

From: Bobby Levinski [

Sent: Monday, June 24, 2019 7:45 PM

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Subject: Please Postpone C-17: SP-2014-0262C (XT2)

Planning Commissioners,

On your agenda tomorrow, there are three cases posted in relation to the site located at 7415 Southwest Parkway. Two of the three cases are being postponed by City staff. We request that you also postpone the third, C-17, to match up to the other two cases. (Because this is a site plan extension, it probably couldn't be postponed indefinitely without killing the project, but it should be able to be postponed to a future meeting.)

The 2014 site plan, which the applicant is requesting to extend an additional three years, locks in very old, pre-SOS environmental regulations (essentially, a weakened version of the 1986 comprehensive watersheds ordinance). In addition, via the interpretation of a restrictive covenant, the project has also been grandfathered to allow up to **65% impervious cover (gross site area)**. Under SOS, the site would be entitled to 20-25% impervious cover (net site area). Most of the site plan has been completed, however there are two more office buildings that are approved.

Based on the applications submitted for Items B-8 and B-9, it appears that the applicant intends to change its project. At the same time the applicant proceeding in "good faith" to complete the project under the 2014 site plan, the applicant is actively working on changing the use it intends to develop. This doesn't make any sense. Under normal circumstances, a new use would be considered a "new project" for purposes of Chapter 245 (ie, grandfathering/vested rights).

New projects are not granted vested rights under Chapter 245 and would, therefore, be required to develop under current environmental regulations. If the applicant has no plans to complete its project, the City should deny its request for an extension.

The likely reason that the applicant wants this site plan extension is leverage. To build the applicant's new desired use, the applicant will need to negotiate with the City for a new agreement. Limits applicable to the original settlement agreement upon which these vested rights are based have been reached, and the applicant knows that it is in a better place to negotiate with the City when it has an approved site plan.

We shouldn't give up the City's positioning by extending a site plan that the applicant doesn't even plan on building. Sec. 25-5-63 of the Land Development Code does not obligate the

Planning Commission to grant the site plan extension. Rather, it is an entirely discretionary action, "The Land Use Commission **may** extend the expiration date of a released site plan . . . " (emphasis added).

At this point, we are not asking you to deny the site plan extension. Please just use your discretion to keep these cases together so that we can have an honest and open dialogue about what to do with the property can occur all at once.

Thank you,

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