

ORDINANCE NO. Z- 3440

REZONING NO. 2010-1

AN ORDINANCE RELATING TO ZONING: AMENDING CERTAIN ZONING REGULATIONS SHOWN ON SHEET NO. 33 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. 33, 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:

Lot 2, 119<sup>th</sup> and Quivira Office Park, a subdivision of land in the City of Overland Park, Johnson County, Kansas

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

The Zoning District Map, Sheet No. 33 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), which is 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. In addition, the development shall comply with all regulations and standards of the City of Overland Park, unless specifically exempted by the Governing Body.
- b. Development of the tract shall be limited to 4,711 square feet.
- c. The number, location and geometrics of all driveways and parking areas are subject to review and approval by the Planning and Development Services Department.
- d. Prior to publication of the rezoning ordinance, the owner and/or developer shall submit \$5,752 cash. Said cash shall be deposited with the Chief

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Financial Officer for the City of Overland Park. The funds collected shall be placed in an escrow account set aside for future unspecified transportation planning, design, construction or implementation, and operations in the corridor defined as containing and extending north to College Boulevard, east to Switzer Road, south to 127<sup>th</sup> Street, and west to Pflumm Road. Said work shall be above and beyond that listed in other stipulations to this rezoning.

In lieu of submission of the total amount of payment for unspecified transportation improvements, the owner or developer may submit partial payments, in cash, prior to the issuance of building permits for each phase of development according to the following schedule:

<u>Year of Application for Building Permit</u>	<u>Contribution/ Square-Foot of Gross Floor Area</u>
2010	1.221
2011	1.343
2012	1.477
2013	1.625
2014	1.788
2015	1.966
2016	2.163
2017	2.379
2018	2.617
2019	2.879

NOTE: Any construction commencing after 2019 will be subject to the same 10 percent per year increase.

- e. One or more weeks prior to submitting an application for final development plan approval, the applicant's engineer shall submit a Revised Preliminary Stormwater Management Study that addresses the outstanding issues outlined in the letter sent on February 10, 2010. The study shall be approved by the Engineering Services Division staff prior to the Planning Commission consideration of the final development plan.
- f. Prior to the submittal of an application for final development plan approval, provide percolation test results that verify the existing soils will drain the proposed rain gardens within 48 hours as required by city standards. If the percolation tests fail, then a revised preliminary plan will be required to be submitted and approved by the Planning Commission.

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- g. At the time of final development plan submittal, a planting plan for the applicable stormwater treatment facilities shall be provided along with the landscape plan for the development.
- h. Prior to recording the final plat, staff must approve the Stream Corridor Maintenance Agreement. The Stream Corridor Maintenance Agreement shall be submitted by the city for recording at the Johnson County Register of Deeds with the recording fee paid by the developer.
- i. The designated stream corridor area shall be delineated on the final plat and include the required language as indicated in Section 18.365.090 of the Municipal Code.
- j. Concurrent with the submittal of construction plans for a Site Development Permit or Building Permit, whichever comes first, the applicant shall provide a Final Stormwater Management Study that addresses any outstanding items from the Revised Preliminary Stormwater Management Study and includes any design changes.
- k. Concurrent with the issuance of a Land Disturbance or Site Development or Public Improvement Permit for work within 50 feet of the designated stream corridors, the owner/contractor shall erect a visible temporary fence to remain in place throughout construction that delineates the outer edge of the stream corridor boundary that is to remain free of grading, retaining walls or other alterations except those areas that have been approved on the plans.
- l. A Floodplain Development Permit shall be obtained prior to issuance of the associated Site Development or Building Permit for the proposed work within the FEMA designated floodplain.
- m. Prior to the issuance of a Land Disturbance, Site Development, or Building Permit, whichever comes first, for any work in the Special Flood Hazard Area (SFHA), obtain applicable permits from the Kansas Department of Agriculture, Division of Water Resources, and the Corps of Engineers.
- n. Prior to the issuance of a Site Development or Building Permit, whichever comes first, the permanent drainage easement for the 66-inch public storm sewer line shall be dedicated and the recording fee shall be paid by the owner/developer.
- o. Prior to the issuance of a Site Development or Building Permit, whichever comes first, a Stormwater Treatment Maintenance Agreement shall be

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submitted, reviewed and approved by the engineering staff with the associated recording fees paid by the owner/developer.

- p. Prior to the issuance of a Site Development or Building Permit, whichever comes first, an Access and Maintenance Agreement between the owner/developer and the adjacent property owner shall be submitted for the designated native vegetation restoration area on 119<sup>th</sup> and Quivira Office Park, Lot 1. Staff shall approve the agreement prior to recording. The agreement shall be submitted by the city for recording at the Johnson County Register of Deeds with the recording fee paid by the developer.
- q. Prior to the issuance of any Certificate of Occupancy, the owner shall provide an elevation certificate verifying that the lowest floor is at least one foot above the energy grade line of the fully developed condition 100-year flood or two feet above base flood elevation, whichever is higher.
- r. Prior to the issuance of a Final Certificate of Occupancy, the owner shall provide a Certification of Completion and Compliance for all constructed stormwater treatment facilities. Subsequently, the owner shall have a maintenance certification submitted one year after construction is completed, and every two years thereafter. The certification shall be on a form as approved by the city and shall be performed by a registered professional engineer in the State of Kansas, unless the Director approves other qualified individuals to perform the certification.
- s. Prior to the issuance of a Final Certificate of Occupancy, a Maintenance Surety shall be provided by the owner/developer in accordance with Section 16.210.080.E. of the O.P.M.C.

SECTION 3. The Zoning District Map for the City of Overland Park, Kansas, is hereby amended by this ordinance, Ordinance No. Z-3440, 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 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 April, 2010," and shall be filed in the office of the Director of Planning and Research 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

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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. This ordinance shall take effect and be in force from and after its publication in the Overland Park Sun, an official City newspaper.

PASSED by the City Council this 5th day of April, 2010.

APPROVED by the Mayor this 5th day of April, 2010.

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Carl Gerlach, Mayor

ATTEST:

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Marian Cook, City Clerk

APPROVED AS TO FORM:

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J. Bart Budetti, Senior Assistant City Attorney