

(Published in the Topeka Metro News May 9, 2016)

ORDINANCE NO. 19997

AN ORDINANCE introduced by City Manager Jim Colson, concerning Planned Unit Development (PUD) districts amending City of Topeka Code Sections 18.190.010, 18.190.040, and 18.190.050 and repealing original sections.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 18.190.010, Purpose – Intent, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Purpose – Intent.

This district is established to permit greater flexibility and more creative, innovative and imaginative design for the development of areas that are generally not possible under the strict application of the regulations of the other districts. It is further intended to promote more economical and efficient use of the land while providing for a pleasing and harmonious development and environment, including opportunities to provide for a high level of urban amenities, and the preservation of open spaces. The regulations of this district are intended to encourage the use of this district in order to integrate multiple uses into the development; to adapt the proposed use(s) to meet the conditions of the site; and to affect certain economics in public facilities. ~~The requirements contained herein are set forth to provide for such development on other than a lot-by-lot basis.~~

Due to the nature and implications of a district zone which provides for such a broad spectrum of land use and a more challenging responsibility of the delivery of public services, considerations and quasijudicial deliberations relating to the compatibility of the district to a particular site shall permit greater discretionary review and broad latitude in applying conditions and limitations for a permitted development.

The compliance with all standards set forth in this division and the submittal of all specified documents and data shall not entitle an applicant to this district classification.

Section 2. That section 18.190.040, Requirements and development standards for the planned unit development district, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Requirements and development standards for the planned unit development district.

The following performance criteria shall be required of all planned unit developments and shall be addressed by the master plan:

(a) Size of Parcel.

(1) One acre. Except as provided in subsection (a)(2)~~In order to encourage the efficient use of land and resources, promote greater efficiency in public and utility services, and encourage innovation in the planning, design and building of all types of development,~~ the minimum site size requested for a planned unit development district shall be one acre.

(2) Less than one acre.

(A) Less than one acre; transition area. Parcels containing less than one acre may be ~~sought for reclassification~~reclassified to the planned unit development district where the planning director determines the proposed PUD to be a “transition area,” defined as an area that separates a nonresidential use group classification (O&I, C, or I districts alone or within a PUD) from another nonresidential use group classification or a residential use group classification (R or M districts

53 alone or within a PUD). The determination of the planning director may be
54 appealed to the planning commission.

55 (B) Less than one acre; re-use of building; zoning change. Parcels
56 containing less than one acre may be reclassified to a planned unit development
57 district where the plan includes a re-use of an existing building and the proposed
58 use would require a zoning change to a less restrictive classification. Conditional
59 uses may be allowed as indicated in TMC 18.190.030(a)(2).

60 (b) Additional Standards and Requirements for Projects on Less Than One
61 Acre.

62 (1) The use group category assignment of the planned unit
63 development will be ~~comparable to that of~~ compatible with surrounding properties
64 in the neighborhood. Restrictions may be imposed to ensure the proposed use is
65 compatible with surrounding properties or uses.

66 (2) The density and design of the planned unit development shall be
67 compatible in use, size and type of structure, relative amount of open space,
68 traffic circulation and general layout with adjoining land use, and shall be
69 integrated into the neighborhood.

70 (3) The development shall not have any greater impact on existing
71 streets and utilities than that anticipated for a conventional development of the
72 site.

73 (4) The development shall not adversely affect views, light and air, and
74 use and enjoyment of neighboring properties any more than would a
75 conventional development.

(5) The master planned unit development plan shall also include building elevations for all structures and details of materials to be used for external construction, when determined necessary by the planning director. The determination of the planning director may be appealed to the planning commission.

(c) Property Owners' Association. Areas within the planned unit development which are designated as private streets, private utility services, common areas, recreation areas, or other open space set aside for the benefit of tenants and property owners, shall be maintained by the property owners' association or, in the alternative, property owners within the planned unit development. In the event the property owners' association or property owners within the planned unit development fail to maintain such areas, the governing body may proceed under applicable ordinances and/or resolutions to maintain such areas. All costs incurred by the governing body in maintaining such areas shall be assessed against the lots within the planned unit development as provided for by law. Nothing contained herein shall be construed as creating a duty on behalf of the governing body to enforce any of the duties, obligations, or responsibilities of the property owners' association or, in the alternative, individual property owners.

(d) Platting. Building or zoning permits shall not be issued nor any development initiated on any property designated as planned unit development until such time that the property has been platted as a subdivision; or replatted as a subdivision when determined by the planning director that conditions and circumstances relating to utility extension and service, street or alley right-of-way, topographic and drainage factors, easements, or vehicular access warrant said replat.

(e) Access.

(1) All drives, lanes, streets, culs-de-sac, and other accessways within the planned unit development shall be owned and maintained by the property owners' association or owners within the planned unit development unless it is determined by the planning commission that there is a public need for local streets and/or major trafficways to transverse the district. In such instances, the transversing streets and/or trafficway right-of-way shall be dedicated by the developer in accordance with the plat subdivision regulations.

(2) All drives, lanes, streets, culs-de-sac and other privately owned accessways providing accessibility to individual structures, buildings, and uses within the planned unit development shall, by the nature and intent of the district, be considered and serve as mutual rights of access for owners, tenants, invited guests, clients, customers, support and utility service personnel and emergency service providers, including law enforcement, fire protection and ambulance services. No gates, structures or other barriers shall be constructed across said accessways which may impede, limit, or restrict the above rights of access.

(3) The site will be accessible from public streets which are adequate to carry the traffic that will be imposed upon them by the proposed development. Streets and driveways on the site of the proposed development will be adequate to serve the residents, occupants, or users of the proposed development. Traffic control signals will be provided without expense to the city when ~~the governing body determines that~~ such signals are required to prevent traffic hazards or congestion in adjacent streets.

(4) All drives, lanes, streets, culs-de-sac, accessways, and parking lots shall comply with all applicable provisions of Chapter 18.240 TMC in respect to surfacing, design, screening, lighting, and drainage.

(f) Other Standards. Other developmental standards, requirements, and provisions of applicable jurisdictional units including but not limited to those of public works, fire and water district, law enforcement, utilities, and parks and recreation, and which may not be specifically set forth in this division, shall apply and the master and final planned unit development plans should account for such and reflect a development design accordingly; provided, that variances and waivers are not granted by the appropriate authority.

Section 3. That section 18.190.050, Procedure for securing approval of a planned development and the establishment of a planned development district, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Procedure for securing approval of a planned development and the establishment of a planned development district.

Prior to any use or development within the planned unit development district, the district shall be established in accordance with the provisions of this division, including the approval of all plans set forth in the procedure.

(a) Application to Amend to the District. Except as set forth by this division, a petition to reclassify property to the planned unit development district shall be as established in Chapter 18.245 TMC, Amendments, and include like contents. Additionally, the application shall include ~~45~~the specified number of copies of the planned unit development master plan which shall consist of the following documents, information and graphics unless determined to be unnecessary by the planning director.

The planning director may waive the submittal of the master plan in circumstances where the conditions of approval, restrictions, and limitations of the planned unit development can be addressed in the ordinance reclassifying the property.

(1) Legal description of the proposed district in its entirety, total acreage, and planned unit development name/designation.

(2) Legal description of each proposed use group category with corresponding acreage.

(3) The site plan shall identify the name of the planned unit development in large, bold letters centered across the top of all plan sheets; the general location and arrangement of all existing structures; the proposed traffic circulation pattern within the development; the approximate location of proposed and existing major streets and major pedestrian and bicycle routes, including major points of access; the areas to be developed for parking; the points of ingress and egress including access streets where required; the relationship of abutting land uses and zoning districts; proposed types of signage; proposed lots and blocks, if any; proposed public or common open space, if any, including parks, playgrounds, school sites, and recreational facilities.

(4) The site plan of the development shall be at a minimum scale of one inch equals 50 feet, composed of one or more sheets with an outer dimension of 24 inches by 36 inches. A single-line border shall be provided around all plan sheets measuring exactly one inch from the edge of the sheet except along the left side of the sheet which line shall measure exactly two inches from the edge. The scale, north point and most recent date of preparation shall be so indicated on the plan.

(5) Graphically reflect the geographic location and designation of each use group category proposed.

(6) The anticipated density, number, maximum height and type of residential units; and floor area, maximum height and types of business, commercial and industrial use presented in tabular form in comparison to minimum applicable standards.

(7) Existing topographical character of the land at a contour appropriate with the scale of the project; all watercourses, floodplains, unique natural features, including wildlife areas and vegetative cover, and recognized historical sites and structures. Further, all existing streets, alleys, easements, utility lines, and existing land use shall be included on the plan.

(8) Total land area, approximate location, and amount of open space included in the residential, business, commercial, and industrial areas.

(9) When a planned development includes provisions for common open space, streets, utilities, drainageways or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space, streets, utilities, drainageways, or recreational facilities.

(10) A preliminary plat of subdivision pursuant to the applicable ordinances, rules and regulations relating to subdivision approval; or a copy of the existing recorded plat which is appropriate for the intended plan.

(11) Area shown on the site plan shall extend beyond the property lines of the proposal to include a survey of the area within 150 feet of the proposal, exclusive of public right-of-way, at the same scale as the proposal and include the following:

(i) Land uses, location of principal structures, and major existing landscape features.

(ii) Traffic circulation system.

(iii) General topographical mapping at same scale as master plan.

(12) Traffic impact analysis as defined by this division; provided, however, if in the opinion of the public works director, upon determination at preapplication conference that the intensity and scope of the requested planned unit development is of such nature that said impact analysis is not warranted, the director may waive said requirement.

(13) A development phasing schedule including the sequence for each phase, approximate size in areas of each phase, and proposed phasing of construction of public improvements, recreation, and common open space areas.

(14) One 11-by-17-inch reproducible electronic and paper copy of master plan.

(15) Indicate "Book," "Page," "Date," and "Time" in upper right-hand corner of all plan sheets.

(16) Immediately below the "Book," "Page," "Date" and "Time" entries, provide the following signature block:

Recorded With The Shawnee County Register of Deeds:

(Registrar's Name) – Register of Deeds

(17) Include the following statement on the plan sheet:

This Planned Unit Development (PUD) Master Plan has been reviewed and approved in accordance with the provisions of Chapter 18.190 of the

Comprehensive Zoning Regulations of the City of Topeka and Shawnee County, Kansas, and may be amended only as prescribed in TMC 18.190.070 and as set forth on this document or as may subsequently be approved and recorded.

(18) Notarized owner's certification of acceptance of conditions and restrictions set forth on the master plan as follows:

OWNER'S CERTIFICATE: (Type Name) agrees to comply with the conditions and restrictions as set forth on the master PUD plan.

In Testimony Whereof:

The Owner(s) of the above described property, (Type Name), have signed these presents this _____ day of _____, (Year) _____.

(Type Name and Title) (Type Name and Title)

Be it remembered that on this _____ date of _____, A.D. _____ (Year) before me, a notary public in and for said County and State come _____, Owner(s) of the above described property.

I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission Expires: _____

(19) Notarized certification of master PUD plan approval by the secretary to the planning commission as follows:

Certification of Master PUD Plan Approval:

(Planning Director's Name) (Date)

Secretary to Planning Commission

Be it remembered that on this _____ date of _____, A.D. _____ (Year), before me, the undersigned, a notary public in and for said County and State came (Planning Director's Name) who is personally known to me to be the same person who executed the within instrument of writing, and such person duly acknowledged the execution of the same.

In Witness Whereof, I hereby set my hand and affix my notarial seal the day and year last written above.

Notary Public

My Commission Expires: _____

(b) Action on the Petition and Master Plan of the Planned Unit Development Plan by the Planning Commission and Governing Body. Upon filing of a petition to amend a district to the planned unit development district as set forth in Chapter 18.245 TMC, Amendments, and as further provided by this division, the planning commission shall review, consider, and act on the petition in a like manner and procedure as provided in Chapter 18.245 TMC. The appropriate governing body shall consider such proposal upon report and recommendation by the planning commission also in a like procedure as provided in Chapter 18.245 TMC.

Section 4. That original § 18.190.010, § 18.190.040, and § 18.190.050 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 5. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 6. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 7. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body on May 3, 2016.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk