

CITY OF HORSESHOE BAY

ORDINANCE NO. ORD 09-04-21B

PLANNED DEVELOPMENT ESCONDIDO PRIVATE RESIDENCE CLUB

AN ORDINANCE OF THE CITY OF HORSESHOE BAY ADOPTING PD ZONING REGULATIONS FOR PLANNED DEVELOPMENT ESCONDIDO PRIVATE RESIDENCE CLUB; ESTABLISHING BOUNDARIES FOR PD ESCONDIDO PRIVATE RESIDENCE CLUB; REZONING CERTAIN PARCELS; AMENDING THE ZONE MAP; ENACTING CERTAIN DEVELOPMENT STANDARDS AND LAND USE REGULATIONS; SETTING OUT ADMINISTRATIVE AND LEGISLATIVE PROCEDURES; IMPOSING CIVIL AND CRIMINAL PENALTIES, INCLUDING FINES NOT TO EXCEED \$2,000 PER OFFENSE; PROVIDING APPROVAL AUTHORITY FOR THE CITY COUNCIL; PROVIDING FOR ENFORCEMENT AND PENALTIES, AND PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

- WHEREAS,** the City Council of the City of Horseshoe Bay ("City Council") seeks to continue to provide for the health, safety, and welfare of those living in, working in, and visiting the City; and
- WHEREAS,** the City has adopted Ordinance No. 07-09-18E, the City's Zoning Ordinance, for the purpose of establishing reasonable land use regulations within the City, including the use of Planned Developments ("PDs"), particularly to meet unique development needs of certain projects; and
- WHEREAS,** Section IV of the City's Zoning Ordinance specifies the procedure and requirements for the creation of PDs, and which permit development of land as an integral unit for single or mixed use in accordance with a PD Concept Plan and in which the goals and objectives of the Comprehensive Plan are to be implemented; and
- WHEREAS,** the owner, Escondido Builders, LLC, (the "Owner") and developer, Escondido Condominium Development, LLC (the "Developer"), proposes development of property in the City in a manner that includes unique needs and for which a Conceptual Site Plan (the "PD Concept Plan"), attached hereto as Exhibit "A," and incorporated herein for all purposes, proposes development standards for a PD, and a statement of how the PD will relate to the City's Comprehensive Plan has been submitted in compliance with the requirements of Section VI of the City's Zoning Ordinance; and

WHEREAS, the property being included in PD ESCONDIDO PRIVATE RESIDENCE CLUB is legally described as a 2.02 arce tract of land being all of Lot P-1, Escondido Plat No. 3.4, City of Horseshoe Bay, Llano County, Texas, according to the plat thereof recorded in Volume 18, Page 89, of the Plat Records of Llano County, Texas; and

WHEREAS, the property is currently zoned R-6 Casita and the developer proposes a ten unit residential development (the "Project"); and

WHEREAS, the City has examined such Concept Plan and all accompanying documents and is of the opinion that the proposed PD is in compliance with Section VI of the City's Zoning Ordinance and that a PD should be created and be identified hereinafter as PD ESCONDIDO PRIVATE RESIDENCE CLUB of the City of Horseshoe Bay (the "PD Ordinance"); and

WHEREAS, Letters from the Escondido Property Owners' Association (POA) approving preliminary site plans have been submitted, and are attached hereto and incorporated herein for all purposes as Exhibit "B"; and

WHEREAS, the parties intend that this PD Ordinance: (i) provide a regulatory process for the development of the Project; (ii) provide certainty with regard to the regulatory requirements applicable to the Project throughout the development of this Project, which will result in a high-quality development for the benefit of the present and future residents of the City; (iii) authorize certain land uses and development on the Property; (iv) provide for the uniform review and approval of plats and development plans for the Property in accordance with this PD Ordinance; and (v) provide other terms and consideration, including, amending the City's Zoning Ordinance (as defined herein) to be consistent with the PD Concept Plan which will be applied to the Property; and

WHEREAS, the City also has examined the proposed land use classification for the parcel and is of the opinion that R-6 Casita within such PD is in compliance with Section IV of the City's Zoning Ordinance and Section IX of the Subdivision Ordinance and would allow such uses as the Developer has requested. The proposed use of 10 attached residential units is within the existing zoning classification; and

WHEREAS, Public notice was provided and the City Council has conducted a public hearing on creation of PD ESCONDIDO PRIVATE RESIDENCE CLUB, as required by law; and

WHEREAS, the City Council, in the exercise of its legislative discretion has concluded that the Zoning Ordinance of the City of Horseshoe Bay should be amended as herein described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. ZONING ORDINANCE AMENDED

Zoning Ordinance No. 07-09-18E, of the City of Horseshoe Bay, Texas as heretofore amended, be and the same is hereby amended by adding a new zone, "PD ESCONDIDO PRIVATE RESIDENCE CLUB" as more fully set forth herein. This PD Ordinance amends the City's Zoning Ordinance but shall stand alone and shall be complimentary to rather than supplanting or replacing portions of such Zoning Ordinance.

III. ZONING AND OTHER APPLICABLE REGULATIONS.

The Property shall be regulated for purposes of zoning and subdivision by the City's Zoning and Subdivision Ordinances, and shall be subject to all other City Ordinances in effect except as herein specifically provided. The particular zoning classification is a set forth in this PD Ordinance. Where a general zoning item is not specifically addressed in this PD Ordinance but is addressed by the City's Zoning Ordinance or other ordinance in effect, the Zoning Ordinance or other ordinance shall control. In the event of any conflict between this PD Ordinance and the City's Zoning Ordinance, this PD Ordinance shall control. Where a general subdivision matter is not specifically addressed in this PD Ordinance but is addressed by the City's Subdivision Ordinance or other ordinance in effect, the Subdivision or other ordinance shall control. In the event of any conflict between this PD Ordinance and the City's Subdivision Ordinance, this PD Ordinance shall control.

IV. DEFINITIONS

City Council means the City Council of the City of Horseshoe Bay, Llano and Burnet Counties, Texas.

Developer means Escondido Condominium Development, LLC or Escondido Builders, LLC and shall include any person, partnership, firm, association, corporation (or combination thereof), and/or any officer, agent, employee, servant and trustee thereof who performs or participates in the performance of any act toward the subdivision and/or development of land within the intent, scope and purview of this PD Ordinance. Developer shall also be defined as the builder if he or she is responsible for the construction of buildings and/or other structures or permanent improvements.

Owner means Escondido Condominium Development, LLC and shall include any person, partnership, firm, association, corporation (or combination thereof), and/or any officer, agent, employee, servant and trustee thereof who owns or partially owns the Property or any portion of the Property.

PD Concept Plan establishes the guidelines for the PD by identifying the proposed land uses and intensities, thoroughfare locations, and open space boundaries and defines the integration of these

elements into a master plan for the entire PD, and a copy is attached hereto as “Exhibit A”, in the form of Site Plan AS.1, and incorporated herein for all purposes.

PD means a Planned Development under the City's Zoning Ordinance.

Project means “ESCONDIDO PRIVATE RESIDENCE CLUB” a 10 unit residential condominium development which will be a fractional ownership development and sold as ten (10) shares for each unit constructed (100 shares in total), to include the following:

1. Three buildings not exceeding 31,323 square feet of total building area and 23,202 sq. ft. of total conditioned area, as shown on the Concept Plan.
2. A total of 10 parking spaces – a minimum of ten (10) feet wide by twenty (20) feet long, as shown on the Concept Plan.
3. Associated utility infrastructure, drainage, traffic improvements and amenities, as shown on the Concept Plan.

Property means the 2.02 acres of land to be included in PD ESCONDIDO PRIVATE RESIDENCE CLUB which is owned by Owner and currently located within the corporate boundaries of the City described as a 2.02 acre tract of land being all of Lot P-1, Escondido Plat No. 3.4, City of Horseshoe Bay, Llano County, Texas, according to the plat thereof recorded in Volume 18, Page 89, of the Plat Records of Llano County, Texas, and is intended to be developed as the Project.

V. PD ESCONDIDO PRIVATE RESIDENCE CLUB

(a) Standards

The Project is zoned in one classification, R-6 Casita, and the provisions of Section 3.6.9 of the Zoning Ordinance shall apply to the Project except for the following modifications, and so long as the Project is constructed consistent with the Concept Plan, the restrictions and standards described in Section 3.6.9 are amended for PD ESCONDIDO PRIVATE RESIDENCE CLUB as follows:

- (1) **Zoning:** Unless otherwise modified by this PD Ordinance, rules presently pertaining to R-6 Casita in Zone 9 apply to the development of the Property.
- (2) **Setbacks:** Setbacks are as shown on the Concept Plan. There shall be separations between buildings as shown on the PD Concept Plan.
- (3) **Building Design and Layout:** The project is residential only with no commercial uses. The project is intended to be a Fractional Ownership residential project whereby approximately 10 residences shall be sold in 10 shares per residence. Each owner of a share shall be allocated a fixed number of weeks of use per year. Three (3) buildings are proposed as shown on the Concept Plan site plan and elevation plan. Building Design is shown on the Building Elevation, attached as Exhibit “B”.
- (4) **Area of Building:** The three buildings shall not exceed 31,323 square feet of total building area and 23,202 sq. ft. of total conditioned area, as follows:
 - Building 1 – 6 units – 12,887 sq. ft.; club room, concierge reception and kitchen – 2,247 sq. ft.; Total – 15, 134 sq. ft.

- Building 2 (South Building on Concept Plan) – 2 units – Total 4,350 sq. ft.
- Building 3 (North Building) – 2 units – Total 3,718 sq. ft.

(5) Sidewalks, walkways and plazas: All sidewalks, walkways and plazas will be paved with concrete, flagstone or material of similar type, as approved by the City.

(6) Lighting: All parking lot lighting, accent lighting, sign lighting, and landscape lighting shall be designed to prevent night sky light pollution.

(7) Tree Protection: A completed tree survey shall be filed with the City, prior to the issuance of any permits, indicating all current trees that will be saved in the development of this Project, and such trees shall be protected and not be cut by Developer. Should Developer decide to plant other trees, the trees shall be mature with a minimum caliper of six inches (6"). Developer shall provide a landscape barrier between the parking areas and the main accesses, except at the access driveways. All parking lots must be landscaped consistent with the Concept Plan.

(8) Height: The maximum height of the six unit building shall be 53½ feet measuring from the finish floor elevation of the main level (three stories). Each of the two 2-story buildings shall be no higher than 36½ feet, as shown in the Concept Plan.

(9) Spacing: All structures shall be spaced as shown on the PD Concept Plan. The drives through the complex should provide a clearance of a minimum of twenty-four (24) feet in width and thirteen and one-half (13½) feet in height for fire apparatus, and the turning radii should not be less than 28 feet.

(10) Parking: Parking: A total of twenty parking spaces shall be provided as follows:

(A) Ten (10) parking spaces for cars, based on the minimum of one (1) parking space per residential unit, and ten (10) parking spaces for golf carts.

(B) Such car parking spaces shall be ten feet (10') wide and twenty feet (20') long per space. Under no circumstances will any parking be permitted on La Serena Loop.

(11) Refuse Container Areas: The refuse containers shall be positioned as shown on the PD Concept Plan. All refuse container areas shall be screened on all sides and be able to be secured/gated. All refuse containers shall be limited in size to small containers, such as two (2) or three (3) cubic yard containers

(12) Uses Not Allowed: All uses shall be as shown in the Concept Plan - a Fractional Ownership Condominium Development shall be allowed, and all other uses shall be prohibited.

(13) Maintenance: All maintenance and upkeep of all improvements shall be borne by the Owner, including all seasonal landscaping needs and requirements. Regular routine maintenance and upkeep shall be provided.

(14) City Ordinances: Developer shall otherwise comply with all City building and construction ordinances and regulations. Engineering reviews of building construction and building inspections will require one or more outside consultants, with the associated costs to be paid by the Developer.

(15) Signage and Entrance Signage: All signage will comply with the City's Sign Ordinance. Any requests for variances will be considered according to the Sign Ordinance variance requirements.

(16) Phasing of Construction: Construction is intended to be in one (1) phase – any deviation from this shall be approved by City Council prior to construction commencement. This PD Ordinance shall become null and void if a Building Permit for the entire construction of the project is not obtained within one (1) year from the date of adoption of this PD Ordinance. Once a Building Permit is obtained, if there is any lag of construction for more than 90 days, then the City shall either complete construction or clean up the Property, as permitted under the bonding section.

(17) Bonding: To ensure timely completion, the Developer shall file a completion and construction bond, to include the entire project. When the Developer files the construction bond, said bond shall be executed by a surety company authorized to do business in this State, and made payable to the Mayor of the City or his/her successors in office as an additional insured. Unless the City Council determines a lesser amount, the amount of the bond shall be equal to the estimated cost of completion of all construction plus ten percent (10%), to cover future cost increases for concrete and steel, of roads, streets, utilities, required drainage structures, and all other infrastructure building construction required to complete the Project, or clean up, restore and landscape the Project site if construction is not to be completed. The construction bond shall be submitted to the City Council with the Building Permit. In the event any or all of the streets, roads, drainage and drainage structures, as constructed by the Owner, fail to meet the City's requirements, and the said Owner fails or refuses to correct the defects called to his/her attention by the City Council, the unfinished improvements shall be completed at the cost and expense of Owner as provided. The City may draw on the construction bond and pay the cost of completing the unfinished improvements if the City determines that the Owner has breached the obligations secured by the construction bond, or the ninety (90) day time period for a pause in the construction of all required improvements has expired. Depending on the extent of construction at the time of the ninety (90) day pause, the City may decide to either clean up, restore and landscape the construction site or complete the construction. The City shall refund the balance of the construction bond, if any, to Owner. The Owner shall be liable for the cost that exceeds the amount covered by the construction bond, if any.

(b) Activities During Construction

Developer shall ensure that the following items shall be addressed and/or enforced during construction on the Project:

- (1) Developer shall at all times provide parking for vehicles involved in the Project on the Property. Construction vehicles shall not be allowed to park on the streets. The City's Parking Ordinance (Ordinance No. 07-05-15A) must be followed during construction.
- (2) Developer shall ensure that all construction activities do not interfere with any existing operations on adjoining and nearby tracts.
- (3) Construction Traffic on La Serena Loop shall be minimized to ensure normal traffic flow is maintained. Developer shall coordinate with the City should it become necessary to block any public roadways during construction to ensure that all traffic congestion problems are minimized.
- (4) Developer shall ensure that all environmental protection measures are undertaken and all required controls are in place to minimize run-off.
- (5) Developer shall ensure that all construction debris be properly contained and disposed of and that dust from the construction activities be minimized.

VI. PENALTIES, COMPLIANCE & ENFORCEMENT

To the extent not otherwise modified by the provisions contained in this PD Ordinance, the provisions contained in Section V, Penalties and Enforcement of the City's Zoning Ordinance pertain to PD ESCONDIDO PRIVATE RESIDENCE CLUB. The Property shall be used only in the manner and for the purposes provided for in Zoning Ordinance No. 07-09-18E, of the City of Horseshoe Bay as heretofore amended by this PD Ordinance.

VII. ZONING MAP AMENDED

The official Zoning District Map of the City of Horseshoe Bay hereto adopted be and is hereby amended to reflect the zoning change made herein.

VIII. SEVERABILITY

If any section, subsection, sentence, phrase, word, paragraph or provision of this PD Ordinance be found to be illegal, invalid or unconstitutional, for any reason whatsoever, the adjudication shall not affect any other section, subsection, sentence, phrase, word, paragraph or provision of this PD Ordinance or the application of any other section, subsection, sentence, phrase, word, paragraph or provision of any other ordinance of the City. The City Council declares that it would have adopted the valid portions and applications of this PD Ordinance and would have rezoned the Property without the invalid part, and as to this end the provisions of this PD Ordinance are declared to be severable.

IX. EFFECTIVE DATE

This PD Ordinance shall be in full force and effective from and after its date of passage, in accordance with law.

