

AN ORDINANCE 2006-01-05-3

AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT WITH FERMIN RAJUNOV OF PRESTO TIERRA LTD., WITH CROSSWINDS AT SOUTHLAKE, L.P., ESTABLISHING LAND USE AND DEVELOPMENT STANDARDS FOR APPROXIMATELY 532.59 ACRES OF LAND GENERALLY LOCATED AT THE SOUTHWEST CORNER OF STATE HIGHWAY 16 AND WATSON ROAD, KNOWN AS SOUTH LAKE

* * * * *

WHEREAS, the City of San Antonio ("City") and Fermin Rajunov of Presto Tierra Ltd. and Presto Commercial #2, LLC, and with Crosswinds at Southlake, L.P., have negotiated an agreement regarding the South Lake Development, a 532.59 acre tract of land located at the southwest corner of State Highway 16 and Watson Road pursuant to Section 212.171 of the Texas Local Government Code; and,

WHEREAS, the agreement will provide the developer flexibility in the Flex Zoning District Provisions and will provide the City of San Antonio the ability to extend and enforce land use and development regulations in the ETJ; and,

WHEREAS, the proposed use of the property is the only practical and feasible alternative to accomplish the City's needs and is found to be reasonably compatible with the intended uses of the adjacent property; and,

WHEREAS, the proposed use of the property which is the subject of the agreement will allow large-scale development mitigated by wider roadway buffers, increased pedestrian linkages, providing small-scale mixed commercial area in conformance with pedestrian oriented standards, and 139 acres of open space with the construction of a pedestrian/bike trail adjacent to the Medina River; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The South Lake Development Agreement between the City of San Antonio and Fermin Rajunov of Presto Tierra Ltd. and Presto Commercial #2, LLC, and with Crosswinds at Southlake, L.P., is attached as **Exhibit A**, incorporated for all purposes, and said agreement is approved. The City Manager or her designee is authorized to negotiate and execute the final agreement on substantially the terms and conditions set out in the attached draft agreement. If final agreement is not executed on or before the forty-fifth day after the effective date of this ordinance, then this approval shall terminate.

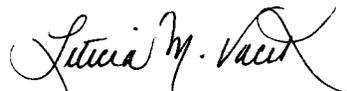
SECTION 2. This ordinance shall be effective immediately if it receives eight affirmative votes. Otherwise, it shall be effective on the tenth day after its adoption.

PASSED AND APPROVED this the 5th Day of January, 2006.



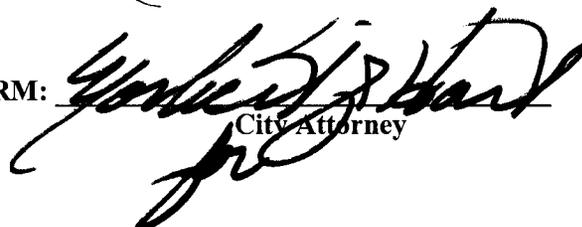
M A Y O R
PHIL HARDBERGER

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

Agenda Voting Results

Name: 6.

Date: 01/05/06

Time: 10:59:57 AM

Vote Type: Multiple selection

Description: An Ordinance authorizing the execution of a development agreement with Fermin Rajunov of Presto Tierra Ltd, with Crosswinds at South Lake, L.P., establishing land use and development standards for approximately 532.59 acres of land generally located at the southwest corner of State Highway 16 and Watson Road, known as South Lake. [Presented by Emil R. Moncivais, Director, Planning; Jelynne LeBlanc Burley, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1	Not present			
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6	Not present			
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into to be effective as of the ____ day of _____, 2006, by and between the City of San Antonio, Bexar County, Texas (the "City"), and Crosswinds at South Lake, L.P., a Texas limited partnership ("Crosswinds").

WHEREAS, Crosswinds has undertaken the development of a mixed-intensity, mixed-use community on approximately 532.59 acres of land generally located at the southwest intersection of State Highway 16 and Watson Road in San Antonio, Bexar County, Texas ("South Lake"), such property more specifically described by the field notes attached hereto as **Exhibit "A"** and incorporated herein by reference;

WHEREAS, South Lake was added to the City's Three (3)-Year Full Purpose Annexation Plan as part of "City South" Study Area 1 on December 12, 2002 by Resolution No. 2002-44-45;

WHEREAS, South Lake was annexed by the City for "limited purposes" on November 21, 2002 by Ordinance No. 96557, with an effective date of January 5, 2003;

WHEREAS, South Lake was annexed by the City for "limited purposes" in order to apply its planning, zoning, building, health, and safety ordinances to the subject property and the surrounding area;

WHEREAS, the City adopted the "City South" Community Plan in June 2003 (the "Community Plan") as a regulatory component of the City's Master Plan, and the Community Plan established certain land development patterns for South Lake and the surrounding area;

WHEREAS, the City adopted Ordinance No. 98091 on August 28, 2003, with an effective date of September 7, 2003, for "City South" and such ordinance established four (4) new zoning districts that encouraged certain land-use patterns through specific "flex" design standards (the "Flex District Ordinance");

WHEREAS, in conjunction with the future permitting, construction, and financing of South Lake, Crosswinds seeks to comply with the intent and spirit of "City South," the Flex District Ordinance, and all other applicable development ordinances and regulations of the City;

WHEREAS, the City and Crosswinds have entered into certain discussions and negotiations in an effort to achieve full compliance with the intent and spirit of certain provisions of Article III ("Zoning") of the City's Unified Development Code (the "UDC"), while preserving South Lake's ability to accommodate future market demands; and,

WHEREAS, the City and Crosswinds have agreed to a mechanism whereby Crosswinds and the City will ensure Crosswinds' full compliance with certain provisions of Article

EXHIBIT A

To Ordinance No. _____
Passed and Approved on
January 5, 2006

III ("Zoning") of the UDC in connection with the permitting, construction, and financing of South Lake while preserving South Lake's ability to accommodate future market demands.

NOW THEREFORE, in consideration of the terms and conditions described herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Crosswinds agree as follows:

SECTION I: THE PROJECT

Crosswinds' permitting and construction of South Lake requires compliance with Sections 35-310.16 ("RD" Rural Development District); 35-310.18 ("MI-1" Mixed Light Industrial District); 35-203 ("Conservation Subdivision"); and, 35-310.15(i) ("FDP" Flex Development Plan Option) of the UDC. Such provisions require the development of South Lake according to, among other things, certain lot dimensions; lot densities; building setback minimums and maximums; park and open space requirements; permitted land uses; and, block, street, sidewalk, parking and loading, buffer, signage, and lighting design standards. The City and Crosswinds hereby agree that the Community Plan land development patterns and zoning districts ultimately adopted for South Lake, when considered in conjunction with the land use and development standards adopted for such property pursuant to this Agreement, will allow for the development of a mixed-intensity, mixed-use community as generally illustrated on the conceptual site plan attached hereto as **Exhibit "B"** and incorporated herein by reference.

SECTION II: SCOPE OF PROJECT

LAND USE AND DEVELOPMENT STANDARDS

1. Brown, P.C., submitted Zoning Case No. Z2005235 and Community Plan Amendment No. 05012 (collectively, the "Applications") on September 16, 2005 and September 23, 2005 respectively for the City's review and approval in connection with the development of South Lake. The City and Crosswinds have assessed Crosswinds' land use and development standards for South Lake as called for by the zoning districts and Community Plan designations originally requested in the Applications, and have determined that South Lake shall be developed according to Sections 35-310.16 ("RD" Rural Development District); 35-310.18 ("MI-1" Mixed Light Industrial District); 35-203 ("Conservation Subdivision"); and, 35-310.15(i) ("FDP" Flex Development Plan Option) of the UDC, with the following exceptions and amendments:

A. South Lake shall be developed according to a combination of two (2) zoning districts, described as follows, along with the corresponding development pattern designations:

i. "MI-1" with an "FDP" Option for no more than one-hundred (100) contiguous acres (the "MI-1 AREA"), with such property:

a. running generally adjacent and parallel to State Highway 16, beginning at such highway's intersection with Watson Road (adjacency shall be measured so as to include any buffers along State Highway 16 and Watson Road); and,

b. zoned "MI-1" according to the City's official zoning map as of September 16, 2005.

ii. "RD" with Two (2) Options:

a. "RD" with an "FDP" Option for no more than one hundred ten (110) contiguous acres (the "RD CD FDP AREA"), with such property:

I. running generally adjacent and parallel to Watson Road, beginning at the western boundary of the MI-1 AREA and ending at the westernmost boundary of the property described by the Bexar Appraisal District as Tax No. 04298-000-0154 (**Exhibit "C"**) (adjacency shall be measured so as to include any buffers along Watson Road);

II. enjoying a conditional use for up to four (4) single-family residential units per acre within the RD CD FDP AREA on a total acreage not to exceed one-hundred ten (110) contiguous acres, such density allowance adopted pursuant to Zoning Case No. Z2005235 on or about January 5, 2006, provided that:

II.1 a mix of retail, office, and service commercial uses are developed in accordance with Section 35.310.15(i) ("UD" Master Plan Consistency) of the UDC, to the extent such section is not amended by this Agreement, or

II.2 small-scale commercial uses are developed within the MI-1 AREA pursuant to Section (II)(1)(B)(i)(b) of this Agreement.

III. enjoying a use for up to twenty-five (25) multi-family residential units per acre, with such

multi-family use not to exceed twenty-five percent (25%) of the total RD CD FDP AREA; and,

IV. the area zoned RD CD FDP AREA that provides a conditional use for up to (four) 4 single-family dwelling units per acre cannot be developed by right, but must be developed in accordance with a Flex Development Plan as outlined in Section (II)(1)(A)(ii)(II) of this Agreement.

b. "RD" with a "Conservation Subdivision" for the remaining acreage in South Lake that is not included in the MI-1 AREA or the RD CD FDP AREA as described in Sections (II)(1)(A)(i) and (II)(1)(A)(ii)(a) of this Agreement (the "RD CONSERVATION SUBDIVISION AREA"), with such property:

I. in no event exceeding 325 contiguous acres; and,

II. designating no less than fifty percent (50%) as open space, not to be further subdivided, and protected through a conservation easement. Such open space shall be delineated in any Master Development Plan ("MDP") filed for property within the RD CONSERVATION SUBDIVISION AREA.

Attached hereto and incorporate herein by reference is **Exhibit "D"** which illustrates for demonstrative purposes the geographic relationship between the two (2) above-referenced zoning districts and development options; such exhibit shall not constitute any binding commitment regarding the final location of boundaries for each zoning district. In the event **Exhibit "D"** conflicts with the description outlined in Sections (II)(1)(A)(i-ii) of this Agreement, the provisions of Sections (II)(1)(A)(i-ii) of this Agreement shall control.

B. The commercial acreage within South Lake shall be located within the MI-1 AREA as described in Section (II)(1)(A)(i) above, and shall be subject to the land use and development standards of Sections 35-310.18 ("MI-1" Mixed Light Industrial District); and, 35-310.15(i) ("MI-1" "FDP" Flex Development Plan Option) of the UDC, with the following exceptions and amendments:

i. Land Use

a. "MI-1" permitted uses: All land uses permitted within the "MI-1" zoning district, as established by Table 311-2a ("Non-Residential Use Matrix") of the UDC, shall be permitted within the MI-1 AREA, except auto-manufacturing assembly operations, electronic component manufacturing, metal fabrication, plastics manufacturing, plating manufacturing, and auto part sequencing and assembly. Only office and warehouse uses shall be permitted directly adjacent to residential uses, and a Type "F" Buffer, as that term is defined by Section 35-510 of the UDC, shall be required adjacent to residential uses. No single-family or multi-family residential uses shall be permitted in any area zoned "MI-1", except that dwelling units for on-site caretakers are allowed.

b. "MI-1 FDP" Permitted Uses: If the MI-1 AREA is developed with an "MI-1 FDP" option, no "MI-1" industrial uses shall be allowed in the MI-1 AREA. Only commercial uses shall be permitted in the MI-1 AREA if such area is developed with a "MI-1 FDP" option, and such uses may include the following:

I. Small-scale, pedestrian scale commercial uses: a mix of small-scale commercial uses (retail, service, and office) may be located along fifty percent (50%) of each of the two (2) "Main Streets" (streets A and B) adjacent to the residential area. Such small-scale commercial buildings shall have a footprint of 90,000 square feet or less and shall front or be located within one-hundred feet (100') of the two (2) "Main Streets" (streets A and B). Such small-scale commercial uses shall be restricted to the commercial uses provided in the Urban Development District.

II. Large-scale, vehicular scale commercial uses: in addition to the small-scale commercial uses referenced above, large-scale commercial uses located in buildings with a footprint greater than 90,000 square feet are permitted, provided that if a large-scale commercial use is sited adjacent to a "Main Street" (street A or B), such use shall be buffered with a twenty-five foot (25') Type "D" Buffer. Such uses may include, but not be limited to the following: traditional retail stores, shopping

centers, home improvement centers, membership warehouse clubs, outlet stores, discount or close-out clubs and grocery stores.

III. If small-scale, pedestrian scale commercial uses are not developed on the "Main Streets" (streets A and B) within the MI-1 FDP Area, a twenty-five (25') foot Type "D" Buffer shall be installed adjacent to such "Main Streets."

ii. Pedestrian Connectivity - "MI-1 FDP" Commercial Uses:

a. All primary buildings in the MI-1 AREA shall connect to each other with a pedestrian walkway, sidewalk, or trail. Such pedestrian system for the MI-1 AREA shall connect to the pedestrian system mandated by the UDC for the RD CD FDP and RD CONSERVATION SUBDIVISION AREAS;

b. One (1) or more direct pedestrian route(s) shall be provided within the parking lot of any building with required parking that:

I. has four (4) or more parking aisles; and,

II. has parking aisles that are parallel to the building facade.

Such pedestrian route shall be constructed:

I. from the furthest required parking aisle from the building to the building itself;

II. shall be no less than four feet (4') in width; and,

III. shall be an interval of three-hundred sixty feet (360') from other pedestrians routes constructed in such parking lots.

If such pedestrian route is located in a landscaped island, the route shall be constructed with a textured surface treatment, including but not limited to materials such as pavers and stamped concrete; and,

If such pedestrian route traverses any asphalt or like-constructed drive lane, such route shall be striped.

c. Buildings that face state Highway 16 or Watson Road shall be constructed with one (1) or more pedestrian routes of no less than six feet (6') in width as follows:

- I. such route shall use textured surface treatment, including but not limited to pavers or concrete; and,
- II. such route shall be constructed contiguous and parallel to such building's primary facade (not including such building's display or cart storage area).

d. In the event the pedestrian system contemplated by Section (II)(1)(B)(ii)(a) of this Agreement is satisfied by virtue of constructing a trail, such trails shall be constructed according to the Traditional Neighborhood Development "Trail" standards as outlined in Table 207-5 of the UDC;

e. Where multiple occupancies are connected with a walkway that runs parallel to a public street a sidewalk within the public right of way shall not be required as long as such walkway connects to the pedestrian walkway system contemplated by Section (II)(1)(B)(ii)(a) of this Agreement.

f. Buildings, lighting, and street design along and within one-hundred feet (100') of the "Main Streets" (streets A and B) shall have a pedestrian scale; for the purposes of this Agreement "pedestrian scale" shall mean a small-scale commercial use that has a building footprint of 90,000 square feet or less that provides a proportional relationship between an individual and his or her environment that is comfortable, intimate, and contributes to the individual's sense of accessibility through urban design elements that include, but are not limited to locating buildings fronting or within one-hundred feet (100') of the "Main Streets," primary entrances oriented to street or to a courtyard or plaza, canopy trees, sidewalk connections, and angle parking.

g. Buildings beyond one hundred feet (100') of the "Main Streets" (streets A and B) may be designed to vehicular scale of State Highway 16 and Watson Road; for the purposes of this Agreement, vehicular scale shall mean a large scale commercial use that has a building footprint of greater than 90,000 square feet and contributes to the

individuals' sense of accessibility primarily using a motor vehicle. Pad sites, or freestanding commercial drive-up uses including but not limited to banks and fast food restaurants may also be sited beyond one hundred feet (100') from the "Main Streets" (streets A and B).

Attached hereto and incorporated by reference is **Exhibit "E"**, which illustrates for demonstrative purposes a typical pedestrian route layout as contemplated by this section. In the event the standards illustrated pursuant to such exhibit conflict with the standards outlined in the text of this Agreement, the standards outlined in the text of this Agreement shall control.

iii. Building Scale and Massing – "MI-1 FDP" Commercial Uses:

a. Buildings, lighting, and street design along the "Main Streets" (streets A and B) shall have a pedestrian scale and the individual building footprint shall not exceed 90,000 square feet,

b. Buildings beyond one hundred feet (100') of the "Main Streets" (streets A and B), or located on State Highway 16 or Watson Road, may be designed to vehicular scale, and may exceed 90,000 square feet.

c. Vehicular scale buildings may be located on no more than fifty percent (50%) of the frontage of the "Main Streets" (streets A and B) provided that a twenty-five foot (25') Type "D" roadway buffer is installed adjoining the subject "Main Street."

d. Should pedestrian scale buildings not be located on and front the "Main Streets" (streets A and B), a twenty-five foot (25') Type "D" roadway buffer shall be installed adjoining the subject "Main Street."

iv. Lot and Building Dimensions - "MI-1 FDP" Commercial Uses:

a. Large-scale commercial uses: lot and building dimensions, including lot size setbacks, height and building size, shall comply with the "C-3" Commercial Zoning District standards as outlined in Table 310-1 of the UDC. Large-scale commercial uses shall be set back no less than one-hundred feet (100') from the "Main Streets" (streets A and B).

I. Provisions regarding size and location of buildings, as established by Table 310-15.1 of the UDC shall not apply.

II. Block sizes shall be governed by Section 35-515(b) of the UDC, except that blocks which are perpendicular to State Highway 16 may extend up to one-thousand two hundred feet (1,200').

b. Small-scale commercial uses: lot and building dimensions shall comply with "C-3" Commercial Zoning District standards, with the following exceptions and amendments: buildings for small-scale commercial uses that front the "Main Streets" (streets A and B) or are located within one-hundred feet (100') of such "Main Streets" shall have an individual building footprint of no larger than 90,000 square feet. "Main Street" frontage intervals shall not exceed eight hundred feet (800') without a vehicular drive that connects to the adjacent large-scale commercial uses. Pad sites and other drive-through uses may be located off a "Main Street," provided that the drive-through window is screened from such "Main Street" by a vegetative buffer or by a small-scale commercial building(s). There shall be no minimum setback; however, the maximum front setback for buildings located on and fronting a "Main Street" shall be fifteen feet (15').

v. Building Facade and Transparency - "MI-1 FDP" Commercial Uses:

a. Commercial buildings with windows and entrances facing State Highway 16 and Watson Road, and buildings setback more than one hundred feet (100') from the "Main Streets" (streets A and B), and street C shall not be required to have fifty percent (50%) of their street frontage as windows or public entries.

b. Retail and service commercial buildings within one-hundred feet (100') of the "Main Streets" (streets A and B) shall have fifty percent (50%) of the length of the first floor street frontage as windows or public entries (commercial office buildings exempt from this requirement). Such requirement may be satisfied by averaging all street frontage windows and public entrances of all buildings within such one-hundred foot (100') area as referenced herein; but, in no case shall any frontage contain more than one-hundred feet (100') of building facade without any

street frontage window, public entrance, courtyard, or pedestrian walkway.

vi. Building Articulation and Design Elements - "MI-1 FDP" Commercial Uses:

a. Small-scale commercial, pedestrian scale buildings located within one-hundred feet (100') of the "Main Streets" (streets A and B) and street C that exceed forty feet (40') in horizontal length shall have two (2) or more of the following design elements along sixty percent (60%) or more of the building facade:

- I. Texture, material, color, or pattern changes;
- II. Arcades, covered walkways, architectural awnings, canopies, or porticos;
- III. Projections of indentations of at least 5 ½ inches of the street facade;
- IV. Repetitive vertical expression of structural bays or other vertical articulation of the facade at a spacing of no more than 40 feet in length;
- V. Changes in roof or parapet height; or,
- VI. Distinct storefront designs for multi-tenant buildings approved by the Planning Director.

b. Vehicular-scale, large-scale commercial buildings and small-scale commercial buildings not within one-hundred feet (100') of the "Main Streets" (streets A and B) exceeding eighty feet (80') in horizontal length shall have two (2) or more of the following design elements along sixty percent (60%) or more of the building facade:

- I. Texture, material, color, or pattern changes;
- II. Arcades, covered walkways, architectural awnings, canopies, or porticos;
- III. Projections of indentations of at least 5 ½ inches of the street facade;
- IV. Repetitive vertical expression of structural bays or other vertical articulation of the facade at a

spacing of no more than 40 feet in length, or compositions that break the building facade into areas of no more than 90 feet in length;

V. Changes in roof or parapet height.

VI. Display windows, faux windows, or decorative windows at intervals not to exceed thirty (30) linear feet;

VII. One canopy tree at intervals no greater than twenty-five (25) linear feet; or,

VIII. Distinct storefront designs for multi-tenant buildings approved by the Planning Director.

vii. **Building Orientation:** the primary facade of all small scale commercial buildings within one hundred feet (100') feet of the right-of-way of the "Main Streets" (streets A and B) shall front a public street, unless such building fronts a plaza, green, courtyard, or is connected to the pedestrian walkway system referenced in Section (1)(B)(i) above.

viii. **Lighting - "MI-1 FDP" Commercial Uses:**

a. The height of any exterior lamp shall not exceed fifteen feet (15') for pedestrian walkways, unless such walkway is near a public street and can be illuminated with street light(s);

b. To reduce glare and output, any exterior lighting fixtures for entrances, parking lots, or walkways shall incorporate a vertical cut-off angle of no more than ninety degrees (90°). Any structural part of the fixture providing such cut-off angle shall be permanently affixed;

c. The mounting height of all outdoor lighting, with the exception of outdoor sports field lighting and outdoor performance area-lighting:

I. shall not exceed twenty feet (20') within 100 feet (100') of a public street; and,

II. shall not exceed fifty feet (50') in height beyond one-hundred feet (100') of a public street.

d. Parking lot lighting shall not be limited in height, but to reduce glare and output, shall incorporate a vertical

cut-off angle of no more than ninety degrees (90°). Any structural part of the fixture providing such cut-off angle shall be permanently affixed.

ix. Signage: All Urban Development District signage provisions referenced in Section 35-310.15.5(f) of the UDC shall apply with the following exceptions and amendments:

- a. Signs shall only advertise a service, product, or business located within the MI-1 AREA of South Lake;
- b. All building facades with visibility to State Highway 16 or Watson Road will be considered a building elevation with street frontage;
- c. Single-tenant buildings greater than 90,000 square feet shall be permitted one (1) single tenant monument sign. Such sign shall be located at the main entrance adjacent to the entrance driveway, and shall not exceed eight feet (8') in height and sixty-four (64) square feet in area per side.

Multi-tenant buildings greater than 90,000 square feet shall not be permitted more than one (1) multi-tenant monument sign. Also, if multiple single-tenant buildings of 90,000 square feet or larger are constructed, one (1) multi-tenant monument sign may be permitted in lieu of the single tenant monument sign for each building. Such multi-tenant monument signs shall be located at the main entrance adjacent to the entrance driveway, and shall not exceed ten feet (10') in height and one-hundred (100) square feet in area per side.

d. Two (2) multi-tenant monument signs for small-scale commercial uses are permitted on State Highway 16 at its intersection with each "Main Street" (streets A and B) as follows:

- I. One (1) sign shall be permitted on each side of such intersection adjacent to the subject "Main Street" (streets A and B), and shall not exceed ten feet (10') in height or one-hundred (100) square feet in area per side; and,
- II. Such signs shall be spaced at intervals of no less than one-hundred feet (100') between signs.

e. Residential Signs: One (1) monument sign for each residential neighborhood within the RD CD FDP AREA and RD CONSERVATION SUBDIVISION AREA shall be permitted within the development at the intersection of Watson Road and any primary entrance along Watson Road, and may be located in a street median within the development, provided that such signs are located outside the clear vision area of such intersection. Such signs shall not exceed six feet (6') in height and thirty-two (32) square feet in area per side. All other signs in the RD CD FDP AREA and RD CONSERVATION SUBDIVISION AREA shall be governed by Section 35-310.15(f) of the UDC.

f. Community-Wide Sign: One (1) monument sign for the overall South Lake Development shall be permitted within the development near the intersection of State Highway 16 and Watson Road. Such sign shall not exceed eight feet (8') in height and fifty (50) square feet in area per side; provided that regardless of the total number of sides, such sign shall not exceed one-hundred fifty (150) square feet in total sign area.

g. Community-Wide Advertising Sign: One (1) temporary freestanding sign shall be permitted to advertise a construction project or the sale or lease within the community. Such sign shall not exceed twenty feet (20') in height or three-hundred (300) square feet per side, and shall be removed within fifteen (15) days following completion of the construction or sale of the community project.

h. Licensed monument signs shall be permitted in public rights-of-ways; and,

i. All other signage standards for the MI-1 AREA not referenced herein shall be governed by the otherwise applicable "MI-1" signage standards referenced in Sections 35-310.15(f) and 35.310.18(f) of the UDC.

x. Vegetative Buffer Yards: any property within the MI-1 AREA on which the side or rear yard of a building adjoining a public street shall comply with the vegetative buffer yard requirements as outlined in Table 310.15-3 of the UDC except as follows:

a. Any service or loading area will be screened with a Type "F", Option "F" or Type "N" Buffer as those terms are defined by Section 35-510 of the UDC; and,

b. No fence, wall or berm shall be required within any vegetative buffer yard.

xi. Streets:

a. "Main Streets" (streets A and B) shall be constructed according to the Traditional Neighborhood Development "Main Street" standards as outlined in Table 207-5 of the UDC, provided that if angled on-street parking is constructed:

I. right-of-way width may be increased to eighty eight feet (88') and pavement width may be increased to sixty-six feet (66');

b. Access points shall not exceed thirty feet (30') in width without construction of a median; and,

c. Buffers immediately adjacent to "Main Streets" (streets A and B) shall be prohibited for small-scale commercial buildings fronting or within one-hundred feet (100') of the street right-of-way, but shall be required in accordance with MI-1 Zoning District standards if small scale commercial is not located fronting or within one-hundred feet (100') of the "Main Streets."

d. Streetscape planting standards shall be constructed according to the Traditional Neighborhood Development "Main Street" standards as outlined in Table 207-5 of the UDC.

xii. Parking and Loading/Service Areas - "MI-1 FDP" Commercial Uses:

a. Buildings facing "Main Streets" (streets A and B) shall not have more than fifty percent (50%) of their required off-street parking located within the street yard of the front entrance of the building. Parking may be located behind and to the side of the building. Parking located to the side of a building may extend to the public right-of-way.

b. Off-street parking may be secured when buildings are not open for public use;

c. Angled on-street parking shall be allowed;

d. Service and bulk storage yard screening: a Type "B", Option "B", or Type "N" Buffer, as those terms are defined by Section 35-510 of the UDC, or a screening wall may be constructed to screen service and bulk yards;

e. Loading and service driveways: Screen walls, gates, Type "B", Option "B" Buffer or Type "N" Buffer, as those terms are defined by Section 35-510 of the UDC, shall be used to conceal loading and service driveways; and

f. No less than twenty-five percent (25%) of any surface parking lot area shall be shaded with canopy trees.;

g. All other parking and loading design standards within the MI-1 AREA shall be governed by the applicable standards of the "MI-1" Zoning District.

xiii. Outdoor Storage, Display, and Sales Areas:

a. No permanent outdoor storage, display, or sales area shall be less than one-hundred feet (100') of any residential property;

b. All permanent outdoor storage, display and sales areas shall be contiguous to the commercial building using such area(s);

c. No permanent outdoor storage, display or sales area shall exceed whichever is less of the following:

I. 12.5% of the total building footprint using such areas; or,

II. 20,000 square feet.

d. Rear storage areas: merchandise may be stored behind any building provided as follows:

I. if such area is not within view from a public street, the side and rear of such storage area shall be screened with a chain link fence covered with windscreen; or

II. if such area is within view from a public street, the side and rear of such storage area is screened with a permanent wall of like material to the building using such are of no less than eight feet (8') in height. A Type "B" vegetative buffer, as that

term is defined by Section 35-510 of the UDC, may also be used in lieu of a permanent wall.

e. All mechanical equipment on a building rooftop within view from a public street shall be screened with a parapet or similar roof structure.

f. Any automotive service bay within view from a public street, shall be screened with vegetative screening. Such service area shall not face any residential property.

Attached hereto and incorporated by reference is **Exhibit "F"**, which illustrates for demonstrative purposes a typical building layout for the MI-1 AREA. In the event the standards illustrated pursuant to such exhibit conflict with the standards outlined in the text of this Agreement, the standards outlined in the text of this Agreement shall control.

C. Recognizing that the intent and spirit of the "RD" zoning district, and more generally of "City South," is to create walkable, mixed-intensity, and mixed-used developments that maintain the existing land development patterns of the subject area, the residential acreage within South Lake, generally located as illustrated on **Exhibit "B"**, shall be subject to the land use and development standards of Sections 35-310.16 ("RD" Rural Development District); ; 35-203 ("Conservation Subdivision"); and, 35-310.15(i) ("FDP" Flex Development Plan Option) of the UDC, with the following amendments:

i. Density:

a. RD CD FDP AREA: density shall be calculated pursuant to the applicable density bonus standards referenced in Section 35-310.15(i) ("FDP" Flex Development Plan Option) of the UDC, but in no event shall exceed a conditional use of up to four (4) single-family units per acre as referenced in Section (II)(1)(A)(ii)(a) of this Agreement;

b. RD CONSERVATION SUBDIVISION AREA: density shall be calculated according to the applicable density bonus standards referenced in Section 35-203 ("Conservation Subdivision") of the UDC, but in no event shall exceed six (6) single-family units per acre.

ii. Parks and Open Space:

a. RD CD FDP AREA: parks and open space requirements shall be calculated as one (1) acre of parks/open space per every seventy (70) dwelling units for all property developed as described by Section (II)(1)(A)(ii)(a) of this Agreement;

b. RD CONSERVATION SUBDIVISION AREA:

I. Property developed as described by Section (II)(1)(A)(ii)(b) of this Agreement shall designate no less than fifty percent (50%) parks/open space (the "Conservation Subdivision Open Space");

II. All lands within the Conservation Subdivision Open Space shall be protected by a permanent conservation easement;

III. The Conservation Subdivision Open Space may be comprised of any combination of the following two (2) types of land: primary conservation area or secondary conservation area. Full density credit shall be allowed for all land designated as the Conservation Subdivision Open Space; and,

IV. Not less than fifteen percent (15%) of the residential lots within the RD CONSERVATION SUBDIVISION AREA shall abut the Conservation Subdivision Open Space.

D. In addition to those provisions outlined in Sections (II)(1)(A-C) of this Agreement, South Lake shall comply with the following:

i. In no event shall the total number of residential dwelling units constructed in South Lake pursuant to the RD CD FDP AREA and the RD CONSERVATION SUBDIVISION AREA exceed 1,560 residential dwelling units;

ii. No gated streets or developments shall be permitted in the MI-1 AREA, RD CD FDP AREA, or the RD CONSERVATION SUBDIVISION AREA;

iii. Within one (1) year of the date this Agreement is passed and approved by the City Council, Crosswinds will initiate discussions with Via Metropolitan Transit ("VIA") regarding the

most efficient location(s), if any, for bus stops serving South Lake and the surrounding area;

iv. For purposes of this Agreement and the development of South Lake, Riparian Protection Buffer Areas will be defined as found in the One-Hundred (100)-Year Flood Plain Map published by FEMA as of the date this Agreement is passed and approved by the City Council. Any riparian area within South Lake shall be platted in conjunction with the development of any property adjacent to such riparian area;

v. Medina River: a bike/pedestrian trail network shall be constructed so as to allow access within South Lake to the One-Hundred (100)-Year Flood Plain of the Medina River, as published by the Federal Emergency Management Authority ("FEMA") as of the date this Agreement is passed and approved by the City Council. Such network shall be constructed to connect the westernmost property boundary of South Lake to the easternmost property boundary of South Lake adjoining State Highway 16, and shall be denoted with a pedestrian easement as described by field notes or any MDP including such area. Such bike/pedestrian trail network shall not be constructed in a manner that prohibits connectivity to any future pedestrian trail network developed along the Medina River within adjacent properties. However, Crosswinds shall not be responsible for any costs associated with the construction of pedestrian connections on property outside the boundaries described in **Exhibit "A"**; and,

vi. Perimeter Buffers:

a. Buffers shall be incorporated along State Highway 16, Watson Road, and primary entrances along Watson Road as generally illustrated on the conceptual site plan attached hereto as **Exhibit "G"** and incorporated herein by reference;

b. Such buffers shall be constructed as follows:

I. a buffer of no less than seventy-five feet (75') in width:

I.1 running adjacent and parallel to State Highway 16, generally from Watson Road to the southernmost boundary of the MI-1 AREA; and,

I.2 running adjacent and parallel to Watson Road, generally from State Highway 16 to the westernmost boundary of the MI-AREA.

II. a buffer of no less than one hundred feet (100') in width running adjacent and parallel to Watson Road, generally from the westernmost boundary of South Lake to the westernmost boundary of the MI-AREA.

III. a buffer of no less than seventy-five feet (75') in width along both sides of any primary entrance along Watson Road, generally from Watson Road to the first intersection with any street running east/west.

c. The buffers described in Sections (II)(1)(D)(vi)(b)(I)(I.1-I.2) of this Agreement (collectively, the perimeter buffers within the MI-1 AREA) shall comply with the following standards per two-hundred (200) linear feet of frontage:

I. such buffers shall be constructed with no less than the following plant materials:

I.1. four (4) medium to large canopy trees; and,

I.2. three (3) understory trees.

Trees and shrubs referenced in this section shall not be planted in motts or groupings of more than three hundred feet (300') on center.

II. Any buffer yard area not generally occupied by the plant materials required by Section (II)(1)(D)(vi)(c) of this Agreement shall be planted with the following plant materials:

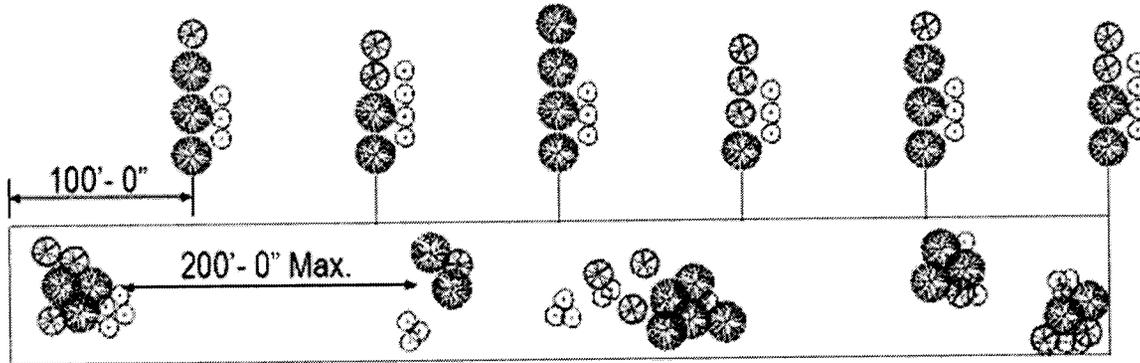
II.1. small shrubs;

II.2. native grasses of sixteen inches (16") to thirty-six inches (36") in height; and,

II.3. grasses no higher than six inches (6") in height. Grasses no higher than six inches

(6") in height shall be planted within ten feet (10') of either side of pedestrian walkways located along such buffer.

Trees and shrubs referenced in this section shall not be planted in motts or groupings of more than two hundred feet (200') on center.



Buffers in the MI-1 zone to be 75'-0" wide and contain plant material equal to 4 medium to large trees and 3 to 4 understory trees every 100'-0". Trees to be planted in motts or groupings no more than 200'-0" apart. The remainder of the buffer to be planted in small shrubs and native grasses 16" to 36" high.

d. The buffers collectively described in Section (II)(1)(D)(vi)(b)(I)(L2) and Section (II)(1)(D)(vi)(b)(II) of this Agreement (collectively the perimeter buffers within the RD Areas fronting Watson Road) shall comply with the following standards:

I. Type "N" Buffer that complies with eighty percent (80%) of the Type "F" Buffer, as those terms are defined by Section 35-510 of the UDC; provided that a berm or wall shall not be required; or,

II. Type "F" Buffer as that term is defined by Section 35-510 of the UDC; provided that a berm or wall shall not be required.

e. No less than eighty percent (80%) of the street frontage along State Highway 16, Watson Road, and primary entrances along Watson Road shall be developed with buffers as described in Section (II)(1)(D)(vi) of this Agreement; and,

- f. Perimeter Sidewalks and Bike/Pedestrian Facilities:
- I. No sidewalk or bike/pedestrian trail shall be required along State Highway 16 in order to preserve the rural character of the buffers along such areas, discourage pedestrian activity along heavily-traveled public streets, and encourage pedestrian activity within the overall development as contemplated by the pedestrian walkway system referenced in Section (II)(1)(B)(ii) of this Agreement.
- II. A sidewalk shall be constructed along Watson Road according to the "Enhanced Secondary Arterial" requirements of the UDC (as implemented by Ordinance No. 98282, passed and approved October 2, 2003) and Section 35-506(q) ("Sidewalk Standards") of the UDC.

The land use and development standards outlined in Section II above ("Scope of Project: Land Use and Development Standards") shall be collectively referred to as the "Land Use and Development Standards." Unless specifically provided for in this Agreement, in no event shall the Land Use and Development Standards be interpreted to include any requirement otherwise enforced pursuant to Sections 35-310.16 ("RD" Rural Development District); 35-310.18 ("MI-1" Mixed Light Industrial District); 35-203 ("Conservation Subdivision"); 35-310.15(i) ("FDP" Flex Development Plan Option); and, 35-310.15 ("UD" Urban Development District) of the UDC.

SECTION III: MISCELLANEOUS

1. This Agreement shall be deemed to serve as the first permit in a series of permits required for a project as those terms are contemplated by Chapter 245 of the Texas Local Government Code. The subject project, South Lake, is as defined herein a mixed-intensity, mixed-use development, generally located along State Highway 16 and Watson Road (*see Exhibit "A"*) and generally illustrated on **Exhibit "B"**. Accordingly, the City shall consider the approval, disapproval, or conditional approval of an application for a subsequent permit for South Lake solely on the basis of this Agreement and any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect as of September 16, 2005. Nothing in this Agreement shall prohibit Crosswinds' voluntary compliance with any ordinance, regulation, or incentive adopted after such date.

2. In the event the provisions of the UDC shall conflict with any of the Land Use and Development Standards outlined herein, the Land Use and Development Standards outlined in the text of this Agreement shall control.

3. In no event shall this Agreement relieve Crosswinds from complying with provisions of the UDC enforced pursuant to the City's subdivision platting authority, including, but not limited to those provisions related to drainage, utilities, and substandard public street rights-of-ways.

4. Nothing herein shall be deemed to impose liability on Crosswinds or the City for actions or omissions of any third party (including, without limitation, any third party contractor or engineer).

5. Any modifications to this Agreement must be in writing, and signed by each signatory hereof or its successors, or they shall not be binding upon any of the parties hereto.

6. If any covenant, provision, or agreement of this Agreement shall be held illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and that this Agreement shall otherwise continue in full force and effect. It is the further intention of the parties that in lieu of each covenant, provision, or agreement of this instrument that is held illegal, invalid, or unenforceable, there be added as a part hereof a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

7. This Agreement shall be recorded in the Real Property Records of Bexar County, Texas as a covenant to title of the parcels more specifically described in **Exhibit "A"**. Consequently, Crosswinds and the City agree that the provisions of this Agreement shall run with the land described in **Exhibit "A"** as long as this Agreement remains in effect, and shall be binding on all parties having any right, title, or interest in the property described in **Exhibit "A"** in whole or in part. The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives. No party may, without the prior written consent of the other party hereto, assign any rights, powers, duties, or obligations hereunder. This Agreement shall not inure to the benefit of any party other than the parties to this Agreement and their successors and permitted assignees.

8. A material and substantial breach of this Agreement by either party shall constitute a default and serve as grounds for considering this Agreement null and void. Moreover, in the event an MDP is not filed for the property described in **Exhibit "A"**, or any portion thereof, within fifteen (15) years of the effective date of this Agreement, this Agreement shall expire and be considered null and void, unless the terms of the agreement are renewed. Any MDP filed pursuant to this Agreement for any property described in **Exhibit "A"** shall be governed by the provisions of Section 35-412 ("Master Development Plan") of the UDC.

Should this Agreement be breached or expire, the City may make an application to initiate a zoning case to remove the "RD CD FDP" conditional use not to exceed four (4) dwelling units per acre and this conditional zoning shall not be

considered as vested under Chapter 245 ("Issuance of Local Permits") of the Texas Local Government Code. However, before the City deems this Agreement as breached or expired, the City must provide Crosswinds written notice describing the default. If the default continues for a period of thirty (30) days after such notice is delivered to Crosswinds, this Agreement shall be considered breached and null and void; provided that if the nature of Crosswinds' default is such that more than thirty (30) days are reasonably required for its cure, then Crosswinds shall not be deemed to be in default if Crosswinds commences such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion.

Nothing in this Agreement shall be construed so as to waive Crosswinds' right to protest a zoning case filed for any property described in **Exhibit "A"**.

9. Neither this Agreement nor any part thereof shall be construed as creating a partnership, joint venture, or other business affiliation among the parties or otherwise.

10. This Agreement and the exhibits hereto supersede any and all other prior or contemporaneous agreements, oral or written, among the parties hereto with respect to the matters addressed herein.

11. All notices given with respect to this Agreement shall be in writing and deemed delivered upon receipt if hand delivered or sent by confirmed facsimile transmission, and, if mailed, deemed received on the third business day after deposit in the United States mail, postage prepaid, addressed to the parties as shown below:

IF TO THE CITY: City of San Antonio
 Office of the Planning Director
 Attn: Planning Director
 1901 S. Alamo, 2nd Floor
 San Antonio, Texas 78204

With a copy to:
City of San Antonio
Office of the City Attorney
Attn: City Attorney
City Hall, 3rd Floor
P.O. Box 839966
San Antonio, Texas 78283-3966
City of San Antonio

Office of the City Clerk
Attn: City Clerk
City Hall, 2nd Floor
P.O. Box 839966
San Antonio, Texas 78283-3966

IF TO CROSSWINDS: Crosswinds at South Lake, L.P.
 Attn: Bernard Gliberman
 22920 Venture Drive
 Novi, Michigan 48375

12. This Agreement shall be governed by and construed under the laws of the State of Texas. Venue for any legal action arising out of this Agreement shall be exclusively in Bexar County, Texas.

13. The parties hereto agree they will execute such other and further instruments and documents as are or may become reasonably necessary or convenient to effectuate the purposes of this Agreement.

14. Each signatory hereof represents to the other party to this Agreement that he or she has been duly authorized to do so and in so doing shall bind the party on whose behalf he or she is signing to all of the terms hereof.

15. Each party hereto shall pay its own attorneys' fees with respect to the drafting, review, and negotiation of this Agreement and all subsequent instruments and agreements related to the Land Use and Development Standards. In the event it should ever become necessary for any party to retain the services of an attorney to enforce its rights hereunder against any other party hereto, then, should such party prevail, that party shall be entitled to recover, in addition to any other damages and awards to which it may be entitled, its reasonable attorneys' fees from the defaulting party.

16. Time is of the essence of this Agreement and each and every provision hereof.

17. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute but one and the same instrument.

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EXECUTED as of the dates set forth beneath the signatures of each party below, to be effective, however, as of the date first set forth above.

For the City of San Antonio:

City of San Antonio, a Texas municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

For the Private Party:

**CROSSWINDS AT SOUTH LAKE, L.P.,
a Texas limited partnership**

By: _____

Name: _____

Title: _____

Date: _____

Attest:

City Clerk

Approved As To Form:

City Attorney

EARL &
ASSOCIATES
attorneys at law

January 4, 2006

Mr. Andy Gomez
Ombudsman
Board of Adjustment
City of San Antonio
1901 S. Alamo, 1st Floor
San Antonio, TX 78204

Via Fax 207-4441
& Hand-Delivery

Re: Board of Adjustment Case A-05-082PP

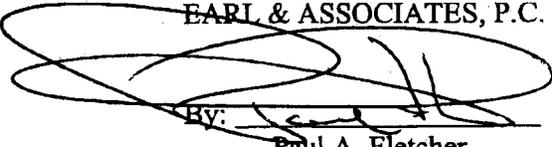
Dear Mr. Gomez:

Pursuant to your telephone conversation with Habib Erkan earlier today, please find herewith a check in the amount of \$125.00 and please accept this letter as our written request that the above referenced case, scheduled to be heard on January 9, 2006, be postponed or continued for thirty (30) days.

Additionally, please be advised, and please advise the Board of Adjustment, that the applicant shall seek a recusal of every member of the Board of Adjustment who participated in any ex parte communications on the above referenced Board of Adjustment case with a member, or members, of the City Attorney's Office and members of City Staff. However, the applicant may not seek to recuse the Board if by 5:00 p.m., Thursday, January 5, 2006, the applicant is provided with information regarding the content and substances of the communications between the Board and City Staff that directly or indirectly participated in the decision under review by the Board of Adjustment regarding the above referenced case.

Please do not hesitate to contact me should you have any questions regarding this matter.

Sincerely yours,
EARL & ASSOCIATES, P.C.


BY: Paul A. Fletcher

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Enclosure

cc: Dennis Drouillard
Chris Looney
Peter Kilpatrick

Via Fax 207-4004
Via Fax 207-3315
Via Fax 735-6889

