ORDINANCE NO. 2006-O-70

AN ORDINANCE OF THE VILLAGE OF VOLENTE, TEXAS, REZONING AN APPROXIMATE 297 ACRE TRACT OF LAND (A PORTION OF WHICH IS CONTINGENTLY REZONED) WITHIN THE VILLAGE OF VOLENTE AS A PLANNED DEVELOPMENT DISTRICT ("PDD"); ESTABLISHING ZONING REGULATIONS FOR THE PDD; ADOPTING PROCEDURES AND REQUIREMENTS FOR FINAL ZONING APPROVAL AS A PDD; APPROVING THE PRELIMINARY DEVELOPMENT PLAN FOR THE PDD; AND PROVIDING DEFINITIONS, SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES

WHEREAS, the purpose and intent of a Planned Development District is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development of property in the Village of Volente ("Village") consistent with Article 30 of the Village's Code of Ordinances and the Village's Comprehensive Plan;

WHEREAS, the Rules adopted for a PDD are designed: (i) to allow development which is harmonious with nearby areas; (ii) to enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance; (iii) to provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs; (iv) to encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods; (v) to facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment; (vi) to provide an enhanced residential and/or work environment for those persons living and/or working within the district; and (vii) to require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development.

WHEREAS, the Village Planning and Zoning Commission and the Village Council have worked with Grason Volente Investments Ltd and the Volente Group of Texas, Ltd ("Landowners") on development issues for the approximate 297 acre tract of land ("Property") a portion of which is to be contingently rezoned as a PDD under this Ordinance. This 297 acre tract is a portion of an approximate 1,109 acre tract ("Parent Tract")

WHEREAS, the Village Council finds that the proposed PDD and the Preliminary Development Plan for the PDD, if the contingencies set forth in this Ordinance are met, are consistent with the provisions of the comprehensive plan for the Village of Volente and are designed to achieve the purposes set forth in Sections 211.003 and 211.004 of the Texas Local Government Code and Chapter 30 of the Village's Code of Ordinances regulating zoning within the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF VOLENTE, TEXAS, THAT:

1. **Legislative Findings.** The statements contained in the "whereas clauses" are adopted as the legislative findings of the Village Council in contingently re-zoning the Property as a Planned Development District (PDD).

2. **Contingent Re-Zoning of the Property.** The portion of the Property described by metes and bounds on Exhibit "B", attached hereto and incorporated herein for all purposes within the current boundary of the Village of Volente, is rezoned as a Planned Development District (PDD). The portion of the Property in the PDD outside of the current boundaries of the Village of Volente is contingently rezoned as a Planned Development District (PDD). The outer boundaries of the PDD shall be as shown on the map attached as Exhibit "A", which is incorporated herein for all purposes.

3. **Contingencies to be Met.**

(a) **City of Austin.** The Village's corporate boundaries must be changed to conform to the boundaries of the PDD in order for the PDD as shown on the Preliminary Development Plan to be entirely within the corporate boundaries of the Village. The Village and the Landowners will file an application with the City of Austin either (i) to adjust the Village's corporate boundaries with Austin's ETJ to include the entirety of the PDD, and/or (ii) to obtain a release of the remainder of the Parent Tract owned by GrasonVolente Investments Ltd. contiguous to the Village's corporate boundary ("Conservation Area") from Austin's ETJ to Volente's ETJ. If Austin agrees to adjust its ETJ boundaries to be consistent with the Preliminary Development Plan, GrasonVolente Investments Ltd. will request all areas currently outside of the Village's boundaries but within the boundaries of the PDD to be annexed into the Village of Volente. The Village agrees to annex these areas in accordance with the timeframes established in Chapter 43, Tex. Loc. Gov't. Code. At the time those areas are annexed into the Village, the Village will disannex any land currently within the Village's boundaries but outside of the boundaries of the PDD and the newly annexed areas will be deemed rezoned to this PDD. If Austin agrees to release the remainder of the Parent Tract from its ETJ, GrasonVolente Investments Ltd. will request that the released area be annexed into the Village.

(b) **United States Department of Fish and Wildlife.** The Landowners will negotiate with the United States Department of Fish and Wildlife ("Fish and Wildlife") to amend the Section (10)(a)(1)(B) permit number PRT-8068 to be consistent with the PDD ("Minor Amendment"). It is anticipated that Fish and Wildlife will approve the Minor Amendment by March 15, 2007. If the Minor Amendment is approved by Fish and Wildlife, the Landowners understand and agree that the Village may request Fish and Wildlife to release up to an additional two acres in the Conservation Area, contiguous to the three acre park, to be used as additional land within the park. The Landowners agree to cooperate with those negotiations and redefine the PDD boundaries, if

necessary, to move land currently within the PDD and the Conservation Area out of the PDD to offset any additional lands released from the Conservation Area in order for such land to be used as additional parkland, so long as the Landowners are not required to bear any expense or cost related to this effort by the Village and there is no reduction in lot count or lot size mix.

(c) **Travis County.** If acceptable to Travis County, the Landowners agree to deed in fee simple the land within the Conservation Area to Travis County, dedicated and covenanted to be used solely and in perpetuity as a preserve for endangered species in accordance with the Fish and Wildlife permit, except the wastewater disposal plant and other utility sites may be deeded to the Volente Municipal Utility District at the Landowner's discretion. If acceptable to Travis County, the Landowners agree that restrictive covenants limiting the land use of the Conservation Area will provide that such restrictions are enforceable by the Village. The Landowners further agree that if the Village, prior to the Conservation Area being deeded to Travis County, requests that the Landowners voluntarily request annexation of the Conservation Area into the Village (provided the City of Austin has released the land within the Conservation Area to the Village's ETJ), the Landowners will request annexation of the land into the Village. The Landowners further agree that the Landowners and/or the Municipal Utility District will negotiate with Travis County an agreement to provide funding to cover all or a portion of the costs associated with maintaining the Conservation Area. In the event Travis County does not agree to accept the Conservation Area, the Landowners and the Village agree that the Conservation Area may be deeded to another mutually agreeable governmental entity.

(d) **MUD Consent Agreement.** The Landowners and the Village will negotiate and sign an amended MUD Consent Agreement within thirty days after the adoption of this Ordinance.

4. **Deviations from standards in the Village's Code of Ordinances.** The following regulatory standards are substituted for the regulatory standards set forth in the Village's zoning and site development ordinances for development of land within the PDD. If an alternative regulatory standard is not contained within this Ordinance, the regulatory standard in the Village's Code of Ordinances in effect on October 11, 2006, is applicable and must be complied with in accordance with the provisions of Chapter 245 of the Tex. Loc. Gov't. Code.

(a) **Land Use.** The land uses within the Property shall consist of the following uses:

(1) Residential and Related Uses within Development Area.

(a) Except for utilities, drainage and temporary construction easements and primitive hiking trails within the Open Space, all development and construction shall occur within the development area, as shown on the Development Area of Project – Land Uses map attached as Exhibit "F" to the Preliminary Development Plan (the "Development Area").

(b) Volente Peak density shall be limited to 297 residential single family units, as well as improvements and facilities necessary for a high quality residential development, including roadways, utilities, landscaping and entry features, homeowner amenity facilities, private common areas, home sales centers and other related improvements.

(c) The lot and street layout may be changed within the Development Area when the Final Development Plan is submitted to the Village by the Volente Peak Landowners and the Village agrees to accommodate such a change to allow the development of a maximum of 297 single family lots, provided the Landowners comply with the Village's regulatory land use standards, including the standards contained within this Ordinance, and such changes are necessitated by engineering, topographical, or environmental problems encountered in designing the roadways and configuring the lots during the final development plan

(2) Open Space.

(a) A minimum of 800 acres of open space, as shown on the Project Open Space map attached to the Preliminary Development Plan as Exhibit "G" (the "Open Space"), shall remain undeveloped and managed in a natural condition except for the limited uses permitted and described under the USFW 10A permit (as amended) (including without limitation the water facilities, wastewater facilities, and the drip irrigation area (as shown on the Conceptual Water Distribution Location and Water Distribution System and Conceptual Wastewater Collection System attached as Exhibits "I" and "J" of the Preliminary Development Plan; drainage ways conveying storm water; drainage/water quality ponds and primitive hiking trails (as shown on Project Conceptual Master Plan attached as Exhibit "D" to the Preliminary Development Plan or as otherwise approved by the Village Engineer).

(b) Utility, drainage and access easements for utilities and temporary construction access may be granted over the minimum of 800 acres of open space, provided USFW has granted approval of any such easement and its location.

(3) Boundary Adjustment.

The Village and the Landowners will request that the City of Austin consent to approve a boundary adjustment to reflect the accurate boundary of the Project as shown on the Project Conceptual Master Plan attached as Exhibit "D" to the Preliminary Development Plan. If for any reason the boundary adjustment is not approved by the City of Austin, the Landowners shall have the option to conform the Final Development Plan to the existing Village boundaries, provided the Village Planning and Zoning Commission and the Village Council have reviewed the modified PDD and the Village Council has voted to amend the PDD.

(4) One-Acre PDD Lots.

(a) One-Acre PDD lots shall be located in the area shown on the Development Area of the Project – Land Uses map attached as Exhibit "F" to the Preliminary Development Plan.

(b) One-Acre PDD Lots shall comply with all development restrictions and regulations set forth in the Code except as follows:

(1) General setback restriction: No permanent structures may be located within setbacks, except that air conditioner pads may encroach into setbacks.

(2) The front yard setback shall be 30 feet from the front property line.

(3) The side yard setback shall be 25 feet from the interior side yard property line.

(4) The street side yard setback shall be 30 feet from the street side property line.

(5) The rear yard setback shall be 25 feet from the rear yard property line.

(6) The minimum lot square footage area shall be 43,560 square feet.

(7) The minimum lot depth shall be 175 feet.

(8) The minimum lot width shall be 120 feet, except that the minimum lot width on a lot fronting a cul-de-sac shall be 70 feet. Lot widths shall be measured at the front setback line.

(9) The maximum height limit shall be 35 feet, as measured under the Village's current guidelines and regulations.

(5) One-Acre "Wide" PDD Lots.

(a) One-Acre "Wide" PDD lots shall be located in the area shown on the Development Area of the Project – Land Uses map attached as Exhibit "F" to the Preliminary Development Plan.

(b) One-Acre "Wide" PDD Lots shall comply with all development restrictions and regulations set forth in the Code except as follows:

(1) General setback restriction: No permanent structures may be located

within setbacks, except that air conditioner pads may encroach into setbacks.

(2) The front yard setback shall be 30 feet from the front property line.

(3) The side yard setback shall be 25 feet from the interior side yard property line.

(4) The street side yard setback shall be 50 feet from the street side property line.

(5) The rear yard setback shall be 25 feet from the rear yard property line.

(6) The minimum lot square footage area shall be 43,560 square feet.

(7) The minimum lot depth shall be 175 feet.

(8) The minimum lot width shall be 200 feet, except that the minimum lot width on a lot fronting a cul-de-sac shall be 70 feet. Lot widths shall be measured at the front setback line.

(9) The maximum height limit shall be 35 feet, as measured under the Village's current guidelines and regulations.

(6) One-Half Acre PDD Lots.

(a) One-Half Acre PDD lots shall be located in the area shown on the Development Area of the Project – Land Uses map attached as Exhibit "F" to the Preliminary Development Plan.

(b) One-Half Acre PDD Lots shall comply with all development restrictions and regulations set forth in the Code except as follows:

(1) General setback restriction: No permanent structures may be located within setbacks, except that air conditioner pads may encroach into setbacks.

(2) The front yard setback shall be 30 feet from the front property line.

(3) Each one-half acre lot shall have side yard setbacks totaling 30 feet with no side setback being less than 10 feet from the interior side yard property line.

(4) The street side yard setback shall be 15 feet from the street side

property line.

(5) The rear yard setback shall be 25 feet from the rear yard property line.

(6) The minimum lot square footage area shall be 21,780 square feet.

(7) The minimum lot depth shall be 120 feet.

(8) The minimum lot width shall be 100 feet, except that the minimum lot width on a lot fronting a cul-de-sac shall be 70 feet. Lot widths shall be measured at the front setback line.

(9) The maximum height limit shall be 35 feet, as measured by the Village's guidelines and regulations.

(7) Impervious Coverage.

The impervious coverage available for street construction and construction on residential lots within the 297 acre Volente Peak Project shall not exceed 25%. Impervious coverage for residential lots shall be as follows:

(a) Residential lots one acre or greater in area shall have an impervious coverage allowance of 11,000 square feet.

(b) Residential lots less than one acre in area shall have an impervious coverage allowance of 7,000 square feet.

(c) Impervious cover for lot types other than residential uses shall be as specified on the Preliminary Development Plan.

(d) Impervious cover for lot types shall be included in the Deed Restrictions.

(e) Amenity Lots. Private amenity lots that serve the residents of Volente Peak are permitted and are located as shown on the Project Conceptual Master Plan attached as "Exhibit "D" to the Preliminary Development Plan.

(8) Regulatory Compliance. All construction and development within the Project shall comply with the following provisions, subject to the Village Council's approval of preliminary and final plats:

(a) Slope Construction Limitation.

Construction shall not occur on slopes in excess of 25%, except as follows:

(1) Street and utility construction may occur on slopes averaging 25% and greater in areas within utility easements and right-of-ways necessary for access to the Development Area and driveway access from lots to the streets, subject to the Fire Chief's reasonable approval and as shown on the preliminary plat.

(2) Home and related residential lot improvements, including driveways:

(a) Driveway construction may occur on slopes averaging from 25% up to 40% within the driveway envelope, only if necessary to provide access from a road to a home, provided Best Management Practice erosion controls approved by the Village Engineer are used. Such construction shall be approved on a case by case basis and shall be inspected by a qualified third party recommended by the Village Engineer and paid for by the Landowner(s).

(b) Residential construction may occur on slopes averaging from 25% to 35% within the building envelope provided Best Management Practice erosion controls approved by the Village engineer on a case by case basis are used. Such construction must be inspected by a qualified third party, recommended by the Village engineer and paid for by the Landowner(s). The lots where construction will occur on slopes from 25% to 35% will be identified on the final plat(s).

(c) Residential construction may occur on slopes averaging from 35% to 40% within the building envelope on no more than 12 lots, provided Best Management Practice erosion controls approved by the Village engineer on a case by case basis are used. Such construction must be inspected by a qualified third party, recommended by the Village engineer and paid for by the Landowner(s). The lots where construction will occur on slopes of 35% to 40% will be identified on the final plat(s).

(b) Platting Process and Approvals.

The preliminary platting, final platting and construction process for lots within Volente Peak shall occur pursuant to the following procedures (per Village Engineer):

(1) Submittal of Preliminary Plat for entire development. Determine development phasing.

(2) Submittal of Final Plat, PDD Final Development Plan and NPS Plan for first phase. Infrastructure construction plans will be included with these submittals. Construction plans must be approved by the Village Engineer prior to Village Council approval of the PDD Final Development Plan, Final Plat, and NPS Permit.

(3) Construct Infrastructure for first phase. After the infrastructure is accepted by the Village, the Final Plat may be recorded (options also exist for the developer to post fiscal security to allow recordation of final plats before infrastructure is constructed and/or accepted).

(4) Submittals for Building Permits in compliance with the Village's ordinances.

(5) For subsequent phases of the development, repeat steps 2 through 4.

(c) NPS Pollution Control Permits

The Village's NPS Pollution Control Ordinance requires that the Village issue a NPS Pollution Control Permit with a Site Development Permit. The NPS permit would be approved with a PDD Final Development Plan. The NPS ordinance also requires the Village to issue an Annual Operating Permit for the water quality controls when the subdivision infrastructure is accepted (see Section 32.127 of the NPS Pollution Control Ordinance). For multi-phase developments, the permit shall automatically be reissued with each new phase so that there is only one NPS permit and one annual operating permit for the entire development.

(d) Concrete Survey Monuments

In place of the concrete survey monuments to locate boundaries set forth in Final Plats of the Village's Subdivision Ordinance, the monuments may be in a manner as generally accepted in the surveying industry and as reasonably approved by the Village Engineer (typically this requires iron rods or some other type of permanent marker placed at all boundary and lot corners).

(e) Entry Monuments and Signs.

The Owners shall be permitted to construct on land within the Property entry monuments and walls, plantings, irrigation and lighting at the entrances to the Project on F. M. 2769 and Lime Creek Road. The design of such improvements shall be of a first class quality and shall have adequate provisions, as reasonably determined by the City Attorney, for the ongoing operation and maintenance of such improvements. Such

monuments and signs shall conform to the Village's sign ordinance and outdoor lighting ordinance.

(f) Water Quality Buffer Zones.

All Water Quality Buffer Zones within the Development Area shall follow the LCRA's Buffer Zones-Option 2 in the Travis County guidelines as set forth in the February 2006 LCRA Highland Lakes Watershed Ordinance.

(g) Working Days and Hours.

Working Days shall include Monday through Friday (7a.m. to 7 p.m.) and Saturday (7a.m. to 5 p.m.).

(9) Water Quality Controls.

An overall plan for water quality controls required for this development with supporting engineering data shall be submitted as part of the preliminary plat process. Construction plans required for water quality controls shall be submitted with the phase of development for which the controls are needed.

(10) Traffic Impact Analysis and Roadway Improvements.

The Preliminary traffic impact analysis ("TIA") is attached as Exhibit "P" to the Preliminary Development Plan. A final TIA will be submitted at the Preliminary Plat phase.

The Village and the Owners of Volente Peak recognize the desire to insure that safe vehicular travel exists within the Village. Accordingly, and in addition to recommendations by the Project TIA, The Owners of Volente Peak shall construct a deceleration lane on F.M. 2769, if allowed by TxDOT, and a turn lane on Lime Creek Road, such that through traffic may continue as turning movements occur at the entrances into the Project. Such improvements shall be constructed at the time the access to such entrance is made and the design of such deceleration lane and turn lane shall be approved by the Village Engineer and TXDOT, as appropriate.

(11) Circular Driveways.

On lots with frontage greater then 90 feet, circular driveways with two access points to the street are permitted provided that during the building permit approval process, it is determined that such circular driveways do not create a traffic hazard, as reasonably determined by the Village Engineer.

(b) Water, Wastewater and Drainage

(1) Conceptual Water Distribution System.

The conceptual water distribution system for the Project is set forth in the Concept Water Distribution Locations and Water Distribution System map set forth in Exhibit "I" of the Preliminary Development Plan. The Municipal Utility District proposes to enter into a water supply agreement with an entity to provide water to the development. All easements within the Project necessary for such construction and operation shall be granted for such water distribution system.

(2) Conceptual Wastewater Distribution System.

The conceptual wastewater collection system for the Project, including the treatment plant, a drip irrigation system and lines serving such plant and irrigation system are set forth in the Concept Wastewater Collection System map set forth in "Exhibit J" of the Preliminary Development Plan. TCEQ has controlling authority over the approval of the wastewater treatment system. The Owners have applied for a non-discharge permit and, as long as the TCEQ's criteria are satisfied, the Village shall approve the wastewater system approved by TCEQ. The Owners will submit plans for the wastewater system for review and comment from the Village Engineer, but ultimate approval authority will remain with TCEQ. Construction plans for internal collection facilities within the Project will require review and approval by the Village, TCEQ and Volente M.U.D.

(3) Conceptual Drainage and Water Quality System.

The conceptual drainage and water quality system for the Project is set forth in the Concept Drainage Plan map set forth in Exhibit "K" of the Preliminary Development Plan. The conceptual drainage and water quality system is based on an overall project design with surface flows where possible.

(4) On-site Detention and Structural Controls

On-site detention and structural control requirements to treat storm runoff for pollutant removal, based on the average lot density of one unit/acre shall be performed in accordance with Engineer's letters, attached in Exhibit "Q" to the Preliminary Development Plan. After construction, the Owner shall assign ownership and maintenance responsibilities of all water quality and drainage facilities to the MUD, (per Engineers' letters), attached in Exhibit "Q".

(5) Surface Drainage.

To minimize impact to the natural features of the Property, surface flows are specifically permitted across the Open Space and the Volente Peak valley (with

appropriate dissipaters as approved by the Village Engineer to prevent erosion) per Exhibit "Q".

(c) Cut and Fill

(1) Cut/Fill Limitations.

(a) For the purposes of this section, cut shall mean the portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Cut-and-Fill shall mean the process of earth moving by excavating part of an area and using the excavated material for adjacent embankment or fill areas.

(b) Cut/fill limitations for streets and utilities within easements shall not exceed twenty feet (20') in cut and 20' in fill within public rights-of-way and utility easements where reasonably necessary for access and proper and safe design of roadways and utilities. Cut or fill on driveways shall not exceed the cut or fill of the street frontage immediately adjacent to the driveway, provided that no driveway fill may exceed 15 feet in height. Lots fronting street cut or fill in excess of 10 feet shall be identified on the Final Plat. Cut or fill over ten feet (10') shall be mitigated to minimize the aesthetic, engineering and erosion potential from such cut and fill; mitigation measures include natural materials such as stone cladding, dry stack walls, planter walls, planter pockets, landscaping and terracing or other measures approved by the Village Engineer. Slope stability analysis shall be submitted by a licensed geotechnical engineer for cuts or fills greater than 10'. Structural retaining walls greater than 5' in height shall be designed by a licensed structural engineer. A license agreement must be negotiated for maintenance of improvements within the R.O.W.

(c) Cut/fill limitations for residential lots, excluding driveways, shall not exceed a total of ten feet (10') of cut and a total of 10 feet of fill within building envelope where necessary. Building foundations are not considered cut or fill. Cut or fill over five feet (5') shall be mitigated to minimize the aesthetic, engineering and erosion potential from such cut or fill; mitigation measures include natural materials such as stone cladding, drystack walls, planter walls and planter pockets, landscaping and terracing or other measures reasonably approved by the Village Engineer. A maximum of 2 feet (2') of the vertical face building foundation may remain exposed. Slope stability analysis shall be submitted by a licensed geotechnical engineer for cuts or fills greater than 10 feet. Structural retaining walls greater than 5 feet in height shall be designed by a licensed structural engineer.

(d) Birds and Trees

(1) Annual Bird Survey.

Any surveys of endangered birds and bird habitat performed as part of the USFW 10A permit will be provided to the Village. No other endangered species mapping is required.

(2) Tree Preservation.

The Village and the Owners of Volente Peak have sought to preserve thousands of trees in a natural setting through the dedication of approximately 800 acres minimum of Open Space.

Protected trees, as currently defined in the Village's Code of Ordinances, outside of rights-of-way and easements, are allowed to be removed subject to the following requirements: Replacement trees shall be planted at a caliper ratio of 1:1 with 1.5" caliper or greater size. The first $1,500 worth of protected trees removed from a residential lot in the Development Area is required to pay cash in lieu of planting replacement trees to the Village. Mitigation fees shall be paid at time of Building Permit. After the initial $1,500 in mitigation, it is the Applicant's discretion whether additional required mitigation is provided by planting replacement trees or payment of cash in lieu of replacement. The payment schedule for cash in lieu of tree replacement shall be as follows: Protected trees: $500 for minimum caliper protected tree as defined by the Village ordinance plus $100 per inch beyond the minimum protected amount of the removed tree.

At the time of final plat approval for a phase, the Landowners shall pay the Village a protected tree removal mitigation fee in the amount of $5,000/acre for the land located within rights-of-way and drainage/water quality/public utility easements as shown on the final plat.

(e) Streets, Cul-de-Sacs, Easements, Driveway Slopes and Sidewalks

(1) Location and Dimensions of Streets.

The location and dimensions of the streets within the Project are shown on the Concept Mobility Improvements attached as Exhibit "H" to the Preliminary Development Plan.

(2) Cul-de-Sac Locations and Lengths.

The location and length of the cul-de-sacs are shown on the Project Conceptual Master Plan, attached as Exhibit "D" to the Preliminary Development Plan and are hereby approved. Turnarounds, required for emergency vehicle turning

movement, are approved as shown on Project Conceptual Master Plan Exhibit "D", subject to the Fire Chief's approval.

(3) Easement Sizes.

To facilitate the preservation of the Open Space and the clustering of the development, utility and drainage easements within the Project shall be sized as necessary for their intended purposes, but in no case less than 15 feet in width. All drainage easements will be sized to convey the fully developed 100-year storm event.

(4) Driveway Slopes.

Where required due to topographical restraints within the Development Area, driveways within the R.O.W. may not exceed a 14% slope.

(5) *Sidewalks.*

Sidewalks shall not be required within the Project.

(f) Lighting

The "low impact" lighting and glare standards set forth in Section 3.345 of the Site Development Ordinance will be met, except that submission of an outdoor lighting plan for individual residential lots will be submitted at time of building permit. The street and infrastructure lighting shall be submitted for approval with the construction plans of each subdivision phase.

5. MUD

(a) MUD Governance.

The MUD shall be governed solely by state law, TCEQ regulations and the Agreement Concerning Creation and Operation of the Volente Municipal Utility District and Lands of the District, as amended.

(b) Compliance with the Provisions of the MUD Consent Agreement

The MUD shall comply with the provisions to the Consent Agreement, as amended, entered into with the Village.

6. Compliance with the requirements of the Fire Chief and the Travis County Fire Marshall's office.

The Landowners will submit the preliminary plat for a recommendation of approval by the Fire Chief of the Volente Volunteer Fire Department and the

Travis County Fire Marshall's Office prior to submitting the preliminary plat to the Village for its approval.

7. Benefits to the Village from the Approval of the PDD.

(a) Open Space.

A critical feature of this PDD is the permanent preservation of approximately 800 acres minimum of Open Space. As a condition of this PDD and prior to the recordation of the first plat for lots within the Development Area, the Owners of Volente Peak will convey the Open Space, subject to the terms and easements outlined in this PDD, to BCCP approved management entity (Travis County is the preferred entity).

(b) Community Amenities/Parkland

Two private parks, (Park Lot 'A' & Park Lot 'B' as shown on Exhibit 'N') privately owned and maintained by the Volente Peak Homeowner Association (HOA) or MUD, shall be made accessible to Village residents, provided a $25.00 membership fee is paid on an annual basis by each Village residence desiring to utilize the facilities. The HOA shall regulate the terms of this membership and reserves the right to modify the terms from time to time, including a maximum 5% increase in fee rate per year. Village residents are subject to the park rules.

(c) Park to be Dedicated to the Village

Approximately 3.0 acres of land, as shown on the Project Conceptual Master Plan, attached as Exhibit "D" of the Preliminary Development Plan shall be dedicated to the Village for use as parkland. Such dedication shall be part of the approval of the first final plat within Volente Peak. Parkland and usable open space dedications, as set forth in Exhibit "D", complies with the parkland and usable space requirements of the PDD Enabling Ordinance (Section 30.124 (A)(e)).

(d) Waterlines for the Village's future use

The Owners of the Volente Peak MUD have agreed to size the distribution water lines running to F.M. 2769 and Lime Creek Road (see Conceptual Water Distribution Location and Conceptual Distribution System attached as "Exhibit I" of the Preliminary PDD Plan) for an additional 600 living unit equivalents of service to provide potable water to points at F.M. 2769 and Lime Creek Road for possible future distribution to the Village, as shown on "Exhibit I" of the PDD standards. These lines will be terminated with fire hydrants, which may be utilized by the Emergency Services District. If the Village should ever need such potable water, it may enter into water supply agreements with water providers and the MUD shall allow such water to pass through its systems at a cost not to

exceed the wholesale rate charged by the MUD's water provider plus a surcharge to account for the Villages' share of operations and maintenance of the pass through lines and water losses. The Volente MUD and the Village may negotiate adjustments to the surcharge from time to time based upon the MUD's actual operational costs for passing water through to the Village. At no cost to the Village and if the Village makes such a request, the Volente MUD shall dedicate to the Village by plat or separate instrument an approximate 100 foot by 100 foot area adjacent to the MUD's water storage tank(s) for use as the Village's future water storage tank site and shall provide valved stubouts for all future connection points to the Village meters and tank.

(e) Monetary Contributions to Improve the Parkland Dedicated to the Village

The Landowners shall contribute the sum of $200,000.00 to the Village, designated for park improvements, to be paid when the Village Council approves the final plat for the first phase of the PDD.

8. **Preliminary PDD Plan.** The Preliminary PDD Plan and Exhibits "A-Q" attached hereto and incorporated herein for all purposes are approved.

9. **Severability:** If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

10. **Effective Date:** This Ordinance shall take effect immediately from and after its passage and publication of its enacting ordinance in accordance with the provisions of *Chapter 52 of the Texas Local Government Code.*

11. **Open Meetings:** It is hereby officially found and determined that the meeting at which the enacting ordinance of this article is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551 of the Texas Government Code*.

PASSED AND APPROVED on the 23rd day of October, 2006.

JAN YENAWINE, MAYOR OF THE
VILLAGE OF VOLENTE

ATTEST:

Jennifer Zufelt

JENNIFER ZUFELT, CITY SECRETARY