

ORDINANCE NO. Z- 3441

REZONING NO. 2009-6

AN ORDINANCE RELATING TO ZONING: AMENDING CERTAIN ZONING REGULATIONS SHOWN ON SHEET NO. 39 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. 39, 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 NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 13 SOUTH, RANGE 24 EAST, AND ALL THAT PART OF HERITAGE UNITED METHODIST CHURCH SUBDIVISION, SECOND PLAT, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE SOUTH 00 DEGREES 03 MINUTES 48 SECONDS EAST, ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, A DISTANCE OF 332.55 FEET; THENCE SOUTH 89 DEGREES 54 MINUTES 32 SECONDS WEST, A DISTANCE OF 60.00 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT ON THE WEST RIGHT-OF-WAY LINE OF QUIVIRA ROAD AS NOW ESTABLISHED, SAID POINT AT THE SOUTHEAST CORNER OF LOT 2, HEARTLAND CHRISTIAN FELLOWSHIP, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS; THENCE SOUTH 0 DEGREES 03 MINUTES 48 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE OF QUIVIRA ROAD, A DISTANCE OF 529.23 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 00 SECONDS WEST, A DISTANCE OF 673.68 FEET; THENCE SOUTH 0 DEGREES 03 MINUTES 45 SECONDS EAST, A DISTANCE OF 808.10 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 58 SECONDS WEST, A DISTANCE OF 590.40 FEET TO A POINT ON THE EAST PLAT LINE OF NOTTINGHAM BY THE GREEN, THIRD PLAT, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS, SAID POINT ALSO BEING ON THE WEST LINE OF THE EAST ONE-HALF OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE NORTH 00 DEGREES 01 MINUTES 12 SECONDS WEST, ALONG THE EAST PLAT LINE OF SAID

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NOTTINGHAM BY THE GREEN, THIRD PLAT, ALONG THE EAST PLAT LINE OF NOTTINGHAM BY THE GREEN, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS, ALONG THE WEST PLAT LINE OF SAID HERITAGE UNITED METHODIST CHURCH SUBDIVISION SECOND PLAT, A PLATTED SUBDIVISION OF LAND IN THE CITY OF OVERLAND PARK, JOHNSON COUNTY, KANSAS AND ALONG THE WEST LINE OF THE EAST ONE-HALF OF THE NORTHEAST QUARTER OF SAID SECTION 27, A DISTANCE OF 1335.51 FEET TO THE SOUTHWEST CORNER OF LOT 1, HEARTLAND CHRISTIAN FELLOWSHIP; THENCE NORTH 89 DEGREES 54 MINUTES 32 SECONDS EAST, ALONG THE SOUTH LINE OF LOT 1 AND LOT 2, HEARTLAND CHRISTIAN FELLOWSHIP, A DISTANCE OF 1263.08 FEET TO THE TRUE POINT OF BEGINNING AND CONTAINING 26.2703 ACRES, MORE OR LESS.

The real property hereinabove described shall hereafter be deemed zoned and classified as RP-3, Planned Garden Apartment District.

The Zoning District Map, Sheet No. 39 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. 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 on the site shall be limited to 228 units.
- c. Prior to the issuance of a Building Permit for any buildings or parking areas on the site, the Planning Commission shall review and approve final development plans.
- d. Prior to the issuance of a Building Permit for any buildings on the site, the property shall be preliminary and final platted.
- e. Concurrent with construction of any improvements on this site and prior to the issuance of any form of Certificate of Occupancy, the following improvements shall be constructed, subject to review and approval by the

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Planning and Development Services Department. Prior to, or concurrent with, the submittal of construction plans for this site, plans for the public improvements shall be submitted for staff review. Prior to the issuance of a Foundation or higher-level permit, the Public Street, Storm Sewer, and Streetlight Plans must be approved by the Engineering Services Division of the Planning and Development Services Department.

1. 129th Street as a standard collector street; with streetlights, sidewalks and storm sewers; from its current terminus east of Century Street to Quivira Road.
- f. The right-of-way for all of 129th Street required to be constructed with this project shall be dedicated to the city prior to the approval of construction plans for the construction of street improvements in this project.
- g. Concurrent with construction of any improvements on this site and prior to the issuance of any form of Certificate of Occupancy, the following improvements shall be completed, subject to review and approval by the Planning and Development Services Department. Prior to, or concurrent with, the submittal of construction plans for this site, plans for the public improvements shall be submitted for staff review. Prior to the issuance of a Foundation or higher-level permit, the Public Street, Storm Sewer, and Streetlight Plans must be approved by the Engineering Services Division of the Planning and Development Services Department.
 1. A standard public cul-de-sac bulb at the east end of 128th Street, including the dedication of the public right-of-way needed to construct the cul-de-sac.
- h. 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 includes all design changes associated with the updated preliminary plan. The study shall be approved by the Engineering Services Division staff prior to the Planning Commission consideration of the final development plan.
- i. Concurrent with the submittal of construction plans for a Site Development 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.

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- j. Prior to, or concurrent with, the submittal of construction plans for a Site Development or Building Permit, whichever comes first, submit a separate set of public improvement plans for the storm sewer serving the multi-family residential development that conveys stormwater from adjacent properties. The plans shall be approved by city staff prior to the issuance of a Site Development or Building Permit.
- k. Prior to the issuance of a Public Improvement Permit, all necessary easements for access, construction, and maintenance of public storm sewer facilities shall be dedicated with the recording fee paid by the owner/developer.
- l. Prior to, or concurrent with, submittal of the final plat including the stream corridor, submit a Stream Corridor Maintenance Agreement. Staff must approve the maintenance plan prior to recording of the final plat.
- m. Prior to recording the final plat that includes stream corridor, 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.
- n. 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 other than the approved restoration activities.
- o. Delineate the designated stream corridor area on the final plat and include the required language as indicated in Section 18.365.090 of the O.P.M.C.
- p. Prior to the issuance of a Site Development or Building Permit, whichever comes first, a Stormwater Treatment Maintenance Agreement shall be submitted, reviewed and approved by the engineering staff with the associated recording fees paid by the owner/developer.
- q. Prior to, or concurrent with, the submittal of construction plans for a Site Development or Building Permit, whichever comes first, a separate set of final stormwater treatment facility plans for any deferred facilities serving multiple or future lots shall be submitted for review and approval by the city. A Site Development Permit for said stormwater treatment facilities

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shall be obtained prior to the issuance of a Site Development or Building Permit for that phase of construction. Any deferred facilities shall be constructed only when 90 percent of the upstream tributary area is permanently stabilized and shall be commenced within six months following permanent stabilization or when directed by the city.

- r. Prior to the issuance of a Certificate of Occupancy, the owner shall have a Certification of Completion and Compliance submitted 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. 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.
- t. At the time of final development plan submittal, a phasing plan shall be provided that indicates when each stormwater treatment facility will be constructed.
- u. 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.
- v. Prior to the issuance of a Site Development or Building Permit, whichever comes first, a Performance Surety shall be provided by the owner/developer in accordance with Section 16.210.080.C of the O.P.M.C. for any deferred facilities.

SECTION 3. The Zoning District Map for the City of Overland Park, Kansas, is hereby amended by this ordinance, Ordinance No. Z-3441, 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 19th day of April, 2010," and shall be filed in the office of the Director of Planning and Research of the City of Overland

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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. 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 19th day of April, 2010.

APPROVED by the Mayor this 19th day of April, 2010.

Carl Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

J. Bart Budetti, Senior Assistant City Attorney