

A U S T I N C I T Y C O U N C I L

AGENDA



Thursday, June 8, 2006

 + Back

**Zone Hearings/App Ordinances/Restrictive Covenants  
RECOMMENDATION FOR COUNCIL  
ACTION**

ITEM 101 PH

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**Subject:** C14-01-0029(RCT) - Fifth & Congress - Conduct a public hearing and approve a restrictive covenant termination for the property locally known as 501-515 Congress Avenue (Town Lake Watershed). **Planning Commission Recommendation:** To approve the restrictive covenant termination. **Applicant:** Walton Stacy Office Partners (Tom Stacy). **Agent:** Ambrust & Brown, LLP. (Lynn Ann Carley). **City Staff:** Jorge E. Rousselin, 974-2975.

**Additional Backup Material**

(click to open)

 Staff Report

**For More Information:** Jorge E. Rousselin, 974-2975.

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**RESTRICTIVE COVENANT TERMINATION REVIEW SHEET**

**CASE:** C14-01-0029(RCT)

**P. C. DATE:** May 9, 2006

**ADDRESS:** 501-515 Congress Avenue

**OWNER:** Walton Stacy Office Partners  
(Tom Stacy)

**AGENT:** Armbrust & Brown, LLP.  
(Lynn Ann Carley)

**EXISTING ZONING:**

CBD-CURE (Central Business District - Central Urban Redevelopment) combining district

**AREA:** 1.013 Acres

**SUMMARY PLANNING COMMISSION RECOMMENDATION:**

May 9, 2006:

***APPROVED STAFF'S RECOMMENDATION FOR TERMINATION OF RESTRICTIVE COVENANT.***

***[J.REDDY, G.STEGEMAN 2<sup>ND</sup>] (8-0)***

***\*COMMISSION REQUESTED FOR APPLICANT TO WORK WITH NEIGHBORHOOD HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT TO INCLUDE AFFORDABLE HOUSING.***

**SUMMARY STAFF RECOMMENDATION (PLEASE REFER TO EXHIBITS):**

Staff recommends the termination of Restrictive Covenant C14-01-0029 in its entirety.

**DEPARTMENT COMMENTS:**

The subject property consists of a 1.013 acre site zoned CBD-CURE fronting Congress Avenue. The site was rezoned from CBD to CBD-CURE on August 2, 2001 under Ordinance No. 010802-13. The CURE combining district allowed the modification of the following:

- Modification to the floor to area ratio from 8:1 to 12:1;
- Modification of Section 25-2-643 to allow a building setback of 40 feet from the property line adjacent to Congress Avenue for a structure whose minimum height is 30 feet from ground level and whose maximum height may exceed 90 feet.

Furthermore, as part of the rezoning of the property, a restrictive covenant under document No. TRV 2001135650 was imposed addressing façade design features, construction materials, and development of the site. (Please see Attachment A). The applicant proposes to remove all the conditions under the restrictive covenant to allow for the redevelopment of the property at 5<sup>th</sup> Street and Congress Avenue encompassing a proposed mixed use building. A pending rezoning application under case C14-06-0071 has been filed which proposes to redevelop the southern portion of the property with office, retail, a private club, and condominiums.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	CBD-CURE	Offices / Bank
<i>North</i>	CBD-CURE	Offices / Hotel
<i>South</i>	CBD-CURE / CBD-H	Museum / Retail / Offices
<i>East</i>	CBD	Parking
<i>West</i>	CBD / CBD-H	Retail / Offices

**WATERSHED:** Town Lake**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** Yes**CONGRESS AVENUE DISTRICT:** Yes**CURE DISTRICT:** Yes**EAST 6<sup>TH</sup> STREET / PECAN DISTRICT:** Yes**6<sup>TH</sup> STREET NATIONAL REGISTER****HISTORIC DISTRICT:** Yes**NEIGHBORHOOD ORGANIZATIONS:**

23--Old Pecan Street Assn.  
 402--Downtown Austin Neighborhood Assn. (DANA)  
 438--Downtown Austin Alliance  
 511--Austin Neighborhoods Council  
 623--City of Austin Downtown Commission  
 742--Austin Independent School District  
 744--Sentral Plus East Austin Koalition (SPEAK)  
 751--Pecan Street Owners Association  
 767--Downtown Austin Neighborhood Coalition

**SCHOOLS:**

Austin Independent School District

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

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>PLANNING COMMISSION</b>	<b>CITY COUNCIL</b>
C14-01-0029	CBD to CBD-CURE	06/05/01: APVD STAFF REC OF CBD-CURE (8-1, JM-NAY)	06/14/01: APVD CBD-CURE (7-0); 1ST RDG  08/02/01: APVD CBD-CURE (6-0), 2ND/3RD RDGS

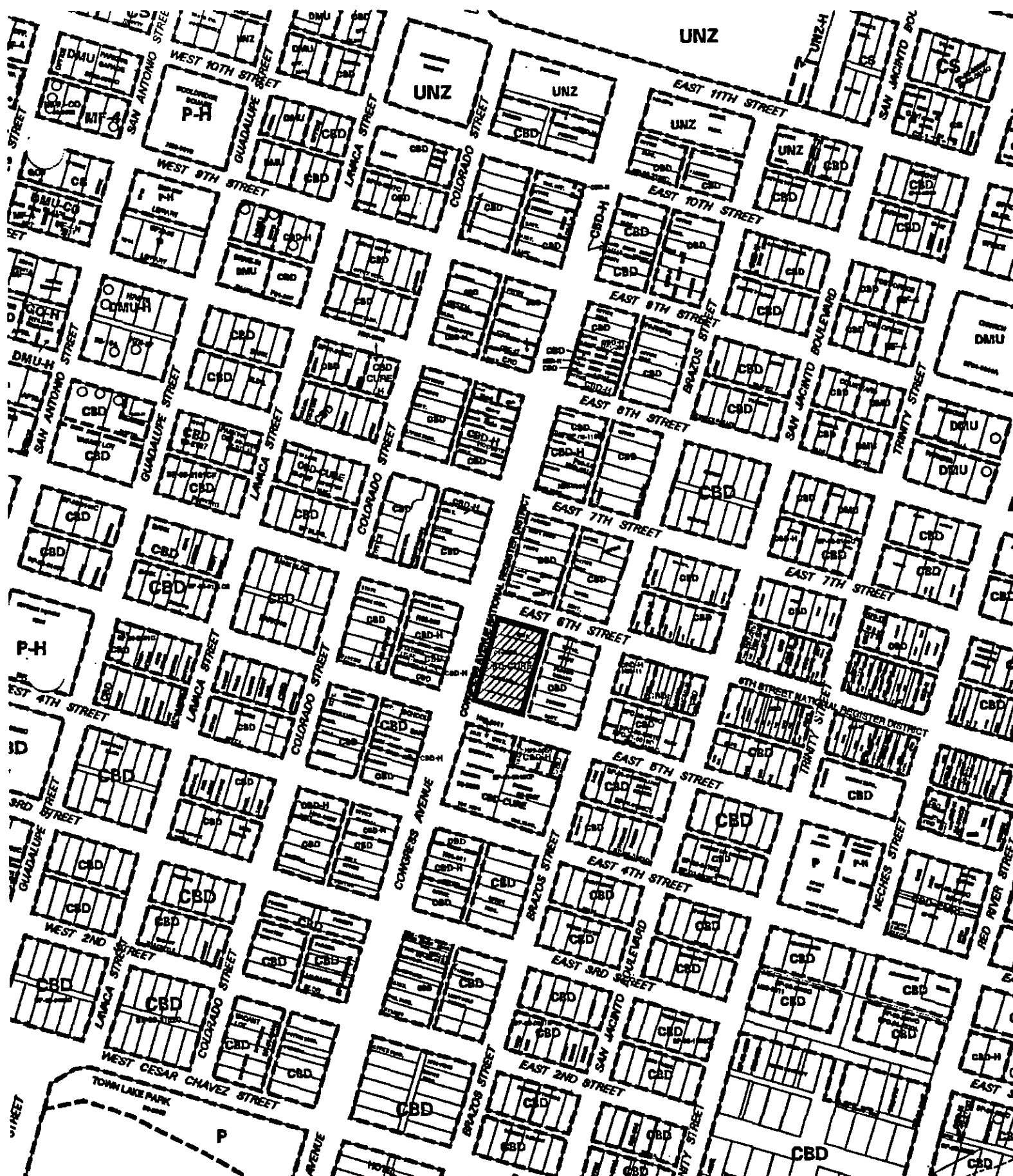
**RELATED CASES:**





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

**CITY COUNCIL DATE:**

June 8, 2006

**ACTION:****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)



 <p>1" = 400'</p> <p>SUBJECT TRACT </p> <p>PENDING CASE </p> <p>ZONING BOUNDARY </p> <p>CASE MGR: J. ROUSSELIN</p>	<p align="center"><b>RESTRICTIVE COVENANT TERMINATION</b></p> <p>CASE #: C14-01-0029(RCT)</p> <p>ADDRESS: 501 - 515 CONGRESS AVE</p> <p>SUBJECT AREA (acres): N/A</p> <p>DATE: 06-04</p> <p>INTLS: SM</p>	<p><b>CITY GRID REFERENCE NUMBER</b></p> <p>J22</p>
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C14-01-0029 (RCT)

**Legend**

Zone  
Base  
Center Line

0 40 80 120 160 Feet

C14-01-0029 (RCT)

Zoning Case No. C14-01-0029

**RESTRICTIVE COVENANT**

**OWNER** HINES AUSTIN LIMITED PARTNERSHIP, a Texas limited partnership  
**ADDRESS** 515 Congress Ave., Suite 1724, Austin, Texas 78701-3053  
**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 56, Original City of Austin, Travis County, according to the map or plat on file in the General Land Office of the State of Texas, (the "Property")

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions in connection with any future redevelopment of the Property, in a manner that incorporates the floor to area ratio or setback modification provided for in City of Austin Ordinance No. 010802-13, a copy of which is attached hereto as Exhibit "A" ("Redevelopment"),

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 In this restrictive covenant  
Existing Tower means the high-rise tower located at 515 Congress Avenue  
New Tower means the high-rise office tower to be constructed at 501 Congress Avenue as part of the Redevelopment of the Property
- 2 The following design features and construction materials shall be incorporated into the Redevelopment of the Property
  - A The dark glass façade at the Congress Avenue lobby level of the Existing Tower shall be removed and relocated to create an open-air, covered pedestrian arcade along Congress Avenue. The new Congress Avenue lobby level façade of the Existing Tower and the New Tower shall have clear or lightly tinted glass.
  - B The dark glass at the 6<sup>th</sup> Street lobby level of the Existing Tower shall be removed and replaced with clear or lightly tinted glass.
  - C The lower 90 feet of the Congress Avenue façade of the redeveloped Existing Tower and the New Tower shall have at least two distinct parts that are differentiated by design elements such as color, materials, texture and column spacing to avoid a monolithic horizontal face along the length of the block.
  - D Except for the setback reduction permitted by the CBD-CURE zoning, the Redevelopment of the Existing Tower and the construction of the New Tower shall comply with Section 25-2-643 of the City Code.

- 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 11 day of July, 2001

OWNER:


**HINES AUSTIN LIMITED PARTNERSHIP,**  
a Texas limited partnership

By **Hines Interests Limited Partnership,**  
a Delaware limited partnership,  
its general partner

By **Hines Holdings, Inc.,**  
a Texas corporation,  
its general partner

By   
Staman Ogilvie  
Executive Vice President

APPROVED AS TO FORM

  
Assistant City Attorney  
City of Austin

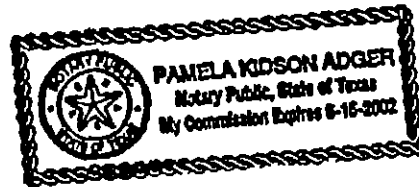


THE STATE OF TEXAS §  
COUNTY OF Harris §

This instrument was acknowledged before me on this the 16 day of July, 2001, by Staman Ogilvie, Executive Vice President of Hines Holdings, Inc., a Texas corporation, the general partner of Hines Interests Limited Partnership, a Delaware limited partnership, the general partner of Hines Austin Limited Partnership, a Texas limited partnership, on behalf of the corporation and partnerships

Pamela Kidson Adger  
Notary Public, State of Texas

After Recording, Please Return to.  
City of Austin  
Department of Law  
P O Box 1546  
Austin, Texas 78767-1546  
Attention: Diana Minter, Legal Assistant



**ORDINANCE NO. 010802-13**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 501-515 CONGRESS AVENUE FROM CENTRAL BUSINESS DISTRICT (CBD) TO CENTRAL BUSINESS DISTRICT-CENTRAL URBAN REDEVELOPMENT (CBD-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 Central Business District (CBD) to Central Business District-Central Urban Redevelopment (CBD-CURE) combining district on the property described in File C14-01-0029, as follows:

**Lots 1-6, Block 56, Original City of Austin, Travis County, according to the map or plat on file in the General Land Office of the State of Texas, (the "Property")**

**locally known as 501-515 Congress 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:

- 1. Development of the Property may not exceed a floor to area ratio (F.A.R.) of 12 to 1.**
- 2. Section 25-2-643 of the City Code is modified to allow a building setback of 40 feet from the property line adjacent to Congress Avenue for a structure whose minimum height is 30 feet from ground level and whose maximum height may exceed 90 feet.**

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

**PART 3.** The Council waives the requirements of Section 2-2-3, 2-2-5, and 2-2-7 of the City Code for this ordinance.

**PART 4. This ordinance takes effect on August 13, 2001.**

**PASSED AND APPROVED**

August 2, 2001

John Watson

**Kirk Watson**  
**Mayor**

**APPROVED**

**Sedora Jefferson**  
**Acting City Attorney**

**ATTEST:**

**Shirley A. Brown**  
**City Clerk**

**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

05-12-2001 04 08 PM 2001135650  
SAIANJ \$21 00  
DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS

Recorders Memorandum-At the time of recordation  
this instrument was found to be inadequate for the best  
reproduction because of illegibility, carbon or  
photocopy discolored paper, etc. All blockouts  
additions and changes were present at the time the  
instrument was filed and recorded