

Backup Material and Letters from Interested Parties to Planning
Commission

Re: Appeal of Administrative Approval of 1-Year Extension to Approved
Site Plan



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

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



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CASE NO. SP. 2007.0560(XT)

PROJECT NAME REAGAN NATIONAL

PROJECT ADDRESS 1640 SOUTH I.H. 35

I.H. 35 AT WOODLAND AVE

APPLICANT'S NAME BILL REAGAN

CITY CONTACT DONNA GALATI

DATE APPEAL FILED 2/22/2012

YOUR NAME PATRICK ROEDER

SIGNATURE J. P. Roeder

YOUR ADDRESS 1523 CHELSEA LN.

AUSTIN, TX 78704

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

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Date of Decision: _____

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Date of Decision: FEB. 7, 2012

Date of Decision: _____

Date of Decision: _____

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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)**

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.

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.

~~25-5-6Z EXTENSION OF RELEASED SITE PLAN BY DIRECTOR~~

(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.

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."

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

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)

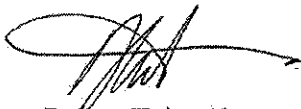
Dear Planning Commission Members,

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

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

3/13/2012



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,

A handwritten signature in black ink, appearing to read "Marc Davis", is written over a horizontal line.

Marc Davis
President