

**ORDINANCE NO. Z-4042**

**REZONING NO. 2018-00018**

**AN ORDINANCE RELATING TO ZONING: AMENDING CERTAIN ZONING REGULATIONS SHOWN ON SHEET NO. 19 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. 19, 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:

CP-2 Description:

All that part of the NW 1/4 of Section 5, Township 13, Range 25 in the City of Overland Park, Johnson County, Kansas, more particularly described as follows: commencing at the Southwest corner of the NW 1/4 of said Section 5; thence N 2° 25' 39" W, along the West line of the NW 1/4 of said Section 5, a distance of 777.10 feet, to a point on the Westerly extension of the North line of Lot "A", Metcalf South, a subdivision of land in the City of Overland Park, Johnson County, Kansas; thence N 87° 34' 21" E, along the Westerly extension of the North line of said Lot "A", a distance of 100 feet, to the Northwest corner thereof, said point being on the East right-of-way line of Metcalf Avenue, as now established; thence N 2° 25' 39" W, along the East right-of-way line and its extension of said Metcalf Avenue, a distance of 716.92 feet; thence N 87° 51' 07" E, a distance of 842.34 feet, S 2° 25' 39" E, a distance of 116.85 feet; thence S 24° 05' 45" W, a distance of 75.92 feet; thence S 2° 25' 39" E, 463.39 feet to a point on the North line of said Lot "A"; thence Westerly along the North line of said Lot "A", the following courses: thence S 81° 24' 25" W, Measured (S 83° 50' 04" W, Plat), a distance of 441.60 feet, to a point of curvature; thence Westerly, along a curve to the right, having a radius of 2974.90 feet, a central angle of 6° 09' 56" and an arc distance of 320.13 feet, to a point of tangency; thence S 87° 34' 21" W, Measured (West, Plat), a distance of 49.87 feet, to the point of beginning. Containing 563,299 square feet or 12.932 acres, more or less

RP-6 Description:

All that part of the NW 1/4 of Section 5, Township 13, Range 25 in the City of Overland Park, Johnson County, Kansas, more particularly described as follows: commencing at the

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Southwest corner of the NW 1/4 of said Section 5; thence N 2° 25' 39" W, along the West line of the NW 1/4 of said Section 5, a distance of 1494.02 feet, thence N 87° 34' 21" E, a distance of 100 feet, to a point on the East right-of-way line of Metcalf Avenue, as now established; thence N 87° 51' 07" E, a distance of 842.34 feet to the Point of Beginning; thence continuing N 87° 51' 07" E, a distance of 381.14 feet to a point on the East line of the SW 1/4 of the NW 1/4 of said Section 5, said point also being on the West line of NALL HILLS, a subdivision of land in the City of Overland Park, Johnson County, Kansas; thence S 2° 25' 39" E, Measured (S 01° 12' 15" E, Plat), along the East line of the SW 1/4 of the NW 1/4 of said Section 5 and along the West line of said Nall Hills, a distance of 502.17 feet, to the Northwest corner of Lot 15 of said Metcalf South; thence S 2° 01' 28" E, Measured (S 0° 24' 12" E, Plat), along the West line of said Lot 15, a distance of 119.90 feet, to a point on the North line of said Lot "A"; thence Westerly along the North line of said Lot "A", the following courses: S 87° 58' 33" W, Measured (S 89° 35' 48" W, Plat), a distance of 26.20 feet, Measured (26.69 feet, Plat), to a point of curvature; thence Westerly, along a curve to the left, having a radius of 2643.10 feet, a central angle of 6° 34' 08" and an arc distance of 303.03 feet, to a point of tangency; thence S 81° 24' 25" W (S 83° 50' 04" W, Plat), a distance of 86.01 feet; thence departing from the North line of said Lot "A", N 2° 25' 39" W, a distance of 463.39 feet; thence N 24° 05' 45" E, a distance of 75.92 feet; thence N 2° 25' 39" W, a distance of 116.85 feet to the point of beginning. Containing 256,471 square feet or 5.888 Acres, more or less.

The real property hereinabove described shall hereafter be deemed zoned and classified as CP-2, Planned General Business District, and RP-6, Planned High-Rise Apartment District.

The Zoning District Map, Sheet No. 19 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 192,275 square feet of retail and 300 units.

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

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- 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. Prior to the issuance of a land disturbance or higher permit, the applicant shall meet with the city forester to discuss specific tree preservation measures to be undertaken prior to and during construction to preserve identified trees. The construction documents for such permits shall include the recommendations of the city forester.
- g. Concurrent with the submittal of construction plans, the applicant shall provide a separate copy of the landscape plan/tree preservation plan for review by the city forester.
- h. A deviation is approved from section Architectural Design Standards Section 5.5 to allow the southern, northern and western facades to be greater than 200 feet in length as shown on the attached plans. A second deviation is approved for the existing fence to remain with the posts facing east. A deviation is also approved to allow RP-6 district to be located adjacent to R-1, Single-Family Residential zoned property.
- i. 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 public access easement for the benefit of the abutting property owner to the north. That easement shall extend from Metcalf Avenue drives to the adjoining property access points 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.
- j. The building elevations and materials will be reviewed further at the time of final development plan.
- k. At the time of revised preliminary plan or final development plan approval the required parking will be reviewed for the CP-2 portion of the site.
- l. The number, location and geometrics of all driveways and parking areas are subject to review and approval by the Planning and Development Services Department.

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- 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 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.
- o. Prior to, or concurrent with, the submittal of construction plans for a site development or building permit, whichever comes first, a separate set of public improvement plans shall be submitted. The plans shall be approved and the public improvement permit shall be issued by Engineering Services Division prior to the issuance of a site development or building permit. Prior to the issuance of a certificate of occupancy, the public improvements shall be built and accepted for maintenance by the Engineering Services Division.
- p. Prior to the issuance of a building permit, the public improvements shall be built and accepted for maintenance by the Engineering Services Division.
- 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. No certificate of occupancy shall be issued for any building until the following improvements are completed at the 97th Street and Metcalf Avenue intersection:
  - 1. Construct a new southbound left-turn lane.
  - 2. Stripe out the existing southbound left-turn lane.
  - 3. Stripe out the outside northbound left-turn lane.
  - 4. Install flashing yellow arrows for the north and south left-turn movements.
- s. Public access easements shall be provided across the grid network as an extension to the grid network to the north (95 Metcalf development). The easement shall include

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the landscape space and sidewalks adjacent to the grid network drives. This will be required with the first final development plan.

**Section 3.** The Zoning District Map for the City of Overland Park, Kansas, is hereby amended by this ordinance, Ordinance No. Z-4042, 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 4th day of November, 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.

*[Remainder of Page Intentionally Left Blank]*

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PASSED by the City Council this 4th day of November, 2019.

APPROVED by the Mayor this 4th day of November, 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