

ORDINANCE NO. 07-01-09-A

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE PLANNED DEVELOPMENT DISTRICT MIXED USE ZONING FOR FALCONHEAD TO AUTHORIZE CONSTRUCTION OF A 5 STORY HOTEL AND AVERAGE HEIGHT OF 55 FEET TO BE LOCATED ON A 13.321 ACRE TRACT IN THE BEN WIGHTMAN SURVEY NO. 55 AND THE I&GN RR COMPANY SURVEY NO. 56, TRAVIS COUNTY, TEXAS AND BEING PART OF THAT 234.807 ACRE (THE REMAINDER OF PARCEL "L3 - 17.736 ACRES) CONVEYED TO SPILLMAN INVESTMENT GROUP, LTD. BY DEED RECORDED AS DOCUMENT NO. 2001016512 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS AND ALL OF THE 1.1286 ACRE TRACT OF LAND CONVEYED TO SPILLMAN INVESTMENT GROUP, LTD. BY DEED RECORDED AS DOCUMENT NO. 2002210432 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, IN THE CITY OF BEE CAVE, TEXAS; MAKING PROVISION FOR COMPLIANCE WITH THE CITY'S ZONING ORDINANCE AND AUTHORIZING THE CITY ADMINISTRATOR TO ESTABLISH THE ZONING ON THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Owner of the land described in Exhibit "A" attached hereto (the "Property") has requested an amendment to the Planned Development Mixed Use District zoning to authorize construction of a 5 story hotel with an average height of 55 feet; and

WHEREAS, the Property is a part of the 492.314 acre tract of land described in the Development Agreement entered into by and between the Village of Bee Cave, Texas and Spillman Development Group, Ltd., effective August 22, 2000; and subsequently amended on May 9, 2003, by the First Amendment to the Development Agreement and amended on January 11, 2007 by the Second Amendment to the Development Agreement (collectively referred to as the "Development Agreement"); and

WHEREAS, the notice as required by the City's Zoning Ordinance has been published in the official newspaper and given to adjacent property owners; and

WHEREAS, public hearings have been held by both the Planning and Zoning Commission and the City Council as required by law; and

WHEREAS, there has not been any protest made against the proposed change of Zoning Classification; and

WHEREAS, Section 14.156 of the City's Zoning Ordinance provides that the purpose of a Planned Development District is to provide for the development of land as an integral unit for single or mixed use in accordance with a Planned Development Concept Plan ("PD Concept Plan") that may include uses, regulations and other requirements that vary from the provisions of other zoning districts, and to encourage flexible and creative planning to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community; and

WHEREAS, a complete application for amendment to the zoning authorized in Planned Development District Mixed Use District, consisting of the Development Agreement, and associated amendments, and other documents provided by the property owners have been submitted to the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

Section 1. Zoning Classification. The Property is hereby declared to be zoned Planned Development Mixed Use District (the "PD District").

Section 2. PD Concept Plan. The PD Concept Plan that was approved in connection with the Development Agreement, as amended, which is currently on file with the official records of the City is hereby amended in accordance with the Concept Plan attached hereto as Exhibit "B". The PD Concept Plan may be further amended pursuant to the terms of the Development Agreement.

Section 3. Site Plan. The Site Plan required by the City's Zoning Ordinance shall be submitted separately for the Property. The Site Plan shall be reviewed and approved pursuant to the City's site plan ordinance that was in effect on August 22, 2000, and the Development Agreement.

Section 4. PD Development Standards. The PD District Development Standards are hereby amended as follows:

Building Height.

(1) The Non-Residential Land Use Standards for the Hotel/Club Resort site set forth in Exhibit B to the Development Agreement are hereby modified to provide that 25% of the total building footprint area of the hotel and conference center buildings to be constructed in the Hotel/Club Resort shall be limited to a 5-story maximum, and the remainder of the building footprint areas with the Hotel/Club Resort shall be limited to a 4-story maximum.

(2) The 55 foot building height restriction for the Hotel/Club Resort development set forth in Exhibit B to the Development Agreement is not a maximum height. Portions of the Hotel/Club Resort building may exceed 55 feet; provided that the average height of the Hotel/Club Resort building, taken as a whole and measured from the finished floor elevation to the average height of the roof line, shall not exceed 55 feet and provided that the Hotel/Club Resort building does not exceed 5- stories.

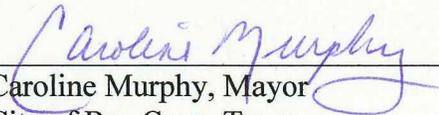
Section 5. Conflicts. In the event of any conflicts between the development standards applicable to a mixed use district as described in the City's Zoning Ordinance, including height regulations, area regulations, yard size, maximum lot coverage, building size and parking regulations and the development standards permitted by the Development Agreement, the terms of the Development Agreement shall control.

Section 6. This zoning amendment is subject to the terms of the Development Agreement, including without limitation, those provisions which state that the Property will be governed by those ordinances, rules and regulation of the Village which were in effect on August 22, 2000, unless otherwise specifically provided in the Development Agreement.

Section 7. Severability. Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Zoning Ordinance or Map as a whole.

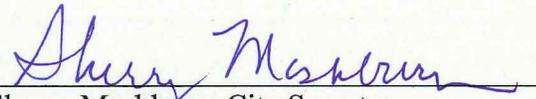
Section 8. That this Ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED this 9th day of January, 2007.



Caroline Murphy, Mayor
City of Bee Cave, Texas

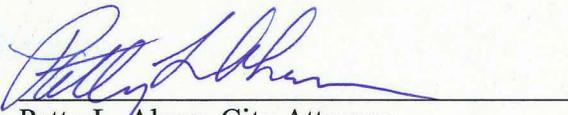
ATTEST:



Sherry Mashburn, City Secretary
City of Bee Cave, Texas

(SEAL)

APPROVED AS TO FORM:



Patty L. Akers, City Attorney
City of Bee Cave, Texas

Exhibit "A"

13.321 Acres
Spillman Ranch – Hotel Site
Page 1

Ben Wightman Survey No. 55
I & G N RR Company Survey No. 56
Project No. 03514.10
September 15, 2003

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

FIELDNOTE DESCRIPTION of a 13.321 acre tract of land in the Ben Wightman Survey No. 55 and the I & G N RR Company Survey No. 56, Travis County, Texas and being a part of that 234.807 acre (the remainder of Parcel "L3"-17.736 acres) conveyed to Spillman Investment Group, Ltd. By deed recorded as Document No. 2001016512 of the Official Public Records of Travis County, Texas and all of that 1.1286 acre tract of land conveyed to Spillman Investment Group, Ltd. By deed recorded as Document No. 2002210432 of the Official Public Records of Travis County; said 13.321 acre tract of land is more particularly described as follows:

BEGINNING at a ½" iron rod with "Capital Surveying Co., Inc." plastic cap found on the southeasterly right-of-way line of Falcon Head Boulevard, a 100.0 feet wide right-of-way according to the plat of Spillman Ranch, Phase One, Section One recorded as Document No. 200200274 of the Official Public Records of Travis county, Texas and being the most westerly corner of Spillman Ranch, Phase One, Section Eight, a subdivision of record as Document No. 200300048 of the Official Public Records of Travis County;

THENCE, leaving the southeasterly right-of-way line of Falcon Head Boulevard, with the southerly line of said Spillman Ranch, Phase One, Section Eight subdivision, same being the northeasterly line of the aforesaid Parcel "L-3" remainder tract for the following five (5) courses:

- 1) S46°00'59"E, a distance of 131.69 feet to a ½" iron rod set;
- 2) S88°10'04"E, at a distance of 178.47 feet passing the northwest corner of the aforesaid 1.1286 acre tract and continuing with the common southerly line of said subdivision and northerly line of the 1.1286 acre tract for a total distance of 192.85 feet to a ½" iron rod with "Capital Surveying Co., Inc.", plastic cap found;
- 3) S46°00'59"E, a distance of 60.14 feet to a ½" iron rod set;
- 4) S88°10'04"E, a distance of 134.73 feet to a ½" iron rod set;
- 5) S46°00'59"E, a distance of 89.75 feet to a ½" iron rod set on the westerly line of Myrtle Beach Drive, being Lot 1, Block "O" a Private Street, Drainage and Public Utility Easement as described in the plat of Spillman Ranch, Phase One, Section Two a subdivision of record as Document No. 200200281 of the Official Public Records of Travis county, Texas;

THENCE, with the westerly line of Myrtle Beach Drive the following two (2) courses:

- 1) S27°37'54"W, a distance of 21.11 feet to a ½" iron rod set for the point of curvature of a curve to the left;
- 2) Southwesterly with said curve to the left having a radius of 330.00 feet and a central angle of 38°09'55" (chord bears S08°32'56"W, 215.78 feet) for an arc distance of 219.82 feet to a ½" iron rod set for the northeast corner of Lot 26, Block "E" of aforesaid Spillman Ranch, Phase One, Section Two subdivision;

THENCE, S79°27'59"W, leaving the westerly line of Myrtle Beach Drive with the northerly line of Lot 26, same being the southeasterly line of the aforesaid Parcel "L-3" remainder tract, at 140.00 feet pass the northwest corner of Lot 26 and continuing with the northwesterly line of a remainder of that 464.976 acre tract conveyed to Henry J. Spillman, Jr., Golda Lynn Garnett and John Franklin Spillman by Executor's Distribution Deed recorded as Document No. 2001016510 of the Official Public Records of Travis County, Texas, for a total distance of 238.46 feet to a ½" iron rod with Capital Surveying Co., Inc. plastic cap found for an angle point;

THENCE, continuing with the common southeasterly line of said Parcel "L-3" remainder tract and northwesterly line of the remainder of that 464.976 acre tract, the following two (2) courses:

- 1) S51°40'02"W, a distance of 398.49 feet to a ½" iron rod with Capital Surveying Co., Inc. plastic cap found for an angle point;
- 2) S07°35'31"E, a distance of 402.28 feet to a ½" iron rod with Capital Surveying Co., Inc. plastic cap found for the northeast corner of Lot 31, Block "E" of Spillman Ranch, Phase One, Section Three a subdivision of record as Document No. 200300046 of the Official Public Records of Travis County, Texas;

THENCE, with the northerly line of Lots 31, 30, 29 and 38 of Spillman Ranch, Phase One, Section Three subdivision, same being the southerly line of said Parcel "L-3" remainder tract, the following two (2) courses:

- 1) S84°42'45"W, a distance of 161.94 feet to a ½" iron rod with "Capital Surveying Co., Inc." plastic cap found for the common northwest corner of Lot 30 and northeast corner of Lot 29;

- 2) N84°45'19"W, a distance of 170.07 feet to a ½" iron rod found on the easterly right-of-way line of Spillman Ranch Loop (60.0 feet wide right-of-way) for the northwest corner of lot 28, Block "E";

THENCE, with the easterly right-of-way line of Spillman Ranch Loop, same being the southwesterly line of said Parcel "L-3" remainder tract, the following three (3) courses:

- 1) N03°35'15"E, a distance of 55.20 feet to a ½" iron rod set for the point of curvature of a curve to the left;
- 2) Northwesterly with said curve to the left having a radius of 470.00 feet and a central angle of 49°36'14' (chord bears N21°12'52"W, 394.31 feet) for an arc distance of 406.90 feet to a ½" iron rod set for a point of tangency;
- 3) N46°00'59"W, a distance of 121.92 feet to a ½" iron rod set for the point of curvature of a curve to the right in the southeasterly right-of-way line of Falcon Head Boulevard;

THENCE, Northwesterly with the southeasterly right-of-way line of Falcon Head Boulevard and said curve to the right having a radius of 25.00 feet and a central angle of 90°00'00" (chord bears N01°00'59"W, 35.36 feet) for an arc distance of 39.27 feet to a ½" iron rod set for a point of tangency;

THENCE, N43°59'01"E, continuing with the southeasterly right-of-way line of Falcon Head Boulevard, same being the northwesterly line of said Parcel "L-3" remainder tract, a distance of 812.02 feet to the POINT OF BEGINNING, CONTAINING within these metes and bounds 13.321 acres of land area.

I, George E. Hopkins, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and that the property described herein was determined by a survey made on the ground under my direction and supervision. All ½" iron rods set with "Capital Surveying Company, Inc." plastic cap.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 12
day of SEPTEMBER, 2003.



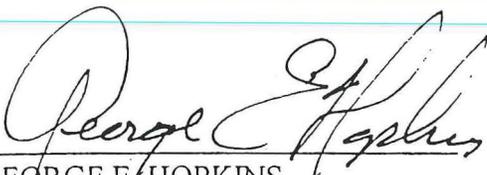
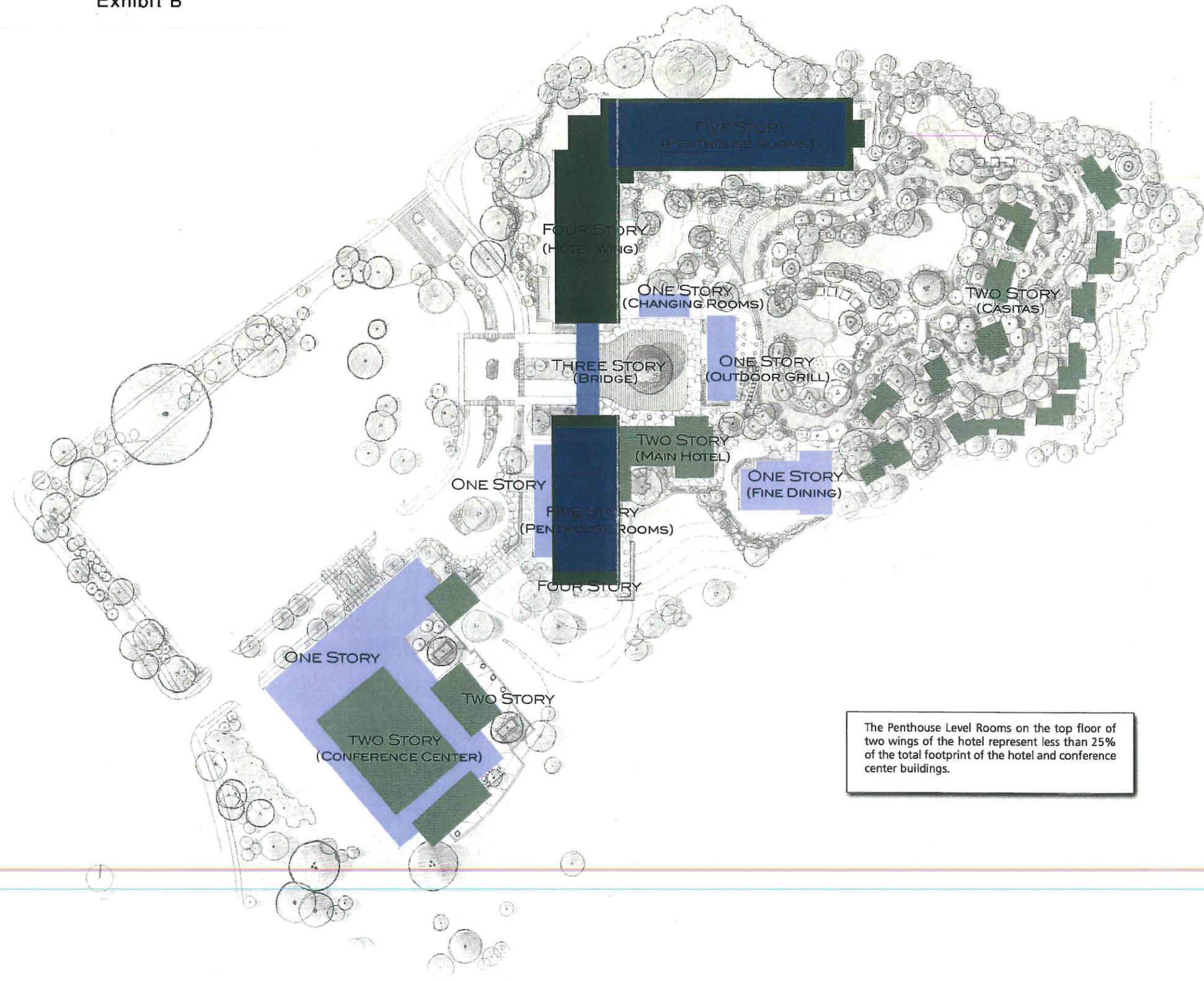

GEORGE E. HOPKINS
Registered Professional Land Surveyor
No. 4685 - State of Texas

Exhibit B



The Penthouse Level Rooms on the top floor of two wings of the hotel represent less than 25% of the total footprint of the hotel and conference center buildings.