

**ARMBRUST & BROWN, L.L.P.**

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300  
AUSTIN, TEXAS 78701-2744  
512-435-2300

FACSIMILE 512-435-2360

RICHARD T. SUTTLE, JR.  
(512) 435-2310  
*rsuttle@abaustin.com*

October 23, 2007

Victoria Jhi-I Li  
Director  
City of Austin  
Watershed Protection and Development Review Department  
505 Barton Springs Road, 12<sup>th</sup> Floor  
Austin, Texas 78701

Re: 222 E. Riverside Drive SPC-06-0715C (the "Application") Notice of Appeal

Dear Ms. Li:

This firm represents and this letter is submitted on behalf of the property owner for the waterfront overlay site plan and waiver/variance request for the above referenced Application. Pursuant to Section 25-2-713(B) of the Land Development Code (LDC), the site plan and waiver/variance appeals are being submitted to appeal two October 9, 2007 Planning Commission decisions to City Council. This letter is being submitted as an attachment to the Notice of Appeal form prescribed by the City of Austin's Watershed Protection and Development Review Department.

The following information is provided in compliance with Sections 25-1-182 and 25-1-183 of the Land Development Code for a Notice of Appeal. This notice of appeal has been submitted prior to the 14<sup>th</sup> day after the October 9, 2007 Planning Commission decision.

1. The name, address, and telephone number of the appellant is:

Greg Miller  
CWS Capital Partners, LLC  
9606 N. Mopac Expy, Suite 500  
Austin, TX 78759  
Phone: (512) 837-3028

2. The name, address, and telephone number of the agent for the appellant is:

Richard T. Suttle, Jr.  
Armbrust & Brown, L.L.P.  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Phone: (512) 435-2310

3. The decisions being appealed are:

Decision 1 – Waterfront Overlay Site Plan Disapproval. Section 25-2-721(A)(1) of the LDC requires that “approval of a site plan by the Land Use Commission is required if an applicant requests a waiver from a requirement of this part under Section 25-2-713 (*Variances*).” The disapproval of site plan SPC-06-0715C, located within the south shore central waterfront overlay, is being appealed.

Decision 2 – Town Lake Secondary Setback Waiver/Variance Request. Section 25-2-742 of the LDC states that primary setback lines for the South Shore Central subdistrict of the waterfront overlay is 150 feet landward from the Town Lake shoreline, while the secondary setback line is located 50 feet landward from the primary setback line parallel to the Town Lake shoreline. The denial of the waiver/variance request to Section 25-2-742(C)(1), to reduce the secondary setback line of 50 feet from the primary setback line parallel to Town Lake shoreline to 0 feet, is being appealed.

4. The date of the decisions being appealed from the Planning Commission is October 9, 2007.
5. The appellant’s status as an interested party is that the appellant is the record owner of the property that was subject to the public hearing.
6. The reasons the appellant believes the decisions do not comply with the requirements of this title are listed below. The reasons listed for each of the decisions is applicable to the other decisions.

Decision 1 – Waterfront Overlay Site Plan Disapproval.

In accordance with Section 25-2-713 of the LDC, the project is consistent with the goals and policies of the Town Lake Corridor Study, including environmental protection, aesthetic enhancement, and traffic. Below is a partial list of how the project is in compliance with the goals and policies of the Town Lake Corridor Study:

*Water Quality. “Protect and improve the water quality of Town Lake to achieve the highest possible standards.”*

- The project will provide permanent treatment of stormwater which exceeds current standards for redevelopment.
- The project provides green areas for the extension of the hike and bike trails which do not currently exist.

*Lane Use. "Create superior planning, design and mixing of land uses that are waterfront dependent or waterfront-related, and sympathetic to the water's edge of the Town Lake Corridor and the urban creeks."*

- The project will provide public access to an area which is currently private. Therefore it will recapture the waterfront for public use.
- Pedestrian oriented uses will be located at the ground floor of the building.
- The hike and bike trail improvements will be funded by the developer for use by the public.
- The hike and bike trail improvements will be maintained long term by the developer in a maintenance agreement with the City.

*Zoning. "Improve zoning in the Town Lake corridor and along the urban creeks to achieve maximum pedestrian scale, highest degree of land use compatibility, and extraordinary urban design."*

- The project will be increase the number of residential units, while still incorporating pedestrian oriented uses at the ground floor of the building.

*Access. "Provide maximum visual and physical access to the waterfront; encourage pedestrian access to and the use of the corridor."*

- The project will improve pedestrian access along the shoreline.
- The project will provide a parking structure with minimum exposure to pedestrians at ground level.

*Parkland. "Establish Town Lake as a Great Central Park, serving as a centerpiece for the Austin Park System."*

- The project extends public access to the shoreline through extension of the hike and bike trail.
- The proposed project will include landscape and building light to provide a better environment for the use of the trail, picnic areas, and other park amenities.

*Creeks. "Recognize full potential of the Town Lake creeks as open space connectors, form-shapers of urban development, and focal points for lively pedestrian-oriented mixed use."*

- The project will connect the hike and bike trail from Town Lake to Riverside Drive along East Bouldin Creek.
- Water quality filtration ponds are provided for the redevelopment.

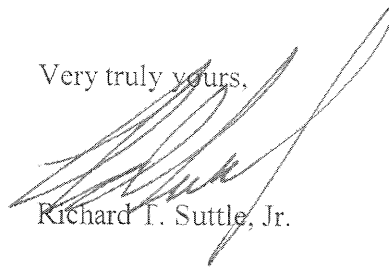
#### Decision 2 – Town Lake Setback Waiver/Variance Request.

The primary and secondary setbacks for the 16 waterfront overlay setbacks vary significantly. The adjacent property to the east of the site has a 100 foot primary setback and zero secondary setback, which is less than the waiver/variance request.

In accordance with Section 25-2-713(A)(2) of the LDC, the waiver/variance is the minimum required by the peculiarities of the tract. The tract is narrow in width and long in depth. It currently has apartments within the primary and secondary setbacks. The proposed project removes existing buildings from the primary setback.

If you have any questions or need additional information, please feel free to contact me at (512) 435-2310.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Suttle, Jr.", written over the typed name.

Richard T. Suttle, Jr.

Enclosure