

ORDINANCE NO. Z-4162

REZONING NO. 2021-00010

AN ORDINANCE RELATING TO ZONING: AMENDING CERTAIN ZONING REGULATIONS SHOWN ON SHEET NO. 053 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. 053, 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 Northwest One-Quarter of Section 6, Township 14 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, more particularly described as follows:

Commencing at the Northeast corner of the Northwest One-Quarter of said Section 6; thence along the North line of said Northwest One-Quarter, South 87 degrees 48 minutes 15 seconds West a distance of 590.00 feet to the Northwest corner of BIRCHWOOD VILLAS, a subdivision in the City of Overland Park as recorded in book 201707 at page 005660; thence along the West line of said BIRCHWOOD VILLAS, South 02 degrees 11 minutes 45 seconds East a distance of 352.57 feet to the Southwest corner thereof, said corner being on the North line of Lot 42, BIRCHWOOD PLACE, 1st PLAT, a subdivision in the City of Overland Park as recorded in book 85 at page 5; thence along the North line of Lots 42, 43, 44, 45, 46 and 47 of said BIRCHWOOD PLACE, 1st PLAT, South 87 degrees 48 minutes 15 seconds West, (North 87 degrees 47 minutes 53 seconds East platted) a distance of 332.00 feet to the Southeast corner of Lot 56 of said BIRCHWOOD PLACE, 1st PLAT; thence along the East line of Lots 56 and 57 of said BIRCHWOOD PLACE, 1st PLAT, North 02 degrees 11 minutes 45 seconds West, (South 02 degrees 12 minutes 07 seconds East platted) a distance of 352.57 feet to the Northeast corner of said BIRCHWOOD PLACE, 1st PLAT, said corner being on the North line of said Northwest One-Quarter of Section 6; thence along the said North line, North 87 degrees 48 minutes 15 seconds East a distance of 332.00 feet to the Point of Beginning and containing 2.6872 acres more or less.

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A tract of land in the Northwest Quarter of Section 6, Township 14 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, described as follows: Commencing at the Northeast corner of the Northwest Quarter of said Section 6; thence South 87 degrees 48 minutes 15 seconds West, along the North line of the Northwest Quarter of said Section 6, a distance of 101.00 feet to a point on the Westerly right-of-way line of US 69 Highway as it is now established, said point being the point of beginning; thence South 2 degrees 11 minutes 45 seconds East, along said Westerly right-of-way line, a distance of 20.00 feet; thence South 57 degrees 16 minutes 08 seconds East, continuing along said Westerly right-of-way line, a distance of 54.18 feet; thence South 3 degrees 17 minutes 15 seconds West, continuing along said Westerly right-of-way line, a distance of 302.93 feet, to the Northeast corner of Tract A of Birchwood Place 1st Plat, a subdivision of land in the City of Overland Park, Johnson County, Kansas; thence South 87 degrees 48 minutes 15 seconds West, along the North line of said Tract A and Lots 37 through 42 inclusive of said Birchwood Place 1st Plat, a distance of 504.48 feet; thence North 2 degrees 11 minutes 45 seconds West, a distance of 352.57 feet to a point on the North line of the Northwest Quarter of said Section 6; thence North 87 degrees 48 minutes 15 seconds East, along the North line of the Northwest Quarter of said Section 6, a distance of 489.00 feet, to the point of beginning, containing 4.18 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. 053 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 45 units.
- c. Prior to the issuance of a building permit, the property shall be preliminary and final platted.

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- 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 rooftop 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, the applicant shall provide detailed plans of the proposed amenity areas.
- g. A density bonus of 3.4% is approved with this application.
- h. The final plan shall meet the requirements of the Site Design Standards and Architectural Design Standards.
- i. The number, location, and geometrics of all driveways and parking areas are subject to review and approval by the Planning and Development Services Department.
- j. Concurrent with the submittal of construction plans for a public improvement, site development, or 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.
- k. Prior to the issuance of a building permit, the public improvements shall be built and accepted for maintenance by the Engineering Services Division.
- l. Prior to the issuance of a public improvement permit, a landscape architect registered in the State of Kansas shall provide a landscape plan for any seeding or planting associated with the designated stormwater treatment facilities.
- m. Prior to the issuance of a public improvement or site development permit, whichever comes first, 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.

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- n. Prior to the issuance of a public improvement or site development permit, whichever comes first, a performance surety for the stormwater treatment facilities shall be provided by the owner/developer in accordance with Section 16.210.080.C of the O.P.M.C.
- o. Prior to the release of the performance surety for any stormwater treatment facilities and prior to the issuance of any building permits, the owner/developer shall provide a certificate 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.
- p. Prior to the release of the performance surety for any deferred stormwater treatment facilities and prior to the issuance of any building permits for non-deferred stormwater treatment facilities, 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.
- q. Concurrent with the submittal for construction plans, the applicant shall provide an evaluation of the existing vegetation being utilized as a stormwater treatment facility. If it is determined that the area requires restoration, a landscape architect registered in the State of Kansas shall provide a sealed landscape plan for the native vegetation plantings being utilized as a stormwater treatment facility.
- r. 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.
- s. 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.

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Section 3. The Zoning District Map for the City of Overland Park, Kansas, is hereby amended by this ordinance, Ordinance No. Z-4162, 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 October, 2021," 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.

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PASSED by the City Council this 4th day of October, 2021.

APPROVED by the Mayor this 4th day of October, 2021.

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