

ORDINANCE NO. Z-4025

REZONING NO. 2019-00014

AN ORDINANCE RELATING TO ZONING: AMENDING CERTAIN ZONING REGULATIONS SHOWN ON SHEET NO. 27 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. 27, 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:

All that part of the NE1/4 of Section 9, Township 13, Range 25, in the City of Overland Park, Johnson County, Kansas, more particularly described as follows:

Commencing at the Southeast corner of the NE1/4 of said Section 9; thence N 1° 54' 20" W, along the East line of the NE1/4 of said Section 9, a distance of 398.84 feet, to a point on the Easterly extension of the North right-of-way line of W. 105th Street, as now established; thence S 88° 05' 02" W, along the Easterly extension of the North right-of-way line of said W. 105th Street, a distance of 40.00 feet, to a point on the West right-of-way line of Mission Road, as now established, said point also being the true point of beginning of subject tract; thence N 1° 54' 20" W, along the West right-of-way line of said Mission Road, a distance of 313.77 feet; thence S 88° 05' 40" W, a distance of 140.43 feet, to a point of curvature; thence Southwesterly, along a curve to the left having a radius of 260.00 feet, a central angle of 30° 05' 49", an arc distance of 136.58 feet, to a point of tangency; thence S 57° 59' 51" W, a distance of 17.48 feet, to a point of curvature; thence Southwesterly, along a curve to the right having a radius of 764.13 feet, a central angle of 4° 09' 09", an arc distance of 55.38 feet; thence S 1° 54' 56" E, a distance of 96.07 feet; thence S 43° 04' 56" W, a distance of 114.02 feet; thence S 61° 56' 42" W, a distance of 521.82, to the Northeast corner of Tract "A", MISSION FARMS WEST, a subdivision in the City of Overland Park, Johnson County, Kansas; thence S 2° 33' 03" E, along the East line of said Tract "A", a distance of 56.38 feet, to the Southeast corner thereof, said point also being on the North right-of-way line of Indian Creek Parkway, as now established; thence Southeasterly, along the North right-of-way line of said Indian Creek Parkway, said line being a curve to the left having a radius of 306.00 feet, a central angle of 8° 05' 08" and whose initial tangent bearing is S 74° 26' 43" E, an arc distance of 43.18 feet, to a point of compound curvature; thence Easterly, along the North right-of-way line of said

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Indian Creek Parkway, said line being a curve to the left having a radius of 106.00 feet, a central angle of 24° 12' 26" and whose initial tangent bearing is S 82° 31' 51" E, an arc distance of 44.78 feet, to a point of reverse curvature; thence Easterly, along the North right-of-way line of said Indian Creek Parkway, said line being a curve to the right having a radius of 87.00 feet, a central angle of 22° 07' 32", an arc distance of 33.60 feet, to a point on the North right-of-way line of said W. 105th Street; thence N 61° 53' 49" E, along the North right-of-way line of said W. 105th Street, a distance of 419.60 feet, to a point of curvature; thence Northeasterly and Easterly, along the North right-of-way line of said W. 105th Street, said line being a curve to the right having a radius of 385.00 feet and a central angle of 26° 11' 13", an arc distance of 175.96 feet, to a point of tangency; thence N 88° 05' 02" E, along the North right-of-way line of said W. 105th Street, a distance of 217.10 feet, to the point of beginning.

Said tract contains 165,690 square feet, equal to 3.804 acres, more or less.

The real property hereinabove described shall hereafter be deemed zoned and classified as MXD, Planned Mixed Use District.

The Zoning District Map, Sheet No. 27 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:

- 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 36 units total as well as a three-story 50-unit mixed use building with 7,750 gsf of retail.
- 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.

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- 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. Concurrent with submittal of construction plans for a building 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. 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 restoration of the proposed native vegetation areas.
- g. Prior to approval of a final plat including the stream corridor, the owner/developer shall submit a stream corridor maintenance agreement for review and approval by the Engineering Services Division.

The stream corridor maintenance agreement shall be submitted by the Engineering Services Division for recording, concurrent with the final plat, at the Johnson County Department of Records and Tax Administration with the recording fee paid by the owner/developer.

- h. Concurrent with the issuance of a land disturbance, site development, or building permit, whichever comes first, the contractor shall erect a visible temporary fence or other barrier that delineates the stream corridor. The barrier shall remain in place throughout construction and remain free of grading, retaining walls, or other alterations, unless otherwise approved. The barrier shall remain until the adjacent lots have been sodded.
- i. 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.
- j. 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.

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- k. Prior to the issuance of a building permit, the owner/developer shall submit a stormwater treatment maintenance agreement for review and approval by the Engineering Services Division. The adjacent property owner of the proposed native vegetation areas will also be required to sign the agreement. 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 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.
- m. Prior to the issuance of a final certificate of occupancy, 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 land disturbance, site development or building permit, the applicant shall obtain a floodplain development permit for any grading, construction, or development in the Special Flood Hazard Area (SFHA).
- 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 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.

Section 3. The Zoning District Map for the City of Overland Park, Kansas, is hereby amended by this ordinance, Ordinance No. Z-4025, 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

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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 9th day of September, 2019," 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 9th day of September, 2019.

APPROVED by the Mayor this 9th day of September, 2019.

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