

RESOLUTION NO. 20090212-025

WHEREAS, the City of Austin recognized Lady Bird Lake as a treasured resource in the heart of Austin by adopting the citizen lead Waterfront Overlay Ordinance to protect Lady Bird Lake's water quality and scenic assets; and

WHEREAS, it is important that property owners within the Waterfront Overlay and adjacent neighborhoods and city staff are all in agreement with what the ordinance states and the review process for administrative approvals and variances; and

WHEREAS, avoiding future litigation regarding the interpretation of the Waterfront Overlay is in the best interest of all concerned parties; and

WHEREAS, in order to evaluate potential inconsistencies and ambiguities, the City Council passed Resolution No. 20071129-042 on November 29, 2007, directing the City Manager to establish a Waterfront Overlay Taskforce to include members from relevant city boards and commissions, neighborhood advocates and members of the development community, and

WHEREAS, after a nine-month public process devoted to reviewing relevant provisions of the Land Development Code, the Waterfront Overlay Taskforce presented its final recommendation to the City Council on December 18, 2008; **NOW THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to:

- (1) Process Code amendments necessary to implement Recommendation Nos. 1, 2, 3, and 5 in the Executive Summary of the Waterfront Overlay Task Force Final Report, which is attached hereto as Exhibit A. The amendments may include, but are not limited to: City Code Chapter 25-2 (*Zoning*), Subchapter C (*Use and Development Regulations*), Division 6 (*Waterfront Overlay District Requirements for Town Lake Park*), Division 7 (*Waterfront Overlay District and Subdistrict Uses*), and Division 8 (*Waterfront Overlay District and Subdistrict Development Regulations*), and other related provisions of the Land Development Code.
- (2) Develop a recommended approach for awarding development bonuses in exchange for community benefits, consistent with Recommendation No. 4 in final Task Force report. The City Council intends that this recommendation will provide a starting point for subsequent development of proposed Code amendments through a collaborative process involving city staff and the Waterfront Planning Advisory Board, to be created in accordance with Task Force Recommendation No. 3.

BE IT FURTHER RESOLVED THAT:

The City Manager is directed to complete work on the foregoing items on or before April 23, 2009, and to provide an opportunity for the Waterfront Overlay Task Force to comment on the draft ordinance prior to review by City boards and commissions.

ADOPTED: February 12, 2009

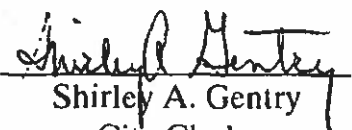
ATTEST: 
Shirley A. Gentry
City Clerk

EXHIBIT A TO RESOLUTION NO. 20090212-025
Excerpted from Waterfront Overlay Task Force Final Report (12-18-08)

I. Executive Summary

The Colorado River corridor from Tom Miller Dam, through Lady Bird Lake and then eastward beyond Longhorn Dam is undoubtedly the most significant community asset in central Austin. This incredibly beautiful stretch of river provides a wide range of benefits to our city including fantastic scenic vistas, wonderful urban recreational opportunities, and serene open spaces that gives our center city a unique character among Texas cities. In addition to providing our drinking water, the river and lake are a major economic asset drawing folks to Austin both to work and play downtown.

It is also a fragile beauty that can quickly be overwhelmed if development along its shores is not carefully planned and regulated to provide a balance between accommodating growth in the urban core and preserving the character of the river corridor and the lakefront. Development along the banks of the lake in the 1970's and early 1980's drew attention to the need to establish a clear vision of what the community wanted along the lakefront. The 1985 Town Lake Corridor Study and the 1986 Waterfront Overlay ordinance gave the task force the necessary planning guidelines and land development tools to assess what would constitute harmonious development along the lakefront preserving the unique quality of this river corridor.

While the original Waterfront Overlay ordinance was largely successful, recent development pressure along the shoreline of Lady Bird Lake has brought into question whether the current Waterfront Overlay ordinance is adequate to protect and enhance the lakefront, especially since the 1986 ordinance underwent a code rewrite in 1999 that made some significant changes.

In response to this concern, the City Council charged the Waterfront Overlay Taskforce with reviewing the current situation. The essential finding from the Taskforce's eight month review is that the current code has been significantly weakened by the changes in the ordinance that have been adopted since 1986 and in particular the 1999 re-codification of the ordinance has removed significant protections and incentives to promote community benefits and enhancement of the waterfront. The major areas of concern with the current ordinance and our primary recommendations to address these issues are:

- 1 The Goals and Policies enumerated in the Town Lake Corridor Study are no longer referenced as the basis development assessment.

City Council should re-instate the goal and policies of the Town Lake Corridor Study into the waterfront overlay.

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2. The Waterfront Planning Advisory Board's responsibility to provide contextual oversight of all land use decisions within the Overlay district has been abandoned and there is no single point of responsibility in the City for protecting and enhancing the lakefront. Decisions on Waterfront Overlay issues relating to various parts of the Land Development code are being made in isolation, without assessing the impact to other goals of the Town Lake Corridor Study and other planning documents.

To ensure cohesive development along the lakefront, the City Council should appoint a new Waterfront Planning Advisory Board with the responsibility for reviewing all land development issues in the Waterfront Overlay District and providing recommendations to City Council. Of course, the City Council will continue to have final authority over all development along the waterfront.

3. The subdistrict maximum building heights that superseded any other provisions of the code were removed in the 1999 re-codification.

The subdistrict maximum heights should be reinstated to the waterfront overlay ordinance and they should supersede any other provisions of the Land Development Code.

4. Bonus provisions were included in the 1986 ordinance to encourage and provide incentives to property owners in exchange for achieving stated community benefits. The bonus provisions did not have a means to allocate fairly additional height or increased floor area ratios in response to community benefits provided by proposed new development and were removed in the ordinance re-write.

A method for awarding, implementing and reviewing the bonus provisions to achieve community benefits outlined in the 1986 code should be developed. The bonus provisions should be available, with a clear method increasing entitlements commensurate with the community benefits provided by the project. This Task Force recommends that City Council reinstated the bonus provisions previously outlined in the 1986 ordinance.

5. Newly adopted citywide design policies conflict with the Waterfront Overlay Regulations and remove important protections established by the 1986 ordinance.

The unique nature of the waterfront requires special consideration, and the Waterfront Overlay District ordinance should supersede the

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**Commercial Design Standards and any other citywide design policy
to the extent that they conflict with the Overlay District regulations.**

These five items are the Task Force's priority issues that we recommend to be addressed as soon as possible. In addition to these, there are many additional critical elements such as side yard setbacks for views and public access that need to be resolved. These items, the elaboration of the points noted above and other recommendations are detailed in the findings and recommendations section of this report.

The City Council charge to this committee was to review the current code and determine the ambiguities and inconsistencies between it and the 1986 Code and make recommendations to the City Council. This has been the task force's objective. The strong recommendation we forward is that the code should be revised to remedy the issues we have identified in this report.

The task force asks that the recommendations we are sending forward be translated into draft ordinances by the City staff. While the charge of this committee is fulfilled with the completion of this report, we respectfully request that the City Council extend our term and return these draft ordinances to our work group for review and comment before forwarding them to the appropriate boards and commissions for public input.

The members of the Waterfront Overlay Task Force are grateful to the City Council for recognizing the need to revisit the Waterfront Overlay Ordinance and for allowing us the opportunity to review our community's vision for the river corridor, to analyze the changes that have occurred in the Waterfront Overlay ordinance and to make these recommendations.

Mandy Dealey
Chair, Waterfront Overlay Task Force

Melissa Hawthorne
Vice-Chair, Waterfront Overlay Task Force