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**PLANNING COMMISSION APPEAL
OF THE ADMINISTRATIVE APPROVAL
OF 1-YEAR EXTENSION TO APPROVED SITE PLAN**

CASE NUMBER: SP-2007-0560C(XT) **PC COMMISSION DATE:** March 27, 2012
Postponed from March 13, 2012

PROJECT NAME: Reagan National

ADDRESS: 1640 S IH 35

APPLICANT: Woodland I-35, L.P. (Billy Reagan, II)
P.O. Box 162327
Austin, TX 78716
(512) 926-7740

AGENT: Land Strategies (Paul W. Linehan)
1010 Land Creek Cove, Ste 100
Austin, TX 78746
(512) 328-6050

APPELLANTS: South River City Citizens (Marc Davis)
1404 Alta Vista Ave
Austin, Texas 78704
(512) 656-2841

Patrick Roeder
1523 Chelsea Ln.
Austin, TX 78704
(512) 328-2695

CASE MANAGER: Donna Galati, 974-2733
Donna.Galati@austintexas.gov

APPLICABLE WATERSHED ORDINANCE: Comprehensive Watershed Ordinance
Harper's Branch (Urban)

AREA: 2.297 acres

EXISTING ZONING: GR-CO-NP

PROPOSED USES: Administrative/Business Office
Printing and Publishing

LEGAL DESCRIPTION: 2.3 Acres of land out of the Santiago Del Valle Grant
C8i-05-0139

CA
1/2

Description of Appeal:

An appeal to an administrative 1-year extension of previously approved site plan. [LDC Section 25-5-62].

- Extension of Released Site Plan by Director, LDC Section 25-5-62(A): An applicant may request that the director extend a site plan by filing an extension request with the director before the site plan expires.
- LDC Section 25-5-62-D: An interested party may appeal the director's decision under this section to the Land Use Commission.

Proposed Development:

Construction of a 2-story (split level) 27,483 sq. ft. building with 5,000 sq. ft. Printing & Publishing and 22,483 sq. ft. Administrative/Business Office, parking, drives, detention & water quality, and utilities.

Staff's Determination of Extension:

- May 8, 2008 - The site plan for Reagan National was approved, and the expiration date was May 8, 2011.
- May 6, 2011 - An application for a 1-year extension (LDC 25-5-62) was submitted. The application's 180-day expiration date was November 2, 2011.
- October 18, 2011 - The applicant submitted a request for a 90-day extension to the application time (25-1-88), which was granted providing a new extension application expiration date of January 31, 2012. An update review was 1 day late to the applicant by staff, resulting in 1 late day and providing a new extension application expiration date of February 1, 2012.
- January 5, 2012 - Staff denied the extension to approved site plan, and an appeal was filed by the applicant January 24, 2012. The time clock for the extension application stops during appeal.
- February 6, 2012 - Additional information is provided to the City, which satisfied the requirements to grant a 1-year extension to May 8, 2012. Because the application was under appeal, the application expiration date was suspended. Notice of the 1-year approval was sent within 1 day of this action, as required by LDC 25-1-133.

In order to grant a 1-year administrative extension, the following requirements must be met.

“(C) The director may extend the expiration date of a released administrative site plan one time for a period of one year if the director determines that there is good cause for the requested extension; and

(1) the director determines that:

- (a) the site plan substantially complies with the requirements that apply to a new application for site plan approval;
- (b) the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed;
- (c) the applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or

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- (d) the applicant has constructed a significant portion of the infrastructure required for development of the original site plan; and”

Only a, b, c, or d of the above 25-5-62(C)(1) must be met in order to grant a 1- year administrative extension to a previously approved site plan. The applicant submitted information (attached) demonstrating that the original application for site plan approval was filed with the good faith expectation that the site plan would be constructed.

This site is subject to Project Duration under 25-1-535 (C. Desired Development Zone) and can only be extended a maximum five years from the initial submittal date, October 3, 2007 (to October 3, 2012). Section 25-1 supersedes all other sections, including 25-5-63 (Extension of Released Site Plan by the Land Use Commission). The application for a 2nd extension of the released site plan by the Land Use Commission was filed March 14, 2012 in order to extend the site plan from May 8, 2012 to October 3, 2012. This application, SP-2007-0560C(XT2), is projected to be heard at Planning Commission April 24, 2012.

Appellant Issues:

- Asserts that neither a, b, c, or d of LD 25-5-62(C)(1) have been met.

Land Use Summary:

The site is zoned GR-CO-NP.

PROJECT INFORMATION

Site Area	2.297 Acres	100,057 sq. ft.	
Jurisdiction	Full Purpose		
Traffic Impact Analysis	N/A		
Capitol View Corridor	Not In View Corridor		
Proposed Access	IH 35 & Woodland Ave (right-in left-out only)		
	Allowed/Required	Existing	Proposed
Floor-to-Area Ratio	1:1	0	0.27:1
Building Coverage	75%	0 %	20.34%
Impervious Coverage	90%	0%	60.5%
Height	60'	0	36'
Parking	70		71

SURROUNDING CONDITIONS: Zoning/ Land Use

North: GO-CO-NP (office)

East: IH-35, then GO-NP

South: Woodland Ave, then GR-MU-CO-NP (Vacant)

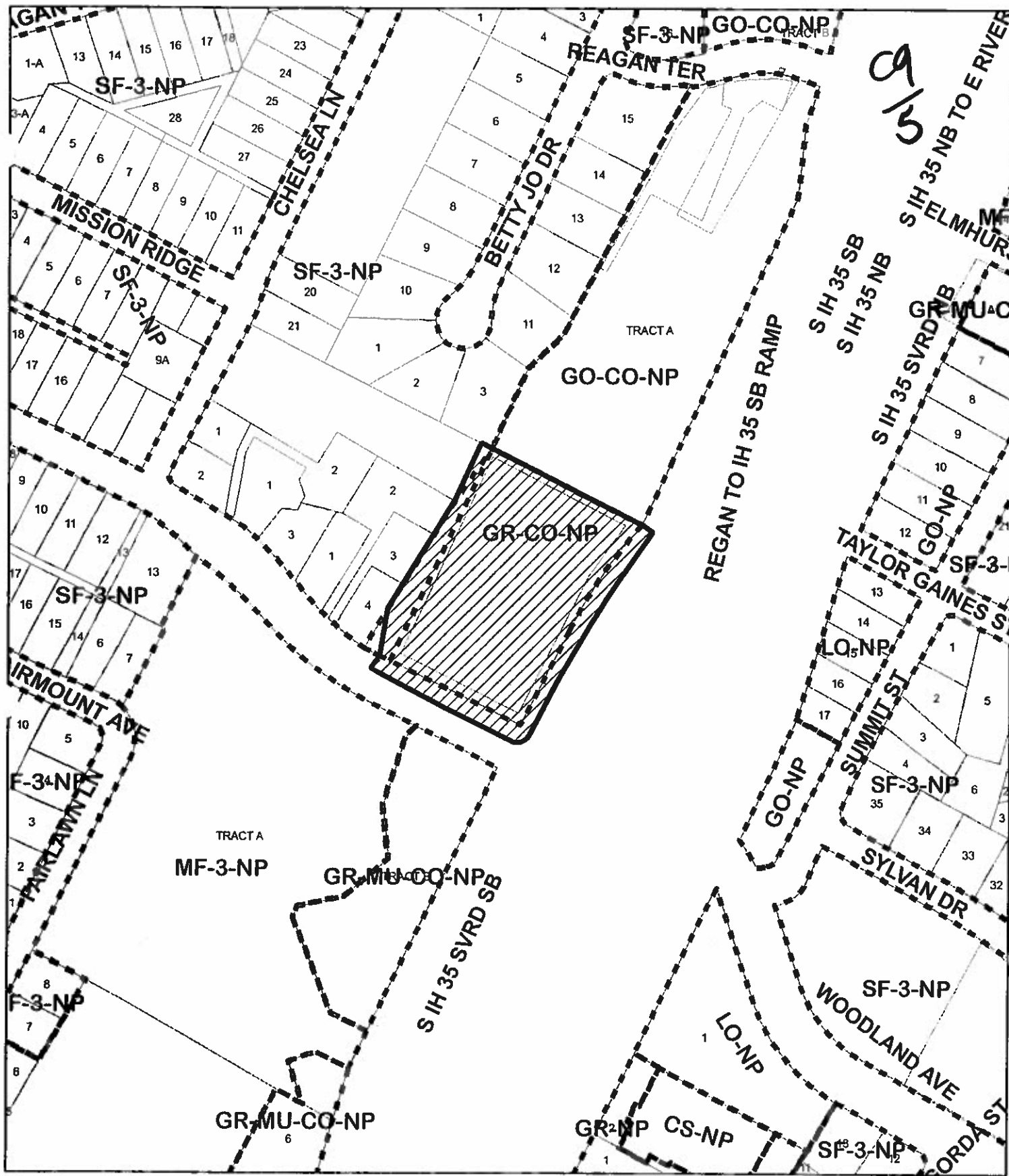
West: SF-3-NP (Single Family)

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Staff Recommendation: Deny the appeal because the director determined there is good cause for the requested extension [LDC 25-5-62(C)] and the director determined that the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed [LDC 25-5-62-(C)(1)(b)].

Planning Commission Action:

- Extension of Released Site Plan by Director, LDC Section 25-5-62-D: An interested party may appeal the director's decision under this section to the Land Use Commission.
- The commission may grant the appeal or determine the extension is valid by denying the appeal.



SITE PLAN



SUBJECT TRACT



ZONING BOUNDARY

0 100 200 400 Feet

CASE#: SP-2007-0560C(XT)
 ADDRESS: 1640 S IH 35
 CASE NAME: Reagan National
 MANAGER: Donna Galati

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 the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding accuracy, timeliness, or completeness.



OPERATOR: Donna Galati



**City of Austin Planning and
Development Review Department**
505 Barton Springs Road • P.O. Box 1088 • Austin, Texas 78767-8835

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February 7, 2012

Paul W. Linehan
Land Strategies, Inc.
1010 Land Creek Cove, Suite 100
Austin, Texas 78746

RE: SP-2007-0560C(XT) Reagan National

Dear Mr. Linehan:

The City of Austin, has approved your request for a one-year extension from May 8, 2011 to May 8, 2012 for the released site plan SP-2007-0560C – Reagan National Site Plan.

Based on additional information submitted concerning this extension request, this one-year extension is granted in accordance with Section 25-5-62 of the Land Development Code from May 8, 2011 to May 8, 2012. No further extensions are allowed by administrative action.

Any additional extension for this released site plan requires approval of the Planning Commission after a public hearing as specified in Section 25-5-63 of the Land Development Code. The request for an additional extension to be granted in accordance with Section 25-5-63 would have to be received prior to the new expiration date. Under Project Duration (25-1-535(C)(3), the site plan can only be extended to a maximum of five years from initial submittal date of **October 3, 2007**. No other extensions will be allowed under Project Duration for projects in the Desired Development Zone.

In addition, Sections 25-5-62(d) and 25-1-182 provides that the decision of the Director to extend the site plan may be appealed to the Planning Commission, provided an interested party files a completed notice of appeal no later than 20 days after an administrative decision. During this 20-day period, no development authorized by this site plan may occur, nor may any construction occur until any pending appeal that may be filed is resolved.

If you have any questions, please contact the Case Manager, Donna Galati at 974-2733.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna Galati".

Donna Galati, Case Manager
Planning and Development Review Department

xc: Environmental Inspection Division

Galati, Donna

From: Guernsey, Greg
Sent: Monday, February 06, 2012 11:06 AM
To: Galati, Donna
Subject: Reagan Site Plan
Importance: High
FYI

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From: Billy Reagan
Sent: Monday, February 06, 2012 10:41 AM
To: Guernsey, Greg
Cc: Nikelle Meade
Subject:
Importance: High

Greg,

Thank you for meeting with my land planner and engineer Paul Linehan and Jim Schissler, last week to discuss our request for extension of our site plan for the property at Woodland and IH-35. I appreciate your consideration of our request to extend.

Following the meeting, the engineers explained that you are in need of additional information showing that we intended to construct the office building on this property per the site plan. They have said you wanted to know if architects had been hired, drawings done, etc. The answer is yes.

Before we even filed the site plan application we began the process of identifying an architect, a structural engineer, a sound proofing consultant, and contractors. Just after the site plan application was filed we retained Alison Gardner of Brown McCarroll to identify and interview architects and coordinate the architect selection process. We interviewed 5 different architecture firms (Noack Little, Michael Hsu Design Office, Lake Flato, Burton Baldridge, and LZT Architects) and selected Noack Little right before the site plan was approved. We negotiated a contract, and they started work immediately completing our space programming and making the preparations necessary to begin building design work. We also interviewed several structural engineers to assist with the building design and help address the difficult topography of the site. Ultimately, the design work was put on hold when the CTRMA condemnation process changed and it became clear that we may have to construct more quickly and for less money than anticipated.

We also retained Terracon to begin environmental and soil testing work on the property, which work is completed.

Finally, Paul said that you have requested additional information about how the condemnation process affected this property. The reason we planned to construct the buildings shown in the site plan for this property is that we were notified by TxDOT and CTRMA that our then-current corporate headquarters would be closed and condemned within 2 years. In our immediate response to this news, we began the work necessary to develop this tract, the first step of which was the subject site plan. Since the Code provision requires us to show that at the time we applied for the site plan we fully intended to build what the site plan called for, I believe the information about the condemnation shows that we absolutely intended at the time we filed and all along that we would build the offices called for in the site plan.

I know Mr. Linehan has provided a lot of information, dates, etc. to you already about the condemnation process. If there is additional information you want in this regard, please let me know and I will get it to you.

2/6/2012

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Again, we resolved the condemnation issues and secured the funding from it in March of last year, just before the site plan expired. We are anxious to move forward with our plan so that we can start construction as soon as possible. As soon as we have the extension, we will be able to get the building plans completed and filed. But, if we are to have any hope of completing that process before the "1-year" extension we're requesting expires this May, we need to have the extension as soon as possible.

So, again, I appreciate your work on this and help. We really feel that a 1-year extension in this case is justified and reasonable. And, this will likely be our only extension of this plan because our "project" expires this October per the city's interpretation of grandfathering.

Thank you, Greg. Let me know what other information you need.

Billy Reagan
President
Reagan Advertising of Austin
Main (512) 926-7740
Reaganusa.com

LAND STRATEGIES INC.

PAUL LINEHAN & ASSOCIATES

December 27, 2011

Attn: Donna Galati
City of Austin
Planning & Development Review Dept.
505 Barton Springs Road, 4th Floor
Austin, Texas 78704

Re: Reagan National
Site Plan Extension Request - SP-2007-0560C(XT)

Dear Donna:

The following information is provided in response to your request to show good faith for the Site Plan Extension request for the Reagan National site plan, case number SP-2007-0560C(XT). You have asked us to provide additional information showing that at the time the site plan application was filed the owner ("Reagan") intended to construct the site plan, as per Section 25-5-62(C)(1) of the City code.

The dates and actions below reflect a timeline of events from the date of the original site plan approval through the submittal of current site plan extension request. This timeline shows that the property owner "filed the original application for site plan approval with the good faith expectation that the site plan would be constructed" in that it clearly shows that at the time the site plan was filed, Reagan was in the planning stage for relocation of its corporate headquarters for the site.

- **Fall 2006.** TxDOT announces the Manor Expressway project.
- **Spring 2007.** TxDOT begins notifying property owners of potential property acquisitions and availability of funding for immediate acquisitions.
- **June 2007.** In anticipation of TxDOT's acquisition of the existing Reagan corporate headquarters at Highway 290 East, Reagan retained engineers to develop a site plan for the new corporate headquarters facility.
- **October 2007.** Reagan files an application for a site plan for the corporate headquarters.
- **May 9, 2008.** Original site plan approval date. [Three-year life, set to expire May 8, 2011]
- **November 2008.** National economic downturn delays the Manor Expressway project and TxDOT and CTRMA funding for the Highway 290 East property acquisition. The Highway 290 East/Manor Expressway project is put on hold.
- **June 2009.** CTRMA secures funding to continue the Manor Expressway project and to resume property acquisitions.
- **October 2009.** Discussions resume between CTRMA and Highway 290 East property owners concerning property acquisitions.
- **October 2009 - August 2010.** Negotiations occur between Reagan and CTRMA concern property acquisition and relocation of the existing Reagan headquarters at Highway 290 East. Once negotiations are completed, due to TxDOT and CTRMA funding deadlines, condemnation is expedited and Reagan and other owners are required to expedite the sale of the Highway 290 East properties, expedite the move-out, and expedite the relocation.

DEVELOPMENT / PLANNING CONSULTANTS & LANDSCAPE ARCHITECTURE

1010 LAND CREEK COVE, SUITE 100 • AUSTIN, TEXAS 78746 • (512) 328-6050 • FAX: (512) 328-6172

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- **October 2010.** Relocation plan to move Reagan from Highway 290 East to the proposed site at Woodland and IH-35. Note that in addition to the new office location, Reagan had to relocate to a separate approximately 20,000 square foot printing/publication warehouse off-site.
- **Fall 2010.** In anticipation of starting construction, Reagan cleared the site to remove debris, brush, and elements of a homeless camp from the property.
- **January 2011.** Relocation agreement signed between Reagan and CTRMA.
- **February 2011.** CTRMA acquires the Reagan property and pays Reagan relocation funds. Reagan vacates the property and moves into a temporary space.
- **March 2011.** Reagan retains a land planner and engineer to apply for the extension of the approved site plan.

We have spent the last four to five months working with City staff and Austin Water Utility staff primarily regarding the wastewater line and a wastewater easement, to ensure that the site plan meets current regulations regarding utilities (addressing Section 25-5-62(C)(1)(a) of the City code). This took a great amount of time, but we reached a consensus with Austin Water Utility staff, and are ready to move forward with a Site Plan Correction to address the Austin Water Utility-driven plan changes, as well as other minor changes approved by other City reviewers on the Site Plan Extension request. However, we cannot process a Site Plan Correction until we obtain approval of the Site Plan Extension.

In short, since the development of this site depended upon the need for Reagan to relocate its corporate headquarters, following being forced to relocate by condemnation, Reagan has done all it has been empowered to do to develop the site. Reagan still fully expects to construct the site plan and permanently relocate its corporate headquarters to this site. They have diligently pursued development of the site, and the delays in starting development have been completely outside of their control.

We believe the above information meets the good faith requirement of Section 25-5-62 of the City code, since the site plan was filed in anticipation of quickly building a corporate headquarters on the site and relocating to the site. Further, even if you do not agree that the good faith requirement has been met, with the updated work being required by Austin Water Utility, we believe the site plan extension request also meets the alternative finding in Section 25-5-62 of the City code, that it substantially complies with the requirements that apply to a new application for site plan approval. Therefore, with at least one of the two requirements having been met, extension of the approved site plan is warranted.

We need to continue moving this Site Plan Extension forward through approval, so please feel free to contact me with any questions or should you require additional information to make your determination regarding "good faith" on the part of the applicant.

Best regards, and warm wishes for the New Year,



Paul W. Linehan, ASLA
President



City of Austin Planning & Development Review
505 Barton Springs Road • P.O. Box 1088 • Austin, Texas 78767-8835

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January 5, 2012

Paul Linehan
Land Strategies, Inc.
1010 Land Creek Cove, Suite 100
Austin, TX 78746

Subject: Extension request for approved site plan Reagan National, SP-2007-0560C(XT).

Dear Mr. Linehan,

Your request submitted December 27, 2011 for an extension of a released site plan has been reviewed by staff. We do not find that the justification submitted meets the criteria for an extension in Sec. 25-5-62 of the City Code.

The CTRMA negotiations mentioned in your letter refer to another site on US Highway 290 and do not directly affect how or when this site plan would be constructed. Clearing brush, debris, and elements of a homeless camp do not require an approved site plan. Additional work with the Austin Water Utility to update design information was not done until after the original site plan expiration date. No building permits or pre-construction meetings with an Environmental Inspector have been initiated over the past 3 years with this site plan, despite the fact that according to your Update #1 response letter, funding was available. For these reasons, staff can not grant a 1-year extension based on a good faith expectation according to 25-5-62-C-1-b.

It is understood that the Water Utility design information was provided to the Water Utility to ensure that the site plan meets current regulations regarding utilities. However, in order to address 25-5-62-C-1-a ("the site substantially complies with the requirements that apply to a new application for site plan approval"), the Heritage Tree on site will need to meet current Heritage Tree regulations.

According to 25-5-62 (D), the applicant or an interested party may appeal the director's decision under this section to the Land Use Commission, provided that a completed notice of appeal is filed no later than 20 days after an administrative decision. A copy of this decision is being furnished to all interested parties registered for this case.

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If you have any questions, please contact me at 974-2733.

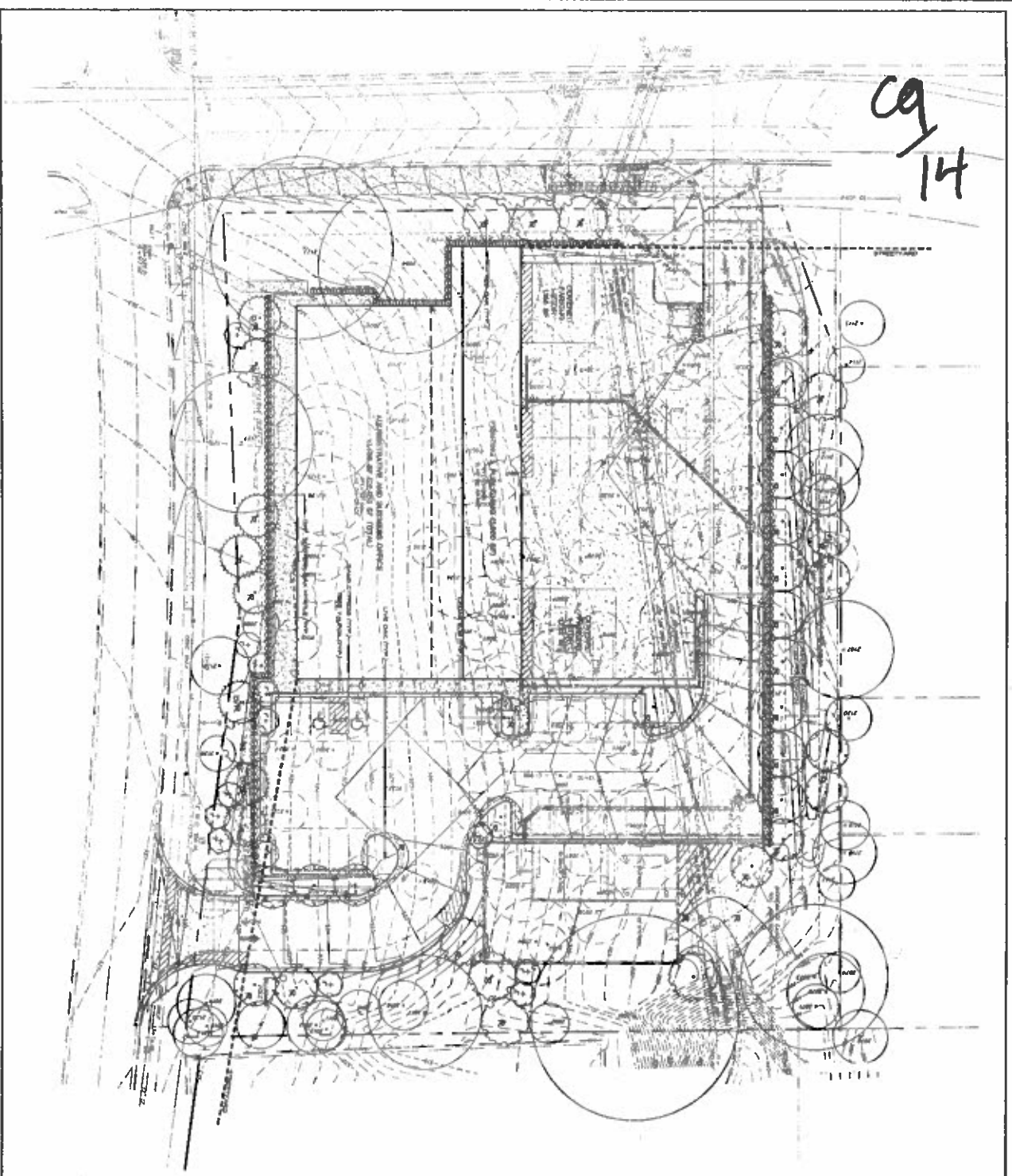
Sincerely,



Donna Galati
Senior Planner
Site Plan/ Case Manager
Planning & Development Review Department

xc: Greg Guernsey
George Zapalac
Patrick Roeder
Brian & Karlina Talenti
Heidi Schrab
Sarah Campbell
Chance Carlin
Julia Hilder

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NOTES:

1. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA) AND THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA) AND THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA).
2. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA) AND THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA) AND THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA).
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LEGEND:

- 1. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA) AND THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA) AND THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA).
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- 3. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA) AND THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA) AND THE TEXAS LANDSCAPE ARCHITECTS ASSOCIATION (TLA).

REVISION	DATE	BY	DESCRIPTION
1	06/19/08	CA	REVISION 1
2			REVISION 2
3			REVISION 3
4			REVISION 4
5			REVISION 5
6			REVISION 6
7			REVISION 7
8			REVISION 8
9			REVISION 9
10			REVISION 10

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1640 SOUTH IH 35
AUSTIN, TEXAS 78704

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Appellant Backup Material

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City of Austin Planning and Development Review Department
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

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SITE PLAN APPEAL

If you are an applicant and/or property owner or interested party, and you wish to appeal a decision on a site plan application, the following form must be completed and filed with the Director of Planning and Development Review Department, City of Austin, at the address shown above. The deadline to file an appeal is 14 days after the decision of the Land Use Commission, or 20 days after an administrative decision by the Director. If you need assistance, please contact the assigned City contact at (512) 974-2680.

CASE NO. SP-2007-0560 (XT)

DATE APPEAL FILED 2/23/2012

PROJECT NAME Reagan National

YOUR NAME Marc Davis, Vice President SRCC

SIGNATURE [Signature]

PROJECT ADDRESS 1640 South IH-35
IH-35 at Woodland Ave.

YOUR ADDRESS 1904 Alta Vista Ave.
Austin, TX 78704

APPLICANT'S NAME Bill Reagan

YOUR PHONE NO. (512) 656-2841 WORK

CITY CONTACT Donna Galati

(512) 656-2841 HOME

INTERESTED PARTY STATUS: Indicate how you qualify as an interested party who may file an appeal by the following criteria: (Check one)

- ☐ I am the record property owner of the subject property
- ☐ I am the applicant or agent representing the applicant
- ☒ I communicated my interest by speaking at the Land Use Commission public hearing on (date) see statement
- ☒ I communicated my interest in writing to the Director or Land Use Commission prior to the decision (attach copy of dated correspondence). see statement

In addition to the above criteria, I qualify as an interested party by one of the following criteria: (Check one)

- ☐ I occupy as my primary residence a dwelling located within 500 feet of the subject site.
- ☒ I am the record owner of property within 500 feet of the subject site.
- ☒ I am an officer of a neighborhood or environmental organization whose declared boundaries are within 500 feet of the subject site.

DECISION TO BE APPEALED*: (Check one)

- ☐ Administrative Disapproval/Interpretation of a Site Plan
- ☐ Replacement site plan
- ☐ Land Use Commission Approval/Disapproval of a Site Plan
- ☒ Waiver or Extension
- ☐ Planned Unit Development (PUD) Revision
- ☐ Other: _____

Date of Decision: _____
Date of Decision: _____
Date of Decision: _____
Date of Decision: 2/2/2012
Date of Decision: _____
Date of Decision: _____

*Administrative Approval/Disapproval of a Site Plan may only be appealed by the Applicant.

STATEMENT: Please provide a statement specifying the reason(s) you believe the decision under appeal does not comply with applicable requirements of the Land Development Code:

SRCC, and key members of our neighborhood, have been registered as interested parties since at least 2008. As SRCC Vice President, I am submitting this appeal on behalf of SRCC and our President, Sarah Campbell. See attached for reasons.
(Attach additional page if necessary.)

Applicable Code Section: 25-5-62



City of Austin Planning and Development Review Department
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

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SITE PLAN APPEAL

If you are an applicant and/or property owner or interested party, and you wish to appeal a decision on a site plan application, the following form must be completed and filed with the Director of Planning and Development Review Department, City of Austin, at the address shown above. The deadline to file an appeal is 14 days after the decision of the Land Use Commission, or 20 days after an administrative decision by the Director. If you need assistance, please contact the assigned City contact at (512) 974-2680.

CASE NO. SP. 2007.0560 (KT)

DATE APPEAL FILED 2/22/2012

PROJECT NAME REAGAN NATIONAL

YOUR NAME PATRICK ROEDER

PROJECT ADDRESS 1640 SOUTH I.H. 35

SIGNATURE J. P. Roeder

I.H. 35 AT WOODLAND AVE

YOUR ADDRESS 1523 CHELSEA LN.

APPLICANT'S NAME BILL REAGAN

AUSTIN, TX 78704

CITY CONTACT DONNA GALATI

YOUR PHONE NO. (512) 328-2695 WORK

(512) 447-9716 HOME

INTERESTED PARTY STATUS: Indicate how you qualify as an interested party who may file an appeal by the following criteria: (Check one)

- ☐ I am the record property owner of the subject property
- ☐ I am the applicant or agent representing the applicant
- ☐ I communicated my interest by speaking at the Land Use Commission public hearing on (date) _____
- ☒ I communicated my interest in writing to the Director or Land Use Commission prior to the decision (attach copy of dated correspondence). FORM ON FILE W/ DONNA GALATI

In addition to the above criteria, I qualify as an interested party by one of the following criteria: (Check one)

- ☒ I occupy as my primary residence a dwelling located within 500 feet of the subject site.
- ☐ I am the record owner of property within 500 feet of the subject site.
- ☐ I am an officer of a neighborhood or environmental organization whose declared boundaries are within 500 feet of the subject site.

DECISION TO BE APPEALED*: (Check one)

- ☐ Administrative Disapproval/Interpretation of a Site Plan
- ☐ Replacement site plan
- ☐ Land Use Commission Approval/Disapproval of a Site Plan
- ☒ Waiver or Extension
- ☐ Planned Unit Development (PUD) Revision
- ☐ Other: _____

Date of Decision: _____

Date of Decision: _____

Date of Decision: _____

Date of Decision: FEB. 7, 2012

Date of Decision: _____

Date of Decision: _____

*Administrative Approval/Disapproval of a Site Plan may only be appealed by the Applicant.

STATEMENT: Please provide a statement specifying the reason(s) you believe the decision under appeal does not comply with applicable requirements of the Land Development Code:

SEE ATTACHED

(Attach additional page if necessary.)

Applicable Code Section: _____

25.5.62

**Appeal of Site Plan Extension
Reagan National
Woodland Ave
SP-2007-0560(XT)**

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The site plan extension granted to Reagan National does not meet the requirements of the Land Development Code Section 25-5-62. (see attached code section)

The code states that that a one year extension may be granted if the director determines that there is good cause for the requested extension and the director determines that:

(a) the site plan substantially complies with the requirements that apply to a new application for site plan approval

This plan would not meet the criteria that apply to a new site plan as it would not meet the **heritage tree ordinance (25-8-641)** which prohibits removal of a heritage tree and sets strict criteria for protection of other heritage trees. The plan would totally remove one heritage tree (33 inch Live Oak) and cut into the root zones (prohibited by code) of two other heritage trees (both large Live Oaks). The site is heavily wooded and a total of 99 out of 131 trees would be cleared from this site. A site plan extension would effectively exempt this project from following the **heritage tree ordinance**.

(b) the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed

No building permits or pre-construction meetings have been initiated over the past 3 years with this site plan. The applicant argues that he could not start the project as he was negotiating a right of way settlement from Reagan National's property on US 290 East, but actions on other properties is not a valid criteria to extend a site plan. During this same three year time period, however, the applicant has purchased/built a new facility for Reagan National at 7301 Burleson Road.

Also, according to Reagan's attorney this site plan was not intended to be used for Reagan's operation. After the original site development permit was approved in May, 2008, the applicant's attorney, Nikelle Meade of Brown/McCarroll reported in June, 2008 that "The plan, she said, is not to move the Reagan facility to Woodland, but to develop the new site for rentable office space....There are no plans to move any of Reagan's operations or staff there...." (see attached article)

(c) the applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or

(d) the applicant has constructed a significant portion of the infrastructure required for development of the original site plan

No construction activity whatsoever has occurred on this site. No structures have been built and no infrastructure has been built.

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It should be noted that the applicant requested the site plan extension on May 6, 2011 and was given 180 days to respond to city staff as to how it met the extension requirements above. The applicant was granted another 90 day extension to submit the required information and **the final submittal date expired on January 31, 2012**. A letter (attached) from city staff (Donna Galati) to the applicant reads:

"You now have until January 31, 2012 in which to submit an update to the plan, respond to all comments and comply with the provisions of the Land Development Code. Please be aware that if all comments are not cleared by January 31, 2012, you will need to submit a new application and fees"

After the applicant's final submittal **December 27, 2011** the city staff finds that the justification **does not meet** the criteria for an extension under **25-5-62**. A letter (attached) dated January 5, 2012 to the applicant from city staff reads in part:

"Your request submitted on December 27, 2011 for an extension of a released site plan has been reviewed by staff. We do not find that the justification submitted meets the criteria for an extension in Sec. 25-5-62 of the City Code.....staff cannot grant a 1 year extension based on good faith expectation according to 25-5-62-C-1-b.in order to address 25-5-62-C-1-a, the Heritage Tree on site will need to meet current Heritage Tree regulations..."

The **January 31, 2012 deadline** passed and the site plan expired. By code, any additional time for submittals would require notification to the interested parties (this was complied with for the first 90 day extension) to allow them to appeal the request for additional submittal time. However, on **February 6, 2012** the applicant, Billy Reagan, sent an e mail (attached) directly to the director, Greg Guernsey basically restating the information in the previous submittal and adding the additional information (that an architect had been hired, but no design work was completed). **Without proper notification to the interested parties for additional submittal time, the Site Plan Extension request was approved the following day on February 7, 2012.**

It should also be noted that this project has been controversial from the beginning, as the property is zoned GR next to single family residences. Reagan is an outdoor advertising company that constructs and services billboards with painting, welding, pallet storage, and bucket and crane trucks. It is not a "Printing and Publishing" use as stated on the site plan that would be allowed under GR zoning.

The Land Use Commission should deny this extension request as it does not meet the requirements for an extension under **25-5-62** and it is questionable as to the actual intended use of this site. Whether the site is intended as the Reagan facility, speculative rental use, or sale of the site, it is certain that allowing the extension will result in the immediate irreversible loss of **heritage trees** as clearing of the site proceeds.

25-5-67 EXTENSION OF RELEASED SITE PLAN BY DIRECTOR

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(A) An applicant may request that the director extend a site plan by filing an extension request with the director before the site plan expires.

(B) The director shall give notice under Section 25-1-133(A) (*Notice Of Applications And Administrative Decisions*) of a request for an extension under this section.

(C) The director may extend the expiration date of a released administrative site plan one time for a period of one year if the director determines that there is good cause for the requested extension; and

(1) the director determines that:

(a) the site plan substantially complies with the requirements that apply to a new application for site plan approval;

(b) the applicant filed the original application for site plan approval with the good faith expectation that the site plan would be constructed;

(c) the applicant constructed at least one structure shown on the original site plan that is suitable for permanent occupancy; or

(d) the applicant has constructed a significant portion of the infrastructure required for development of the original site plan; and

(2) the director determines that:

(a) if a traffic impact analysis was submitted with the application for site plan approval:

(i) the assumptions and conclusions of the traffic impact analysis are valid; or

(ii) if the assumptions and conclusions are not valid, the applicant has submitted an addendum to the traffic impact analysis that demonstrates that traffic impacts will be adequately mitigated; or

(b) if a traffic impact analysis was not submitted with the application for site plan approval, the applicant demonstrates that traffic impacts will be adequately mitigated.

(D) An interested party may appeal the director's decision under this section to the Land Use Commission. An interested party may appeal the Land Use Commission's decision on an appeal under this section to the council.

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News: June 13, 2008

<http://www.austinchronicle.com/gyrobase/Issue/story?oid=635118>

Billboard Plant: Newest Travis Heights Resident?

By Richard Whittaker

While the city of Austin argues about how to get billboards out of Downtown, another argument is boiling about where those billboards should be made. The land in question is a 2.3-acre wooded tract at the northwest corner of I-35 and Woodland Avenue, and the argument is about what **Reagan National Advertising** is really planning to do with it. The billboard company says it wants to turn the site into offices – but local residents say Reagan plans a billboard-printing plant that would violate zoning ordinances and to which the city is turning a blind eye.

The city approved Reagan's site plan on May 8 as meeting all administrative and zoning requirements, but that was just the latest step in a long process. The firm first approached residents in 2004 with its proposal to develop the property for commercial purposes; residents said no. What concerned the **South River City Citizens** and **Travis Heights** neighborhood associations was the original plan for a 16,000-square-foot office building and a 6,000-square-foot warehouse on the site. With 900 billboards in the area, Reagan is Austin's biggest advertising firm, and it currently produces and stores the billboards at its site west of the city on Highway 290. Residents are concerned that the plan would allow Reagan to move the production into a residential area, using the warehouse structure as a manufacturing plant. If this did happen, residents fear an increase in heavy traffic, noise, and the potential for leaks of paints and solvents. "Their site isn't zoned for the industrial use they want to put there," said **Pat Roeder**, an architect who lives on a neighboring property.

But the company says the residents have nothing to fear from the development. "This is less about Reagan as a business operator and more about them as a property owner," said **Nikelle Meade** of Reagan's attorneys, Brown McCarroll. The plan, she said, is not to move the Reagan manufacturing facility to Woodland but to develop the new site for rentable office space; a hotel and retail development had also been considered, but those plans were abandoned as unviable. There are no plans to move any of Reagan's operations or staff there, and even if Reagan did, Meade expects the company to keep the old site as well. While she was concerned that the residents still oppose the plan and felt they had misconceptions about Reagan's intentions, she said she understands why they're worried. "They don't like billboards, and they don't like Reagan National because they make billboards," she said.

Roeder argues that the proposal does not answer questions about what Reagan intends to use the warehouse for. The permit allows for the site to house a printing-services facility, like a copy shop or blueprint production facility – but neighbors are worried that Reagan intends to turn it into a full-scale print works with large industrial presses. "The city has never asked them what that equipment would be," he said. "It's almost a 'don't ask, don't tell' policy. It's like letting a liquor store move in next to an elementary school and saying we didn't know they were going to sell liquor."

The city argues that the permitting process has worked and that they've imposed enough restrictions to make it impossible for Reagan to move its works there. The city's approval includes watershed protection requirements, restrictions on removing established trees, and additional landscaping requirements. Most importantly, said

Donna Galati of the city's **Watershed Protection and Development Review** department, the approved site plan includes specific restrictions on the proposed printing facility. "The note is included on the site plan," she said. "It says that the use may not exceed 5,000 square feet or produce pollution or noise, and there can be no outdoor storage. The use is limited to printing equipment typically allowed in a printing service."

The next stage for Reagan is to apply for a building permit, a process that Meade expects will be completed within four months, allowing construction to start early next year. But neighborhood residents have their own plans. They have already written to City Manager **Marc Ott** expressing their concerns. But fears that Reagan might be planning to violate the permit's terms are not enough to block its permit. "We have to go by what they ask us to approve," said **George Zapalac** of Watershed Protection and Development Review. "They asked us for an office and a printing and publishing facility. We can't presume that they're going to do something else."

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City of Austin Planning & Development Review
505 Barton Springs Road • P.O. Box 1088 • Austin, Texas 78767-8835

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October 20, 2011

Erin Welch
Land Strategies Inc.
1010 Land Creek Cv., Ste 100
Austin, TX 78746

Subject: Extension request for Reagan National Advertising, SP-2007-0560C(XT).

Dear Ms. Welch,

Your request submitted October 18, 2011 for an extension to the time period allowed by Chapter 25-1-88 to submit an update for Reagan National Advertising COA File SP-2007-0560C(XT), has been reviewed. Staff finds the justification for your request. Therefore, a 90-day extension has been granted for your application pursuant to Chapter 25-1-88, which allows the granting of such an extension. Section 25-1-88 also allows an interested party to appeal the responsible director's decision under this subsection to the Land Use Commission.

You now have until January 31, 2012 in which to submit an update to the plan, respond to all comments and comply with the provisions of the Land Development Code. Please be aware if all comments are not cleared by January 31, 2012, you will need to submit a new application and fees.

If you have any questions, please contact me at 974-2733.

Sincerely,

Donna Galati
Senior Planner
Site Plan/ Case Manager
Planning & Development Review Department



City of Austin Planning & Development Review
505 Barton Springs Road • P.O. Box 1088 • Austin, Texas 78767-8835

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January 5, 2012

Paul Linehan
Land Strategies, Inc.
1010 Land Creek Cove, Suite 100
Austin, TX 78746

Subject: Extension request for approved site plan Reagan National, SP-2007-0560C(XT).

Dear Mr. Linehan,

Your request submitted December 27, 2011 for an extension of a released site plan has been reviewed by staff. We do not find that the justification submitted meets the criteria for an extension in Sec. 25-5-62 of the City Code.

The CTRMA negotiations mentioned in your letter refer to another site on US Highway 290 and do not directly affect how or when this site plan would be constructed. Clearing brush, debris, and elements of a homeless camp do not require an approved site plan. Additional work with the Austin Water Utility to update design information was not done until after the original site plan expiration date. No building permits or pre-construction meetings with an Environmental Inspector have been initiated over the past 3 years with this site plan, despite the fact that according to your Update #1 response letter, funding was available. For these reasons, staff can not grant a 1-year extension based on a good faith expectation according to 25-5-62-C-1-b.

It is understood that the Water Utility design information was provided to the Water Utility to ensure that the site plan meets current regulations regarding utilities. However, in order to address 25-5-62-C-1-a (if the site substantially complies with the requirements that apply to a new application for site plan approval), the Heritage Tree on site will need to meet current Heritage Tree regulations.

Galati, Donna

From: Guemsey, Greg
Sent: Monday, February 06, 2012 11:06 AM
To: Galati, Donna
Subject: Reagan Site Plan
Importance: High
 FYI

C9
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From: Billy Reagan [mailto:
Sent: Monday, February 06, 2012 10:41 AM
To: Guemsey, Greg
Cc: Nikelle Meade
Subject:
Importance: High

Greg,

Thank you for meeting with my land planner and engineer Paul Linehan and Jim Schissler, last week to discuss our request for extension of our site plan for the property at Woodland and IH-35. I appreciate your consideration of our request to extend.

Following the meeting, the engineers explained that you are in need of additional information showing that we intended to construct the office building on this property per the site plan. They have said you wanted to know if architects had been hired, drawings done, etc. The answer is yes.

Before we even filed the site plan application we began the process of identifying an architect, a structural engineer, a sound proofing consultant, and contractors. Just after the site plan application was filed we retained Alison Gardner of Brown McCarroll to identify and interview architects and coordinate the architect selection process. We interviewed 5 different architecture firms (Noack Little, Michael Hsu Design Office, Lake Flato, Burton Baldridge, and LZT Architects) and selected Noack Little right before the site plan was approved. We negotiated a contract, and they started work immediately completing our space programming and making the preparations necessary to begin building design work. We also interviewed several structural engineers to assist with the building design and help address the difficult topography of the site. Ultimately, the design work was put on hold when the CTRMA condemnation process changed and it became clear that we may have to construct more quickly and for less money than anticipated.

We also retained Terracon to begin environmental and soil testing work on the property, which work is completed.

Finally, Paul said that you have requested additional information about how the condemnation process affected this property. The reason we planned to construct the buildings shown in the site plan for this property is that we were notified by TxDOT and CTRMA that our then-current corporate headquarters would be closed and condemned within 2 years. In our immediate response to this news, we began the work necessary to develop this tract, the first step of which was the subject site plan. Since the Code provision requires us to show that at the time we applied for the site plan we fully intended to build what the site plan called for, I believe the information about the condemnation shows that we absolutely intended at the time we filed and all along that we would build the offices called for in the site plan.

I know Mr. Linehan has provided a lot of information, dates, etc. to you already about the condemnation process. If there is additional information you want in this regard, please let me know and I will get it to you.

2/6/2012

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Again, we resolved the condemnation issues and secured the funding from it in March of last year, just before the site plan expired. We are anxious to move forward with our plan so that we can start construction as soon as possible. As soon as we have the extension, we will be able to get the building plans completed and filed. But, if we are to have any hope of completing that process before the "1-year" extension we're requesting expires this May, we need to have the extension as soon as possible.

So, again, I appreciate your work on this and help. We really feel that a 1-year extension in this case is justified and reasonable. And, this will likely be our only extension of this plan because our "project" expires this October per the city's interpretation of grandfathering.

Thank you, Greg. Let me know what other information you need.

Billy Reagan
President
Reagan Advertising of Austin
Main (512) 926-7740
Reaganusa.com

Austin Oak Terrace HOA
1513, 1515, 1516 Betty Jo Drive
Austin, TX 78704

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March 13, 2012

**City of Austin
Planning Commission**

Ms. Dora Anguiano
Mr. Jerry Rusthoven
Mr. Greg Guernsey

RE: Reagan National Site Plan Extension Request
SP-2007-0560C(XT)

Dear Planning Commission Members,

I am writing you on behalf of the Austin Oak Terrace Homeowners Association. We are a small community of six condominiums occupying 1.67 acres of wooded property on Betty Jo Drive.

As a complex with common grounds and homes adjacent to the property Reagan National has proposed for development, we are unanimously opposed not only to such development, but also to the requested extension to the site plan permit.

We respectfully ask you to consider the impact a facility of this type will have on our residential community when rendering a decision in this matter.

Sincerely,



Brian Talenti
President

Austin Oak Terrace HOA
1515A Betty Jo Dr.
Austin, TX 78704
(512) 992-0136

Galati, Donna

From: Anguiano, Dora
Sent: Tuesday, March 13, 2012 11:12 AM
To: Galati, Donna
Subject: FW: SP-2007-0560(XT)
Already forwarded to PC

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From: Jean mather
Sent: Tuesday, March 13, 2012 11:10 AM
To: Anguiano, Dora
Subject: SP-2007-0560(XT)

Dear Dora,
I know it's late but could you, please, pass this on to the Commissioners?
Jean

Planning Commission
City of Austin

Dear Commissioners:

Please deny the extension of Reagan National's site plan. During the neighborhood's long negotiations with this company they constantly changed the labels on their buildings to disguise the true use of the sign making part of their site plan to fit the zoning code. Granting them an extension would also exempt them from the 2010 heritage tree ordinance (they've already destroyed one heritage tree). This use is not appropriate next to single family homes.

Jean Mather
444-4153

SRCC South River City Citizens

CA
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SRCC Neighborhood A
P.O. 40632
Austin, TX 78704
www.srccatx.org

Marc Davis

Carol Martin

Garret Nick

Les Case

March 11, 2012

Members of the Planning Commission:

The South River City Citizens authorizes Patrick Roeder to act as our representative in the Site Plan extension appeal of Reagan National Advertising. We respectfully ask for a postponement in this case to March 27, as we have requested information via the Freedom of Information Act, but have not yet received the file, so have not had adequate opportunity to prepare our case.

Sincerely,



Marc Davis
President