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**ZONING AND PLATTING COMMISSION SITE PLAN
SITE PLAN EXTENSION REVIEW SHEET**

CASE NUMBER: SP-06-0217C(XT2) **ZAP COMMISSION DATE:** November 16, 2010

PROJECT NAME: Four Points Centre – Lot 5, Block A

ADDRESS: 11040 Four Points Dr

AREA: 5.36 acres

APPLICANT: New Tpg Four Points, Lp (Ken Aspis) (215) 851-6034
2005 Market St, Suite 3200
Philadelphia, PA 19103

AGENT: Big Red Dog Engineering & Consulting (Will Schnier) (512) 669-5560
815-A Brazos Street, Suite 319
Austin, TX 78701

CASE MANAGER: Sarah Graham (512) 974-2826
sarah.graham@ci.austin.tx.us

PROPOSED DEVELOPMENT: The applicant has an existing site plan permit to construct a 3-story 80,000 sq ft office structure on a 5.36 acre lot. The applicant is currently requesting an extension to their site plan permit for a duration of three years, whereas their site plan permit would expire on December 8, 2013.

SUMMARY STAFF RECOMMENDATION: The applicant is requesting an extension to the previously approved site plan from December 9, 2010 to December 9, 2013. Recommended by staff, as the site plan meets the criteria of Section 25-5-62(C), and is not subject to Project Duration.

PREVIOUS SITE PLAN APPROVALS:

December 9, 2006: Administrative approval of site plan

October 29, 2009: Approval of administrative 1-year extension to December 9, 2010.

LAND USE COMMISSION ACTION:

December 1995: Approved PUD case C814-95-0002 with conditions (5-3-0)

COUNCIL ACTION:

June 13, 1996: Adopted PUD - Ordinance 960613-0

SUMMARY COMMENTS ON SITE PLAN:

The approved site plan permit includes one 3-story 80,000 sq ft office, as well as associated roadways, parking, drives, and related improvements. No construction has begun on the project.

The permitted site plan – SP-06-0217C – was set to expire on December 9, 2009. The 1704/245 Committee ruled that this site is not subject to Project Duration (Article 12, Section 25-1-531 through 25-1-542) which would otherwise limit the maximum lifespan of the permit. Please see the attached ‘Exhibit D – Project Application H.B. 1704/Chapter 235 Determination’ for further

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information. Under these circumstances, the applicant may ask for an extension under Section 25-5-62 – Extension of Released Site Plan by Director. The applicant applied for this extension in 2009, and staff determined they met the necessary criteria per Section 25-2-62(C) to allow for an extension to the site plan. The applicant received this administrative 1-year extension on October 29, 2009, which extended their site plan permit to December 9, 2010.

On August 19, 2010, the applicant submitted an additional extension request, as is allowed under Section 25-5-63 – Extension of Released Site Plan by the Land Use Commission. The Land Use Commission may extend the expiration date of a released site plan beyond their expiration date if the Land Use Commission determines that the request complies with the requirements for extension by the director under Section 25-5-62 (Extension Of Released Site Plan By Director). Staff has determined that the applicant has met 1 of the 4 criteria in order to receive an extension of a released site plan, as per § 25-5-63 and §25-5-62(C), which is documented in the section below entitled Review and Evaluation Criteria. The applicant must be able to meet at least one of the criteria in 25-5-62(C), and therefore, staff supports the extension request.

A COMPARISON OF THE APPROVED PROJECT WITH CURRENT REGULATIONS:
COMPREHENSIVE WATERSHEDS ORDINANCE: This site plan complies with all requirements of the Comprehensive Watersheds Ordinance.

WATER QUALITY: Because this development is located in the Four Point PUD. The PUD document has exempt the development for water quality control, therefore there is no water quality control for this development.

DETENTION: This development utilizes off site pond for detention control. This utilization of off-site pond for detention purpose is in compliance with current code.

LAND USE: The site’s zoning category is PUD, and the site plan is in compliance with the PUD regulations. The Land Development Code has had updates since the site plan was originally submitted which may affect the development on the site, including but not limited to Subchapter E: Design Standards and Mixed Use Development. Current regulations would likely require minor changes of the project.

HILL COUNTRY ROADWAY ORDINANCE: Partially applicable per the requirements of the PUD ordinance – C814-95-0002. The site plan is within compliance of these requirements.

ENVIRONMENTAL: The previously approved site plan complies with the Heritage Tree Ordinance, and other environmental regulations. No environmental issues.

TRANSPORTATION: A TIA was conducted with case the PUD zoning case C814-95-0002. No TIA update is required, since the proposed land use is consistent with the original PUD approval. This site complies with all transportation requirements.

PROJECT INFORMATION

SITE AREA	233,917 square feet	5.37 acres
EXISTING ZONING	PUD	
WATERSHED	Bull Creek (Water Supply Suburban)	
WATERSHED ORDINANCE	Comprehensive Watershed Ordinance	

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TRAFFIC IMPACT ANALYSIS	Required (Submitted with PUD zoning ordinance)		
PROPOSED ACCESS	Four Points Drive		
	Allowed/Required	Existing	Proposed
FLOOR-AREA RATIO	.34:1	0	.34:1
BUILDING COVERAGE	n/a	0	11.5%
IMPERVIOUS COVERAGE	62%	0	62%
PARKING	291	0	297 (including 8 ADA) spaces

EXISTING ZONING AND LAND USES

	ZONING	LAND USES
<i>Site</i>	PUD	vacant
<i>North</i>	PUD	vacant
<i>South</i>	PUD	vacant
<i>East</i>	PUD	vacant
<i>West</i>	PUD	Four Points Drive , then vacant

ABUTTING STREETS

Street	Right-of-Way Width	Pavement Width	Classification
Four Points Drive	90 ft	65 ft	Collector

NEIGHBORHOOD ORGNIZATIONS:

- 269 – Long Canyon Homeowners Association
- 416 – Long Canyon Phase II & LLL Homeowners Association, Inc.
- 425 – 2222 Coalition of Neighborhood Associations
- 475 – Bull Creek Foundation
- 786 – Home Builders Association of Greater Austin
- 1037 – Homeless Neighborhood Association
- 1075 – League of Bicycling Voters
- 1113 – Austin Parks Foundation
- 1200 – Super Duper Neighborhood Objectors and Appealers Organization
- 1224 – Austin Monorail Project
- 1228 – Sierra Club, Austin Regional Group
- 1281 – Spicewood Springs Road Tunnel Coalition
- 1236 – The Real Estate Council of Austin, Inc
- 1239 – Leander ISD Population and Survey Analysts

REVIEW AND EVALUATION CRITERIA

Per § 25-5-63, the Land Use Commission may extend the expiration date of this site plan if it finds that the site plan satisfies the criteria set forth in subsection (c) of Section 25-5-62. The Director shall make any one of the following findings:

- 1) (a) the site plan substantially complies with the requirements that apply to a new application for site plan approval [*STAFF RESPONSE: Staff has found that the site might not meet this criteria. Since the site plan was originally approved, the City has adopted certain policies such as Subchapter E: Design Standards, which could require minor changes to the site plan.*];

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(b) the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed *[STAFF RESPONSE: This site plan meets this criteria. See the attached document from the applicant.]*;

(c) the applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; *[STAFF RESPONSE: Staff has found that the site plan does not meet this criteria. Although the attached document from the applicant states that the site plan meets this criteria, the applicant is in fact referring to an associated structure, permitted through a separate site plan, located on a different lot. .];* or

(d) the applicant has constructed a significant portion of the infrastructure required for development of the original site plan *[STAFF RESPONSE: Staff has found that the site plan does not meet this criteria. No infrastructure has been completed]*.

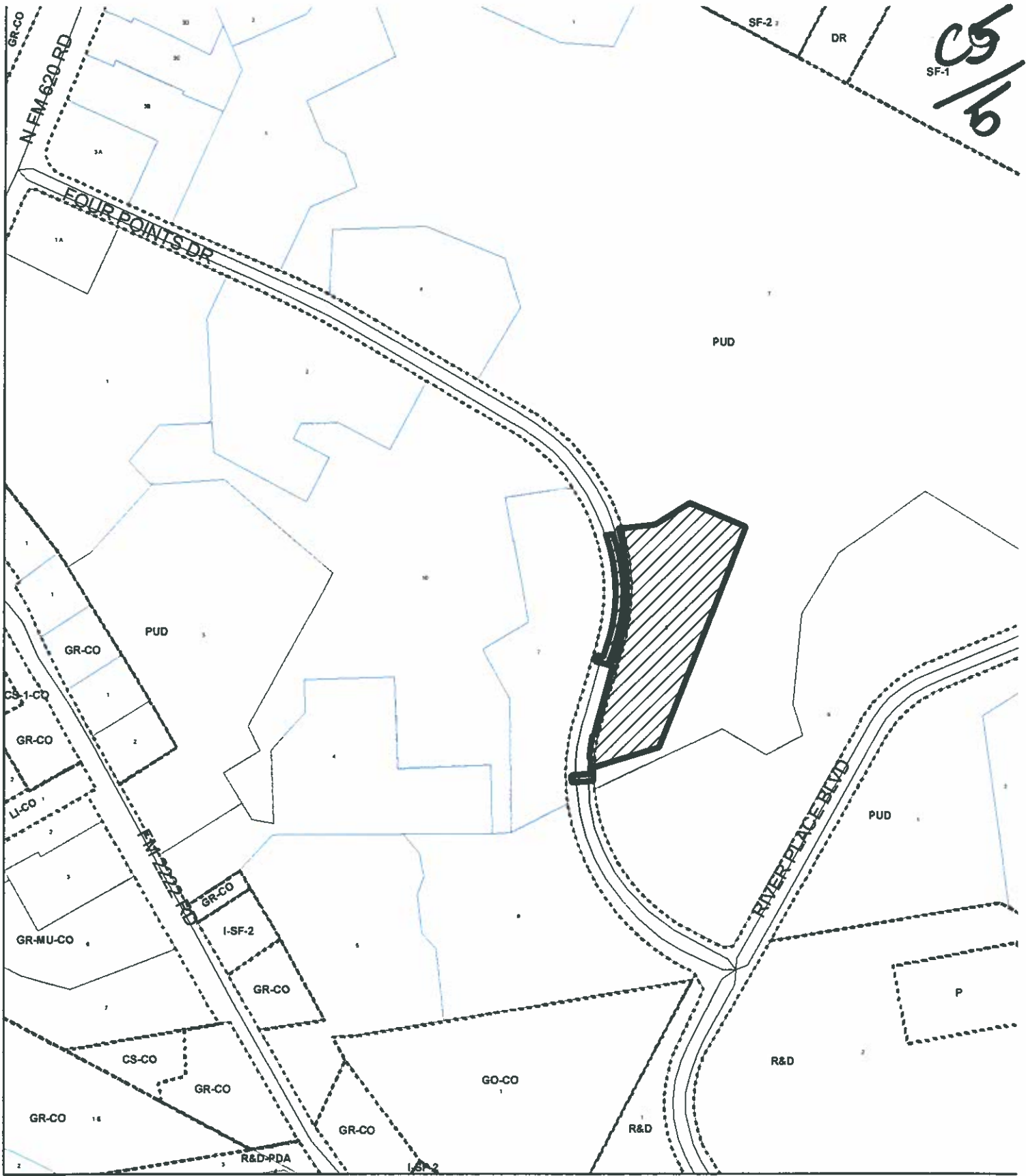
2) If a TIA was required to be submitted with the application for the original site plan, the assumptions and conclusions of that TIA are valid for the revised site plan; or, if those assumptions and conclusions are not now valid, the applicant has submitted an addendum to the TIA that demonstrates traffic impacts will be adequately mitigated. *[STAFF RESPONSE: A TIA was conducted with case the PUD zoning case C814-95-0002. No TIA update is required, since the proposed land use is consistent with the original PUD approval.]*

3) If the TIA was not previously required, the applicant has demonstrated that traffic impacts will be adequately mitigated. *[STAFF RESPONSE: Not applicable]*

4) The Director has determined there is good cause for the requested extension *[STAFF RESPONSE: Good cause has been found]*.

If any interested parties register before the public hearing or speak at the public hearing, there will be a 14 day appeal period following the decision made by the Land Use Commission on the site plan [Section 25-1-182, 25-5-62].

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SITE PLAN

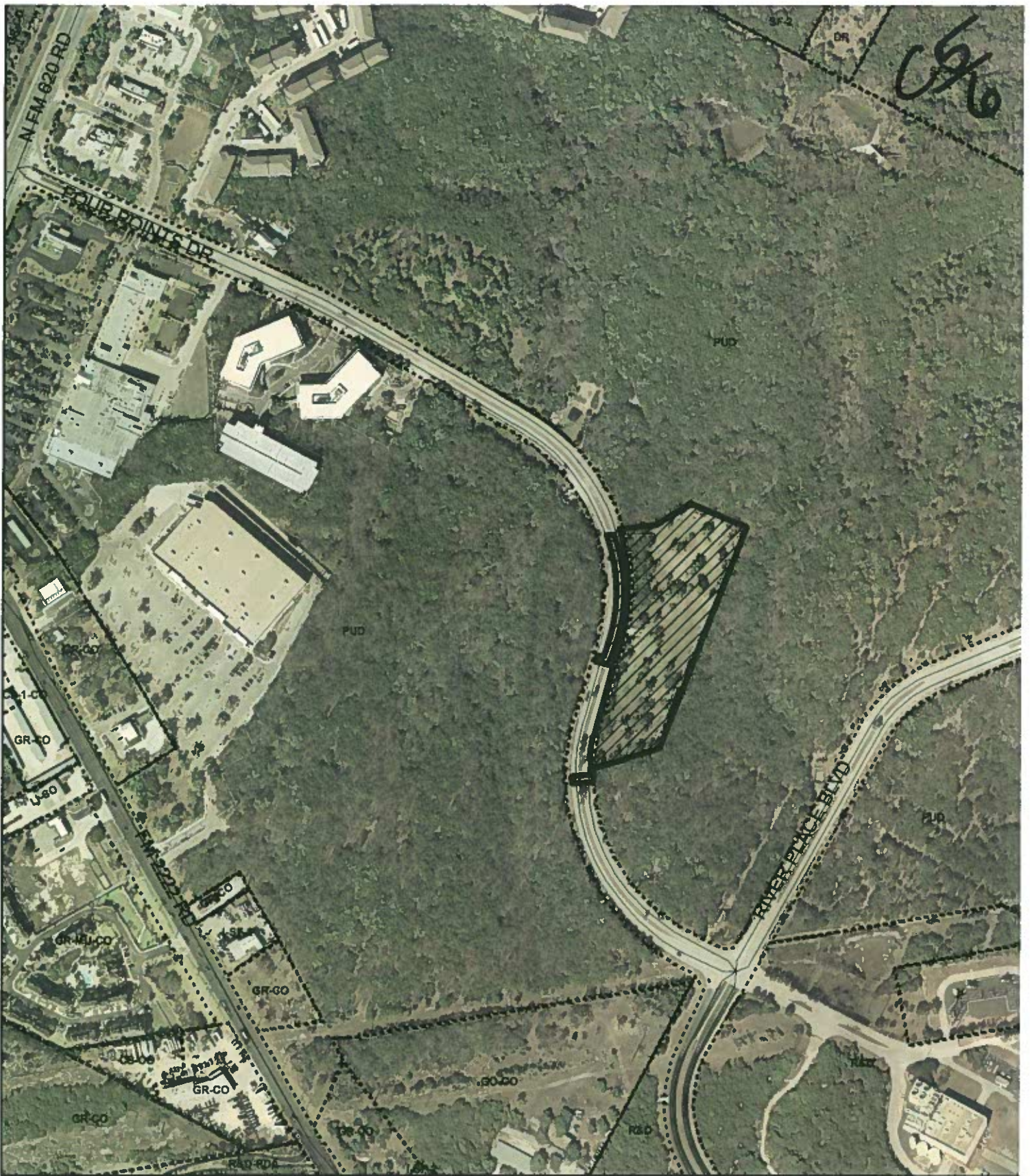


-  SUBJECT TRACT
-  ZONING BOUNDARY

CASE#: SP-06-0217C(XT2)
ADDRESS: 11040 FOUR POINTS DR
MANAGER: SARAH GRAHAM



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



SITE PLAN



-  SUBJECT TRACT
-  ZONING BOUNDARY

CASE#: SP-06-0217C(XT2)
 ADDRESS: 11040 FOUR POINTS DR
 MANAGER: SARAH GRAHAM



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Exhibit D
PROJECT APPLICATION H.B. 1704/Chapter 245 DETERMINATION
(Chapter 245, Texas Local Government Code)

(This completed form must accompany all subdivision and site plan applications.)

FOR DEPARTMENTAL USE ONLY
File # Assigned: SP-06-02170(XT2) Date Filed: 8/16/2010
Original Application Date: NA Signature: [Signature] Date: 8/20/2010
Comments: must comply with Plat notes PUD project duration does not apply
Insufficient information to establish Chapter 245 rights!

Proposed Project Name: Four Points Centre lot 5 Block A

Address / Location: 11040 Four Points Drive

Legal Description: Lot 5, Block A Four Points Centre PUD Subdivision; Doc No. 200200080

A. [] The proposed application is for a New Project and is submitted under regulations currently in effect.

NOTE: If A is checked above, proceed to signature block below.

B. [] The proposed application is for an ongoing project not requesting House Bill 1704 consideration. The choice of this option does not constitute a waiver of any rights under Chapter 245.

C. [] The proposed application is for a project requesting review under regulations other than those currently in effect, but not on the basis of House Bill 1704. All appropriate supporting documentation must be attached to this request. Provide a brief description of the basis for this request here:

D. [] The proposed application is for a project requesting review under a specific agreement, not on the basis of House Bill 1704. All appropriate supporting documentation must be attached to this request. Provide a brief description of the basis for this request here:

E. [x] Original Application Filing Date: 2/7/1989 File #: C8-85-023

The proposed application is submitted as a Project In Progress under Chapter 245 (HB 1704) and should be reviewed under the applicable regulations pursuant to state law. The determination will be based on information submitted on and with this form.

The following information is required for Chapter 245 Review:

Attach supporting documentation, including a summary letter with a complete project history from the Original Application to the present, with a copy of the original subdivision or site plan approval by the City and subsequent application approvals.

Specify project information for date claiming 1704 grandfathering; include a copy of the relevant permit upon which Chapter 245 vesting is claimed.

Table with 4 columns: Project Application History, File #, Application Date, Approval Date. Rows include Annexation/zoning, Preliminary Subdivision, Final Subdivision Plat, and Site Plan / Devel. Permit.

Proposed Project Application (check one): Preliminary Subdivision Final Plat Site Plan x (extension)

Proposed Project Land Use: Specify acreage in each of the following land use categories: Single Family / Duplex Townhouse / Condo / Multi-family Office

Commercial 5.36 Industrial / R&D Other (Specify)

Total acreage: 5.36 Watershed Bull Creek Watershed Classification Water Supply Suburban

This proposed project application will still be reviewed under those rules and regulations that are not subject to Chapter 245, such as those to prevent imminent destruction of property or injury to persons, including regulations dealing with stormwater, detention, temporary erosion and sedimentation controls, and regulations to protect critical/significant recharge features.

Signature - Property Owner or Agent [Signature] Date: 8/16/2010

Printed Name Will Schnier, P.E.; BIG RED DOG Engineering | Consulting Phone / Fax 512-669-5560

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Graham, Sarah

From: Jarvis, Shandrian
Sent: Thursday, September 23, 2010 1:13 PM
To: Graham, Sarah
Subject: Four Points PUD

The land use assumptions listed in the original TIA that was conducted with the PUD application for this site, as well as those identified in subsequent TIA updates remain valid. There are no additional transportation comments at this time.



Shandrian Jarvis, AICP
Senior Planner
Planning & Development Review Department
505 Barton Springs Rd., 4th floor
Tel: (512) 974-2628
Fax: (512) 974-3010
Email: shandrian.jarvis@ci.austin.tx.us



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August 16, 2010

Mr. Greg Guernsey
City of Austin
Planning and Development Review Department
505 Barton Springs Road
Austin, Texas 78704

RE: Land Use Commission Site Plan Extension Request
Four Points Centre Block A Lot 5
11040 Four Points Drive
SP-06-0217C(XT)

Dear Mr. Guernsey:

Please accept this letter and accompanying application, plans, and reports as our formal request for a three year extension to the approved site plan on file as COA case no. SP-06-0217C(XT). The project has already received a 1-year administrative extension as allowed under Section 25-5-62 of the Code of Ordinances. Therefore we understand that this request requires approval of a land use commission, in this case the Zoning and Platting Commission.

The site plan was originally submitted on April 21, 2006 and was approved administratively on December 9, 2006. The previously mentioned 1-year extension was granted on October 29, 2009, making the new expiration date December 9, 2010. Based on the previously granted extension, we assume that all requirements for granting the administrative extension which are found in Section 25-5-62 of the Code have been met and will continue to be met with this request.

Please note that the original site plan application and the previous extension request were made by an engineering firm other than BIG RED DOG Engineering | Consulting. We have been engaged by the project owner for this request and have notified the historic engineer's of record accordingly under Texas Board of Professional Engineers (TBPE) requirements.

The site plan is located on 5.36-acres of land located in the Bull Creek Watershed, which is a water supply suburban watershed. According to the TCEQ, no portion of the property is located in the Edwards Aquifer Recharge Zone. No changes have been made to the previously approved site plan as part of this request.



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The property is zoned Planned Unit Development (PUD) and is part of the Four Points Centre PUD. The PUD allows this tract to have up to 62% impervious cover, which is what was previously approved on the prior site plan application(s). Also under PUD regulations, the site is not required to provide an onsite stormwater detention and water quality facility due to the presence of a regional facility nearby serving both this and other tracts within the PUD. The regional facility was permitted under SP-00-2102D.

Chapter 245 (State of Texas Local Government Code) rights have been previously granted for this property and an application requesting the same rights is included with this extension request.

We look forward to working with your team on this extension request. Should you or your staff have any questions or concerns please do not hesitate to contact our office.

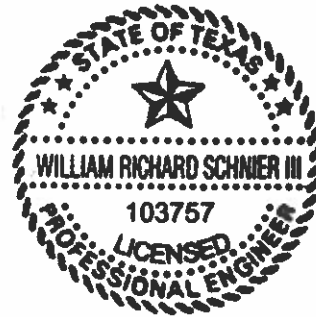
Sincerely,

Will Schnier, P.E.

President

BIG RED DOG Engineering | Consulting

Texas Registration # F-11201



SCA/11/17

Will Schnier

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From: Ken Aspis [mailto:ken.aspis@tpgi.com]
Sent: Monday, October 04, 2010 7:54 AM
To: Will Schnier
Cc: William Lindstrom
Subject: Four Points Centre, Lot 5, Block A

Re: Case Number: SP-06-0217C (XT2)
Master Comment Report dated 23 September 2010

Dear Will:

The purpose of this memorandum is to attempt to respond to certain comments made under the Site Plan Review section of the Master Comment Report dated 23 September 2010 more specifically those identified in SP2. In particular I am hoping to demonstrate that Thomas Properties Group, Inc. ("TPGI") did in fact; (a) file the original application for site plan approval with the good faith expectation that the site plan would be constructed, (b) TPGI constructed at least one structure shown on the original site plan that is suitable for permanent occupancy.

Background

Four Points Centre was conceived and planned by Hillwood Development Corporation, a Fort Worth company founded by real estate developer H. Ross Perot, Jr., which completed the majority of the infrastructure development. In 1998, Hillwood sold a portion of the retail lots to Barshop & Oles Company which completed development of a 120,000 square foot HEB-anchored retail center. In 1999, Hillwood sold the multi-family lots to JPI which has developed 550 Class A multi-family housing units. The balance of the land, approximately 270 acres, was purchased by TPGI in 2000.

In 2004, TPGI sold an approximate 14-acre retail tract to Target Corporation for the construction of a 125,000 square foot retail store. Also in 2004, TPGI entered into a ground lease with Wachovia Bank who constructed a 4,500 sf branch bank on a pad site in front of the Target.

Discussion

During the summer of 2006, TPGI assembled the planning, design and construction team and began to undertake a significant planning effort in connection with the B2 and A5 sites with the intention of commencing construction concurrently on both of these projects during the 2Q of 2007. The B2 development consists of two (2) three story office buildings containing approximately 200,000 sf and the A5 development is a single three story office building containing approximately 80,000 sf. Both of these Class 'A' office developments were being pursued by TPGI speculatively as market conditions remained favorable for all of 2006.

Throughout 2006, TPGI worked feverishly on advancing both developments with the expectation of breaking ground in the spring of 2007. In anticipation of this occurring TPGI entered into earnest negotiations with Wells Fargo Bank in order to secure construction loans for the projects, through our general contractor DPR we went to the hyper-aggressive market to secure competitive bids and obtained Guaranteed Maximum Prices for both projects and continued to pursue project approvals from various governmental agencies allowing construction to proceed as planned.

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By the February 2007, TPGI had secured the Site Development Plan approvals in connection with both projects and arranged a Preconstruction Meeting with City of Austin representatives on 6 March 2007. TPGI authorized DPR to mobilize, established E&S and construction survey controls, installed stabilized base for construction vehicle access, proceeded to clear both sites sometime in late February 2007 and completed the median break along Four Points Drive allowing full access to the A5 site (*depicted on the A5 SDP*). Additionally we continued to develop construction documents allowing us to secure the building permits for each of the respective developments. The building permit for the A5 site was issued sometime in fall of 2007.

By early summer, TPGI began to gather market intelligence that revealed constructing both office developments speculatively was a risky proposition given the lack of office demand, pent up vacancies and overall poor absorption in the market. Despite the deterioration in the office market sector TPGI elected to forge ahead with the \$55MM development of B2 which was completed on schedule in the early summer of 2008 as one of Austin's first LEED Gold certified (core & shell) multi-tenant office buildings. The asset remained vacant for over one year and presently is less than 50% leased.

Due to the current malaise in the overall US economy and the severe constriction of the capital markets, B2's leasing is lackluster at best and the asset has significantly underperformed TPGI's proforma expectations. Regardless TPGI has and continues make considerable investments in capital and staffing towards maintaining both sites and our other land holdings at Four Points Centre. As an order of magnitude, TPGI has invested hundreds of thousands of dollars to date in the planning, design, maintenance and ongoing marketing efforts of the A5 development.

TPGI continues to be good stewards of our assets and remains one of Austin's largest commercial landlords having acquired a 3.5MM sf office portfolio at a cost of \$1.5 billion dollars in 2Q 2007. This is a testament to TPGI's ongoing commitment to Austin and the potential of our Four Points Centre developments.

TPGI remains quite bullish on Austin and continues to aggressively market the A5 development. Therefore TPGI is seeking relief from the City of Austin and is requesting that the Site Development Permit which is due to expire on 9 December 2010 be tolled or extended for a period of three (3) years. Having an active Site Development Permit in hand along with a 'permit ready' set of construction documents would enable TPGI to quickly respond to market interest in the A5 development which in the current environment is critical to remaining competitive. Alternatively should the City of Austin fail to agree to the extension, TPGI will be forced to start anew with what is a very time consuming and expensive approval process and be unable to react to any positive market demands in a timely manner.

I hope that this letter adequately responds to Site Plan Review Comment SP2. I am available to speak or meet with City officials should they have any additional questions and/or need any other materials that would allow them to act on this request.

Sincerely,

kja

Kenneth J. Aspis
Senior Vice President

Thomas Properties Group, Inc.
One Commerce Square
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32nd Floor
Philadelphia, PA 19103
215.851.6034 (direct dial)
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