

BUCKHEAD INVESTMENT PARTNERS

I N C O R P O R A T E D

8/4 Owner's Revised Proposal

August 3, 2009

Mr. Mark Loethen, PE
City Engineer
City of Houston
Department of Public Works and Engineering
P.O. Box 1562
Houston, TX 77251-1562

Re: Revised Proposal: 1717 Bissonnet

Dear Mr. Loethen:

This response, together with the accompanying revised plans and engineer's traffic/trip letter, constitute a revised proposal that meets what we understand to be the maximum 120 net peak hour trip development the City of Houston will approve for development at 1717 Bissonnet. We request approval of this revised proposal.

We tender this revised proposal so that we might move forward. We do this under protest and objection, and without waiving the right to any appeals that might be available.

We believe our existing proposal, which calls for 184 peak hour trips and which the City has made clear it will not approve for that reason, meets all relevant City of Houston requirements and should be approved. We believe that Ord. 40-86 does not apply to this application and, even if it did, the existing proposal complies with that ordinance. We do not believe the City has the right to limit density of the existing project under applicable law, ordinances and regulations. Nor do we believe that a development at 1717 Bissonnet that exceeds 120 net peak hour trips (but is equal to or less than 184 peak hour trips) will create an extraordinary traffic hazard or excessively interfere with the use of right of way.

Note that on the submitted revised plan, the Bissonnet driveway has been relocated so as to comply with what we understand the City requires. We stand and stood ready to make this modification to the existing plan, if that plan had been eligible for approval with in excess of 120 net peak hour trips.

This revised plan differs from the existing proposal as follows:

- Changed uses to those which cumulatively generate only 120 net peak hour trips (rather than the previously requested approval for a project with 184 peak hour trips);
- Revised site plan (and background on all applicable sheets) to reflect new location and configuration of Bissonnet driveway;
- Reduced the number of townhouses from 5 to 4;
- Revised typical floor plate sheets to reflect 210 units in floors 7 to 23;

- Changed and re-label what had been the 6th floor office area to "common/amenity area - resident-use;"
- Changed and re-labeled what had been the 6th floor spa area to "common/amenity area - resident-use;"
- Changed and re-labeled all of what had been ground floor commercial area (both sides of lobby) to "quality restaurant;" and,
- Revised the tabulations to reflect the above identified changes

This revised plan meets the following criteria, provided by the City of Houston:

- Revised proposal has a single, primary access point to the development which will be provided via a driveway to be constructed on Bissonnet.
- The access driveway on Ashby will be a secured, gated access used only for emergency vehicle access.
- The driveway access to Bissonnet Street from proposed single driveway will support a development with no more than 120 net peak hour trips.
- The proposed net peak hour trips of 120 are based upon verifiable and documentable trip generation rates and trip offsets consistent with those established by the Institute of Traffic Engineers (ITE).
- An analysis is provided to support the development of 120 net peak hour trips as provided by a registered, professional engineer licensed in the State of Texas.

Please process and approve this revised proposal.

Applicant requests confirmation that if construction of the revised project is initiated by September 1, 2013, and continuously proceeds thereafter, the traffic impact analyses submitted to date associated with this application will remain valid and there will be no requirement to submit a new traffic impact analysis using then current data to assess any future impact on neighborhood mobility.

Sincerely,



Matthew J. Morgan

MJM/pab

cc: Stephen Adler

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August 3, 2009

Mr. Mark Loethen, PE
City Engineer
City of Houston
Department of Public Works and Engineering
P.O. Box 1562
Houston, TX 77251-1562

8/4 Re: Response to seventh driveway permit comments from City of Houston City Engineer, to accompany revised plans.

Dear Mr. Loethen:

In accordance with your comments, I am transmitting computations based on *ITE Trip Generation An ITE Informational Report 8th Edition* and *Trip Generation Handbook Second Edition An ITE Recommended Practice*, for the net 120 peak hour trips generated by the proposed 1717 Bissonnet revised development plan hereby submitted:

Summary of Multi-Use Trip Generation 1717 Bissonnet Average Weekday Driveway Volumes

Land Use	Size		PM Peak Hour		Total
			Enter	Exit	
High-Rise Apartment	210	Dwelling Units	48	31	79
Rental Townhouse	4	Dwelling Units	1	1	2
Quality Restaurant	10.1	Th.Sq.Ft. GFA	51	25	76
Total Driveway Volume			100	57	157
Total Peak Hour Pass-By Trips			22	11	(33)
Total Transit Trips (5% of Residential)					(4)
Total Peak Hour Vol. Added to Adjacent Streets			78	46	120

Revised Proposal:

The applicant seeks approval for the revised development plan which generates 120 net peak hour trips per this analysis and certification.

Specific Response to Comments:

While the applicant has chosen to move forward with a revised proposal, we herewith respond to the City's most recent comments.

We believe the statement "24 HOUR COH TRAFFIC COUNTS ON 4/29/09 ALONG BISSONNET INDICATE AN AVERAGE ANNUAL INCREASE OF BACKGROUND TRAFFIC OF 11% NOT THE 1-2% PERCENT BACKGROUND GROWTH IN THE STUDY" is in error. We believe it is improper and beyond proper discretion to ask that the TIA assume anything beyond a normal 1-2% growth in traffic. First, notwithstanding the likelihood of inaccurate results from the City's latest count given that neighbors were photographed making multiple passes over the City's counters, the 1-2% growth rate is the standard rate employed by the City generally and is the growth rate that was approved when the TIA for this project was originally approved by the City's traffic engineer (before that approval was later "withdrawn"). H-GAC recommends use of 1.9% for the annual growth rate and the original TIA used 2% to be conservative (yield higher volumes). The actual site specific historical traffic counts don't support a conclusion of the higher levels of growth (going back to 2006, actual traffic counts show flat or no growth over recent times), there are too few data points to conclude otherwise, and finally, the data points that do exist show traffic actually decreasing in front of the subject property.

Further, even with the existing 184 peak hour trip proposal (before this latest submission), the relevant intersections do not exceed LOS E. The City of Houston should not consider an intersection to be a level of service other than that which it actually is.

The City's concern about going above 120 net peak hour trips is based on the April 26, 2009, traffic counts that it took which indicated a substantial increase in traffic at 1639 Bissonnet (15,690 peak hour trips) and at 1810 Bissonnet (16,450 peak hour trips). The high numbers (in the 16,000 range) seem to be an anomaly based on historical counts. For example, they are much higher than the traffic counts that the City of Houston itself had taken January 17, 2008, at 1639 Bissonnet (13,240 peak hour trips) and at 1810 Bissonnet (13,518 peak hour trips). These prior lower City counts were relatively in line with the Thursday counts taken by the applicant at 1717 Bissonnet and made part of their TIA of 14,435 peak hour trips (November 13, 2008) and 14,596 (May 16, 2008).

In order to test whether the new City counts were an aberration or an indication of an unpredicted growth trend, the applicant left a counter out for several weeks (so the neighborhood could get used to them being there) and took counts recently. These new counts (May 14, 2009) are clearly in line with the historical counts and are much lower than the recent City counts. These most recent traffic counts show counts taken at 1639 Bissonnet (13,794 peak hour trips) and 1810 Bissonnet (14,732 peak hour trips). The counts for 1717 Bissonnet were also in line with the historical counts: 14,818 (May 14, 2009) 14,714 (May 21, 2009), and 14,256 (May 28, 2009).

Conclusion:

While there is no demonstration of a continuing increase in Bissonnet traffic that would justify limiting net peak hour trips to only 120, this letter is intended to provide the analysis and verified and documentable trip generation rates and trip offsets, consistent with those established by the ITE, to justify and demonstrate that the revised proposal does not generate more than 120 net peak hour trips and that it does not create excessive interference with traffic or an extraordinary traffic hazard.

Sincerely,

Daniel F. Lynch, PE, PTOE

Daniel F. Lynch, PE, PTOE
Senior Principal

