

RESTRICTIVE COVENANT

OWNERS Jimmy Nassour (Tract I)
Jimmy Nassour, Trustee (Tract II)
Stephen Oyster and Tina Oyster (Tract III)
Austin 1825 Fortview, Inc., a Texas corporation (Tracts IV, V, and VI)

ADDRESS See Below

OWNER. Contessa Dormitory Associates, Ltd , a Texas limited partnership (6.926 acres)

ADDRESS 3724 West Jefferson Street, Suite 306, Austin, Texas 78731

CONSIDERATION Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged

PROPERTY A 6 926 acre tract of land, more or less, out of the Santiago Del Valle Grant, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit A attached and incorporated into this covenant, and

Tracts I, II, III, IV, V, VI, being those certain lots out of Riverside Divide Section 3 and Shamrock Addition, in the City of Austin, Travis County, as shown on Exhibit B attached and incorporated into this covenant.

WHEREAS, the Owners of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions,

NOW, THEREFORE, it is declared that the Owners of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owners of the Property, its heirs, successors, and assigns

1. Development of the Property is subject to Ordinance No 20060831-068 that established standards for commercial design, including the development bonuses provided in Section 4 3 4 of Subchapter E
- 2 A driveway that provides vehicular access from a public right-of-way to the Property may not be gated
- 3 A 100-foot wide building setback shall be established from the shoreline of Town Lake Improvements permitted within this setback zone are limited to utility crossings, drainage and water quality improvements, the hike and bike trail, or those improvements that may be otherwise required by the City of Austin or specifically authorized in this covenant.
- 4 The maximum height of a building or structure is 60 feet from ground level.

5. Owner is responsible for the construction of the hike and bike trail within a 30-foot wide easement to be provided by the Owner for this purpose prior to the issuance of a certificate of occupancy for a residential project
6. Public pedestrian access shall be provided from East Riverside Drive and Lakeshore Boulevard to Town Lake on the east and west sides of the Property
7. A minimum of 45 residential units shall be provided as for-sale properties.
8. A maximum of 375 dwelling units for rental may be constructed on the Property
9. A minimum of 10,000 square feet of retail uses shall be provided along East Riverside Drive.
10. An area within the Property shall be provided to allow for regional water quality controls to capture, isolate and treat a minimum 10.94 acres of stormwater runoff from off-site contributing drainage areas. The owner will work with the Watershed Protection and Development Review Department staff to identify the opportunity available to capture and treat additional run-off. The size and location of the on-site water quality controls shall be agreed to and approved by the City. The water quality controls shall comply with the water quality control standards as set forth in Section 25-8-213 of the City Code
11. Five percent of the residential units in the vertical mixed use (VMU) building shall be reserved as affordable, for a minimum of 40 years following the issuance of the certificate of occupancy, for rental by households earning no more than 80 percent of the annual median family income (MFI)
12. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
13. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect
14. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it
15. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination
16. This Restrictive Covenant may be executed in any number of counterparts, each of which is deemed to be an original, and all of which are identical

EXECUTED this the _____ day of _____, 2006.

OWNER(S):

6.926 acres (Exhibit A)

**Contessa Dormitory Associates, Ltd.
a Texas limited partnership**

By. ASC Development, L.C.
a Texas limited liability company,
its General Partner

By: Manny Farahani,
President

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2006, by Manny Farahani, President of ASC Development, L.C., a Texas limited liability company, General Partner on behalf of Contessa Dormitory Associates, Ltd., a Texas limited partnership.

Notary Public, State of Texas

EXECUTED this the _____ day of _____, 2006

OWNER(S):

Tract I (Exhibit B)

Jimmy Nassour
Address: 1200 San Antonio St.
Austin, TX 78701

Tract II (Exhibit B)

Jimmy Nassour, Trustee
Address: 1200 San Antonio St.
Austin, TX 78701

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____,
2006, by Jimmy Nassour

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____,
2006, by Jimmy Nassour, Trustee

Notary Public, State of Texas

EXECUTED this the _____ day of _____, 2006.

OWNER(S):

Tract III (Exhibit B)

Stephen Oyster

Tina Oyster

Address _____

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____,
2006, by Stephen Oyster

Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____,
2006, by Tina Oyster

Notary Public, State of Texas

EXECUTED this the _____ day of _____, 2006

OWNER(S):

Tracts IV, V, VI (Exhibit B)

**Austin 1825 Fortview, Inc.
a Texas corporation**

By: _____

Name: _____

Title: _____

Address. _____

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2006, by _____ of Austin 1825 Fortview, Inc, a Texas corporation, on behalf of the corporation.

Notary Public, State of Texas

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Paralegal

**SUMMARY SHEET FOR TRACT 9
EAST RIVERSIDE/OLTORF COMBINED NEIGHBORHOOD PLAN
12-14-06 CITY COUNCIL**

Zoning Case: C14-05-0112 (Portion)

Tract # and Address	Current Zoning & Use	City Council 1 st Reading (11-16-06)	Planning Commission Recommendation (9-26-06 Hearing)	Staff Recommendation	Prospective Developer Recommendation
9 1708, 1712, 1720 S Lakeshore Blvd	Multifamily MF-3 (multifamily residential)	<p align="center">GR-CO</p> <p>Conditional overlay for Tract 9:</p> <ol style="list-style-type: none"> 1. No development within 100 feet of the shoreline, with the exception of utility crossings, drainage and water quality improvements, and the passive hike and bike trail 2. Maximum height of 60 feet <p>Restrictive Covenant for combined site plan (including GR portion of 3.99 acres)</p> <ol style="list-style-type: none"> 1. Compliance with the Commercial Design Standards 2. No gates 3. No development within 100 feet of shoreline, with the exception of utility crossings, drainage and water quality improvements, and the passive recreation hike and bike trail 4. Maximum height of 60 feet 5. 30 foot easement for the hike and bike trail 6. Construction of the hike and bike trail prior to the issuance of a certificate of occupancy for a residential project 7. Public pedestrian access from the street to Town Lake on both the east and west sides 8. Minimum of 45 for-sale units (townhouses) 9. Maximum of 375 dwelling units for rental 10. Minimum of 10,000 SF of retail on E Riverside Drive 11. Increased off-site regional water quality controls 	<p>1ST Motion Approve GR-CO zoning with conditions of a maximum of 375 apartment units, prohibit gated driveways (4-3) MOTION FAILED</p> <p>2ND Motion Move forward to City Council with no recommendation from Planning Commission. (7-0)</p>	<p><i>Mixed Use</i></p> <p>GR</p>	<p><i>Mixed Use</i></p> <p>GR-CO</p> <p>Property owners/prospective developer agree to all conditions approved by Council at 1st Reading in the conditional overlay and the restrictive covenant. In addition, they have agreed to add</p> <p>5% of the rental units shall be affordable for 80% MFI for a period of no less than 40 years.</p>

Existing Conditions

MF-3

6.95 acres

120 apartment units

63.9 % impervious cover

Located within the East Riverside Waterfront Overlay Subdistrict

100' primary setback

50 % impervious cover

Developer Proposal/Request

GR

Develop a combined site plan of 10.94 acres with an adjacent GR portion (3.99 acres)

Limit the number of apartments to 375

5% of the 375 apartments units will be reserved for 80% MFI for 40 years

+/- 50 townhouses at 3 stories

10,000 SF retail

Construction of Hike and Bike Trail with public access

Notes

NPZD staff contacted Austin Water Utility regarding the possibility of moving existing water lines to allow the proposed development to be constructed closer to the right-of way (in accordance with the Commercial Design Standards). Austin Water Utility stated that the lines can be relocated.

Exhibits:

- A. Current Land Use & Zoning Map
- B. Aerial Map
- C. Tract Map
- D. Waterfront Overlay Map
- E. Waterfront Overlay Regulations (abbreviated for south shore)

Staff Contacts:

Zoning Case Manager: Robert Heil, 974-2330

Neighborhood Planner: Melissa Laursen, 974-7226

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 1708, 1712, 1720 SOUTH LAKESHORE BOULEVARD
3 FROM MULTIFAMILY RESIDENCE MEDIUM DENSITY (MF-3) DISTRICT TO
4 COMMUNITY COMMERCIAL-CONDITIONAL OVERLAY (GR-CO)
5 COMBINING DISTRICT.

6
7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

8
9 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to
10 change the base district from multifamily residence medium density (MF-3) district to
11 community commercial-conditional overlay (GR-CO) combining district on the property
12 described in Zoning Case No. C14-05-0112, on file at the Neighborhood Planning and
13 Zoning Department, as follows:

14
15 A 6.926 acre tract of land, more or less, out of the Santiago Del Valle Grant, in
16 Travis County, the tract of land being more particularly described by metes and
17 bounds in Exhibit A attached and incorporated into this ordinance,

18
19 locally known as 1708, 1712, 1720 South Lakeshore Boulevard, in the City of Austin,
20 Travis County, Texas, also identified for purposes of this ordinance as Tract 9 (part), and
21 generally identified in the map attached as Exhibit "B".

22
23 PART 2. The Property within the boundaries of the conditional overlay combining district
24 established by this ordinance is subject to the following conditions:

- 25
26 1. The maximum height of a building or structure is 60 feet from ground level.
27
28 2. A 100-foot wide building setback shall be established from the shoreline of Town
29 Lake. Improvements permitted within this setback zone are limited to utility crossings,
30 drainage and water quality improvements, the hike and bike trail, or those
31 improvements that may be otherwise required by the City of Austin or specifically
32 authorized in this ordinance.

33
34 Except as specifically restricted under this ordinance, the Property may be developed and
35 used in accordance with the regulations established for the community commercial (GR)
36 base district and other applicable requirements of the City Code.
37

1
2 **PART 3.** This ordinance takes effect on _____, 2006.
3

4
5 **PASSED AND APPROVED**
6

7
8
9 _____, 2006

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§
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Will Wynn
Mayor

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13
14 **APPROVED:**

David Allan Smith
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk