

ORDINANCE NO. Z-4099

REZONING NO. 2020-00006

AN ORDINANCE RELATING TO ZONING: AMENDING CERTAIN ZONING REGULATIONS SHOWN ON SHEET NO. 36 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. 36, 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:

A tract of land lying in the West one half Northeast One-Quarter of Section 19, Township 13 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of the Northeast One-Quarter of said Section 19; thence South 01 degree 51 minutes 34 seconds East, (South 00 degrees 12 minutes 21 seconds West deed) along the West line of said Northeast One-Quarter, a distance of 1929.55 feet to the Southwest corner of OVERLAND STATION, a subdivision in the City of Overland Park as recorded in book 97 at page 20, said corner being the Point of Beginning; thence South 66 degrees 53 minutes 49 seconds East along the South line of Lot 1 of said OVERLAND STATION, a distance of 906.31 feet to the Southeast corner thereof, said corner being on the Westerly right-of-way of U.S. Highway 169 as now established; thence South 23 degrees 11 minutes 06 seconds West (South 25 degrees 14 minutes 50 seconds West deed) along said right-of-way, a distance of 324.37 feet to a point 40.00 feet North of the South line of said Northeast One-Quarter; thence South 87 degrees 42 minutes 25 seconds West (South 89 degrees 48 minutes 30 seconds West deed) along a line 40.00 feet North of, and parallel with said South line, a distance of 684.35 feet to a point on the West line of the said Northeast One-Quarter; thence North 01 degree 51 minutes 34 seconds West (North 00 degrees 12 minutes 21 seconds East deed) along said West line, a distance of 681.54 feet to the Point of Beginning and containing 8.728 acres, Except that part taken or used for road rights of way.

The real property hereinabove described shall hereafter be deemed zoned and classified as RP-5, Planned Apartment House District, and CP-2, Planned General Business District.

The Zoning District Map, Sheet No. 36 is hereby ordered to be changed to reflect such amendment.

ORDINANCE NO. Z-4099

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:

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 52 units and 24,000 square feet of commercial/retail.

Modifications to the plan and proposed square-footage may be allowed per Section 18.140.200 of the Unified Development Ordinance.

c. Prior to the issuance of a building permit, the property shall be preliminary and final platted.

d. Prior to the submittal of a building permit, the Planning Commission shall approve final development plans.

e. 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.

f. At the time of final development plan approval, the building architecture and materials will be further reviewed.

g. Deviations are hereby granted as follows:

1. Access not directly to a thoroughfare.
2. The building to be longer than 200 feet in length as shown on the building elevations.

h. The number, location, and geometrics of all driveways and parking areas are subject to review and approval by the Planning and Development Services Department.

i. At the time of final development plan approval, a landscape architect registered in the State of Kansas shall provide a sealed landscape plan for the applicable stormwater treatment facilities.

ORDINANCE NO. Z-4099

- j. Concurrent with the submittal of construction plans for a public improvement or site development permit, whichever comes first, the developer's engineer shall provide a 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 permit 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 permit, 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.
- m. Prior to the issuance of any building permits, 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.
- n. Prior to the issuance of a certificate of occupancy, all sidewalk ramps in the public right-of-way adjacent to the property shall be constructed or reconstructed to conform with current public sidewalk ramp requirements, including the installation of truncated domes where applicable.
- o. 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 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.
- p. 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

ORDINANCE NO. Z-4099

18.130.015). Noncompliant pedestrian routes shall be clearly identified on the plans and comply with the building code.

- q. Prior to the issuance of a certificate of occupancy, a public trail shall be constructed on the north side of 123rd Street along the property frontage within the right-of-way.
- r. Prior to the issuance of a site development or building permit, whichever comes first, the owner and/or developer shall submit (either) \$30,000 cash (or an Irrevocable Letter of Credit meeting the requirements of City policy in effect at the time of payment, for a term of one year. Irrevocable Letters of Credit are not renewable and may be redeemed by the City at any time prior to the end of the one-year term.) Said cash (or Irrevocable Letter of Credit) shall be deposited with the Chief Financial Officer for the City of Overland Park. The funds collected shall be placed in an escrow account set aside for a future traffic signal, roundabout, or similar traffic control device, including any required interconnections or other appropriate geometric/traffic control measures, at the intersection of 123rd Street & Lowell Avenue.

The future traffic signal, roundabout, or similar traffic control device will be considered by the City when and if a warrant is met in accordance with the “Manual on Uniform Traffic Control Devices.” In the event the actual total signalization costs are less than the funds available from the escrow account at the time of contract closing out, the difference shall be refunded to the owner or developer or the successors in interest.

- s. 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 north. That easement shall extend from site driveways on 123rd Street and Lowell Avenue to the adjoining property to the north. 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.
- t. Prior to the issuance of a site development or building permit, whichever comes first, the applicant shall submit a temporary construction easement for the proposed offsite work on the adjacent lot to the north. 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 Engineering Services Division.

Section 3. The Zoning District Map for the City of Overland Park, Kansas, is hereby amended by this ordinance, Ordinance No. Z-4099, 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

ORDINANCE NO. Z-4099

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 2nd day of November, 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.

PASSED by the City Council this 2nd day of November, 2020.

APPROVED by the Mayor this 2nd day of November, 2020.

CITY OF OVERLAND PARK, KANSAS

By: (s) Carl Gerlach

Carl Gerlach
Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM:

By: (s) Elizabeth Kelley

Elizabeth Kelley
City Clerk

By: (s) Stephen B. Horner

Stephen B. Horner
Senior Assistant City Attorney