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October 23, 2007

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

Re: 300 E. Riverside Drive SPC-06-0716C.SH (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 requests 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 four 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 14th 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-06-0716C.SH, 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.

Decision 3 – East Bouldin Creek 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 80 feet landward from the East Bouldin Creek centerline, while the secondary setback line is located 130 feet landward from the primary setback line parallel to the East Bouldin Creek centerline (the actual secondary setback is 50 feet). The denial of the waiver/variance request to Section 25-2-742(C)(2), to reduce the secondary setback line of 130 feet from the primary setback line parallel to the East Bouldin Creek centerline to 0 feet, is being appealed.

Decision 4 – Parking Area/Structure in Primary Setback Waiver/Variance. Section 25-2-721(B)(1) of the LDC states that parking areas and structures are prohibited in the primary setback, unless located on public park land. The denial of the waiver/variance request to Section 25-2-721(B)(1), to construct an emergency access driveway and a sidewalk in the primary setback and not within proposed dedicated parkland, is being appealed.

4. The date of the decision being appealed is the October 9, 2007 Planning Commission hearing.
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(A)(1) 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 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 according to current standards for redevelopment.
- The project provides green areas for the extension of the hike and bike trails which do not currently exist.

Land 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 and/or public spaces such as public restrooms 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.
- The project will participate in the Smart Housing program providing an affordable housing component.

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 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.
- Parkland is being dedicated.

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.

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. Compatibility affects the height and setbacks on the property. East Bouldin Creek setbacks impact impervious cover and building coverage on the eastern boundary of the property. There are currently apartments in the primary and secondary setbacks which will be removed as part of the project.

Decision 3 – East Bouldin Creek Secondary Setback Waiver/Variance Request.

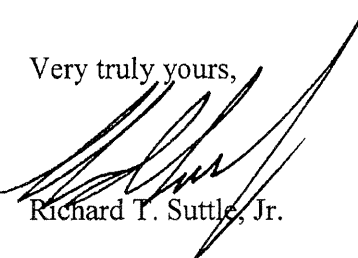
This waiver/variance would allow for the extension of the trail and additional parkland dedication.

Decision 4 – Parking Area/Structure in Primary Setback Waiver/Variance.

Site limitations prevent an emergency access driveway and a sidewalk to be located elsewhere on the property. The size and orientation of the site, including compatibility and setback standards, limit the developable area to ensure compliance with City codes.

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

Very truly yours,



Richard T. Suttle, Jr.

Enclosure