

ORDINANCE NO. _____

AN ORDINANCE ADOPTING A PROJECT CONSENT AGREEMENT WAIVING OR MODIFYING CITY CODE TITLE 25, INCLUDING CHAPTER 25-8, SUBCHAPTER A, ARTICLE 13 (SAVE OUR SPRINGS INITIATIVE), TO ALLOW CONSTRUCTION OF A MIXED USE-RESIDENTIAL PROJECT AT 7415 SOUTHWEST PARKWAY FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT IN THE EAST OAK HILL NEIGHBORHOOD PLANNING AREA.

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

PART 1. The City Council makes the following legislative findings:

- (A) Chapter 245 of the Texas Local Government Code provides that development projects are, with few exceptions, entitled to be completed under the rules and regulations in effect on the date that the first application for the project is filed.
- (B) Project consent agreements are a tool, authorized by City Code Section 25-1-544 (*Project Consent Agreements*), that can be used to: (1) establish regulations for projects where vested rights are unclear; and (2) incentivize projects with clearly established vested rights to achieve greater compliance with current code.
- (C) The Development Services Department (“DSD”), in consultation with the Environmental Officer, has determined that the project consent agreement adopted by this ordinance meets threshold criteria in City Code Section 25-1-544 (*Project Consent Agreements*): based on contested issues regarding whether the project can develop multifamily residential under the regulations in effect at the time that the original plat was submitted. While DSD has asserted that development of multifamily residential would be considered a new project, the department finds the case to be appropriate for resolution through the project consent agreement process.
- (D) To address these competing claims, and achieve greater compliance with current regulations, the project consent agreement adopted by this ordinance relaxes certain provisions of current code to facilitate development of a multifamily residential project within the approved site

36 plan for Lantana Block P, Lot 3 (SP-2014-0262C)(the “Site Plan”), but
37 provides greater environmental protections than would apply if a
38 multifamily project were approved under 1984 regulations.
39

- 40 (E) To offset the impact of development on the properties covered under this
41 project consent agreement and achieve greater environmental protections,
42 the agreement provides for preservation of additional natural areas as open
43 space and parkland, regardless of whether multifamily residential is
44 constructed.

45 **PART 2.** Based on the foregoing findings, and on recommendation of DSD and
46 the City’s Environmental Officer, the City Council approves the following Lantana
47 Block P, Lot 3 Project Consent Agreement, referred to in this ordinance as “PCA”.

48 **(A) General Conditions & Limitations.**

49 The regulatory modifications authorized under the PCA apply to
50 development shown within the Site Plan and Lot 8 as described in Part 2
51 Subsection B (the “Project”) and the Project shall be subject to all other
52 restrictions set forth in the PCA. Any site plan corrections for the Project
53 submitted in conformance with the applicable procedures at the time may
54 develop under the terms of the PCA. Following completion of the
55 improvements for the Project under the terms of the PCA, any further
56 development or redevelopment is subject to regulations in effect on the
57 date the development application is submitted and may not use the
58 regulatory modifications authorized by the PCA.

59 **(B) Properties Covered by Lantana Phase 1 Section 2 PCA.**

60 The PCA includes only the following properties:
61

- 62 (1) Lots 3, 5, and 8, Block P, LANTANA PHASE 1, SECTION 2, a
63 subdivision in Travis county, Texas, according to the map or plat
64 thereof recorded as Document No. 200000150 in the Official Public
65 Records of Travis County, Texas.

66 **(C) Regulatory Modifications for the Project.**

67 Except as otherwise provided in this PCA, the Project is subject to the
68 development regulations in effect on the date a revised Site Plan for the
69

property is submitted. A correction for Phases 1-4 of the Site Plan may add impervious cover up to the limitation established below.

- (1) ***Impervious Cover.*** Impervious cover for all development shown on the revised Site Plan shall be limited to a maximum of 17.6 acres on Lot 3 and Lot 5.
- (2) ***Site Plan Expiration.*** City Code Section 25-5-81 (*Site Plan Expiration*) is modified so that the Site Plan expires April 30, 2024.
- (3) ***Tree Survey.*** The tree survey submitted in connection with the Site Plan shall serve as the applicable tree survey for the Project, and no further tree survey will be required in connection with any Site Plan revision or correction.

(D) Regulatory Modifications for Mixed-Use Development.

A portion of the Project, as shown on Exhibit 1, may be developed as mixed use with multifamily residential units (“Phase 5 Development”) and is not subject to any limitations on the number of multifamily units imposed by the Patton Ranch Preliminary Plan. Phase 5 Development will be developed in accordance with the following regulatory modifications.

- (1) ***Construction on Slopes:*** Compliance with City Code Sections 25-8-301 (*Construction of a Roadway or Driveway*) and 25-8-302 (*Construction of a Building or Parking Area*) will not be required. Instead, the Phase 5 Development will be allowed to construct on slopes as follows:
 - (a) No commercial development shall exceed 65 percent cover on slopes of 10 percent to 20 percent gradient, nor 25 percent on slopes greater than 20 percent gradient provided, however, that no multi-family residential development shall exceed 65 percent impervious cover on slopes of 0 percent to 20 percent gradient, nor 25 percent impervious cover on slopes greater than 20 percent gradient.

- 104 (2) **Cut Requirements.** City Code Section 25-8-341 (*Cut Requirements*)
105 shall be modified to allow cuts on a tract of land up to 12 feet of
106 depth.
107
- 108 (3) **Fill Requirements.** City Code Section 25-8-342 (*Fill Requirements*)
109 shall be modified to allow fill on a tract of land up to 12 feet of
110 depth.
111
- 112 (4) **Pollution Requirements.** Compliance with City Code Section
113 25-8-514(a) (*Pollution Prevention Required*) shall not be required
114 for the Phase 5 Development. Instead, the Phase 5 Development will
115 consist of the following:
116
- 117 (a) Vegetated buffer areas, rain gardens, or grass-lined swales, with
118 no calculated pollutant removal performance standards
119 requirements associated with these buffer areas, rain gardens,
120 and swales, may be utilized where possible at the applicant's
121 discretion at the time of a revised site development permit
122 application so long as natural areas are not disturbed.
123
- 124 (b) Water quality controls have been satisfied and comply with
125 the provisions outlined in 25-8-213 for suburban watershed
126 classification.
127
- 128 (5) **Environmental Resource Inventory.** Compliance with City Code
129 Section 25-8-121 (*Environmental Resource Inventory Requirement*)
130 shall not be required for the Phase 5 Development.
131
- 132 (6) **Hill Country Roadway Natural Area Requirement.** The Hill
133 Country Roadway requirement that at least 40 percent of a site
134 remain natural has been achieved through the dedication of the 3.098
135 acres described in Subsection (1) of Part E, below. However,
136 because the 3.098 acres of City Property is not included in the Site
137 Plan, City Code Section 25-2-1025 (*Natural Area*) is modified to
138 require at least 31 percent of a site as natural area.
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- 140 (7) ***Critical Environmental Features.*** The setbacks associated with the
141 Critical Environmental Features identified on the Site Plan shall be
142 applicable to the Phase 5 Development, and no additional Critical
143 Environmental Features shall be identified or included in the Site
144 Plan.

145 (E) **Additional Development Regulations.**
146

- 147 (1) ***Dedication of Lot 8.*** The following property, generally described in
148 Exhibit 2 shall be deeded to the City of Austin within 180 days of
149 the effective date of this PCA: Lot 8, Block P, LANTANA PHASE
150 1, SECTION 2, a subdivision in Travis county, Texas, according to
151 the map or plat thereof recorded as Document No. 200000150 in the
152 Official Public Records of Travis County, Texas (“City Property”).
153 The form of deed is attached as Exhibit 3 to this PCA. The City
154 Property shall be divided as follows:

155 (a) There will be 3.098 contiguous acres of the City Property that
156 shall remain undisturbed natural area, with the exception of
157 trails composed of crushed granite or other compacted natural
158 material.

159
160 (b) The remaining 3.228 acres of the City Property may be used
161 for the development of park amenities and be limited to
162 16,600 square feet of impervious cover.

- 163 (2) ***Parkland Dedication.*** Dedication of the City Property will be
164 credited 4.68 acres towards the Project’s future parkland dedication
165 requirements under City Code Section 25-1-602 (*Dedication of*
166 *Parkland*). If the credited amount of parkland is insufficient to meet
167 the parkland dedication requirements for the Project, then the City
168 will accept fees in-lieu of land and development for the remaining
169 required parkland dedication per the fee schedule in effect at the
170 time of the revised Site Plan approval.

- 171 (3) ***Net Site Area.*** Prior to release of the revised Site Plan for the
172 Project, the applicant shall dedicate additional land, as identified in
173 Exhibit 4. The dedication of additional land, with the net site area

available from Lot 8 and the Site Plan, will result in the Phase 5 Development and Lot 8 complying with a maximum impervious cover of 25 percent on a net site area basis.

(F) Exhibits.

If there is a conflict between the text of the PCA and any of the attached exhibits, the language of the PCA controls.

(G) Expiration of the Lantana Phase 1 Section 2 PCA

The terms of this PCA shall expire the earlier of:

- (1) the expiration of the Site Plan; or
- (2) when construction for all improvements included on the revised Site Plan for the Project have been completed.

(H) Project Complete

For purposes of compliance with Chapter 245 of the Texas Local Government Code, the Project shall be deemed complete upon completion of the development described in the site development permit associated with the PCA.

PART 3. This ordinance takes effect on _____, 2020.

PASSED AND APPROVED

_____, 2020 § _____
§
§

Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk