



THE STATE OF TEXAS *

COUNTY OF WILLIAMSON *

CITY OF ROUND ROCK *

I, SARA L. WHITE, City Secretary of the City of Round Rock, Texas, do hereby certify that I am the custodian of the public records maintained by the City of Round Rock and the attached is a true and correct copy of Ordinance No. Z-08-07-24-9C2 which re-zones 48.765 acres of land from SF-2 to PUD No. 82, which was approved and adopted by the Round Rock City Council at a regular meeting held on 24th day of July 2008 and recorded in the City Council Minute Book 56.

CERTIFIED by my hand and seal of the City of Round Rock, Texas on this 25th day of July 2008.




SARA L. WHITE, City Secretary

ORDINANCE NO. 7-08-07-24-902

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ROUND ROCK, TEXAS ADOPTED IN SECTION 11.305(2), CODE OF ORDINANCES (1995 EDITION), CITY OF ROUND ROCK, TEXAS, AND MAKING THIS AMENDMENT A PART OF THE SAID OFFICIAL ZONING MAP, TO WIT: TO REZONE 48.765 ACRES OF LAND, OUT OF THE JACOB M. HARRELL SURVEY, ABSTRACT NO. 284, IN ROUND ROCK, WILLIAMSON COUNTY, TEXAS, FROM DISTRICT SF-2 (SINGLE FAMILY - STANDARD LOT) TO PLANNED UNIT DEVELOPMENT (PUD) NO. 82.

WHEREAS, an application has been made to the City Council of the City of Round Rock, Texas to amend the Official Zoning Map to rezone 48.765 acres of land, out of the Jacob M. Harrell Survey, Abstract No. 284, in Round Rock, Williamson County, Texas, being more fully described in Exhibit "A" attached hereto, from District SF-2 (Single Family - Standard Lot) to Planned Unit Development (PUD) No. 82, and

WHEREAS, the City Council has submitted the requested change in the Official Zoning Map to the Planning and Zoning Commission for its recommendation and report, and

WHEREAS, the Planning and Zoning Commission held a public hearing concerning the requested change on the 23rd day of July, 2008, following lawful publication of the notice of said public hearing, and

WHEREAS, after considering the public testimony received at such hearing, the Planning and Zoning Commission has recommended that the Official Zoning Map be amended so that the zoning classification of the property described in Exhibit "A" be changed to PUD No.82, and

WHEREAS, on the 24th day of July, 2008, after proper notification, the City Council held a public hearing on the requested amendment, and

WHEREAS, the City Council determines that the zoning provided for herein promotes the health, safety, morals and protects and preserves the general welfare of the community, and

WHEREAS, each and every requirement set forth in Chapter 211, Sub-Chapter A., Texas Local Government Code, and Section 11.300 and Section 11.400, Code of Ordinances (1995 Edition), City of Round Rock, Texas concerning public notices, hearings, and other procedural matters has been fully complied with, Now Therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK, TEXAS:

I.

That the City Council has hereby determined the Planned Unit Development (PUD) No. 82 meets the following goals and objectives:

- (1) The development in PUD No. 82 is equal to or superior to development that would occur under the standard ordinance requirements.
- (2) P.U.D. No. 82 is in harmony with the general purposes, goals, objectives and standards of the General Plan.
- (3) P.U.D. No. 82 does not have an undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and general welfare.
- (4) P.U.D. No. 82 will be adequately provisioned by essential public facilities and services including streets, parking, drainage, water, wastewater facilities, and other necessary utilities.

- (5) P.U.D. No. 82 will be constructed, arranged and maintained so as not to dominate, by scale and massing of structures, the immediate neighboring properties or interfere with their development or use in accordance with any existing zoning district.

II.

That the Official Zoning Map adopted in Section 11.401(2)(a), Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended so that the zoning classification of the property described in Exhibit "A", attached hereto and incorporated herein shall be, and is hereafter designated as, Planned Unit Development (PUD) No. 82, and that the Mayor is hereby authorized and directed to enter into the Development Plan for PUD No. 82 attached hereto as Exhibit "B", which agreement shall govern the development and use of said property.

III.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Alternative 1.

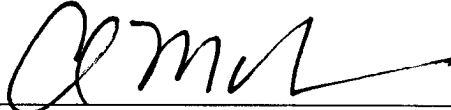
By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this 24th day of July, 2008.

Alternative 2.

READ and APPROVED on first reading this the ____ day of _____, 2008.

READ, APPROVED and ADOPTED on second reading this the ____ day of _____, 2008.



ALAN MCGRAW, Mayor
City of Round Rock, Texas

ATTEST:



SARA L. WHITE, City Secretary

**DEVELOPMENT PLAN
ARBOR PLACE
PLANNED UNIT DEVELOPMENT NO. 82**

**THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §**

THIS DEVELOPMENT PLAN (this "Plan") is adopted and approved by the CITY OF ROUND ROCK, TEXAS (hereinafter referred to as the "City"). For purposes of this Plan, the term Owner shall mean Round Rock Arbor Place, L.P., their respective successors and assigns; provided, however, upon sale, transfer or conveyance of portions of the hereinafter described property, the duties and obligations of the Owner, as it relates to the respective property, shall be assumed by the new owner, and the Owner shall have no further liability relating to their respective property.

WHEREAS, the Owner is the owner of certain real property consisting of 48.764 acres, as more particularly described in **Exhibit "A"**, (herein after referred to as the "Property") attached hereto and made a part hereof; and

WHEREAS, the Owner has submitted a request to the City to rezone the Property as a Planned Unit Development (the "PUD"); and

WHEREAS, the City adopted an ordinance allowing gated communities, Ordinance No. G-08-26-9D2, on June 26, 2008; and

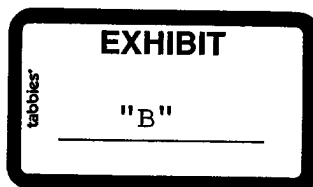
WHEREAS, pursuant to Chapter 11, Section 11.314, Code of Ordinances (1995 Edition), City of Round Rock, Texas, the Owner has submitted Development Standards setting forth the development conditions and requirements within the PUD, which Development Standards are contained in Section II of this Plan; and

WHEREAS, the City has held two public hearings required by law to solicit input from all interested citizens and affected parties; and

WHEREAS, on July 23, 2008, the City's Planning and Zoning Commission recommended approval of the Owner's application for a PUD; and

WHEREAS, the City Council has reviewed the proposed Plan and determined that it promotes the health, safety, and general welfare of the citizens of Round Rock and that it complies with the intent of the Planned Unit Development Ordinance of the City;

NOW THEREFORE, CITY AND OWNER HEREBY APPROVE THIS DEVELOPMENT PLAN AS FOLLOWS:



I.

GENERAL PROVISIONS

1. CONFORMITY WITH DEVELOPMENT STANDARDS

That all uses and development within the Property shall conform to the Development Standards included in Section II herein.

2. CHANGES AND MODIFICATIONS

No changes or modifications will be made to this Plan unless all provisions pertaining to changes or modifications as stated in Section II.12 below are followed.

3. ZONING VIOLATION

Owner understands that any person, firm, corporation or other entity violating any conditions or terms of the Plan shall be subject to any and all penalties for the violation of any zoning ordinance provisions as stated in Section 1.601, Code of Ordinances, (1995 Edition), City of Round Rock, Texas, as amended.

4. MISCELLANEOUS PROVISIONS

4.1. Severability

In case one or more provisions contained of this Plan are deemed invalid, illegal or unenforceable in any respect such invalidity, illegality or unenforceability shall not affect any other provisions of this Plan and in such event, this Plan shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Plan.

4.2. Venue

All obligations of the Plan are performable in Williamson County, Texas, and venue for any action shall be in Williamson County.

4.3. Effective Date

This Plan shall be effective from and after the date of approval by the City Council.

II.

DEVELOPMENT STANDARDS

1. DEFINITIONS

Words and terms used herein shall have their usual force and meaning, or as defined in the Code of Ordinances (1995 Edition), as amended, City of Round Rock, Texas, hereinafter referred to as "the Code."

2. PROPERTY

This Plan covers approximately 48.764 acres of land, located within the city limits of Round Rock, Texas, and more particularly described in **Exhibit "A"**.

3. PURPOSE

The purpose of this Plan is to ensure a PUD that 1) is equal to, superior than and/or more consistent than that which would occur under the standard ordinance requirements, 2) is in harmony with the General Plan, as amended, 3) does not have an undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and welfare, 4) is adequately provisioned by essential public facilities and services, and 5) will be developed and maintained so as not to dominate, by scale or massing of structures, the immediate neighboring properties or interfere with their development or use.

4. APPLICABILITY OF CITY ORDINANCES

4.1. Zoning and Subdivision Ordinances

The Property shall be regulated for purposes of zoning and subdivision by this Plan. All aspects not specifically covered by this Plan shall be regulated by the **SF-2 (Single Family - Standard Lot)** zoning district and other sections of the Code, as applicable, and as amended. If there is a conflict between this Plan and the Code, this Plan shall supersede the specific conflicting provisions of the Code.

4.2. Other Ordinances

All other Ordinances within the Code, as amended, shall apply to the Property, except as clearly modified by this Plan. In the event of a conflict, the terms of this Plan shall control.

5. GATED COMMUNITY STANDARDS

Development of the Property shall comply with all of the regulations and provisions for a Gated Community contained in Chapter 8 in the Code of Ordinances (1995 Edition), City of Round Rock, Texas, such regulations and provisions having been adopted as Ordinance No. G-08-06-26-9D2, attached as **Exhibit "C"**. The following are minimum requirements for a Gated Community:

- 5.1. The Gated Community private street system must comply with the design standards in the Code. All ordinances, rules, regulations, design standards and construction standards which govern public streets shall apply to Gated Community private streets, including but not limited to, street and roadway width, paving, drainage, sidewalks, submission of plans, and street lighting requirements.
- 5.2. The private street system within a Gated Community shall provide perpetual access for all lots within the development, for police and other emergency vehicles, public and private utility maintenance and service personnel, solid waste collection services, the U.S. Postal Service, and government employees in pursuit of their official duties.
- 5.3. Any type of gate or controlled access means or mechanism is subject to the approval of the City's Fire Marshal, and any corrective action shall be the responsibility of the property owners association. The location of any such gate or controlled access means or mechanism and any associated appurtenances shall be subject to the approval of the Transportation Director, and shall not impede necessary sight lines for traffic nor create vehicular stacking that adversely affects an adjacent street. A turnaround area subject to the approval of the Transportation Director shall be provided on the exterior side of any such gate or controlled access means or mechanism to allow traffic to reverse direction. The City shall bear no responsibility or liability in connection with the removal or destruction of any gate or other controlled access mechanism while engaged in an emergency action.

6. DENSITY AND DESIGN STANDARDS

6.1. Maximum Number of Dwelling Units

- The Property shall contain a maximum of 120 dwelling units.

6.2. Lot Size

- The average Lot size shall be 10,000 square feet or greater.
- The minimum Lot size shall be 8,450 square feet.
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6.3. Subdivision Design

- The property shall be subdivided in accordance with **Exhibit "B"**.

7. SPECIAL PURPOSE LOTS

The following lots shall be designated as special purpose lots and shall be owned and maintained by the POA.

7.1. Phase One

- Block A, Lot 1; Block A, Lot 4; Block A, Lot 37
- Block B, Lot 1
- Block G, Lot 1 [private streets]

7.2. Phase Two

- Block G, Lot 1 [private streets]

8. PRIVATE ACCESS AMENITY PLAN

A private access amenity plan, including a scale drawing showing the plan and profile of all walls, gates, entry areas, landscaping, architectural features, and signs, etc. has been submitted by the Owner to the City. The private access amenity plan shall be reviewed by the City in association with the preliminary plat. Prior to the recordation of a final plat on the Property, the Owner shall construct, or post the appropriate fiscal security for the construction of the items contained in the private access amenity plan, as approved by the City.

9. GENERAL PLAN 2000

This Development Plan amends the Round Rock General Plan 2000, which was adopted on June 10, 1999.

10. DEVELOPMENT PROCESS

This Plan serves as the Concept Plan required by the Code and approval of this Plan substitutes as a Concept Plan approval. Utility, drainage and other infrastructure information required by the Code are not approved with the approval of this Plan. Subsequent review and approval by the City of this infrastructure information shall be necessary. As specified by the Code, the Owner shall be required to complete the remaining steps in the City's development process, which may include subdivision platting. The subdivision platting process includes a Preliminary Plat and a Final Plat. No building permit on the Property shall be issued until a Final Plat is approved by the City.

The Property will not be subject to Section 1.2.7 "Grading" of the Drainage Criteria Manual contained in the City of Round Rock Design and Construction Standards. Notwithstanding the preceding, the Owner shall grade all lots within the Property in substantial conformance with the "Overall Drainage Map" contained within the "Arbor Place Phase One and Two Subdivision Improvements" plans prepared by Baker-Aicklen and Associates, Inc. Furthermore, the Owner shall grade the lots within the Property so that (i) they sufficiently drain, (ii) finished floor elevations for houses or structures are appropriately established to preclude adverse impacts or damage from storm water, (iii) finished floor elevations for houses are established a minimum of two feet (2') above the ultimate 100-year floodplain, (iv) any fill is properly placed and is established in accordance with any applicable regulations, and (v) storm water drainage from a particular lot is able to be properly captured and conveyed through or across the abutting lot receiving the storm water, without adverse impacts to the receiving lot. The Owner shall also be responsible for any adverse drainage impacts to abutting or downstream properties caused by the development or grading of the Property.

11. UTILITY SERVICE

11.1 Except where approved in writing by the Chief of Public Works Operations, all electrical, telephone and cablevision distribution and service lines, other than overhead lines that are three phase or larger, shall be placed underground.

11.2 The Property Owners Association shall be responsible for all costs incurred related to the street lights within the PUD. If at all possible, the City will arrange for the electric provider to direct bill the POA for the street lights, and the POA shall promptly pay such bill. If it is not possible for the electric provider to direct bill the POA, then the street light electric bills will be paid by the City, and the POA shall remit to the City, annually and in advance, a dollar amount, reasonably determined by the City, sufficient to meet said costs.

12. CHANGES TO DEVELOPMENT PLAN

12.7. Minor Changes

Minor changes to this Plan which do not substantially and adversely change this Plan may be approved administratively, if approved in writing, by the City Engineer, the Director of Planning and Community Development, and the City Attorney.

12.8. Major Changes

All changes not permitted under section 12.1 above shall be resubmitted following the same procedure required by the original PUD application.

LIST OF EXHIBITS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
Exhibit "A"	Legal Description of Property
Exhibit "B"	Subdivision Design
Exhibit "C"	Ordinance No. G-08-06-26-D2

DESCRIPTION

FOR A 48.765-ACRE TRACT OF LAND SITUATED IN THE JACOB M. HARRELL SURVEY, ABSTRACT 284 IN WILLIAMSON COUNTY, TEXAS, BEING ALL OF: A CALLED 18.56-ACRE TRACT OF LAND IN DEED TO KAY FAMILY TRUST OF RECORD IN VOLUME 2051, PAGE 639 OF THE OFFICIAL RECORDS OF SAID COUNTY, A CALLED 5.98-ACRE TRACT OF LAND IN DEED TO GLENN A. WELSCH, ET UX. OF RECORD IN VOLUME 1803, PAGE 810 OF SAID OFFICIAL RECORDS, A CALLED 22.82-ACRE TRACT OF LAND IN DEED TO MILDRED P. SMYERS OF RECORD IN VOLUME 1419, PAGE 673 OF SAID OFFICIAL RECORDS AND A CALLED 1.36-ACRE TRACT OF LAND IN DEED TO MILDRED P. SMYERS OF RECORD IN DOCUMENT NO. 199959574 OF THE OFFICIAL PUBLIC RECORDS OF SAID COUNTY, SAID 48.765-ACRE TRACT, AS SHOWN ON THE ACCOMPANYING SURVEY PLAT, IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found on a point in the northerly right-of-way line of Smyers Lane (100' right-of-way width), said point being the southwesterly corner of "Deer Run" an unrecorded subdivision, same being the southeasterly corner of said 18.56-acre tract, for the southeasterly corner and **POINT OF BEGINNING** hereof, from which a TXDOT Type I concrete monument found on a point in the southerly right-of-way line of said Smyers Lane bears, N 23°06'04" E a distance of 162.35 feet and S 66°45'36" E a distance of 100.00 feet.

THENCE with the northerly right-of-way line of said Smyers Lane, same being the southerly boundary line of said 18.56-acre tract, the following two (2) courses and distances:

1. S 23°06'04" W for a distance of 494.84 feet to a TXDOT Type I concrete monument found for an angle point in the southerly boundary line hereof,
2. S 24°00'09" W for a distance of 53.37 feet to a 1" iron pipe found at the southeasterly corner of said 5.98-acre tract, same being the southwesterly corner of said 18.56-acre tract, for a point in the southerly boundary line hereof;

THENCE continuing with the northerly right-of-way line of said Smyers Lane, same being the southerly boundary line of said 5.98-acre tract, S 24°00'09" W for a distance of 400.05 feet to a calculated point at the southeasterly corner of said 22.82-acre tract, same being the southwesterly corner of said 5.98-acre tract, for a point in the southerly boundary line hereof;

THENCE continuing with the northerly right-of-way line of said Smyers Lane, same being the southerly boundary line of said 22.82-acre tract, S 24°00'09" W for a distance of 90.22 feet to a 1/2" iron rod found at the most easterly corner of Lot 1, Block A, "King of Kings Addition", a subdivision according to the plat of record in Cabinet N, Slides 53-55 of the Plat Records of

Williamson County, Texas, same being a point of non-tangent curvature in the southerly boundary line of said 22.82-acre tract and the southerly boundary line hereof, from which a TXDOT Type I concrete monument found at a point of curvature in the northerly right-of-way line of said Smyers Lane bears, S 24°00'09" W a distance of 46.99 feet ;

THENCE departing the northerly right-of-way line of said Smyers Lane, with the northerly boundary line of said Lot 1, same being the southerly boundary line of said 22.82-acre tract the following three (3) courses and distances:

1. With the arc of a curve to left having a radius of 20.00 feet, a delta of 114°56'39", an arc length of 40.12 feet and a chord which bears N 32°51'11" W for a distance of 33.73 feet to a 1/2" iron rod found for a point of reverse curvature hereof,
2. With the arc of a curve to right having a radius of 317.21 feet, a delta of 54°51'25", an arc length of 303.71 feet and a chord which bears N 63°34'48" W for a distance of 292.24 feet to a railroad spike found for a point of non-tangency hereof and
3. S 51°38'38" W for a distance of 308.85 feet to a 5/8" iron rod found on a point in the easterly boundary line of a called 26.20-acre tract of land in deed to Brushy Creek Municipal Utility District of record in Document No. 9807909 of said Official Records, said point being the northwest corner of said Lot 1, same being the southwest corner of said 22.82-acre tract for the southwest corner hereof;

THENCE with, in part, the easterly boundary line of said 26.20-acre tract and, in part the easterly boundary line of "Cat Hollow Section B" a subdivision according to the plat of record in Cabinet W, Slides 36-40 of said Plat Records, same being the westerly boundary line of said 22.82-acre tract, N 20°17'43" W for a distance of 460.24 feet to a 3/8" iron rod found on a point in the westerly boundary line of said 22.82-acre tract, said point being the southwesterly corner of said 1.36-acre tract, for a point in the westerly boundary line hereof;

THENCE continuing with the easterly boundary line of said "Cat Hollow Section B", same being the westerly boundary line of said 1.36-acre tract, N 20°17'43" W for a distance of 212.27 feet to a 5/8" iron rod found at the northwesterly corner of said 1.36-acre tract, for a point in the westerly boundary line hereof;

THENCE with, in part, the easterly boundary line of said "Cat Hollow Section B" and, in part, an easterly boundary line of Block 29 of the "Amended Plat of Lots 12, Block 12, Lot 2, Block 19 Lots 10-21, Block 29 & all of Block 30" a subdivision according to the plat of record in Cabinet E, Slides 294-297 of the Plat Records of Williamson County, Texas, N 20°17'43" W for a distance of 1215.66 feet to a 1/2" iron rod found on a point being an ell corner of said

"Amended Plat of Lots 12, Block 12, Lot 2, Block 19 Lots 10-21, Block 29 & all of Block 30", same being the northwest corner of said 22.82-acre tract, for the northwest corner hereof;

THENCE with the northerly boundary line of said 22.82-acre tract, same being, in part, the southerly boundary line of said "Amended Plat of Lots 12, Block 12, Lot 2, Block 19 Lots 10-21, Block 29 & all of Block 30" and, in part the southerly boundary line of "Brushy Creek Section Five", a subdivision according to the plat of record in Cabinet AA, Slides 78-79 of said Plat Records, N 69°02'14" E for a distance of 547.48 feet to a 1/2" iron rod found on a point in the southerly boundary line of said "Brushy Creek Section Five", said point being the northeast corner of said 22.82-acre tract, same being the northwest corner of the aforementioned 18.56-acre tract, for an angle point in the northerly boundary line hereof;

THENCE with the southerly boundary line of said "Brushy Creek Section Five", same being the northerly boundary line of said 18.56-acre tract, N 68°18'30" E for a distance of 335.87 feet to a 1/2" iron rod with "Baker-Aicklen" cap set on an angle point in the southerly boundary line of said "Brushy Creek Section Five", same being an angle point in the northerly boundary line of said 18.56-acre tract, for an angle point in the northerly boundary line hereof;

THENCE continuing with the southerly boundary line of said "Brushy Creek Section Five", same being the northerly boundary line of said 18.56-acre tract, N 69°23'59" E for a distance of 482.75 feet to a 1/2" iron rod found on a point in the westerly boundary line of a Remnant Portion of a called 131.71-acre tract of land in deed to A.H. Robinson, Jr., et al of record in Volume 413, Page 626 of the Deed Records of Williamson County, Texas, said point being the southeast corner of said "Brushy Creek Section Five", same being the northeast corner of said 18.56-acre tract, for the northeast corner hereof;

THENCE with the westerly boundary line of said Remnant Portion, same being the easterly boundary line of said 18.56-acre tract, S 21°10'14" E for a distance of 237.39 feet to a 1/2" iron rod found on a point being the northernmost corner of the aforementioned "Deer Run" and unrecorded subdivision, same being an angle point in the easterly boundary line of said 18.56-acre tract, for an angle point in the easterly boundary line hereof;

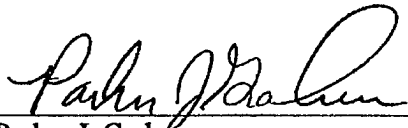
THENCE with the westerly boundary line of said "Deer Run", same being the easterly boundary line of said 18.56-acre tract, the following four (4) courses and distances:

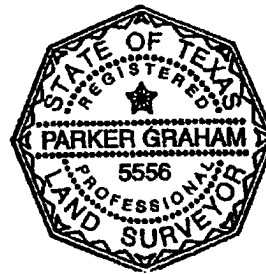
1. S 29°00'09" W for a distance of 323.37 feet to a 1/2" iron rod found for an angle point in the easterly boundary line hereof,
2. S 22°04'24" E for a distance of 733.11 feet to a 1" iron pipe found for an angle point in the easterly boundary line hereof,

3. S 41°15'35" E for a distance of 116.20 feet to a 1" iron pipe found for an angle point in the easterly boundary line hereof,
4. S 82°25'38" E for a distance of 36.47 feet to the POINT OF BEGINNING hereof and containing 48.765 acres of land.

Bearings shown hereon are NAD 83/HARN 93 referenced to the City of Round Rock GPS Control Network.

Surveyed under the direct supervision of the undersigned during January, 2007:

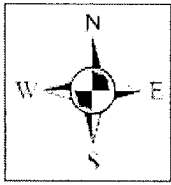
 4/17/07
Parker J. Graham
Registered Professional Land Surveyor No. 5556
BAKER-AICKLEN & ASSOCIATES, INC.
405 Brushy Creek Road
Cedar Park, Texas 78613
(512) 260-3700

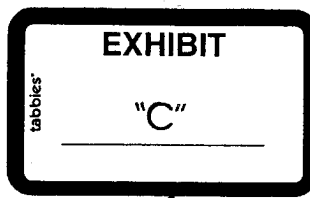


Job No.: 1058-2-003-21

Filename: W:\PROJECTS\LANCE HUGHES-SMYERS LANE\METES-BOUNDS\48.765 AC.DOC

EXHIBIT
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"B"





ORDINANCE NO. G-08-06-26-902

AN ORDINANCE AMENDING CHAPTER 8, CODE OF ORDINANCES (1995 EDITION), CITY OF ROUND ROCK, TEXAS, TO ADOPT REGULATIONS AND PROVISIONS ALLOWING GATED COMMUNITIES AND NON-RESIDENTIAL PRIVATE STREET DEVELOPMENT; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK, TEXAS:

I.

That Chapter 8, Section 8.106, Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to add subsections (29.1), (37.1), (55.1), (57.1) and (60.1) to add definitions which shall read as follows:

8.106 DEFINITIONS

For the purposes of this Chapter, the following words, terms and phrases, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

- (29.1) Gated Community shall mean a residential development that contains private streets and has a gated or guarded entrance that permits only residents of the development and their guests to enter the development.
- (37.1) Non-Residential Private Street Development shall mean a non-residential development that contains private streets. Such development shall not contain a gated or guarded entrance.
- (55.1) Private Street shall mean streets located within a Gated Community or a Non-Residential Private Street Development which are not dedicated to the public for maintenance, operation, or ownership, and which are designated as special purpose lots on a plat.
- (57.1) Public Street shall mean streets that are dedicated to or owned by the City, County, State or Federal Government, and for which the government assumes the responsibility for maintenance, operation, or ownership.
- (60.1) Reserve Specialist shall mean an individual holding the designation of a "Reserve Specialist" issued by the Community Associations Institute

II.

That Chapter 8, Section 8.106, Subsections (29), (32), (48), (61), and (66), Code of Ordinances (1995 Edition), City of Round Rock, Texas, are hereby amended to read as follows:

8.106 DEFINITIONS

For the purposes of this Chapter, the following words, terms and phrases, shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

- (29) Frontage shall mean the line where a parcel of land, lot or site abuts a street.
- (32) Lot shall mean a parcel of land shown on a Final Plat of record and having frontage upon (i) a street and shown on a Final Plat of record, or (ii) an alternate public access to a street through an approved planned unit development zoning district, as provided for in Chapter 11.
- (48) Plat shall mean the map describing an Addition, Subdivision or Replat including any streets, alleys, squares, parks or parts of a tract intended to be dedicated to public use. The Plat shall also describe private streets not intended to be dedicated to public use.
- (61) Right-of-way shall mean land dedicated by a Plat or by separate instrument to and for use as public streets, utilities, drainage, etc.
- (66) Street shall mean the right-of-way or, for private streets, a special purpose lot, and all associated improvements including, but not limited to, driveways, sidewalks, curbs, gutters, storm sewers, drainage facilities, medians, roadway and landscaped areas. As used herein, the term "Street" shall include private streets as well as public streets.

III.

That Chapter 8, Section 8.116, Subsection (8), Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to read as follows:

8.116 SUBDIVISION FEES

(8) Inspection Fees

Inspection fees for Public Improvements and/or Private Streets shall be equal to one and one-half percent (1 ½%) of the actual total construction costs of installing and constructing the Public Improvements and/or Private Streets being inspected. The amount of the Inspection fees for Public Improvements and/or Private Streets shall be sealed by the Developer's Engineer and approved by the City Engineer.

IV.

That Chapter 8, Section 8.204, Subsection (2), Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to read as follows:

8.204 CONCEPT PLAN

(2) Platting of Parent Tract

In order to insure the orderly planning of streets, utilities, drainage and other public facilities, the Parent Tract must be included in a Concept Plan.

V.

That Chapter 8, Section 8.305, Subsection (1)(b), Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to read as follows:

8.305 STANDARDS FOR PARKLAND DEDICATION

(1) General Standards

Parkland conveyed to the City as provided in this Section shall meet each of the standards set forth below:

- (b) The parkland shall have frontage on a public street equal to or greater than the square root of the total square footage of park area to be conveyed (for example, a 435,600 square foot park area, which is the equivalent of a 10 acre park would require 660 linear feet of frontage);

VI.

That Chapter 8, Section 8.308, Subsection (1), Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to read as follows:

8.308 PARKLAND FEE IN LIEU OF PARKLAND CONVEYANCE

(1) When Applicable

The City may at its option require a parkland fee for all or part of the required parkland conveyance under the following circumstances:

- (a) When less than three (3) acres is required to be conveyed;
- (b) Where the proposed parkland does not meet the standards set forth in Section 8.305;

- (c) When a Replat or Amending Plat is submitted subsequent to a rezoning to a higher density classification, or
- (d) When the development is a Gated Community.

VII.

That Chapter 8, Section 8.404, Subsections (2), (3), (4), (6), (7), (9), and (10), Code of Ordinances (1995 Edition), City of Round Rock, Texas, are hereby amended to read as follows:

8.404 STREETS

(2) Street Classification and Characteristics

(a) Local Streets

The purpose of a local street is to provide lot street frontage and carry traffic to a higher classification street. Because of its limited purpose, a local street generally carries an Average Daily Traffic volume no greater than 2000 vehicle trips. Local streets are divided into three subcategories: local-residential, local-non-residential or local-rural. Unless approved by the Transportation Director, a local street shall not connect to two separate higher classification streets or connect directly to arterial streets. Local streets may be designated as private streets.

(b) Collector Streets

Collector streets are divided into two subcategories: local and major. The purpose of collector streets is to convey traffic from intersecting local streets and to expedite the movement of traffic to an arterial street or other collector street. A local collector street generally carries an Average Daily Traffic volume of two thousand (2000) to six thousand (6000) vehicle trips. A major collector street generally carries an Average Daily Traffic greater than six thousand (6000) vehicle trips. Generally, major collector streets shall not permit on-street parking. No collector street in a residential development shall be designated as a private street. Collector streets in Non-Residential Private Street Developments may be designated as private streets.

(c) Arterial Streets

The purpose of an arterial street is to carry high volumes of through traffic. Arterial streets serve as a link between major activity centers within the urban area. Access is usually limited to intersections, multi-family developments and commercial driveways. All arterial streets are designated in the General Plan. An arterial street shall not end as a cul-de-sac. Generally, arterial streets shall not permit on-street parking. No arterial street shall be designated as a private street.

(3) New Streets

(a) Right-of-Way

A Developer shall dedicate or convey at the City's option the amount of right-of-way for each type of street as stated in the Design and Construction Standards. Except as provided below, the Developer must dedicate or convey

the required right-of-way for all streets within the Subdivision as shown on the Plat. The City may reduce the amount of right-of-way dedication for an arterial street based on the design consideration, existing land uses, existing development of adjoining properties, and dimensions of the proposed Addition or Subdivision. In all cases, the amount of right-of-way dedicated for any one street within the Addition or Subdivision shall not exceed one hundred and twenty feet (120') wide or fifteen percent (15%) of the total acreage on the Plat submitted.

(b) Street Improvements

All public and private streets shall be designed and built in accordance with the Design and Construction Standards. The Developer must construct the full cross-section of the arterial streets designated on the General Plan which are located within the Subdivision unless the TIA for the Addition or Subdivision documents a need for a lesser cross-section. In such a case, the Developer shall construct the cross section required by the TIA.

(4) Private Streets

Private streets may be permitted, subject to the provisions of Sections 8.423 and 8.424.

(6) Stub Streets

(a) Except for Gated Communities, a proposed Subdivision or Addition must provide access to adjacent land subdivided by stubbing appropriate streets to the boundaries of the proposed Addition or Subdivision. When the abutting land is platted, the Developer shall integrate the stubbed streets into the existing traffic system of streets in a logical manner as well as continue the same street classification of the stub street. The Developer shall present a schematic plan to demonstrate how the stub street will eventually extend through the adjacent property and connect with a collector or arterial street.

(b) Temporary paved turnarounds shall be provided at the end of stubbed streets which are more than two hundred fifty feet (250') long.

(7) Cul-de-sacs

(a) Local streets may terminate in a cul-de-sac. Collectors and arterial streets may not terminate in a cul-de-sac.

(b) Except as provided herein, the maximum length of a cul-de-sac street shall be seven hundred fifty feet (750'), measured from the centerline of the nearest intersecting outlet street to the centerpoint of the turnaround; except that a longer length may be allowed upon a recommendation by the Fire Department and if the Planning and Zoning Commission determines any of the following:

(i) That no secondary access can be reasonably provided to the portion of the Subdivision which is to be served by the cul-de-sac;

(ii) That limited access to the Subdivision is due to a topographical condition on the property or a particular physical surrounding; or

(iii) That the cul-de-sac is temporary and the street is planned to extend to the adjacent property.

(9) Curb Ramps

- (a) Curb ramps are required within a street wherever a sidewalk or pedestrian route intersects with a curb. The design and construction of curb ramps shall be in accordance with the Design and Construction Standards, and shall meet the Texas Accessibility Standards administered by the Texas Department of Licensing and Regulation and the Americans with Disabilities Act of 1990, as amended.
- (b) Whenever a sidewalk or pedestrian route crosses a raised median, the raised median shall be cut through level with the street, or shall have curb ramps at both median curbs plus a level area at least four feet (4') long between the curb ramps in the median.

(10) Access

All lots shall be provided with frontage on an existing or proposed public or private street.

VIII.

That Chapter 8, Section 8.415, Subsections (1) and (7), Code of Ordinances (1995 Edition), City of Round Rock, Texas, are hereby amended to read as follows:

8.415 LOTS

(1) Special Purpose Lots

Special purpose lots established for the purpose of private streets, parkland dedication, landscaping, postal boxes, flood plain, drainage conveyance, storage, or sedimentation and filtration, lift stations, or water storage, electrical substations, switching stations and other similar facilities needed for transmission and supply of public utilities, may be approved as exceptions to the lot requirements provided in Chapter 11 of this Code. In addition, except for private streets, a special purpose lot does not require street frontage but must be provided vehicular access approved by the City Engineer. A special purpose lot established for a private street must connect to either a public street or another private street that connects to a public street.

(7) Lot Street Frontage

- (a) The lot street frontage for a single-family residential lot shall be no less than twenty-five feet (25').
- (b) The lot street frontage for a non-residential or residential lot other than a single-family lot shall be no less than fifty feet (50').

IX.

That Chapter 8, Section 8.418, Subsection (4), Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to read as follows:

8.418 POSTAL DELIVERY SERVICE

(4) Parking Requirements for Neighborhood Delivery and Collection Box Units

A minimum of one (1) parking space shall be provided for each eight (8) individual postal boxes for the first thirty-two (32) postal boxes excluding package boxes. One additional space shall be provided for each sixteen (16) individual postal boxes thereafter excluding package boxes.

Parking spaces for neighborhood delivery and collection box units may be located in the public right-of-way on public streets or within the special purpose lot for private streets. Parking spaces shall be designed in accordance with the Design and Construction Standards. All aforementioned parking spaces shall not reduce the required roadway width.

X.

That Chapter 8, Section 8.400, Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended by adding Section 8.423 which shall read as follows:

8.423 GATED COMMUNITIES

(1) Intent and Purpose

It is the intent of these Gated Communities regulations to:

- (a) allow Gated Community developments to occur within the City on a limited and restrictive basis; and
- (b) provide for Gated Communities and Private Streets as alternative types of development to allow the City to expand its development types.

(2) Guidelines for Gated Community

The following guidelines are to be satisfied as part of the review and approval process for all Gated Communities and Private Streets:

- (a) All Gated Communities shall be located in areas zoned as Planned Unit Development District (PUD) in accordance with Sections 11.314 and 11.419 of this Code.
- (b) Each application for a Gated Community PUD shall be subject to the approval of the Commission and the City Council, on a case by case basis, based upon the criteria described in this section. However, an applicant who meets the stated criteria will not be entitled to the Gated Community PUD as a matter of right, but shall obtain approval of the Gated Community PUD at the discretion of the Commission and City Council.
- (c) A Gated Community shall be designated solely for residential uses;
- (d) A Gated Community shall not impede a current or future development of a collector street or arterial; or other minor or major thoroughfare; and
- (e) A Gated Community shall not disrupt an existing or proposed public pedestrian pathway, hike and bike trail or park.

(f) A Gated Community shall not contain more than 120 dwelling units.

(3) **General Requirements**

All Gated Community PUD's shall include the following minimum requirements in the PUD ordinance and/or development plan included therein:

- (a) The Gated Community private street system must comply with design standards in this Chapter. All ordinances, rules, regulations, design standards and construction standards which govern public streets shall apply to Gated Community private streets, including but not limited to, street and roadway width, paving, drainage, sidewalks, submission of plans, and street lighting requirements.
- (b) The private street system within a Gated Community shall provide perpetual access for all lots within the development, for police and other emergency vehicles, public and private utility maintenance and service personnel, solid waste collection services, the U.S. Postal Service, and government employees in pursuit of their official duties.
- (c) Any type of gate or controlled access means or mechanism is subject to the approval of the City's Fire Marshal, and any corrective action shall be the responsibility of the property owners association. The location of any such gate or controlled access means or mechanism and any associated appurtenances shall be subject to the approval of the Transportation Director, and shall not impede necessary sight lines for traffic nor create vehicular stacking that adversely affects an adjacent street. A turnaround area subject to the approval of the Transportation Director shall be provided on the exterior side of any such gate or controlled access means or mechanism to allow traffic to reverse direction. The City shall bear no responsibility or liability in connection with the removal or destruction of any gate or other controlled access mechanism while engaged in an emergency action.

(4) **Specific Requirements**

- (a) Each Gated Community plat shall contain the following wording on the face of the plat:
 - (i) "The streets have not been dedicated to the public, for public access nor have they been accepted by the City of Round Rock as public improvements, and the streets and roadways shall be maintained by the property owners association within the subdivision, except that the streets and roadways shall always be open to emergency vehicles, public and private utility maintenance and service personnel, solid waste collection services, the U.S. Postal Service, and governmental employees in pursuit of their official duties."
 - (ii) "The undersigned, his successors, and assigns hereby agrees to release and hold harmless the City, any governmental entity and public utility for damages to the private streets occasioned by the reasonable use of the private streets by the City, governmental entity or public utility, for damages and injury (including death) arising from the condition of said private street; for damages and injury (including death) arising out of the use by the City, governmental entity or public utility of any restricted access gate or entrance; and for damages and injury (including death) arising out of any

use of the subdivision by the City, governmental entity or public entity. The owners of all lots contained in this plat shall release and hold harmless the City, governmental entities and public utilities for such damages and injuries. The releases contained in this paragraph apply regardless of whether or not such damages and injury (including death) are caused by the negligent act or omission of the City, governmental entity or public utility, or their representative officers, employees or agents”

- (iii) “The undersigned, his successors, and assigns hereby agrees that the City is not obligated to provide certain City services on the private streets contained within the development, including, without limitation, routine police patrols, street lighting, enforcement of traffic and parking ordinances and preparation of accident reports.”
- (b) A PUD for a Gated Community must be approved by the City prior to the approval of the final plat. The City shall consider the PUD application after review and recommendation by the City staff. Subject to City Council approval, the requirements of this Chapter may be modified in the ordinance adopting the PUD.
- (c) Easements: Gated Community plats shall provide the following easements:
 - (i). public utility easements containing the private streets and public utilities; and
 - (ii). additional public utility, drainage and storm sewer easements required by the City, Public Utilities, or other public agencies; and
 - (iii). pre-existing easements unaffected by the platting process; and
 - (iv). such private service easements, including but not limited to, utilities, fire lanes, street lighting, government vehicle access, mail collection and delivery access, and utility meter reading access, as may be necessary or deemed mutually convenient by the applicant and the City.
- (d) Access: To insure adequate access to each Gated Community, there shall be at least two (2) points of ingress and egress, except for a Gated Community containing no more than thirty (30) dwelling units. The second entry may be designated for emergency access only.
- (e) Private Access Amenity Plan: For each Gated Community, a private access amenity plan shall be submitted to the Planning Director for review and approval in consultation with other City departments. A private access amenity plan shall be submitted with any Gated Community PUD application. At a minimum, the private access amenity plan shall include a scale drawing showing the plan and profile of all walls, gates, entry areas, landscaping, architectural features, and signs, etc. This will provide opportunity to review proposed controlled access mechanisms, access points, landscaping, screening walls, or similar buffering barriers, and other related private street components.
- (f) The City staff may request rendered perspectives and elevations of proposed structures that are components of the Private Street(s), including description of proposed building materials, roof pitches, signage, and showing relationships to adjacent structures and such other items as the City staff might reasonably request.

- (g) The City staff may require additional data to amplify and clarify the private access amenity plan; such information may include, without limitation, fencing, access controllers, entrance areas, barriers, perimeter walls, and exterior landscaping.
- (h) The City staff may require additional data to illustrate items outside the Gated Community, such as, entrance area, barriers, perimeter walls, exterior landscaping, and other elements as required by City staff.
- (i) No credit will be allowed for the development of private parks, not open to the public. The developer of the Gated Community shall pay a parkland fee in lieu of parkland conveyance in accordance with Section 8.308 (1).
- (j) Private streets and alleys must be constructed within one or more separate lots. Such lot(s) must conform to the City's standards for public street and alley right-of-way. An easement covering the street lot(s) shall be granted to the City providing unrestricted use of the lot(s) for utilities and the maintenance of same. This right shall extend to all utility providers including telecable companies, operating within the City. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, inspection and code enforcement. The easement shall permit the City to remove any vehicle or obstacle within the street lot that impairs governmental service or function, or emergency access.
- (k) With respect to the maintenance and repair of public utilities located within the boundaries of the special purpose lots for private streets, the City's obligation to restore the surface of the special purpose lot shall be limited to the repair or restoration of any grassed area, broom-finished concrete driveway or sidewalk, concrete roadway curb, or asphaltic concrete roadway surface that is removed or disturbed in the course of installing, operating, repairing, or accessing any utilities, lines, or associated appurtenances owned by the City or Public Utilities. The City and Public Utilities shall not be obligated to repair or restore any other item so removed or disturbed, including but not limited to, trees, shrubs, non-grass ground cover, grass other than common St. Augustine or Bermuda, walls, posts, fences, lighting other than street lighting required under Section 8.412, decorative paving, or structures. The City and Public Utilities shall have final authority in determining the limits of any such repair or restoration, the satisfactoriness of such repair or restoration, and that such repair or restoration is in keeping with the standards of other such repairs or restoration provided elsewhere in the City.
- (l) All private traffic signs shall conform to the Texas Manual of Uniform Traffic Control Devices, as amended, and City ordinances and regulations.
- (m) Until conveyance of the private streets, appurtenances, related private storm sewers and drainage facilities to the property owners association, the Developer will maintain a commercial general liability insurance policy written by a company licensed to do business in Texas, with a combined single limit of not less than Five Hundred Thousand and No/100 Dollars (\$500,000.00), which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Such insurance coverage shall specifically name the City as an additional insured. This insurance coverage shall cover all perils arising from the use of the private streets. A copy of each instrument effecting coverage shall be delivered to the City on or before recordation of the plat. Until the private streets are conveyed to the property owners association, the Developer shall not cause such insurance to be canceled nor permit such insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited

until thirty (30) days after the City has received written notice as evidenced by a return receipt of registered or certified mail.

(5) Property Owners Associations

- (a) Each Gated Community PUD shall have an approved property owners association. The Developer will cause to be recorded community covenants that include provisions for (i) mandatory membership in a property owners association by all property owners within the Gated Community; (ii) for mandatory assessments secured by a lien which assessments will include maintenance of private streets, appurtenances, related private storm sewers and drainage facilities; (iii) requirements that the property owners association be responsible for the maintenance of private streets, appurtenances, related private storm sewers and drainage facilities; and (iv) such other provisions required by this Section 8.432(5). The covenants required herein shall be approved by the Director of Planning and City Attorney, and filed for record contemporaneously with the filing of the final plat in the County records department. In lieu of filing the covenants with the final plat, the Developer may record with the final plat a street restrictive covenant, approved by the Director of Planning and City Attorney, obligating the Developer to maintain and repair the private streets, appurtenances, related private storm sewers and drainage facilities and common areas and facilities (and such other provisions required by the City) until a property owners association has been created and community covenants recorded which otherwise comply with this section; provided however that in any event the property owners association must be created and the community covenants must be recorded prior to the Developer's conveyance of any lot to a third party. No assessments need be levied by the property owners association until the property owners association has been created and community covenants recorded and the private streets, appurtenances related private storm sewers, and drainage facilities and common areas and facilities have been conveyed by the Developer to the property association; provided that such private streets, appurtenances, related private storm sewers and drainage facilities, or common areas and facilities must be conveyed to the property association no later than twelve (12) months after completion.
- (b) The community covenants shall provide for a Street Maintenance Reserve Fund for the maintenance, repair and reconstruction of private streets, related private storm sewers and drainage facilities, access control structures and equipment. This Reserve Fund shall be maintained in a separate account and may not be co-mingled with any other property owners association funds. A portion of the assessments levied by the property owners association will be placed in the Street Maintenance Fund. The portion of the assessments collected from lot owners and placed in the Street Maintenance Fund will be based on the current maintenance and replacement schedule prepared and certified by a licensed engineer or an individual holding an RS ("Reserve Specialist") designation from the Community Associations Institute. In conjunction with approval of the final plat, the basis and formula for calculating the amount of assessments to be deposited in the Street Maintenance Fund, shall be subject to review and approval by the Director of Transportation Services and the City Engineer. The property owners association shall provide to the City; (i) annually an affidavit setting forth the fund balance and any expenditures therefrom; and (ii) at least once every three (3) years, an updated maintenance and replacement schedule prepared and certified by a licensed engineer or a Reserve Specialist. No more than once annually, the basis and formula for calculating the amount of assessments to be deposited in the Street Maintenance Fund may be amended, subject to the review and approval of the Director of Transportation Services and the City Engineer.

- (c) The community covenants will permit, but shall not obligate, the City to repair and maintain private streets, appurtenances, related private storm sewers and drainage facilities if the Developer or the property owners association, as applicable fails to maintain such facilities in good condition and repair after the City has provided such party written notice and the thirty (30) days to remedy such failure. Notice will not be required in the case of an emergency. An "emergency" means a condition threatening the health or safety of any person, or significant damage to any publically owned property or utilities, as determined by the City in its sole and absolute discretion. The community covenants shall further provide that the City may use the outstanding balance in the Street Maintenance Reserve Fund if the City is required to repair or maintain the private streets, appurtenances, related private storm sewers and drainage facilities.
- (d) Membership Requirements: Every lot owner within the Gated Community shall be a member of the property owners association.
- (e) The community covenants shall provide that the streets within the Gated Community are private, owned and maintained by the property owners association and that the City has no obligation to maintain or reconstruct the private streets, non-public storm sewers and drainage facilities. The covenants shall include the following provision.

"The property owners association shall be responsible for contacting the City of Round Rock Transportation Services Department every two (2) years, or as needed, from time of initial completion to schedule an inspection, to include city staff and the property owners association's representative for reviewing the private streets."

- (f) The community covenants shall include language, approved by the City Attorney, whereby the association agrees to release and hold harmless the City, its officers, agents, and employees, from any and all claims, lawsuits, judgments, costs or causes of action of any nature whatsoever, whether real or asserted, brought for or on account of any injuries or damages to persons or property including death, resulting from or in any way connected with the construction, maintenance or operation of the private streets.
- (g) Upon conveyance of the private streets, appurtenances, or related private storm sewers and drainage facilities to the property owners association, the property owners association will maintain a commercial general liability insurance policy, written by a company licensed to do business in Texas with a combined single limit of not less than Five Hundred Thousand and No/100 (\$500,000.00), which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Such insurance coverage shall specifically name the City as an additional insured. This insurance coverage shall cover all perils arising from the use of the private streets. A copy of each instrument effecting coverage shall be delivered to the City on an annual basis. The property owners association shall not cause such insurance to be canceled not permit such insurance to lapse. All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until thirty (30) days after the City has received written notice as evidenced by a return receipt of registered or certified mail.

(6) Conversion of Private Streets to Public Streets

- (a) Voluntary Conversion: The City may, but is not obligated to, accept private streets for public access and maintenance. The procedure must conform to all of the following provisions:

- (i) The property owners association must submit a petition signed by one-hundred percent (100%) of its members.
- (ii) All of the streets must be in a condition that is acceptable to the City, in its sole judgment.
- (iii) All access controllers and other structures not consistent with a public street development must be removed at the expense of the property owners association and to the satisfaction of the City.
- (iv) If any maintenance of the streets and roadways is required, the City may use the outstanding balance in the reserve fund for such maintenance. Any remaining balance in the fund shall be returned to the lot owners at the time the private street and/or roadway is converted to a public street on a fair and equitable basis to be determined by the City Council. If the outstanding balance is insufficient to perform the required maintenance, the property owners association shall provide additional funds as required.
- (v) Each lot owner shall execute an instrument of dedication for filing of record, the form of which shall be approved by the City Attorney's office.

(7) Design Standards

The design and construction of the infrastructure within a Gated Community shall conform to the same rules, regulations, standards, and specifications established for standard subdivisions with public streets.

(a) Structures:

- (i) Perimeter fences at entry access points, entry monuments, and access controllers, may be erected within public utility, drainage and storm sewer easement(s), provided they do not impede the operation, installation, maintenance, repair, or replacement of public utilities, drainage facilities, and storm sewers within the easement(s), as determined solely by the City Engineer.
- (ii) Where access controllers are a part of a larger, multipurpose structure, only that portion of the structure which functions as access controllers may encroach the building line adjacent to the private street.

(8) Street lights on private streets

Street lighting shall be provided on private streets in accordance with Section 8.412. It shall be the responsibility of the property owners association to pay for the cost of operating the street lights on private streets.

(9) Additional requirements or standards

The foregoing requirements and standards for Gated Community PUD's are considered to be the minimum requirements. However, nothing contained herein shall be considered as a limitation on the City Council's discretion to modify these or other requirements or standards to make them more or less restrictive, as required by the unique circumstances of each PUD application.

XI.

That Chapter 8, Section 8.400, Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended by adding Section 8.424 which shall read as follows:

8.424 NON-RESIDENTIAL PRIVATE STREET DEVELOPMENT

(1) Intent and Purpose

It is the intent of these Non-Residential Private Street Development regulations to:

- (a) allow Non-Residential Private Street Development to occur within the City on a limited and restrictive basis; and
- (b) provide for Non-Residential Private Street Development as alternative types of development to allow the City to expand its development types.

(2) Guidelines for Non-Residential Private Street Development

The following guidelines are to be satisfied as part of the review and approval process for all Non-Residential Private Street Development:

- (a) All Non-Residential Private Street Development shall be located in areas zoned as Planned Unit Development District (PUD) in accordance with Sections 11.314 and 11.419 of this Code.
- (b) Each application for a Non-Residential Private Street Development PUD shall be subject to the approval of the Commission and the City Council, on a case by case basis, based upon the criteria described in this section. However, an applicant who meets the stated criteria will not be entitled to the Non-Residential Private Street Development PUD as a matter of right, but shall obtain approval of the Non-Residential Private Street Development PUD at the discretion of the Commission and City Council.
- (c) A Non-Residential Private Street Development shall not contain a gated or guarded entrance to limit access to the private street system by members of the general public.

(3) General Requirements

All Non-Residential Private Street Development PUD's shall include the following minimum requirements in the PUD ordinance and/or development plan included therein:

- (a) The Private Street system must comply with design standards in this Chapter. All ordinances, rules, regulations, design standards and construction standards which govern public streets shall apply to Non-Residential Private Street Development, including but not limited to, street and roadway width, paving, drainage, sidewalks, submission of plans, and street lighting requirements.
- (b) The private street system within a Non-Residential Private Street Development shall provide perpetual access for all lots within the development, for police and other emergency vehicles, public and private utility maintenance and service personnel, solid waste collection services, the U.S. Postal Service, and government employees in pursuit of their official duties.

(4) Specific Requirements

- (a) Each Non-Residential Private Street Development plat shall contain the following wording on the face of the plat:
- (i) "The streets have not been dedicated to the public, for public access nor have they been accepted by the City of Round Rock as public improvements, and the streets and roadways shall be maintained by the property owners association within the subdivision, except that the streets and roadways shall always be open to the public, as well as emergency vehicles, public and private utility maintenance and service personnel, solid waste collection services, the U.S. Postal Service, and governmental employees in pursuit of their official duties."
 - (ii) "The undersigned, his successors, and assigns hereby agrees to release, indemnify, defend and hold harmless the City, any governmental entity and public utility for damages to the private streets occasioned by the reasonable use of the private streets by the City, governmental entity or public utility, for damages and injury (including death) arising from the condition of said private street; for damages and injury (including death) arising out of the use by the City, governmental entity or public utility of the said private streets. The owners of all lots contained in this plat shall release the City, governmental entities and public utilities for such damages and injuries. The indemnifications contained in this paragraph apply regardless of whether or not such damages and injury (including death) are caused by the negligent act or omission of the City, governmental entity or public utility, or their representative officers, employees or agents"
 - (iii) "The undersigned, his successors, and assigns hereby agrees that the City is not obligated to provide certain City services on the private streets contained within the development, including, without limitation, routine police patrols, street lighting, enforcement of traffic and parking ordinances and preparation of accident reports."
- (b) A PUD for a Non-Residential Private Street Development must be approved by the City prior to the approval of the final plat. The City shall consider the PUD application after review and recommendation by the City staff. Subject to City Council approval, the requirements of this Chapter may be modified in the ordinance adopting the PUD.
- (c) Easements: Non-Residential Private Street Development plats shall provide the following easements:
- (i). public utility easements containing the private streets and public utilities; and
 - (ii). additional public utility, drainage and storm sewer easements required by the City, Public Utilities, or other public agencies; and
 - (iii). pre-existing easements unaffected by the platting process; and
 - (iv). such private service easements, including but not limited to, utilities, fire lanes, street lighting, government vehicle access, mail collection

and delivery access, and utility meter reading access, as may be necessary or deemed mutually convenient by the applicant and the City.

- (d) Private streets and alleys must be constructed within one or more separate lots owned by the property owners association. Such lot(s) must conform to the City's standards for public street and alley right-of-way. An easement covering the street lot(s) shall be granted to the City providing unrestricted use of the lot(s) for utilities and the maintenance of same. This right shall extend to all utility providers including telecable companies, operating within the City. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, inspection and code enforcement. The easement shall permit the City to remove any vehicle or obstacle within the street lot that impairs governmental service or function, or emergency access.
 - (e) With respect to the maintenance and repair of public utilities located within the boundaries of the special purpose lots for private streets, the City's obligation to restore the surface of the special purpose lot shall be limited to the repair or restoration of any grassed area, broom-finished concrete driveway or sidewalk, concrete roadway curb, or asphaltic concrete roadway surface that is removed or disturbed in the course of installing, operating, repairing, or accessing any utilities, lines, or associated appurtenances owned by the City or Public Utilities. The City and Public Utilities shall not be obligated to repair or restore any other item so removed or disturbed, including but not limited to, trees, shrubs, non-grass ground cover, grass other than common St. Augustine or Bermuda, walls, posts, fences, lighting other than street lighting required under Section 8.412, decorative paving, or structures. The City and Public Utilities shall have final authority in determining the limits of any such repair or restoration, the satisfactoriness of such repair or restoration, and that such repair or restoration is in keeping with the standards of other such repairs or restoration provided elsewhere in the City.
 - (f) All private traffic regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices, as amended, and City ordinances and regulations.
 - (g) The PUD for a Non-Residential Private Street Development may contain provisions to allow driveway access from properties outside the Development and adjacent to a private street, as determined by the City.
- (5) Property Owners Associations
- (a) A Non-Residential Private Street Development PUD shall have an approved property owners association. The property owners association shall require membership by all property owners within the Non-Residential Private Street Development PUD, and have provisions to assess and/or place liens on owners for nonpayment of street maintenance dues. The property owners association shall own and be responsible for the maintenance of private streets, appurtenances, related private storm sewers and drainage facilities. The property owners association shall provide for the payments of dues and assessments required to maintain the private streets. The property owners association covenants and bylaws shall be approved by the Director of Planning and City Attorney. The approved document must be filed for record contemporaneously with the filing of the final plat in the County records department.
 - (b) The property owners association covenants and bylaws shall provide for a Street Maintenance Reserve Fund for the maintenance, repair and reconstruction of private streets, related private storm sewers and drainage facilities, access control structures and equipment. This Reserve Fund shall be

maintained in a separate account and may not be co-mingled with any other property owners association funds. A portion of the assessments levied by the property owners association will be placed in the Street Maintenance Fund. The portion of the assessments collected from lot owners and placed in the Street Maintenance Fund will be based on the current maintenance and replacement schedule prepared and certified by a licensed engineer or an individual holding an RS ("Reserve Specialist") designation from the Community Associations Institute. In conjunction with approval of the final plat, the basis and formula for calculating the amount of assessments to be deposited in the Street Maintenance Fund, shall be subject to review and approval by the Director of Transportation Services and the City Engineer. The property owners association shall provide to the City; (i) annually an affidavit setting forth the fund balance and any expenditures therefrom; and (ii) at least once every three (3) years, an updated maintenance and replacement schedule prepared and certified by a licensed engineer or a Reserve Specialist. No more than once annually, the basis and formula for calculating the amount of assessments to be deposited in the Street Maintenance Fund may be amended, subject to the review and approval of the Director of Transportation Services and the City Engineer.

- (c) The property owners association's covenants shall contain provisions that allow the City to assume the duty of performing the maintenance obligations should the property owners association dissolve or in any way fail or refuse to maintain its obligations. The covenants shall further provide that the City may use the outstanding balance in the Street Maintenance Reserve Fund for maintenance or in the alternative, levy an assessment upon each lot on a pro rata basis for the cost of such maintenance.
- (d) Membership Requirements: Every lot owner within the Non-Residential Private Street Development shall be a member of the property owners association.
- (e) The property owners association documents shall indicate that the streets within the Non-Residential Private Street Development are private, owned and maintained by the property owners association and that the City has no obligation to maintain or reconstruct the private streets, related private storm sewers and drainage facilities. The covenants shall include the following provision.

"The property owners association shall be responsible for contacting the City of Round Rock Transportation Services Department every two (2) years, or as needed, from time of initial completion to schedule an inspection, to include city staff and the property owners association's representative for reviewing the private streets."

- (f) The property owners association covenants and bylaws shall include language, approved by the City Attorney, whereby the association agrees to fully indemnify, hold harmless and defend the City, its officers, agents, and employees, from any and all claims, lawsuits, judgments, costs or causes of action of any nature whatsoever, whether real or asserted, brought for or on account of any injuries or damages to persons or property including death, resulting from or in any way connected with the construction, maintenance or operation of the private streets.

(6) Conversion of Private Streets to Public Streets

- (a) Voluntary Conversion: The City may, but is not obligated to, accept private streets for public access and maintenance. The procedure must conform to all of the following provisions:

- (i) The property owners association must submit a petition signed by one-hundred percent (100%) of its members.
- (ii) All of the streets must be in a condition that is acceptable to the City, in its sole judgment.
- (iii) All structures not consistent with a public street development must be removed at the expense of the property owners association and to the satisfaction of the City.
- (iv) If any maintenance of the streets and roadways is required, the City may use the outstanding balance in the reserve fund for such maintenance. Any remaining balance in the fund shall be returned to the lot owners at the time the private street and/or roadway is converted to a public street on a fair and equitable basis to be determined by the City Council. If the outstanding balance is insufficient to perform the required maintenance, the property owners association shall provide additional funds as required.
- (v) Each lot owner shall execute an instrument of dedication for filing of record, the form of which shall be approved by the City Attorney's office.

(7) Design Standards

The design and construction of the infrastructure within a Non-Residential Private Street Development shall conform to the same rules, regulations, standards, and specifications established for standard subdivisions with public streets.

(8) Street lights on private streets

Street lighting shall be provided on private streets in accordance with Section 8.412. It shall be the responsibility of the property owners association to pay for the cost of operating the street lights on private streets.

(9) Additional requirements or standards

The foregoing requirements and standards for Non-Residential Private Street Development PUD's are considered to be the minimum requirements. However, nothing contained herein shall be considered as a limitation on the City Council's discretion to modify these or other requirements or standards to make them more or less restrictive, as required by the unique circumstances of each PUD application.

XII.

That Chapter 8, Section 8.601, Subsection (2), Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to read as follows:

SECTION 8.600 STORMWATER DRAINAGE FACILITIES

8.601 GENERAL POLICIES

- (2) All stormwater drainage facilities shall be designed to intercept and transport the projected runoff from a twenty-five year (25-year) frequency storm. In addition, those flows greater than a 25-year frequency up to and including a one hundred year (100-

year) frequency storm shall be contained within private streets, public streets, drainage easements, or a combination thereof.

XIII.

That Chapter 8, Section 8.702, Subsection (3), Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to read as follows:

SECTION 8.700 PUBLIC IMPROVEMENTS

8.702 CONSTRUCTION OF PUBLIC IMPROVEMENTS

(3) Sidewalk Construction

(a) Sidewalks for Single Family, Two-Family and Single-Unit Townhouse Lots

Except as provided in Section 8.405(3), a Developer shall install sidewalks on the rear of double frontage lots, on the side of a corner lot and where shown on the Subdivision Improvement Construction Plans.

(b) Sidewalks for Multi-Unit Townhouse, Multifamily, and Non-Residential Lots

A Developer shall install sidewalks for Multi-Unit Townhouse, multifamily and non-residential lots that abut a street and where shown on the Subdivision Improvement Construction Plans. A Subdivision shall not be accepted until the sidewalk has been constructed in accordance with the regulations of this Chapter and has been inspected and approved by the City Engineer.

(c) Deferment of Sidewalk Construction

Sidewalks shall be installed in accordance with (a) and (b) above, except under the following circumstances, as determined by the Transportation Director:

- (i) Where the existing cross-section of the street makes immediate construction of a sidewalk impractical;
- (ii) Where a non-residential Subdivision abutting an existing street is isolated from any other sidewalk by a distance of twice the frontage of the Subdivision; or
- (iii) Where construction or reconstruction of the street where a sidewalk is to be placed is imminent and the sidewalk would be destroyed if constructed.

XII.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Alternative 1.

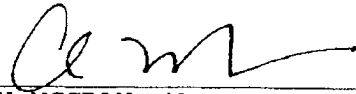
By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this 26th day of June, 2008.

Alternative 2.

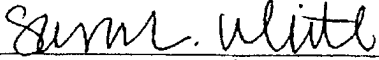
READ and APPROVED on first reading this the _____ day of _____, 2008.

READ, APPROVED and ADOPTED on second reading this the _____ day of _____, 2008.



ALAN MCGRAW, Mayor
City of Round Rock, Texas

ATTEST:



SARA L. WHITE, City Secretary

DATE: July 15, 2008

SUBJECT: City Council Meeting – July 24, 2008

ITEM: 9C2. Consider an ordinance rezoning 48.765 acres of land from SF-2 (Single Family-Standard Lot) zoning district to the Planned Unit Development (PUD) No. 82 zoning district. (Also known as the Arbor Place PUD) (First Reading)

Department: Planning and Community Development
Staff Person: Jim Stendebach, Planning and Community Development Director
Clyde von Rosenberg, Senior Planner

Justification:

The City Council passed an ordinance adopting regulations and provisions to allow gated communities on June 26, 2008. One of the provisions of the ordinance was that all gated communities must be located within an area zoned as the Planned Unit Development (PUD) zoning district.

The Arbor Place subdivision meets the requirements established in the gated communities ordinance and has requested the PUD zoning district.

Funding:

Cost: N/A
Source of funds: N/A

Outside Resources: N/A

Background Information:

The property is currently zoned Single Family – Standard Lot (SF-2). The Planning and Zoning Commission was scheduled to make a recommendation on the rezoning at their July 23, 2008 meeting.

Public Comment:

Public notice was posted and a public hearing was scheduled in accordance with the City of Round Rock's Zoning Ordinance at the Planning and Zoning Commission meeting on July 23, 2008.

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS 2008059176

Nancy E. Rister

07/30/2008 02:51 PM

CMCNEELY \$192.00

NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

④ City of Round Rock City Secretary
221 E. Main St.
Round Rock, TX 78664