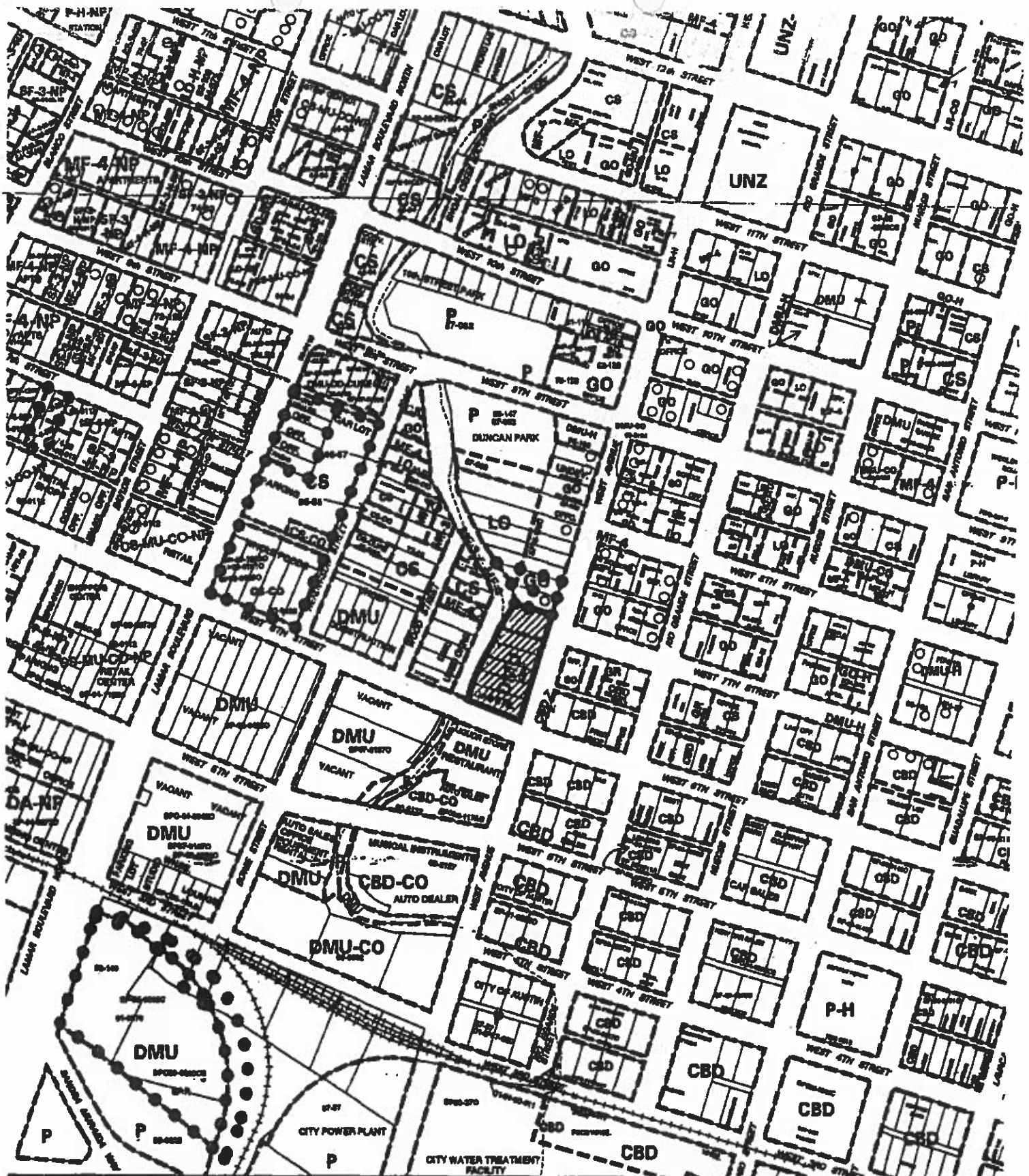
Will Wynn
Mayor





APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Brown
City Clerk



 1" = 400'	SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: T. BOLT	  	ZONING EXHIBIT A CASE #: C14-05-0040 ADDRESS: 800 W 6TH ST SUBJECT AREA (acres): 1.337	DATE: 05-07 INTLS: 8M	CITY GRID REFERENCE NUMBER H22
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Draft - May 21, 2010

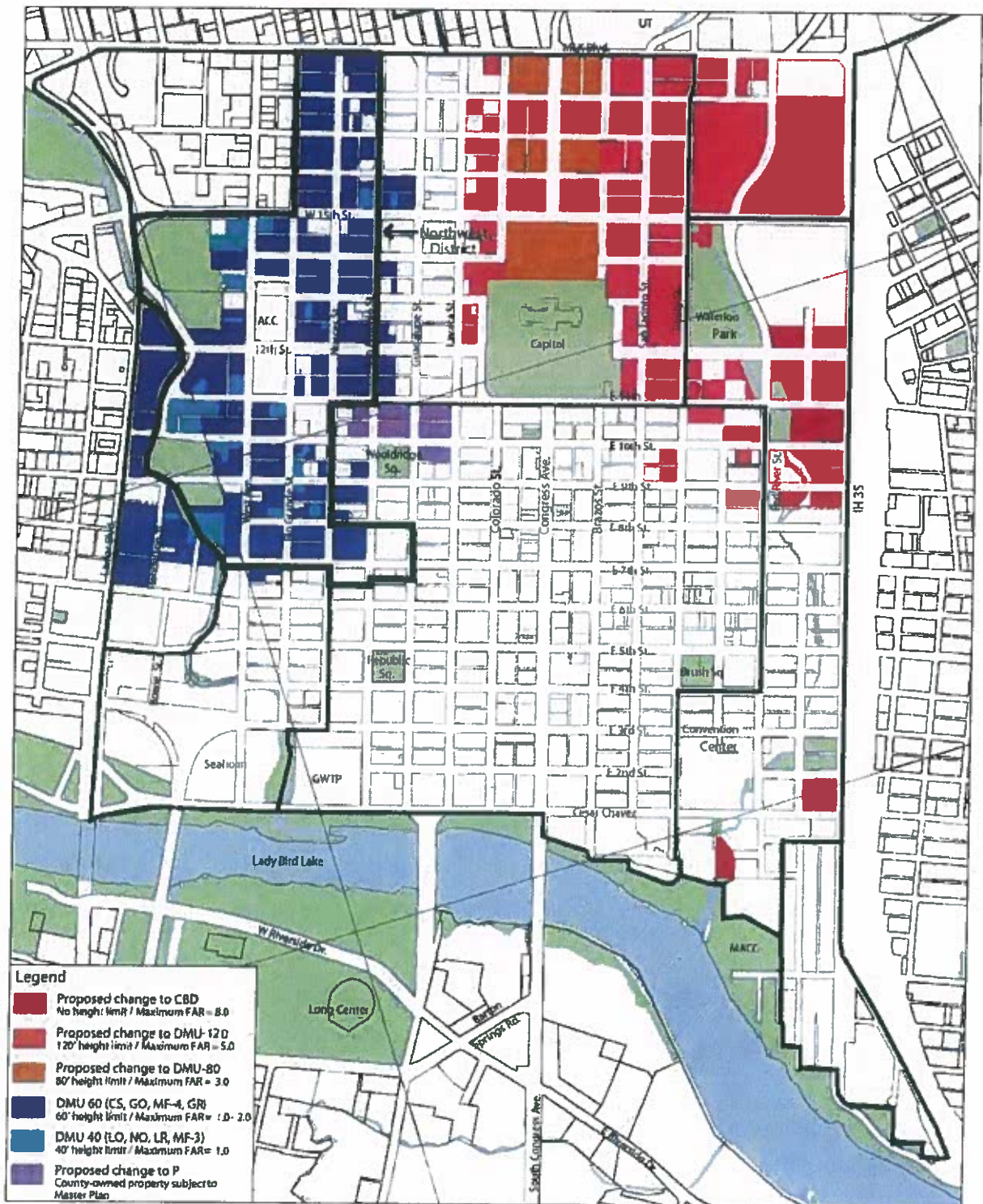


Figure 7:
Northwest District Proposed Zoning Changes

Zonin

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Future Headquarters Building



In January 2011, Cirrus Logic began construction on its new corporate headquarters in downtown Austin at 800 West 6th Street, intersecting West Avenue. The new facility will be approximately 135,000 square feet and will be able to accommodate up to 500 employees at full capacity. The building is expected to be completed and ready for occupancy by the end of summer 2012.

Weeks of July 4 and June 27, 2011



Weeks of June 20, June 6 and May 30, 2011



Weeks of May 23, May 9 and May 2, 2011



Weeks of April 25, April 18, and April 4, 2011



Post Office Box 1282
Austin, TX 78767
www.originalaustin.com
www.cltclte.com/oana/

June 24, 2011

Clark Patterson, Case Manager
Planning & Development Review Department
P. O. Box 1088
Austin, Texas 78767

RE: C14-2011-0058 - 707 West Avenue, AKA: 705, 709, 711 West Avenue and 710 West 7th Street

Proposed Zoning Change:

From: GO-General Office

To: CS-General Commercial Services

Dear Mr. Patterson:

The Board of Directors (BoD) of the Original Austin Neighborhood Association (OANA) at its regularly scheduled monthly meeting on June 15, 2011, upon notice to interested parties, discussed the above referenced rezoning request to change the zoning from GO-General Office to CS-General Commercial Services for this property on West Avenue.

The OANA BoD believes that CS zoning is not consistent with the recommendations for the Northwest District of the Downtown Austin Plan. A number of OANA directors are opposed to the proposed rezoning and the application of CS zoning on or north of West 7th Street within the boundaries of OANA. Among their concerns is that this zoning change request, if approved, will set a bad precedent, no matter what conditions are place on it.

Additionally, some OANA directors believe the applicant could work with City staff to initiate a code amendment that would allow the uses they need within the DMU zoning category, and once this is done, the applicant could apply for DMU zoning, consistent with the Downtown Austin Plan recommendations.

However, after discussions with you, other city staff and the applicant, **the majority of the OANA BoD, does not object to the applicant's proposed uses (i.e., Electronic Prototype Assembly, Electronic Testing and Research Services) at this location.**

Therefore, in consultation with the applicant, **the OANA BoD supports CS-CO zoning on the subject property, provided that the applicant agrees to a Conditional Overlay (CO) enforced by the City of Austin; and provided the applicant enters into a private Restrictive Covenant (RC) with OANA, limiting this zoning change to 1) this tract of land; 2) at this time; and, 3) to this user.**

We propose that the CO would contain the following provisions.

First, the CO would prohibit the following uses that otherwise would be allowed under CS zoning:

- | | | |
|---------------------------------|---|--------------------------------|
| -Agricultural Sales and Service | -Automotive Rentals | -Automotive Repair Services |
| -Automotive Sales | -Blood plasma service | -Building Maintenance Services |
| -Campground | -Commercial off street parking | -Construction Sales & Services |
| -Convenience Storage | -Drop-Off Recycling Collection Facility | |
| -Equipment Repair Service | -Equipment Sales | - Funeral Services |
| -Kennels | -Monument Retail Sales | -Plant Nursery |
| -Service Station | -Stables | -Vehicle Storage |
| -Veterinary Services | | |

Second, the CO would require Great Streets treatment in the public right of way and pedestrian-oriented uses within the building along both the West 7th Street and West Avenue frontages, as well as creating the appropriate building façade treatments and openings that contribute to a high-quality pedestrian environment, such as those required by Subchapter E of the Land Development Code. (This would also include re-locating the dumpster, which is currently in the public ROW, onto the property and screening it, and screening the surface parking, per the current Landscape Ordinance.

Third, the CO would require that in any building on this property a minimum of 50% of the building's net square footage above 60' in height would have to be dedicated to residential uses.

Thank you in help in this case, and please contact me if you have any questions.

Sincerely;



Ted Siff, President

Board of Directors

Ted Siff, President

Mark Holzbach, Vice President

Albert Stowell, Treasurer

Blake Tollett, Secretary

Jocelyn Dabeau

Rick Hardin

Perry Lorenz

John Horton

Bill Schnell

6 July 2011

Clark Patterson, Case Manager
Planning & Development Review Department
City of Austin

RE: C14-2011-0058; 707 West Avenue

Dear Mr. Patterson:

I am writing to you today as an individual property owner (601 & 603 West 12th Street and 1202 San Antonio Street) in the North West District of downtown Austin. I am opposed to the rezoning of the above referenced property to the requested CS zoning district, or any zoning district less restrictive than DMU-60, and would ask City Staff to recommend that zoning district also.

My opposition to the requested rezoning is based on the following:

1) Under the definition of the Commercial Services zoning district:

“Commercial or industrial activities which typically have operating characteristics or traffic service requirements generally incompatible with residential environments”

There are contiguous residential uses to the east, north and northwest of the property proposed for rezoning, and a plain reading of the Land development Code should preclude this rezoning as being incompatible with this long standing use.

2) The introduction of the Commercial Services zoning district on to this block would be spot zoning, and regardless of Conditional Overlays, would potentially destroy the character of the block. There are no current zoning districts comparable to the requested zoning district east of West Avenue and north of West 7th Street, and the granting of the requested rezoning would set a precedent.

3) The applicant has cited a need to do “electronic testing” at the property referenced and have cited that use as the reason they need such an intense zoning district. First, why was not this testing facility need not anticipated in their ongoing building project at West 6th Street and West Avenue? I also question why this purportedly innocuous use cannot be accommodated by a change in allowed use under the DMU zoning district. Rezoning a property, especially to a much less restrictive zoning district than is currently in place is a very consequential matter.

4) The Downtown Austin Plan anticipates a rezoning of the property to DMU-60.

I consider this matter a “bright line” test of whether the City is serious about bringing residents back to the North West District. I am asking that the rezoning request be denied.

Blake Tollett
3701 Bonnie Road 78703
512-477-4028
blake.tollett@earthlink.net

5 August 2011

Clark Paterson, Case Manager
Planning & Development Review Department
City of Austin

RE: C14-2011-0058; 707 West Avenue

Dear Mr. Patterson:

I am writing to you again as an individual property owner in the North West District of Downtown Austin. I remain in opposition to the above referenced rezoning request from the GO zoning district to a CS-CO zoning district because the request is premature and short circuits the normal process of developmental change. I would ask you to include this letter in the package going to City Council on this matter.

Under the anticipated Downtown Austin Plan (DAP) the zoning district for this property will be DMU with an allowable developmental height of 60 feet. The applicant has been very persuasive in their assertion of the noninvasive nature of the testing they anticipate at the property, but under the current Land Development Code (LDC), this type of testing is not allowed in the DMU zoning district. Rather than a spot rezoning of the property in contradiction to the DAP, why isn't the applicant applying to the Codes & Ordinances Subcommittee of the Planning Commission to have a new use category under the DMU zoning district?

During the Planning Commission meeting where this rezoning request was approved, there was discussion that this change of use strategy to reach the applicant's stated goals without necessitating a change of zoning district on the property was a viable alternative, but that avenue of change has been available to the property's owner since for the last several months and has not been pursued. The affected neighborhood association, Original Austin Neighborhood Association (OANA), is on record as supporting the incorporation of some sort of electronic testing use into the DMU zoning district, and the contiguous property owners to the property have agreed to at least consider such a solution, but again, the applicant, for all their assurances, have not chosen to go this route.

I think it would be beneficial for the North West District for the City Council to hold this rezoning request in abeyance until the change of use avenue is at least tried, and I would ask the Council to do so. The first hearing on this rezoning request is scheduled for the same day as the preliminary briefing to Council of the DAP in its entirety, and it would seem appropriate for a pause to allow the plan to be initiated.

Blake Tollett
3701 Bonnie Road 78703
512-477-4028

ORIGINAL
FILED FOR RECORD

DECLARATION OF RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant (the "**Restrictive Covenant**"), is executed by the **Cirrus Logic, Inc.**, a Delaware corporation ("**Owner**") and is as follows:

RECITALS:

OWNER: Cirrus Logic, Inc., a Delaware corporation

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged.

PROPERTY: 0.444 of an acre of land, more or less, and being all of Lots 1 and 2, a portion of Lot 3, and a portion of a 20 foot vacated alley in Block 77, ORIGINAL CITY OF AUSTIN, according to the map or plat thereof recorded in the General Land Office of the State of Texas, as more fully described by metes and bounds on **Exhibit A** attached hereto and made a part hereof.

A. Definitions.

1. Association. The term "**Association**" means the Original Austin Neighborhood Association.
2. City. The term "**City**" means the City of Austin, Texas.
3. Code. The term "**Code**" means the Land Development Code of the City of Austin.
4. Owner. The term "**Owner**" means Cirrus Logic, Inc. ("**Cirrus**") and, subject to Section 4 hereof, its successors and assigns as owners of the fee interest of the Property.

B. General Recitals.

1. Owner owns the Property.
2. The Association was formed to represent the neighborhood which official Association boundaries extend from Lady Bird Lake to West 15th Street, and from Lamar Boulevard to Guadalupe, in Austin, Texas.
3. The Property is located within the boundaries of the Association.
4. The Property is presently zoned under the Code as General Office (GO).
5. Owner is currently processing an Application ("**Rezoning Application**") with the City for the purpose of rezoning the Property from GO to General Commercial Services (CS).

6. The Association has agreed to support the Rezoning Application for the Property on the condition that Owner adopt and impose this Restrictive Covenant on the Property.
7. Owner and the Association desire to evidence their agreement in the form of this Restrictive Covenant.

C. **Declaration.**

Each deed or conveyance of any kind conveying all or a portion of the Property will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not they are set out in full or by reference in the deed or conveyance. Owner declares that the Property is subject to the following covenants, conditions and restrictions, which run with the Property and bind all parties having right, title, or interest in or to the Property or any part, their respective heirs, successors, and assigns.

AGREEMENTS:

1. **Uses.** As long as the Property is zoned CS, the Property is and will remain subject to the requirements and limitations of Zoning District CS of the Code as it exists on the effective date of this Restrictive Covenant. Uses permitted in Zoning District CS are permitted uses of the Property; provided, however, uses of the Property listed on **Exhibit B** are prohibited uses (collectively, the "Prohibited Uses").
2. **Rezoning.** In the event that the Code is amended to allow "Electronic Testing" and "Electronic Prototype Assembly", as such uses are defined by the Code, within the Downtown Mixed Use (DMU) Zoning District, and Owner is using the Property for either of such purposes, Owner will exercise reasonable efforts to cause the Property to be rezoned from Zoning District CS to Zoning District DMU, and the Association agrees to support such Code amendment and rezoning of the Property. In the event that the Code is amended to include the above uses within Zoning District DMU, and Owner is subsequently successful in rezoning the Property to Zoning District DMU, this Restrictive Covenant will automatically terminate. Although it is intended that the foregoing provision for the termination of this Restrictive Covenant is self-operating, Owner is entitled, but not required, to record an affidavit in the Official Public Records of Travis County, Texas certifying that such zoning change has occurred and that this Restrictive Covenant is terminated.
3. **Building Height.** Improvements on the Property will be limited to a maximum building height of sixty feet (60').
4. **Change in Ownership or Use.**
 - A. In the event that Cirrus conveys the Property to (i) a subsidiary or affiliated entity of Cirrus, or (ii) an entity acquiring all or substantially all of the capital stock or assets of Cirrus (a "Permitted Assignee"), this Restrictive Covenant will remain

in full force and effect and continue to be binding on the Property and the Permitted Assignee.

- B. In the event Cirrus conveys the Property to other than a Permitted Assignee then this Restrictive Covenant will be deemed to be automatically amended to include "Research Services", "Electronic Testing" and "Electronic Prototype Assembly" as Prohibited Uses.

5. General Provisions.

- A. Permits and Approvals. As consideration for Owner's execution of this Restrictive Covenant, the Association agrees to support any and all rezoning applications, permits and/or approvals sought for the development and use of the Property including, without limitation, an amendment to the Code pursuant to Section 2 above, that are consistent with this Restrictive Covenant, and will evidence its support as reasonably requested by Owner. The Association agrees and understands that Owner would not have entered into this Restrictive Covenant but for the agreement by the Association to this provision. This Restrictive Covenant will automatically terminate and be of no further effect if the Austin City Council fails to approve a rezoning of the Property to Zoning District CS. Although it is intended that the foregoing provision for the termination of this Restrictive Covenant is self-operating, Owner is entitled, but not required, to record an affidavit in the Official Public Records of Travis County, Texas certifying that such zoning change did not occur and that this Restrictive Covenant is terminated.
- B. Enforcement. If any person or entity violates or attempts to violate this Restrictive Covenant, it will be lawful for the Association to bring an action for specific performance against the person or entity violating or attempting to violate such covenant and to prevent the person or entity from violating or attempting to violate such covenant. No other person or entity will be entitled to enforce this Restrictive Covenant. No action for damages will be permitted. Upon request by Owner, from time to time, the Association will confirm, in writing, within twenty one (21) days following receipt of written request, that Owner and the Property are in compliance with this Restrictive Covenant. If the Association declares that Owner and the Property are not in compliance, the Association will provide a detailed written description of each area of non-compliance within twenty one (21) days of the request by Owner. If no response is given within twenty one (21) days following the request by Owner, it will be deemed that Owner and the Property are in compliance with this Restrictive Covenant.
- C. Modification and Amendment. Subject to Sections 2 and 5A above, this Restrictive Covenant may only be modified, amended or terminated upon the filing of a modification, amendment or termination in the Official Public Records of Travis County, Texas, executed, acknowledged and approved by (a) the Association; (b) the Owner of the Property; and (c) any mortgagees holding first lien security interests on any portion of the Property. Such joint action only

becomes effective after it is reduced to writing, signed by Owner and its respective mortgagees, if any, and the Association and filed in the Official Public Records of Travis County, Texas.

- D. Duration. This Restrictive Covenant will be effective in perpetuity, unless modified, amended, or terminated in accordance with Sections 2 or 4C.
- E. Governing Law; Place of Performance. This Restrictive Covenant and all rights and obligations will be governed by the laws of the State of Texas. This Restrictive Covenant is performable in Travis County, Texas.
- F. Notices. Any Notice to Owner or the Association must be in writing and given by delivering the same to such party in person, by expedited, private carrier services (such as Federal Express) or by sending the same by certified mail, return receipt requested, with postage prepaid to the intended recipient's last known mailing address. All notices under this Restrictive Covenant will be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. Any change in ownership or address requires notice to Owner and the Association.

Owner:

Cirrus Logic, Inc.
Attn: General Counsel
2901 Via Fortuna
Austin, Texas 78746

Association:

Original Austin Neighborhood Association
Attn: President
Post Office Box 1282
Austin, Texas 78767

- G. Negation of Partnership. None of the terms or provisions of this Restrictive Covenant will be deemed to create a partnership between or among Owner or the Association in their respective businesses or otherwise; nor will it cause them to be considered joint venturers or members of any joint enterprise.
- H. Inurement. This Restrictive Covenant and the restrictions created hereby inure to the benefit of and bind the Owner, and its heirs, successors and assigns. When an Owner conveys all or any portion of the Property, the former Owner will thereupon be released and discharged from any and all further obligations, if any, under this Restrictive Covenant that it had in connection with the Property conveyed by it from and after the date of recording of such conveyance, but no

such conveyance releases that Owner from any liabilities, if any, actual or contingent, existing as of the time of such conveyance.

- I. Severability. The provisions of this Restrictive Covenant are deemed to be independent and severable, and the invalidity or partial invalidity of any provision or portion does not affect the validity or enforceability of any other provision.
- J. Entire Agreement. This Restrictive Covenant, and the exhibits, contains all the representations and the entire agreement between the parties to this Restrictive Covenant with respect to the subject matter. Any prior correspondence, memoranda or agreements are superseded in total by this Restrictive Covenant and the exhibits.
- K. Counterparts. This Restrictive Covenant may be executed in any number of counterparts which will, together, be deemed to constitute one document.

Executed to be effective on August 17th, 2011.

COUNTERPART SIGNATURE PAGE TO DECLARATION OF RESTRICTIVE
COVENANT

Owner:

Cirrus Logic, Inc.,
a Delaware corporation

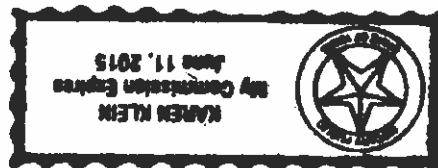
By: [Signature]
Name: Thurman Case

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 17th day of August,
2011, by Thurman Case, CFO, of Cirrus Logic, Inc., a
Delaware corporation, on behalf of said corporation.

[Signature]
Notary Public Signature



**COUNTERPART SIGNATURE PAGE TO DECLARATION OF RESTRICTIVE
COVENANT**

Association:

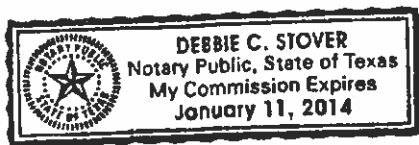
Original Austin Neighborhood Association

By: Ted Siff
Name: Ted Siff
Title: President

THE STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 17th day of August,
2011, by Ted Siff, president of the Original Austin Neighborhood Association, on behalf of said
Original Austin Neighborhood Association.



Debbie C. Stover
Notary Public Signature

AFTER RECORDING, RETURN TO:

Amanda Morrow
Armbrust & Brown, PLLC
100 Congress Avenue, Suite 1300
Austin, Texas 78701

EXHIBIT A

PROPERTY

Exhibit **A**

FIELD NOTE DESCRIPTION OF 0.444 ACRE OF LAND, BEING ALL OF LOTS 1 AND 2, A PORTION OF LOT 3, AND A PORTION OF THE ADJOINING 20 FT. WIDE VACATED ALLEY, BLOCK 77 OF THE ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE WITH THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, AND BEING ALL OF THAT SAME PROPERTY CONVEYED TO CHARLES E. BROWN ET AL. BY DEED RECORDED IN VOLUME 12422 PAGE 958 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a spindle found at the Northeast corner of that certain tract conveyed to Charles E. Brown et al. by deed recorded in Volume 12422 Page 958 of the Real Property Records of Travis County, Texas, and being the Northeast corner and **PLACE OF BEGINNING** of the herein described tract of land,

THENCE with the east line of said Brown tract, S 19 deg. 02' 59" W at 6 ft. pass the record Northwest corner of Lot 3, Block 77, Original City of Austin, according to the map or plat thereof on file with the General Land Office of the State of Texas, and continuing on the same course with the west line of said Lot 3, 72.02 ft. more for a total distance on this course of 78.02 ft., to a 60 D nail found at an ELL corner of said Brown tract, and being an ELL corner of this tract;

THENCE crossing the interior of said Lot 3 with the east line of said Brown tract, the following two courses:

- 1) S 71 deg. 15' 00" E 14.80 ft. to a chiseled "X" found in concrete;
- 2) S 18 deg. 44' 57" W 55.96 ft. to a spindle set in the north right-of-way line of West 7th Street at the Southeast corner of said Brown tract, and being the Southeast corner of this tract;

THENCE with the north right-of-way line of West 7th street and the south line of said Brown tract, N 70 deg. 56' 00" W at 15.09 ft. pass the record Southeast corner of Lot 2 of said Block 77, and continuing on the same course 69.00 ft. more, pass the record Southeast corner of Lot 1 of said Block 77, and continuing on 69.00 ft. more, for a total distance on this course of 153.09 ft. to a point on the face of a 2 story stucco building in the east right-of-way line of West Avenue at the Southwest corner of said Lot 1, and being the Southwest corner of this tract, and from which a concrete nail found bears S 70 deg. 56' 0" E 1.82 ft.;

THENCE with the east right-of-way line of West Avenue and the west line of said Lot 1, N 19 deg. 02' 59" E at 127.98 ft pass the record northwest corner of said Lot , and continuing on the same course 6 00 ft., more for a total distance on this course of 133.98 ft., to a capped iron rod set at the Northwest corner of this tract,

THENCE with the north line of said Brown tract, S 70 deg. 54' 05" E 138.00 ft. to the Place of Beginning, containing 0.44 Acre of land.

EXHIBIT B

PROHIBITED USES

The following uses of the Property are prohibited (based on the definitions from the Code as of the effective date of this Restrictive Covenant):

Agricultural Sales and Services
Automotive Rental
Automotive Repair Services
Automotive Sales
Blood Plasma Services
Building Maintenance Services
Campground
Commercial Off-Street Parking
Construction Sales and Services
Convenience Storage
Drop-Off Recycling Collection Facility
Equipment Repair Service
Equipment Sales
Funeral Services
Kennels
Monument Retail Sales
Plant Nursery
Service Station
Stables
Vehicle Storage
Veterinary Services

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

Aug 18, 2011 11:37 AM

2011120656

MACADOP: \$56.00

Dana DeBeauvoir, County Clerk

Travis County TEXAS

#99

August 15, 2011

Via Fax
Mayor and City Council
Austin, Texas

RE: Request for Postponement of Agenda Item #99
(C14-2011-0058, 707 West Ave. rezoning) and
Opposition to Said Rezoning.

Dear Mayor and Council Members:

I. Postponement.

Three individual property owners spoke against the above referenced rezoning application at the July 26, Planning Commission meeting. Of those three property owners (James Powell and Ben Procter immediately adjacent to Cirrus property and Blake Tollett neighborhood property owner) none can be present at the August 18 Council Meeting.

Thus, in order to participate in this important decision, to express concerns about the proposal, and to respond to any Council questions; we respectfully request postponement of the matter. None of the objectors has previously sought postponement.

II. Opposition to Rezoning (by Procter).

1. My property (MF-4) is directly adjacent to the subject tract. I have used it as single family for six years, and it has been residential since 1948.
2. CS zoning is inappropriate and incompatible with residential at this location.
3. During the years-long ROMA and Downtown Austin planning, CS zoning was never contemplated or recommended for this area of the "NW District." Rezoning to CS would represent terrible policy making in the face of so much "planning" to the contrary.
4. Conditional Overlay (even restricted covenant) are inadequate protections for surrounding properties. Please remember that before Cirrus owned the now office location at 6th and West, that property was rezoned. In 2005, representatives of the neighborhood agreed with the then-developer to a mixed-use residential condominium. That residential project became Cirrus's office building, i.e., "agreements" were not enforced.

5. At Planning Commission, Cirrus stated that the rezoning was "convenient" for its offsite electronic testing. This is a remarkable comment in at least two ways. First, convenience is unpersuasive as a basis for such dramatically different zoning. Second, apparently Cirrus is using first-floor space in its headquarters for a restaurant—instead of for electronic testing. Both suggest poor usage-planning by Cirrus.
6. At Planning Commission, Cirrus stated that the "planned for" electronic testing would be safe and quiet. More than verbal expressions concerning Cirrus's testing are needed. At a minimum, hard data are required.
7. CS zoning has at least the potential, if not the certainty, of destroying my property's residential use. Even worse, if CS is granted for Cirrus, the door is opened wide for others.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ben Procter", with a horizontal line extending to the right.

Ben Procter