



October 15, 2010

Devlin L. Dennis, P.E.
Houston District Engineer
Houston District
P.O Box 1386
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via regular mail

cc: TxDOT Design Division Director (Mr. Mark Marek, P.E.)

Re: IH 10 Bass Street, Street Tie-in

Dear Mr. Dennis,

RESPONSIBLE
URBAN DEVELOPMENT
FOR HOUSTON

Directors

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The non-profit group Responsible Urban Development for Houston (“RUDH”) is writing you this letter out of concern for public safety. Our group, in the course of fulfilling our mission to promote responsible development in Houston’s urban core, has had the opportunity to review Houston District Texas Department of Transportation (“TxDOT”) documents related to the construction of new east and west bound service roads and ramps for I-10 near Yale and Patterson streets in the City of Houston. We believe TxDOT’s project number for this ongoing construction is CSJ-0271-07-242.

The reviewed documents include internal TxDOT memos, a Traffic Impact Analysis (“TIA”), and communications between TxDOT and the Ainbinder Company (“Ainbinder”). Ainbinder, a real estate developer, sought and received TxDOT’s approval for an access break for Bass Street and the I-10 east bound feeder road (“Bass Street Connection”) in February of this year. *See Enclosure A.*

There are three main concerns our group has regarding TxDOT’s approval of the Bass Street Connection: **(A)** TxDOT’s decision that a right turn deceleration lane would not be required for the Bass Street connection; **(B)** TxDOT’s reliance on a TIA that analyzed the impact of a completely different kind of project than the one now planned; and **(C)** TxDOT’s decision to eliminate portions of a planned sound wall west of Bass Street despite the fact the area is residential.

A. The Deceleration Lane

Early in the process of obtaining their desired Bass Street Connection, on November 16, 2007, TxDOT Houston District’s Gary Trietscht told Ainbinder that **if the TIA required a deceleration lane, then additional right-of-way would be needed, and that in that event “the District can not recommend approval [for the Bass Street Connection].”** *See Enclosure B* (emphasis added).



A little over one year later, in January of 2009, the Gunda Corporation, on behalf of Ainbinder, submitted the final TIA to the Houston District for the project. The TIA recommended that a right turn deceleration lane **should be installed** in accordance with TxDOT design standards. *See Enclosure C*, p. 23, 29, appendix C.

Then, in May 2009, Ainbinder sends TxDOT correspondence seeking confirmation of agreements reached during a meeting a few weeks earlier with Houston District officials. *See Enclosure D*. Mr. Ainbinder claims that TxDOT agreed that “[b]ecause TxDOT’s design for the I-10 frontage road has been widened from 2 to 3 lanes, TxDOT does not desire for a deceleration lane to be constructed on the west side of Bass Street.” *Id.* TxDOT confirms this agreement two weeks later in a letter in which the Houston District’s Gabriel Y. Johnson says, “[w]e will recommend to our Austin administration that **even though the [TIA] recommends a deceleration lane, that it would not be installed because it would create traffic existing the proposed ramp to weave for lanes in a very short distance . . .**” and “[u]pon Gunda Corporation updating the TIA to indicate that the Houston District recommends that the deceleration lane not be installed, we will submit the access break request to Austin for approval.” *See Enclosure E* (emphasis added).

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Finally, a September 30, 2009 memo was sent from the Houston District to the Design Division’s Tom Beeman, seeking approval for a “Request for Release of Access Rights” at Bass Street. *See Enclosure F*. Houston District personnel emphasize that, “even though the TIA recommends a deceleration/right turn lane at Bass Street, we have instructed the consultant for the developer not to install it . . . due to the short distance from the proposed exit ramp to the proposed Bass Street . . .” *Id.*

It is our group’s understanding that a deceleration/right turn lane is a safety device in and of itself, separate and apart from concerns raised by the proximity of nearby exit ramps. If it was not safe to construct the TIA-recommended deceleration lane with the exit ramp nearby, we believe the proper procedure may have been to *deny* the Bass Street connection, instead of *waiving* the design standards.

B. The TIA

The January TIA relied upon by the Design Division to approve the Bass Street Connection analyzed a completely different project than the one now planned.

The project currently planned has a 152,000 sq. foot anchor tenant operating 24 hours per day, and approximately 60,000 sq. feet of additional pad site retail in the vicinity of the anchor. *See Enclosure G*. The project analyzed in the January TIA was described well by the Design Division’s Director Mark Marek in a February 2010



memo as a “multi-use development, which will consist of a supermarket, theatre, fitness center, book store, shopping center, general office building, restaurants and multi-family residential units.” See *Enclosure A*; see also *Enclosure C*, p. 18-19.

There is obviously a difference between these two projects. We believe that Ainbinder should be required to submit an updated TIA that accurately reflects the planned project. A big-box 24 hour anchor tenant may generate different patterns/volumes of traffic at different times of day when compared to the Gunda analyzed mixed-use development, particularly at the AM peak time when the Gunda TIA assumes many facilities would be closed.

The Gunda TIA is also based on a completely different roadway pattern on Yale Street. In the Gunda TIA, Koehler St. is not signalized. Instead, the main driveway to the development, south of Koehler St., is signalized and cuts through to Heights Blvd. See *Enclosure C*, p. 23-24; fig. 3-4, 3-5; p. 28-29. Currently, the developer has abandoned a signalized intersection and cut-through to Heights Blvd. from the development’s driveway. See *Enclosure G*. Instead, the developer now wants to signalize the intersection of Koehler Street. *Id.*

We believe the proposed 24-hour anchor development and different roadway pattern would affect traffic in the area much differently than under the assumptions in the Gunda TIA. The only way to know for sure is to withdraw the approval for the Bass Street connection and require the developer to submit a new TIA that accurately reflects the planned development.

C. The Sound Wall

In August of 2007, the Houston District’s Gary Trietsch initially denied Ainbinder’s request for the Bass Street connection because the current TxDOT plans for the project put a sound wall immediately west of Bass Street heading to the west, and that therefore, “allowing Bass Street to connect with the east bound frontage road would cause **site distance problems** for the Bass Street Traffic approaching the frontage road.” See *Enclosure H* (emphasis added). Mr. Trietsch further indicated that acquiring additional right-of-way for the project in order to allow the connection would “cause substantial delays for this project we cannot afford.” *Id.*

On May 20, 2009, after a personal meeting with Ainbinder representatives, TxDOT Houston District’s Gabriel Johnson tells Ainbinder, “[i]t will not be necessary for Ainbinder to purchase any land west of Bass Street to avoid a sight distance problem with our proposed sound walls. The edge of our proposed sound wall starts about 300 feet west of Bass Street and continues to the west.” See *Enclosure E*.

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Members of our group recently surveyed the ongoing construction of the east bound feeder at Bass Street. The entire block west of Bass Street, east of Bonner Street, north of Spencer Street, and south of I-10 is residential. Did TxDOT's decision to remove 300 feet of sound wall west of Bass along the service road take into account the environmental effect on these residents? This area has seen new homes built since the initial design of the sound wall. RUDH represents the concerns of affected residents and believes a reconsideration of the removal of this portion of the sound wall is warranted.

Furthermore, the Gunda TIA makes a misstatement regarding the sound wall west of Bass Street. The Gunda TIA says, "It is also recommended that the proposed sound wall in the vicinity of Bass Street right turn deceleration lane not be constructed . . . [since] the [p]roposed development is a commercial retail and not residential in nature" See *Enclosure C*, p. 23 (emphasis added). As indicated, the block west of Bass Street and south of I-10 is all residential, and not part of the project.

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Responsible Urban Development for Houston is committed to assuring sound decisions are made by TxDOT as they relate to urban core development. The documents we have obtained raise important public safety issues. As such, Responsible Urban Development for Houston requests a response from TxDOT regarding the aforementioned issues. Furthermore, we believe the issues raised herein merit reconsideration of TxDOT's approval of the Bass Street connection.

Thank you for your time and attention to this matter. Please feel free to call if you have any questions.

Very Truly Yours,

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APPENDIX

- A. February 19, 2010 TxDOT memo from Mark A. Merek to Steven E. Simmons.
- B. November 16, 2007 TxDOT letter from Gary Trietsch to Ainbinder.
- C. January 22, 2009 Final Gunda TIA (appendix A and B omitted).
- D. May 7, 2009 Ainbinder letter to TxDOT's Bill Brudnick.
- E. May 20, 2009 TxDOT letter from Gabriel Y. Johnson to Ainbinder.
- F. September 30, 2009 TxDOT memo from Delvin L. Dennis to Tom Beeman with "Request for Access Break" document attached.
- G. Developer schematic of Proposed 150,000 + sq. foot big-box development.
- H. August 29, 2007 TxDOT letter from Gary Trietsch to Ainbinder.

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