

ORDINANCE NO. Z-4091

REZONING NO. 2020-00003

AN ORDINANCE RELATING TO ZONING: AMENDING CERTAIN ZONING REGULATIONS SHOWN ON SHEET NO. 40 OF THE ZONING DISTRICT MAP INCORPORATED BY REFERENCE BY OVERLAND PARK MUNICIPAL CODE SECTION 18.150.020; AMENDING OVERLAND PARK MUNICIPAL CODE SECTION 18.150.020, AND REPEALING THE SAME.

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

Section 1. Amendment of Zoning District Map. The zoning district boundaries set forth on the Zoning District Map, Sheet No. 40, of the City of Overland Park, Kansas, incorporated by reference in the Overland Park Municipal Code, Section 18.150.020, are hereby amended with respect to the following described real property, to-wit:

Legal Description:

Part of Lots 2 and 4, NIEMAN PLAZA, a subdivision in the City of Overland Park, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of Lot 1, NIEMAN PLAZA, a subdivision in the City of Overland Park, Johnson County, Kansas; thence N 02°19'07" W, along the East line of said Lot 1, a distance of 249.87 feet; thence Northwesterly, along the Northeasterly line of said Lot 1, on a curve to the left having a radius of 25.00 feet, for a distance of 29.71 feet; thence N 70°24'59" W, continuing along the Northeasterly line of said Lot 1, a distance of 56.19 feet; thence Easterly, along the Southerly line of an access easement, on a curve to the left having a radius of 350.00 feet, for a distance of 206.08 feet; thence S 11°57'14" E a distance of 46.46 feet; thence Southeasterly, on a curve to the left having a radius of 25.00 feet, for a distance of 12.30 feet; thence S 40°09'01" E a distance of 34.51 feet; thence S 02°19'07" E a distance of 191.99 feet to a point on the South line of Lot 2, NIEMAN PLAZA; thence S 87°40'53" W, along the South line of said Lot 2, a distance of 168.37 feet to the Point of Beginning, containing 1.01229 acres, more or less.

The real property hereinabove described shall hereafter be deemed zoned and classified as CP-2, Planned General Business District, to allow a multi-tenant building with a drive-thru.

The Zoning District Map, Sheet No. 40 is hereby ordered to be changed to reflect such amendment.

Section 2. Stipulations and Conditions. The rezoning granted in Section 1 of this ordinance is hereby made contingent upon the performance and observance of the following regulations, stipulations, conditions, and restrictions, to-wit:

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- a. The development shall be in accordance with Exhibit “A” (Site Plan), and Exhibit “B” (Building Elevations), which are filed in the office of the Planning Commission Secretary at City Hall and which are incorporated by reference as if set out in full herein. Provided, subsequent revisions may be made thereto in accordance with the application, notice and other requirements of O.P.M.C. Title 18. In addition, the development shall follow and comply with all regulations and standards of the City of Overland Park, unless specifically exempted by the Governing Body.
- b. Development of the site shall be limited to 5,500 square feet.
- c. Prior to the submittal of a building permit, the Planning Commission shall approve final development plans.
- d. Prior to the issuance of a certificate of occupancy, all roof-top and ground-mounted mechanical equipment shall be screened from view with an architectural treatment that is compatible with the building architecture.
- e. The final plan shall meet the requirements of the Site Design Standards and Architectural Design Standards.
- f. Prior to the issuance of a building permit, the applicant shall submit to the staff of the Planning and Development Services Department evidence of a recorded covenant running with the land establishing a common access easement for the benefit of the abutting property owner to the east and west. That easement shall extend from the east property line to the west property line. The exact location and extent of the easement and the form and content of the easement document shall be subject to review and approval by the Planning and Development Services Department.
- g. At the time of final development plan, the applicant shall provide a sidewalk connection from the building to the proposed loop road sidewalk.
- h. At the time of building permit review, the applicant shall provide the locations of exterior fire department connections. These connections shall not be obstructed by landscaping, walls, or other barriers and shall meet Section 912.3.2 of the Overland Park Fire Code. These locations are subject to review by the Overland Park Fire Department.
- i. The number, location, and geometrics of all driveways and parking areas are subject to review and approval by the Planning and Development Services Department.
- j. Concurrent with the submittal of construction plans for a site development or building permit, whichever comes first, the developer’s engineer shall provide a

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Final Stormwater Management Study that addresses any outstanding items from the Preliminary Stormwater Management Study and includes any design changes. The study shall be approved prior to the issuance of a permit.

- k. Prior to the issuance of a site development or building permit, whichever comes first, the owner/developer shall submit a stormwater treatment maintenance agreement for review and approval by the Engineering Services Division. The stormwater treatment maintenance agreement shall be submitted to the Engineering Services Division for recording at the Johnson County Department of Records and Tax Administration with the recording fee paid by the owner/developer.
- l. Prior to the issuance of a site development or building permit, whichever comes first, the applicant shall provide documentation from the adjacent property owner to the west that allows the existing drive to be converted to only allow one-way traffic.
- m. Prior to the issuance of a site development or building permit, whichever comes first, the owner/developer shall submit a covenant to maintain private parking facilities agreement for review and approval by the Engineering Services Division. The covenant to maintain private parking facilities agreement shall be submitted to the Engineering Services Division for recording at the Johnson County Department of Records and Tax Administration with the recording fee paid by the owner/developer.
- n. Prior to the issuance of a final certificate of occupancy, the owner/developer shall provide a certification of completion and compliance for all constructed stormwater treatment facilities. The owner/developer shall submit a maintenance certification one year after construction is completed, and every two years thereafter. The certification shall be on a form as approved by the Engineering Services Division and shall be performed by a professional engineer licensed in the State of Kansas, unless the Director approves other qualified individuals to perform the certification.
- o. Prior to the release of the performance surety for any deferred stormwater treatment facilities and prior to the issuance of any building permits for non-deferred stormwater treatment facilities, a maintenance surety shall be provided by the owner/developer for the stormwater treatment facilities in accordance with Section 16.210.080.E of the O.P.M.C.
- p. Prior to the issuance of a certificate of occupancy, any existing public sidewalk adjacent to this property that does not substantially meet current City standards or is in poor condition shall be reconstructed to current City standards. The limits of the repair shall be approved by the Engineering Services Division prior to the issuance of a building or site development permit. An alternate route for pedestrian

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traffic shall be maintained in compliance with Section 13.10.070 of the Municipal Code. In no case shall public sidewalks be closed to pedestrian traffic for a period exceeding 30 days without prior approval from the City.

- q. Prior to the issuance of a certificate of occupancy, all new private sidewalks shall comply with the City's standard details for private sidewalks and sidewalk ramps, unless waived by the Director of Planning and Development Services (Section 18.130.015). Noncompliant pedestrian routes shall be clearly identified on the plans and comply with the building code.
- r. Prior to the publication of the ordinance, the applicant shall provide a revised legal description which matches the proposed plan.

Section 3. The Zoning District Map for the City of Overland Park, Kansas, is hereby amended by this ordinance, Ordinance No. Z-4091, said amendment being incorporated by reference pursuant to Section 18.150.020 which is amended to read as follows:

18.150.020 Zoning District Map

The boundaries of the zoning districts enumerated in Section 18.150.010 and in Article 7 of the Johnson County, Kansas, Zoning & Subdivision Regulations adopted herein shall be shown on a map officially designated as the Zoning District Map, which map is hereby incorporated by reference. Such "Zoning District Map" shall be marked "official copy of zoning district map incorporated into the zoning regulations by adoption of a zoning ordinance by the Governing Body of the City on the 5th day of October, 2020," and shall be filed in the office of the Director of Planning and Development Services of the City of Overland Park, Kansas, to be open to inspection and available to the public at all reasonable business hours. Ordinances amending the boundaries of zoning districts shall order the "Zoning District Map" to be changed to reflect such amendment, shall amend this Section 18.150.020, and shall reincorporate such "Zoning District Map" as amended.

Section 4. All zoning ordinances or provisions of the City of Overland Park, Kansas, otherwise limiting the use of the above described real property and inconsistent with this ordinance are hereby repealed. Further, Overland Park Municipal Code, Section 18.150.020, is hereby repealed to allow for amendment to the Zoning District Map as set forth hereinabove.

Section 5. Take Effect. This ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

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PASSED by the City Council this 5th day of October, 2020.

APPROVED by the Mayor this 5th day of October, 2020.

CITY OF OVERLAND PARK, KANSAS

By: _____
Carl Gerlach
Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:

By: _____
Elizabeth Kelley
City Clerk

By: (s) Stephen B. Horner

Stephen B. Horner
Senior Assistant City Attorney