

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY COMMONLY KNOWN AS THE SOUTH SHORE PUD LOCATED
3 AT 1701 AND 1801 SOUTH LAKESHORE BOULEVARD, 1414 AND 1333 ARENA
4 DRIVE, 1200 TINNIN FORD ROAD, AND 1201 TOWN CREEK DRIVE IN THE
5 RIVERSIDE CITY NEIGHBORHOOD PLAN AREA, FROM MULTIFAMILY
6 RESIDENCE MEDIUM DENSITY (MF-3) DISTRICT, MULTIFAMILY
7 RESIDENCE MEDIUM DENSITY-NEIGHBORHOOD PLAN (MF-3-NP)
8 COMBINING DISTRICT AND COMMUNITY COMMERCIAL-
9 NEIGHBORHOOD PLAN (GR-NP) COMBINING DISTRICT TO PLANNED UNIT
10 DEVELOPMENT (PUD) COMBINING DISTRICT AND PLANNED UNIT
11 DEVELOPMENT-NEIGHBORHOOD PLAN (PUD-NP) COMBINING DISTRICT.

12
13 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

14
15 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to
16 change the base district from multifamily residence medium density (MF-3) district,
17 multifamily residence medium density-neighborhood plan (MF-3-NP) combining district
18 and community commercial-neighborhood plan (GR-NP) combining district to planned
19 unit development (PUD) combining district and planned unit development-neighborhood
20 plan (PUD-NP) combining district on the property described in Zoning Case No. C814-
21 2008-0087, on file at the Planning and Development Review Department, as follows:

22
23 Tract One: Lot 1, Riverside Square Subdivision, a subdivision in the City of
24 Austin, Travis County, Texas, according to the map or plat of record in Document
25 No. 200600245, of the Official Public Records of Travis County, Texas; and

26
27 Tract Two: A 3.889 acre tract of land, more or less, out of the Isaac Decker
28 League, Travis County, the tract of land being more particularly described by
29 metes and bounds in Exhibit "A" incorporated into this ordinance (the "Property"),

30
31 locally known as 1701 and 1801 South Lakeshore Boulevard, 1414 and 1333 Arena Drive,
32 1200 Tinnin Ford Road, and 1201 Town Creek Drive in the City of Austin, Travis County,
33 Texas, and generally identified in the map attached as Exhibit "B".

34
35 **PART 2.** This ordinance and the attached Exhibits A through C are the land use plan for
36 the South Shore planned unit development district (the "PUD") created by this ordinance.
37 Development of and uses within the PUD shall conform to the limitations and conditions
38 set forth in this ordinance and in the land use plan attached as Exhibit C (the "Land Use

Plan"). If this ordinance and the attached exhibits conflict, this ordinance controls. Except as otherwise specifically provided by this ordinance, all other rules, regulations and ordinances of the City, including Ordinance No. 20061116-057 (establishing the Riverside neighborhood plan combining district), in effect on the effective date of this ordinance apply to the PUD, with the exception of regulations under §245.004(1),(9), and (11), Local Government Code as it exists on the effective date of this ordinance.

PART 3. The attached exhibits are incorporated into this ordinance in their entirety as though set forth fully in the text of this ordinance. The exhibits are as follows:

- Exhibit A: Description of Property
- Exhibit B: Zoning Map
- Exhibit C: Land Use Plan
- Exhibit D: Grow Green Native and Adapted Landscape Plants and Invasive/Problem Plants

PART 4. In accordance with the regulations in the City Code for a PUD, the following regulations either do not apply to the PUD or apply to the PUD instead of otherwise applicable City regulations.

- A. Section 25-2-491 (*Permitted, Conditional, and Prohibited Use*) of the City Code is modified to allow as permitted uses certain community commercial (GR) zoning district uses and other commercial uses as described in the Land Use Plan. A use not shown on the Land Use Plan as a permitted or conditional use is a prohibited use in the PUD.
- B. Section 25-2-741 (C) (*South Lakeshore Subdistrict Regulations*) is modified to allow a maximum height of 90 feet for Areas 2, 3, 4, and 6 as shown on the Land Use Plan.
- C. Section 25-2-243 (*Proposed District Boundaries Must Be Contiguous*) of the City Code does not apply to the PUD.
- D. The definition of "site" in Section 25-1-21 (*Definitions*) of the City Code is modified to provide that the land in the PUD is a single site for development purposes so that the site includes areas separated by public streets or other right-of-way.
- E. Regional Stormwater Pond.

1. Section 25-8-392 (*Critical Water Quality Zone*) of the City Code is modified to allow the Director of the Planning and Development Review department ("Director") to approve location of a regional stormwater management pond designed and constructed as required by this ordinance ("Stormwater Pond") within a critical water quality zone.

2. The owner shall construct the Stormwater Pond in Area 1 as shown on the Land Use Plan. The Stormwater Pond shall be designed and constructed:

- a. as a regional water quality wet pond that captures and treats approximately one hundred (100) acres of offsite drainage area;
- b. as an amenity with benches, a trail, landscaping, and educational signage as required by Part 4(G) of this ordinance; and non-linear curving edges and layered vegetation;
- c. unless otherwise required by City regulations, without a fence bordering the Stormwater Pond;
- d. otherwise in accordance with all applicable City requirements; and
- e. before issuance of a certificate of occupancy for any building in Areas 2 through 7 as shown on the Land Use Plan.(5, 21, 23, 24)

3. To the extent not satisfied by the Stormwater Pond, requirements of §25-7-61 (*Criteria for Approval of Plats, Construction Plans, and Site Plans*) in the PUD shall be satisfied by participation in the regional stormwater management program under §8 of the Drainage Criteria Manual, provided that owners may apply for detention waivers and will neither seek nor accept cost reimbursement or participation from the City.(9)

4. Before or upon filing the first development application in the PUD, the owner shall submit to the Director for approval a stormwater management plan for the PUD. The plan shall provide for the use of the Stormwater Pond, vegetative filter strips, rain gardens, berms, other innovative water quality methods, or any combination thereof to treat stormwater from the PUD and the area draining to the Stormwater Pond to meet or exceed City pollutant removal efficiency requirements and other requirements of Chapter 25-8, Subchapter A (*Water Quality*). If it does not impair efficient and effective stormwater management, the Director may allow for submission of the plan in parts as

1 phases of the PUD develop instead of requiring a single plan to be submitted
2 before or with the first development application. (15)

3
4 5. All aspects of the design and construction of the Stormwater Pond are
5 subject to the Director's approval.(24)

6
7 6. The Stormwater Pond shall be maintained by the owner.(24)

8
9 F. Building Design, Construction, and Use.

10
11 1. Development on Arena Drive shall comply with the standards for
12 development on a core transit corridor under Chapter 25-2, Subchapter E
13 (*Design Standards and Mixed Use*).(25)

14
15 2. Building design, including basewalls and angled stepbacks, shall exceed by
16 at least one point the minimum points required by Chapter 25-2, Subchapter
17 E, §3.3 (*Options to Improve Building Design*) of the City Code.(33)

18
19 3. Development in the PUD shall comply with the requirements of the Austin
20 Energy Green Building Program (GBP) multifamily rating system for a
21 minimum three-star rating with 25 percent above energy code requirements.
22 Certification from the GBP shall be required based on the version of the
23 rating system current at the time of design. (13)

24
25 4. 2.5% of residential units in the PUD shall be fully accessible Type A
26 dwelling units under the 2003 International Building Code, as amended
27 locally by the City. (35)

28
29 5. Buildings in Areas 2, 3, and 4 as shown on the Land Use plan shall comply
30 with the following requirements.

- 31
32 a. Parking shall be located either (a) sub-grade or partially sub-grade, or
33 (b) wrapped by living units or space usable for retail or office space, a
34 sales office, management office, leasing office, recreational facilities,
35 or other amenities within the building or any pedestrian oriented use.
36 The Director may modify the foregoing requirements for an easterly
37 or westerly facing parking garage that is architecturally integrated
38 with the associated building.
39

- 1 b. A building shall have a basewall less than 40 feet high. Any part of a
2 structure that is 40 feet or more and oriented toward Arena Drive shall
3 fit within an envelope delineated by a 70 degree angle starting at 40 feet
4 with the base of the angle being a horizontal plane extending from a
5 line parallel to and away from the surface of Lakeshore Boulevard.
6
- 7 6. Buildings in Areas 2 and 3 as shown on the Land Use plan shall comply with
8 the following requirements.(18, 19)
9
- 10 a. The primary public front entrance shall be oriented toward
11 Arena Drive.
12
- 13 b. Buildings shall include pedestrian oriented uses at the
14 northernmost ends, including but not limited to kiosks or areas for the
15 sale and consumption of refreshments with indoor or outdoor seating.
16
- 17 c. In the area between the 50 foot primary waterfront overlay
18 setback and a parallel line 180 feet south of the PUD's northern
19 boundary, building coverage shall not exceed 70% in Area 2 and 60% in
20 Area 3.
21
- 22 d. The northern façade of a building shall open to a courtyard
23 or private amenity deck that is either at grade or on top of a parking
24 structure. The maximum height of a parking structure shall be 32
25 feet.(18, 19)
26
- 27 7. Buildings in Area 4 as shown on the Land Use plan shall comply with the
28 following requirements.
29
- 30 a. The primary public front entrance may not be oriented toward
31 Lakeshore Boulevard and the building shall generally have a north/south
32 orientation, except along the southern portion adjacent to Arena Drive.
33
- 34 b. Buildings shall be set back 100 feet from the PUD's northern
35 boundary.
36
- 37 c. In the area between the 50 foot primary waterfront overlay setback
38 and a parallel line 300 feet south of the PUD's northern boundary, building
39 coverage may not exceed 60%.
40

d. In the part of Area 4 fronting Lakeshore Boulevard that is below 35 feet high, no more than 40% of the net frontage length of the property may consist of continuous building façade.(18, 19)

8. At least 30,000 square feet of retail or other commercial uses shall be included in the PUD. Unless otherwise allowed by the Director, each of Areas 1 through 4, 6, and 7 shown on the Land Use plan shall contain at least 5,000 square feet of that space. (44)

9. The total square footage of cocktail lounges or liquor sales uses in the PUD may not exceed one-third of the total square feet of commercial uses in the PUD. Cocktail lounges or liquor sales uses may be divided among no more than five sites not exceeding 5,000 square feet each.(45)

10. Unless otherwise allowed by the Director, the first phase of development in the PUD shall include (a) public facilities of at least 1,000 square feet of space usable for fire protection, emergency service, or law enforcement, and (b) community amenities of at least 1,000 square feet usable for community meetings, daycare facilities, non-profit organizations, or similar uses. Owners shall provide the space rent-free for at least 40 years from the date of the certificate of occupancy for the building in which it is located. Occupants of the space may be required to pay for utilities for the space, but shall not be charged for taxes, parking, common area maintenance, or similar charges. If the occupants have either liability and property insurance coverage or a self-insurance program in a commercially reasonable amount, owners may not require or charge for additional insurance or a security deposit. (30 &31)

11. The owner shall provide one independent retail or restaurant small business whose principal place of business is in the Austin Standard Metropolitan Statistical Area usable space in the PUD at a rent at least 15% below the prevailing market rent when the lease or other arrangement for providing the space is executed. Before execution, the owner shall submit the lease or other arrangement to the Director of the Neighborhood Housing and Community Development Department for review. (32)

12. The owner must submit to the Director of the Neighborhood Housing and Community Development Department for review an accounting acceptable to the Director of the Neighborhood Housing and Community Development

demonstrating that the total value of the community benefits required under Subsections 10 and 11 of this part is at least \$800,000.

13. Owner shall place art in five public locations on the site. Owner shall select the art and its location in consultation with the City Art in Public Places Program.(36)

G. Transportation and Circulation.

1. A site plan or building permit may not be approved, released, or issued, if the completed development or uses in the PUD, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the PUD specified in that certain Traffic Impact Analysis ("TIA") prepared by HDR/WHM Transportation Engineering, Inc., dated December 19, 2008, or as amended and approved by the Director. All development in the PUD is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Planning and Development Review Department, dated May 7, 2009. The TIA shall be kept on file at the Planning and Development Review Department.
2. The owner shall dedicate public right-of-way for and construct the vehicle routes, sidewalks, bikes lanes, and trails that are located on the site and shown on the Land Use Plan. All pedestrian ways shall meet federal and state accessibility standards for the disabled. Dedication and construction may be phased according to a plan submitted by the owner to and approved by the Director before approval of the first site plan in the PUD. All pedestrian ways and vehicle routes not located in right-of-way accepted for maintenance by the City shall be maintained by the owner in a safe and passable condition. (17)
3. For the vehicle routes, sidewalks, bikes lanes, and trails shown on the Land Use Plan but not located in the PUD, the owner shall pay the proportionate share of the costs of those facilities set out in the TIA. (17, 42)
4. The trail shown on the Land Use Plan between Lakeshore Boulevard and Arena Drive adjacent to the Stormwater Pond shall be designed and constructed as a walking trail.(29)

5. The trail shown on the Land Use Plan between Lakeshore Boulevard in Areas 1 through 3 and 5 may be located in the primary waterfront overlay setback and shall be designed and constructed as a pervious, multi-use trail located between Lakeshore Boulevard and the first structures south of Lakeshore Boulevard. The owner shall install a drinking fountain and necessary service lines along this trail, none of which shall be included within in impervious cover calculations for the site.(37)
6. The pavement for the vehicle routes connecting Town Creek Drive and South Lakeshore Boulevard as shown on the Land Use Plan shall be between 25 and 36 feet wide. If it does not impair circulation or threaten public safety, the Director may allow the owner to vary the locations of these two vehicle routes.(47, 48)
7. If an at-grade pedestrian crosswalk is installed on Lakeshore Boulevard directly adjacent to the PUD, the owner shall be pay the costs associated with the crosswalk, including paving, lighting, striping, signalization, and ramps.(20)
8. Prior to approval of the first site plan in the PUD, the owner must submit to the Director for approval an agreement between the owner and the Capital Metropolitan Transportation Authority that provides for improvements to bus stops in the immediate area of the PUD in the amount of approximately \$25,000. (38)
9. The PUD shall include three vehicle parking spaces dedicated to use by Austin Carshare, or another nonprofit organization with a similar mission, to be provided free of charge.(40)

H. Bicycle Plan

1. For every ten vehicle parking space in the PUD, the owner shall provide one bicycle parking space. At least half the total spaces shall be either (a) Class I racks/parking spaces as defined in the City Transportation Criteria Manual or (b) spaces in a locked bicycle storage room with a means to secure individual bicycles within the room. (42, 43)
2. A building containing one or more GR uses, including cocktail lounge, totaling 5,000 square feet or more shall include shower facilities for bicycle riders. Such a building 20,000 square feet or more shall provide one facility

1 for each for each gender. Otherwise, the building shall provide one unisex
2 facility. The facilities shall be separately accessible from commercial/retail
3 toilet facilities and include an area for changing clothes and storing personal
4 items. The facilities may be located outside of the building in a common
5 area accessible to all buildings subject to this requirement.(42)
6

- 7 3. All electric utilities in or adjacent to Arena Drive and Town Creek Drive
8 shall be located in a non-exclusive manner in the right-of-way of these
9 drives, and no electric utilities in or adjacent to Arena Drive or Town Creek
10 Drive shall be required to be located in any other area of the PUD. If electric
11 utilities located in or adjacent to Arena Drive or Town Creek Drive as a
12 result of this note are required to be relocated in the future due to a
13 reconfiguration of either or both drives the property owner accepts full
14 financial responsibility for such relocation.(14)
15

16 I. Landscaping and Trees

17 1. With each site plan application filed in the PUD, the owner shall submit a
18 landscape compliance plan to the Director for approval. Landscaping in the
19 PUD shall exceed the requirements of Chapter 25-2, Subchapter C, Article 9
20 (*Landscaping*) of the City Code by 10%. 80% of the landscaped area shall
21 use plant material recommended in Exhibit D (the City of Austin Grow
22 Green Native and Adapted Landscape Plant Guide) and the remaining 20%
23 of the landscaped area shall use non-invasive species as set forth in Exhibit
24 D (Invasive Species/Problem Plants).(12)
25

26 2. Mitigation for tree removal in the PUD shall exceed the requirements of
27 Chapter 25-2, Subchapter B, Article 1, Division 2 (*Protected Trees*) of the
28 City Code by 10%.(22)
29

30 3. Trees existing along Lakeshore Boulevard on the effective date of this
31 ordinance shall remain unless removal is required to construct the vehicle
32 routes on Lakeshore Boulevard or as otherwise approved by the City
33 arborist. No more than the five trees shown on the Land Use Plan totaling
34 110 caliper inches may be removed to construct the two vehicle routes, in
35 which case Trees 138 and 148 shall be transplanted using a methodology
36 approved by the City arborist and Trees 137, 139, and 147 may be removed.
37 The owner shall ensure the survivability of the transplanted trees for at least
38 two years pursuant to a plan approved by the City arborist.(28)
39
40

1 4. The nine trees on Town Creek Drive between Lakeshore Boulevard and
2 Arena Drive numbered 114 through 122 on the Land Use Plan may not be
3 removed, unless the City arborist approves otherwise based on the health of
4 individual trees.(41)

5
6 5. With each site plan application filed in the PUD, the owner shall submit
7 to the Director for approval an integrated pest management (IPM) plan for
8 the site that complies with Section 1.6.9.2 (D) and (F) of the Environmental
9 Criteria Manual.(26)

10
11 **PART 5. Density Bonus and Affordable Housing Program.**

12
13 Redevelopment of the Property will require the destruction of several hundred existing
14 housing units that are affordable to persons of low to moderate income, thus resulting
15 in a significant reduction in the stock of affordable housing in the City. Council
16 intends this ordinance to allow development of the Property to exceed densities
17 allowed by its current zoning as an incentive to the owner of the Property to mitigate
18 this reduction. Therefore, development authorized by this ordinance may vary from
19 the Property's current zoning only on the condition the owner agrees to mitigate this
20 reduction as provided in this Part of this ordinance. Accordingly, Council grants to the
21 owner a density bonus in exchange for the owner's participation in the affordable
22 housing program for the area in, adjacent to, and beyond the PUD as set out in this
23 Part of this ordinance.

24
25 **A. The owner must:**

- 26
27 1. set aside at least **[either 23 or 35]** residential units in the PUD for occupancy by
28 households whose income is less than 60% of the median family income in the
29 Austin metropolitan statistical area; and
30
31 2. pay the City a total of **[either \$2,018,280 or \$1,529,000]** to be deposited in the
32 Housing Assistance Fund to be and used only for the development or
33 preservation of affordable housing units. Prior to release of a site plan for an area
34 in the PUD, the owner shall pay the City the greater of either **[either \$1,682 or**
35 **\$1275]** per residential unit allowed by the site plan or:
36
37 1. **[either \$126,130 or \$95,600]** for Area 1;
38 2. **[either \$504,580 or \$382,250]** for Area 2;
39 3. **[either \$504,580 or \$382,250]** for Area 3;
40 4. **[either \$126,130 or \$95,600]** for Area 4;

- 1 5. [either \$336,380 or \$318,300] for Area 6; and
2 6. [either \$420,480 or \$255,000] for Area 7.
3

4 B. For each affordable unit under Section A.1, the affordability requirement shall
5 expire on the 40th anniversary of the issuance of a certificate of occupancy for the unit.
6

7 C. Of Areas 1 through 4, 6, and 7, the affordable units required under Section A.1
8 shall be located in the first five of those areas to be developed.
9

10 D The percentage of the affordable units required under Section A.1 that have a
11 specific number of multiple bedrooms must equal or exceed the percentage of market
12 rate units in the overall PUD that have the same specific number of bedrooms.
13

14 E. Before the earlier of the first anniversary of the effective date of this ordinance, the
15 filing of the first development application to be filed after the effective date of this
16 ordinance, or owner's first notice to any tenants of termination of tenant leases in
17 anticipation of demolition of existing buildings, the owner must submit to the Director
18 of the Neighborhood Housing and Community Development Department for review
19 an agreement between the owner and an entity acceptable to the Director of the
20 Neighborhood Housing and Community Development that provides for at least
21 \$90,000 in displacement and relocation assistance for displaced tenants. The Director
22 of the Neighborhood Housing and Community Development may require the
23 agreement to be recorded in the Travis County real property records as a restrictive
24 covenant against the Property.(43)
25

26 F. To accept the density bonus granted to the owner under this ordinance, within 45
27 days of the effective date of this ordinance the owner shall submit to the Director of
28 the Neighborhood Housing and Community Development Department for approval
29 and thereafter execute and record in the Travis County real property records a
30 restrictive covenant applicable to the Property that contractually commits any owner
31 of the Property to comply with the requirements of Sections A through E of this Part
32 of this ordinance and Subsections 10 and 11 of Section F of Part 4 of this ordinance.
33 The owner may not file a development application for the Property before recording
34 the restrictive covenant. If the owner does not accept the density bonus by submitting,
35 executing, and recording the restrictive covenant within 45 days of the effective date
36 of this ordinance, this ordinance expires and the Property reverts to its previous
37 zoning.
38

1 G. Sections A through F of this Part of this ordinance are not severable from Parts 1
2 through 4 of this ordinance. If all or any part of the density bonus and affordable
3 housing program under Sections A through F of this Part of this ordinance is held to
4 be void or otherwise unenforceable, Parts 1 through 4 of this ordinance are void *ab*
5 *initio*, but this section is severable and shall remain valid. Any use or development in
6 the PUD that conflicts with or exceeds restrictions or limits under the zoning
7 regulations applicable to the Property immediately before approval of this ordinance
8 shall not have nonconforming use or structure status under the City Code.
9

10 I. [Either "Half of the fee paid under Section A.2 shall be used for affordable housing
11 within the East Riverside/Oltorf Combined Planning Area, with priority given to
12 ownership housing, and half shall be used for affordable housing for senior citizens."
13 or "The fee paid under Section A.2 shall be used for affordable housing within the
14 East Riverside/Oltorf Combined Planning Area, with priority given to ownership
15 housing."]
16

17 **PART 6.** This ordinance takes effect on _____, 2009.
18

19 **PASSED AND APPROVED**

20 §
21 §
22 _____, 2009 §
23 _____
24 Will Wynn
25 Mayor

26 **APPROVED:** _____ **ATTEST:** _____
27 David Allan Smith Shirley A. Gentry
28 City Attorney City Clerk