

#126

ORDINANCE NO. _____

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

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

15
16 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to
17 change the base district from multifamily residence medium density (MF-3) district,
18 multifamily residence medium density-neighborhood plan (MF-3-NP) combining district
19 and community commercial-neighborhood plan (GR-NP) combining district to planned
20 unit development (PUD) combining district and planned unit development-neighborhood
21 plan (PUD-NP) combining district on the property described in Zoning Case No. C814-
22 2008-0087, on file at the Planning and Development Review Department, as follows:

23
24 Lots 2-6 Blk B, Townlake Plaza Subdivision, a subdivision in the City of Austin,
25 Travis County, Texas, according to map or plat of record in Volume 18, Page 38, of
26 the Plat Records of Travis County, Texas; and

27
28 Lot 5A Resubdivision of Blk D Townlake Plaza Subdivision, a subdivision in the City
29 of Austin, Travis County, Texas, according to map or plat of record in Volume 37,
30 Page 2, of the Plat Records of Travis County, Texas; and

31
32 Lot 4 Resubdivision of Lots 1-4 Blk C Townlake Plaza Subdivision, a subdivision in
33 the City of Austin, Travis County, Texas, according to map or plat of record in
34 Volume 49, Page 56, of the Plat Records of Travis County, Texas; and

35
36 Lots 5-8 Blk C Townlake Plaza Subdivision, a subdivision in the City of Austin,
37 Travis County, Texas, according to map or plat of record in Volume 18, Page 38, of
38 the Plat Records of Travis County, Texas.

1
2 locally known as 1701 and 1801 South Lakeshore Boulevard, 1414 and 1333 Arena Drive,
3 1200 Tinnin Ford Road, and 1201 Town Creek Drive ("the Property") in the City of
4 Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A".
5

6 **PART 2.** This ordinance and the attached Exhibits A through D are the land use plan for
7 the South Shore District planned unit development district (the "PUD") created by this
8 ordinance. Development of and uses within the PUD shall conform to the limitations and
9 conditions set forth in this ordinance and in the land use plan attached as Exhibit B (the
10 "Land Use Plan"). If this ordinance and the attached exhibits conflict, this ordinance
11 controls. Except as otherwise specifically provided by this ordinance, all other rules,
12 regulations and ordinances of the City, including Ordinance No. 20061116-057
13 (establishing the Riverside neighborhood plan combining district), in effect on the effective
14 date of this ordinance apply to the PUD, with the exception of regulations under
15 §245.004(1),(9), and (11), Local Government Code as it exists on the effective date of this
16 ordinance.
17

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

20 Exhibit A: Zoning Map

21 Exhibit B: Land Use Plan

22 Exhibit C: Grow Green Native and Adapted Landscape Plants and Invasive/Problem
23 Plants

24 Exhibit D: Austin Energy Green Building Program Commercial rating Packet and
25 Multifamily rating Packet as of the date of this Ordinance
26

27 **PART 4.** In accordance with the regulations in the City Code for a PUD, the following
28 regulations either do not apply to the PUD or apply to the PUD instead of otherwise
29 applicable City regulations.
30

31 A. Section 25-2-491 (*Permitted, Conditional, and Prohibited Use*) of the City
32 Code is modified to allow as permitted uses certain community commercial
33 (GR) zoning district uses and other commercial uses as described in the Land
34 Use Plan. Other than uses allowed within the multifamily residence highest
35 density (MF-6) zoning district, a use not shown on the Land Use Plan as a
36 permitted or conditional use is a prohibited use in the PUD.
37

1 B. Section 25-2-741 (C) (*South Lakeshore Subdistrict Regulations*) is modified to
2 allow a maximum height of 90 feet for Areas 2, 3, 4, and 6 and allow a
3 maximum height of 60 feet for Areas 1 and 7, as shown on the Land Use Plan.

4
5 C. Section 25-2-243 (*Proposed District Boundaries Must Be Contiguous*) of the
6 City Code does not apply to the PUD.

7
8 D. The definition of "site" in Section 25-1-21 (*Definitions*) of the City Code is
9 modified to provide that the land in the PUD is a single site for development
10 purposes so that the site includes areas separated by public streets or other right-
11 of-way.

12
13 E. Regional Stormwater Pond.

14
15 1. Section 25-8-392 (*Critical Water Quality Zone*) of the City Code is
16 modified to allow the Director of the Planning and Development Review
17 department ("Director") to approve location of a regional stormwater
18 management pond designed and constructed as required by this ordinance
19 ("Stormwater Pond") within a critical water quality zone.

20
21 2. The owner shall construct the Stormwater Pond in Area 5 as shown on
22 the Land Use Plan. The Stormwater Pond shall be designed and constructed:

23
24 a. as a regional water quality wet pond that captures approximately one
25 hundred (100) acres of offsite drainage area;

26
27 b. as an amenity with benches, a trail, landscaping, and educational signage
28 as required by Part 4(G) of this ordinance; and non-linear curving edges
29 and layered vegetation;

30
31 c. unless otherwise required by City regulations, without a fence bordering
32 the Stormwater Pond;

33
34 d. otherwise in accordance with all applicable City requirements; and

35
36 e. before or with the phase of development in the PUD that includes the
37 400th residential unit or first 20,000 square of retail/commercial space.

38
39 3. To the extent not satisfied by the Stormwater Pond, requirements of §25-
40 7-61 (*Criteria for Approval of Plats, Construction Plans, and Site Plans*) in the

1 PUD shall be satisfied by participation in the regional stormwater management
2 program under §8 of the Drainage Criteria Manual, provided that owners may
3 apply for detention waivers and will neither seek nor accept cost reimbursement
4 or participation from the City.
5

6 4. Before or upon filing the first development application in the PUD, the
7 owner shall submit to the Director for approval a stormwater management plan
8 for the PUD. The plan shall provide for the use of the Stormwater Pond,
9 vegetative filter strips, rain gardens, berms, other innovative water quality
10 methods, or any combination thereof to treat stormwater from the PUD and the
11 area draining to the Stormwater Pond to meet or exceed City pollutant removal
12 efficiency requirements and other requirements of Chapter 25-8, Subchapter A
13 (*Water Quality*). If it does not impair efficient and effective stormwater
14 management, the Director may allow for submission of the plan in parts as
15 phases of the PUD develop instead of requiring a single plan to be submitted
16 before or with the first development application.
17

18 5. All aspects of the design and construction of the Stormwater Pond are
19 subject to the Director's approval.
20

21 6. The Stormwater Pond shall be maintained by the property owner(s).
22

23 F. Building Design, Construction, and Use.
24

25 1. Development on Arena Drive shall comply with the standards for
26 development on a core transit corridor under Chapter 25-2, Subchapter E
27 (*Design Standards and Mixed Use*)
28

29 2. Building design, including basewalls and angled stepbacks, shall exceed by
30 at least one point the minimum points required by Chapter 25-2, Subchapter
31 E, §3.3 (*Options to Improve Building Design*) of the City Code.
32

33 3. Development in the PUD shall comply with the requirements of the Austin
34 Energy Green Building Program (GBP) multifamily or commercial rating
35 system for a minimum three-star rating with 25 percent above energy code
36 requirements. Certification from the GBP shall be required based on the
37 version of the rating system in accordance with the Austin Energy Green
38 Building Program Rating Packets included in Exhibit D, whichever is
39 applicable.
40

1 4. 2.5% of residential units in the PUD shall be fully accessible Type A
2 dwelling units under the 2003 International Building Code, as amended
3 locally by the City.

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

7
8 a. Parking shall be located either (a) sub-grade or partially sub-grade, or
9 (b) wrapped by living units or space usable for retail or office space, a
10 sales office, management office, leasing office, recreational facilities,
11 or other amenities within the building or any pedestrian oriented use.
12 At the owner's request, the Director shall modify the foregoing
13 requirements for an easterly or westerly facing parking garage that is
14 architecturally integrated with the associated building.

15
16 b. A building shall have a base wall less than 40 feet high. Any part of a
17 structure that is 40 feet or more shall fit within an envelope delineated
18 by a 70 degree angle starting at 40 feet above the property boundary
19 line abutting Lakeshore Boulevard with the base of the angle being a
20 horizontal plane extending from a line parallel to and away from the
21 surface of Lady Bird Lake.

22
23 6. Buildings in Areas 2 and 3 as shown on the Land Use plan shall comply with
24 the following requirements.

25
26 a. The primary public front entrance shall be oriented toward
27 Arena Drive.

28
29 b. Buildings shall include pedestrian oriented uses at the
30 northernmost ends, including but not limited to kiosks or areas for the
31 sale and consumption of refreshments with indoor or outdoor seating.

32
33 c. In the area between the 50 foot primary waterfront overlay
34 setback and a parallel line 180 feet south of the PUD's northern
35 boundary, building coverage shall not exceed 70% in Area 2 and 60% in
36 Area 3.

37
38 d. The northern façade of a building shall open to a courtyard
39 or private amenity deck that is either at grade or on top of a parking
40 structure. The maximum height of a parking structure with a courtyard on

1 top shall be 32 feet, as measured per Section 25-1-21(46) (Definitions;
2 Height).

3
4 7. Buildings in Area 4 as shown on the Land Use plan shall comply with the
5 following requirements.
6

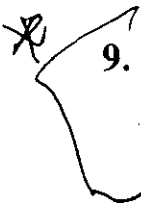
7 a. The primary public front entrance may not be oriented toward
8 Lakeshore Boulevard and the building shall generally have a north/south
9 orientation, except along the southern portion adjacent to Arena Drive.

10
11 b. Buildings shall be set back 100 feet from the PUD's northern
12 boundary.
13

14 c. In the area between the 50 foot primary waterfront overlay setback
15 and a parallel line 300 feet south of the PUD's northern boundary, building
16 coverage may not exceed 60%.
17

18 d. In the part of Area 4 fronting Lakeshore Boulevard that is below 35
19 feet high, no more than 40% of the net frontage length of the property may
20 consist of continuous building façade.
21

22 8. At least 30,000 square feet of retail or other commercial uses shall be
23 included in the PUD. Unless otherwise allowed by the Director, the amount
24 of retail/commercial square footage in each phase of development in the
25 PUD must bear a ratio to the 30,000 square feet that is equal to the ratio that
26 the number of residential units in that phase bears to the 1200 units allowed
27 in the PUD
28

29  9. The total square footage of cocktail lounges or liquor sales uses in the PUD
30 may not exceed one-third of the total square feet of commercial uses in the
31 PUD. Cocktail lounges or liquor sales uses may be divided among no more
32 than five sites not exceeding 5,000 square feet each.
33

34 10. Before or with the phase of development in the PUD that includes the 400th
35 residential unit or first 10,000 square of residential/commercial space, the
36 PUD shall include (a) public facilities of at least 1,000 square feet of space
37 usable for fire protection, emergency service, or law enforcement, and (b)
38 community amenities of at least 1,000 square feet usable for community
39 meetings, daycare facilities, non-profit organizations, or similar uses.
40 Owners shall provide the space rent-free for at 25 years from the date of the

1 certificate of occupancy for the building in which it is located. Occupants of
2 the space will be required to pay for utilities for the space, but shall not be
3 charged for taxes, parking, common area maintenance, or similar charges.
4 Occupants must have either liability and property insurance coverage or a
5 self-insurance program in a commercially reasonable amount, and owners
6 may require or charge for additional insurance or a security deposit only in a
7 commercially reasonable amount.
8

9 **11.** The owner shall provide one independent retail or restaurant small business
10 whose principal place of business is in the Austin Standard Metropolitan
11 Statistical Area usable space in the PUD at a rent 15% below the prevailing
12 market rent when the lease or other arrangement for providing the space is
13 executed. Before execution, the owner shall submit the lease or other
14 arrangement to the Director of the Neighborhood Housing and Community
15 Development Department for review.
16

17 **12.** Owner shall place art of a total value not to exceed \$20,000 in five public
18 locations on the site. Owner shall select the art and its location in
19 consultation with the City Art in Public Places Program.
20

21 **G. Transportation and Circulation.**
22

23 **1.** A site plan or building permit may not be approved, released, or issued, if
24 the completed development or uses in the PUD, considered cumulatively
25 with all existing or previously authorized development and uses, generate
26 traffic that exceeds the total traffic generation for the PUD specified in that
27 certain Traffic Impact Analysis ("TIA") prepared by HDR/WHM
28 Transportation Engineering, Inc., dated September 14, 2009, or as amended
29 and approved by the Director. All development in the PUD is subject to the
30 recommendations contained in the memorandum from the Transportation
31 Review Section of the Planning and Development Review Department,
32 dated September 15, 2009. The TIA shall be kept on file at the Planning and
33 Development Review Department.
34

35 **2.** The owner shall dedicate public right-of-way or access easements for and
36 construct the on-site vehicle routes, sidewalks, bikes lanes, and trails that are
37 located on the site and shown on the Land Use Plan. For off-site facilities,
38 the owner shall pay the proportionate share of the costs of those facilities as
39 set out in the TIA. All pedestrian ways shall meet federal and state
40 accessibility standards for the disabled. Dedication and construction may be

1 phased according to a plan submitted by the owner to and approved by the
2 Director before approval of the first site plan in the PUD. All pedestrian
3 ways and vehicle routes not located in right-of-way accepted for
4 maintenance by the City shall be maintained by the owner in a safe and
5 passable condition. Public access may be restricted to individual buildings,
6 garages or private recreational amenities.
7

8 3. For the vehicle routes, sidewalks, bikes lanes, and trails shown on the Land
9 Use Plan but not located in the PUD, the owner shall pay the proportionate
10 share of the costs of those facilities set out in the TIA.
11

12 4. The trail shown on the Land Use Plan between Lakeshore Boulevard and
13 Arena Drive adjacent to the Stormwater Pond shall be designed and
14 constructed as a multi-use trail.
15

16 5. The trail shown on the Land Use Plan between Lakeshore Boulevard in
17 Areas 1 through 3 and 5 may be located in the primary waterfront overlay
18 setback and shall be designed and constructed as a pervious, multi-use trail
19 located between Lakeshore Boulevard and the first structures south of
20 Lakeshore Boulevard. The owner shall install a drinking fountain and
21 necessary service lines along this trail, none of which shall be included
22 within in impervious cover calculations for the site.
23

24 6. The pavement for the vehicle routes connecting Town Creek Drive and
25 South Lakeshore Boulevard as shown on the Land Use Plan shall be
26 between 25 and 36 feet wide. If it does not impair circulation or threaten
27 public safety, the Director may allow the owner to vary the locations of
28 these two vehicle routes.
29

30 7. If an at-grade pedestrian crosswalk is installed on Lakeshore Boulevard
31 directly adjacent to the PUD, the owner shall pay the costs associated with
32 the crosswalk, including paving, lighting, striping, signalization, and ramps.
33

34 8. Prior to approval of the first site plan in the PUD, the owner must submit to
35 the Director for approval an agreement between the owner and the Capital
36 Metropolitan Transportation Authority that provides for improvements to
37 bus stops in the immediate area of the PUD in the amount of \$25,000.
38

1 9. The PUD shall include three vehicle parking spaces dedicated to use by
2 Austin Carshare, or another nonprofit organization with a similar mission, to
3 be provided free of charge.

4
5 10. Gates will be prohibited on all roadways, access easements, and any
6 driveways that are dedicated for public use per Chapter 25, Subchapter B,
7 Division 5, Section 2.3(J).

8 9 H. Bicycle Plan

10
11 1. For every ten vehicle parking spaces in the PUD, the owner shall provide
12 one bicycle parking space. At least half the total spaces shall be either (a)
13 Class I racks/parking spaces as defined in the City Transportation Criteria
14 Manual or (b) spaces in a locked bicycle storage room with a means to
15 secure individual bicycles within the room. Review and approval of bicycle
16 parking placement by the City of Austin Bicycle Program or any successor
17 program is required prior to site plan approval.

18
19 2. A building containing one or more GR uses, including cocktail lounge,
20 totaling 5,000 square feet or more shall include shower facilities for bicycle
21 riders. Such a building containing 20,000 square feet or more of GR uses
22 including cocktail lounges, shall provide one facility for each gender.
23 Otherwise, the building shall provide one unisex facility. The facilities shall
24 be separately accessible from commercial/retail toilet facilities and include
25 an area for changing clothes and storing personal items. The facilities may
26 be located outside of the building in a common area accessible to all
27 buildings subject to this requirement.

28
29 3. All electric utilities in or adjacent to Arena Drive and Town Creek Drive
30 shall be located in a non-exclusive manner in the right-of-way of these
31 drives, and no electric utilities in or adjacent to Arena Drive or Town Creek
32 Drive shall be required to be located in any other area of the PUD. If electric
33 utilities located in or adjacent to Arena Drive or Town Creek Drive as a
34 result of this note are required to be relocated in the future due to a
35 reconfiguration of either or both drives the property owner accepts full
36 financial responsibility for such relocation.

37 38 I. Landscaping and Trees

39

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

9
10 2. Mitigation for tree removal in the PUD shall exceed the requirements of
11 Chapter 25-2, Subchapter B, Article 1, Division 2 (*Protected Trees*) of the
12 City Code by 10%.

13
14 3. Lower Colorado River Authority (LCRA) trees donated to the City of
15 Austin (not including Trees 142, 146 and 149 that are not LCRA trees)
16 existing along Lakeshore Boulevard on the effective date of this ordinance
17 shall remain unless removal is required to construct the vehicle routes to
18 Lakeshore Boulevard or as otherwise approved by the City arborist. No
19 more than the five trees shown on the Land Use Plan totaling 110 caliper
20 inches may be removed to construct the two vehicle routes, in which case
21 Trees 138 and 148 shall be transplanted using a methodology approved by
22 the City arborist and Trees 137, 139, and 147 may be removed. The owner
23 shall ensure the survivability of the transplanted trees for at least two years
24 pursuant to a plan approved by the City arborist.

25
26 4. The nine trees on Town Creek Drive between Lakeshore Boulevard and
27 Arena Drive numbered 114 through 122 on the Land Use Plan may not be
28 removed, unless the City arborist approves otherwise based on the health of
29 individual trees.

30
31 5. With each site plan application filed in the PUD, the owner shall submit
32 to the Director for approval an integrated pest management (IPM) plan for
33 the site that complies with Section 1.6.9.2 (D) and (F) of the Environmental
34 Criteria Manual.

35 **PART 5. Density Bonus and Affordable Housing Program.**

36
37
38 Redevelopment of the Property will require the destruction of several hundred existing
39 housing units that are affordable to persons of low to moderate income, thus resulting in a
40 significant reduction in the stock of affordable housing in the City. Council intends this

1 ordinance to allow development of the Property to exceed densities allowed by its current
2 zoning as an incentive to the owner of the Property to mitigate this reduction. Therefore,
3 development authorized by this ordinance may vary from the Property's current zoning
4 only on the condition the owner agrees to mitigate this reduction as provided in this Part of
5 this ordinance. Accordingly, Council grants to the owner a density bonus in exchange for
6 the owner's participation in the affordable housing program for the area in, adjacent to, and
7 beyond the PUD as set out in this Part of this ordinance.

8
9 A. The owner must:

10
11 1. The owner shall enter into a written agreement with the City of Travis for the development of affordable housing units on the Property. The agreement shall be entered into by the owner and the City of Travis and shall be recorded in the Travis County real property records as a restrictive covenant against the Property.
12
13
14
15 2. The density bonus shall be used for the development of affordable housing units on the Property and shall be used only for the development or preservation of affordable housing units.

16
17
18 B. For each affordable unit under Section A.1, the affordability requirement shall
19 expire on the 40th anniversary of the issuance of a certificate of occupancy for the unit.

20
21 C. The affordability requirement under Section A.1 shall be extended to the 40th anniversary of the issuance of a certificate of occupancy for the unit *On the property*
22
23

24
25 D. The fee under Section A.1 shall be paid when
26

27 E. Before the earlier of the first anniversary of the effective date of this ordinance, the
28 filing of the first development application to be filed after the effective date of this
29 ordinance, or owner's first notice to any tenants of termination of tenant leases in
30 anticipation of demolition of existing buildings, the owner must submit to the Director
31 of the Neighborhood Housing and Community Development Department for review
32 an agreement between the owner and an entity acceptable to the Director of the
33 Neighborhood Housing and Community Development that provides for at least
34 \$90,000 in displacement and relocation assistance for displaced tenants. The Director
35 of the Neighborhood Housing and Community Development may require the
36 agreement to be recorded in the Travis County real property records as a restrictive
37 covenant against the Property.

F. To accept the density bonus granted to the owner under this ordinance, within 45 days of the effective date of this ordinance the owner shall submit to the Director of the Neighborhood Housing and Community Development Department for approval and thereafter execute and record in the Travis County real property records a restrictive covenant applicable to the Property that contractually commits any owner of the Property to comply with the requirements of Sections A through E of this Part of this ordinance and Subsections 10 and 11 of Section F of Part 4 of this ordinance. The owner may not file a development application for the Property before recording the restrictive covenant. If the owner does not accept the density bonus by submitting, executing, and recording the restrictive covenant within 45 days of the effective date of this ordinance, the PUD may not be developed as allowed by this ordinance, but instead may only be developed as allowed by the Property's zoning in effect immediately prior to adoption of this ordinance.

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

1,019,333
§ 1.3. The impact fees set forth in § 1.2 shall be used for affordable housing within the East Riverside Urban Renewal Planning Area, with priority given to ownership housing, and § 1.4 shall be used for affordable housing for senior citizens.

1,019,333
PART 6. This ordinance takes effect on _____, 2009.

PASSED AND APPROVED

_____, 2009 §
 §
 §

Lee Leffingwell
Mayor

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