

**BILL NO. 6734.2**

**ORDINANCE NO. 6611**

**AN ORDINANCE AMENDING TITLE IV “LAND USE”, CHAPTER 405 (ZONING REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF CLAYTON, MISSOURI, ARTICLE X “PLANNED UNIT DEVELOPMENT DISTRICT” AND OTHER ACTIONS RELATED THERETO**

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**WHEREAS**, on April 1, 2019, the Plan Commission held a public hearing, after due notice as provided by law, to solicit input regarding amendments to the City’s land use regulations to add an Entertainment Overlay District; and

**WHEREAS**, following public comment and review, the Plan Commission voted unanimously to recommend that the Board of Aldermen enact the amendments hereinafter set forth; and

**WHEREAS**, on July 23, 2019, after due notice as provided by law, the Board of Aldermen held a public hearing for the purpose of receiving public comment on the question of the adoption of the provisions hereinafter set forth; and

**WHEREAS**, the Board of Aldermen has determined that it is in the best interest of the City of Clayton to adopt the amendments hereinafter set forth and that such amendments best serve the public health, safety and welfare of the City and its residents; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

## Chapter 405. Zoning Regulations

### Article X. Planned Unit Development District

#### Section 405.1360. Purpose Statement

[Ord. No. 5814 §1(12.1), 4-27-2004; Ord. No. 5935 §1(12.1), 7-11-2006]

A. The purpose of the planned unit development process is to foster appropriate use of existing buildings and enable compatible redevelopment which provides public benefits as identified in Section **405.1380** and achieves the following objectives:

1. Creation of a planned mixture of land uses while maintaining a more desirable environment through the combination and coordination of architectural styles, building forms, common facilities and buffers between uses;
2. Promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetics and public amenities;

3. More open space or natural resource protection than likely under as-of-right zoning;
4. Land use designs that incorporate natural terrain features, to preserve natural open spaces and desirable site characteristics such as restoration and maintenance of natural systems, native vegetation and geologic features;
5. Preservation of buildings which are architecturally or historically significant or contribute to the character of the City;
6. A greater mix of housing types and mix of residential and commercial land uses designed in a complementary manner to maintain community character;
7. Creating or contributing to neighborhoods that are more pedestrian and public transit-oriented;
8. Elimination of deteriorated structures or incompatible uses through redevelopment or rehabilitation; and,
9. Implement the recommendations of the Clayton Master Plan and Downtown Master Plan.

## Section 405.1365 Definitions

For the purposes of the PUD zone, certain terms, phrases, words and their derivatives shall be construed as specified in this section. Words used in the singular shall include the plural, and the plural the singular. The word “shall” is mandatory; the word “may” is permissive. Words and phrases not herein defined shall have the meanings given to them in Article III. Definitions; otherwise not defined shall be given their usual meaning except where the context clearly indicates a different or specific meaning.

A. “Common Areas” mean a parcel or parcels of land or an area of water or a combination of land and water within the site designated for planned unit development and designated and intended for the use and enjoyment of residents and employees of a planned unit development. Common areas may contain such complimentary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents and employees of the planned unit development.

B. “Mixed Use PUD” means a planned unit development where there will result in a mix of two or more types of authorized land uses or development.

C. “Residential PUD” means any planned unit development designed and intended primarily for residential use regardless of the type of building in which such residence is located i.e. conventional single-family residences, townhouses, duplexes, multi family structures or apartments.

D. "Open Space" means green areas on a parcel or parcels of land or an area of water or a combination of land and water within the site designated for a planned unit development which are without above-ground structures or buildings, parking lots or public sidewalks of any nature whatsoever and which shall be included but not limited to landscape areas, green areas in parks, garden areas, lawns, yards and other undeveloped areas.

E. "Yards" means areas created by setbacks and lot lines.

## Section 405.1370. General Requirements

[Ord. No. 5814 §1(12.2), 4-27-2004; Ord. No. 5935 §1(12.2), 7-11-2006]

A. **Distinct Zoning District.** Planned Unit Development (PUD) is a distinct zoning district and requires a request for a change in the zoning district designation, as described by the official zoning map. It is intended to provide a means for the redevelopment of an area in a unified land development that will improve the quality of the subject properties and have a beneficial effect on adjacent properties.

B. **Types of PUD Districts.** There are two types of PUD zoning districts:

1. Residential
2. Mixed Use

C. **Residential.** Rezoning to a residential planned unit development district is allowed only in areas where the existing zoning designation is Residential, where 100 percent of the gross square feet of the buildings is used for residential purposes and when the project is developed on a lot at least thirty thousand (30,000) square feet in size.

D. **Mixed Use.** Rezoning to a Mixed Use planned unit development district is allowed only in areas where the existing zoning designation is non-residential, the proposed building(s) total 50,000 gross square feet or more, and in overlay districts requiring planned unit development designation.

Mixed use planned unit developments are appropriate when the project incorporates at least two of the following four categories of use and the existing zoning allows for mixed use development.

The first floor of any mixed-use building shall be dedicated to commercial land uses with public entrances to these uses that front along a major street; non-residential uses are also allowed on other floors of a mixed-use building.

1. Office use;
2. Commercial land uses such as, retail, restaurant, entertainment venues, etc.;
3. Residential use;
4. Hotel;
5. Hotel & public restaurant (shall qualify as a mixed-use project and the gross square foot limitation per 405.1370.E. shall not apply)

E. **Minimum Standards to Apply for Planned Unit Development rezoning.** At a minimum, the proposed development shall meet the standards for LEED Silver certification; or an equivalent standard as determined by the Board of Aldermen. The project does not have to achieve actual LEED certification; however, the developer must submit the LEED checklist and documentation to

the City as part of the application process, approved by a LEED Accredited Professional (LEED-AP), that shows that the project will comply with LEED Silver requirements.

#### **F. Uses Allowed.**

All permitted uses in the underlying district(s) shall be allowed unless otherwise specified in the PUD ordinance. They shall be identified in the PUD document through a cross reference to applicable underlying zoning district(s).

#### **G. Additional Uses.**

The Board of Aldermen may authorize additional uses in the zoning district in which the planned unit development is located as provided below.

- 1. Conditional Uses.** Any conditional use allowed in the underlying district(s) may be included within a planned unit development, upon making each of the required findings for conditional use permits in Section 405.840, as follows:

**Residential Uses:** Dwelling units that require a conditional use permit in the underlying zoning district shall not be required to submit a separate conditional use permit and shall be considered as a part of the findings and review of the planned unit development.

**Nonresidential uses.** Nonresidential uses that require a conditional use permit in the underlying zoning district may submit a separate conditional use permit application and findings, per use, as a part of the planned unit development review. Uses approved through this process shall then be deemed permitted by right in the PUD except for entertainment uses pursuant to the Entertainment District Overlay which shall not be eligible to apply for a conditional use permit concurrent with the PUD rezoning process to be permitted by right but for purposes of identifying allowable uses in the PUD, shall be identified in the PUD document as allowable with the approval of a conditional use permit.

**H. Site Layout.** A PUD must achieve a better site design and public benefits. A PUD may not be simply used as a method to avoid zoning regulations or subdivision regulations such as required setbacks, maximum Floor Area Ratio (FAR) or building height.

**I. Authority to Modify Regulations.** The City Board of Alderman shall have the authority in approving the PUD to alter, improve, or create anew any provisions of the Clayton Zoning Regulations, Overlay and Urban Design Zoning Districts and Subdivision Regulations, pursuant to Section 405.1420.

**J. Ownership.** The tract of land to be developed as a PUD must be under single ownership or control. The property included in the PUD shall be planned and development as a single unit/phase.

**K. Plat required.** The planned unit development project shall consist of and shall be conterminous with a single lot described in a recorded plat of subdivision.

### **Section 405.1380. Public Benefit and Code Alternatives Point System** [Ord. No. 5814 §1(12.3), 4-27-2004; Ord. No. 5935 §1(12.3), 7-11-2006]

A PUD must provide public benefits to the surrounding neighborhoods and to the City above and beyond what can be reasonably achieved by application of the zoning provisions applicable to the underlying zoning district.

The Board of Aldermen may approve alternatives to the zoning regulations, subdivision regulations or design standards applicable to the property proposed to be rezoned to a planned unit development, in exchange for developer provided public benefits, as authorized in this section.

Section 405.1380.A.1-15, characterizes those public benefits that are considered appropriate examples of benefits and Table 405.1390.1 assigns each listed benefit a maximum point value. All planned unit developments shall provide at least one (1) public benefit or combination of public benefits that total at least ten (10) points beyond those additional points required for any desired code alternatives, even if no code alternative is requested. Public benefits are not limited to those outlined in Section 405.1380.A.1-15, and a developer may propose different public benefits in their application for PUD rezoning per 405.1380.A.16.

After the minimum 10 points are achieved, for each code alternative requested thereafter, the developer shall provide a public benefit or combination of public benefits totaling at least five (5) points. For multiple requests of the same alternative (i.e. side yard setback alternatives on two sides) only one (1) public benefit totaling 5 points shall be required.

Any revisions made to an already approved planned unit development, prior to the adoption of this code, shall require a maximum 5 points per alternative requested, as outlined above, however the initial 10-point minimum shall not apply.

The Board of Aldermen shall have full discretion to determine whether a proposed public benefit shall receive the full point value assigned to it in Table 405.1380.1. Points may not be awarded when a proposed public benefit is merely replacing an existing public benefit with equal or greater value to the community.

The maximum points identified in Table 405.1380.1 is not guaranteed. Nothing in this section shall be construed to provide a property owner with any property right or other legal right to compel the city to grant alternatives to the applicable city ordinances.

**Section 405.1380.**  
**A. Public Benefits.**

1. Constructing buildings exhibiting Architectural distinction and significance that would make the development unique.
2. Projects which provide or enhance public parks, and public park or trail access, or bicycle lanes.
3. Provision of new or enhanced public infrastructure, greater than the minimum code requirements or as required as a result of a traffic, parking or similar study, and including, but not limited to, the establishment of onsite common areas (exclusive of yards as defined herein), streets, curbs, sidewalks, sanitary sewers, stormwater sewers, landscape buffers, lighting and public parking.
4. Greater housing density with enhanced design standards where appropriate and which results in more affordable housing and ensures that community character is maintained.

5. Sustainable building design and construction, above the minimum required to apply for a PUD rezoning, including, but not limited to:

- a. Efficient heating and cooling systems;
- b. Alternative energy sources such as solar;
- c. Appropriate building siting;
- d. Reused or recycled building materials;
- e. On-site power generation – solar, ground source heat pumps, wind power;
- f. On-site waste management such as green roofs that filter and control stormwater runoff;
- g. Use of renewable resources for construction materials;
- h. Inclusion of at least 3 publicly available vehicle charging stations.

6. Projects which provide and protect green infrastructure such as planned and managed networks of open spaces (including parks) and features that use natural means such as vegetation to capture, store and infiltrate stormwater runoff (including bioswales, green roofs, and rain gardens).

7. Dedication of land to the City for the purposes of widening or improving the adjoining right of way or for other public purposes (when otherwise not required as part of a traffic study or other applicable study).

8. Inclusion of a below grade parking facility with spaces specifically available and designated for public parking and located underneath the proposed development.

9. Inclusion of parking spaces specifically available and designated for public parking.

10. Inclusion of a below grade parking facility which meets the parking requirements for the project.

11. Inclusion of special access features or provisions to existing or planned public transit facilities.

12. A significant form of public art in any media that has been planned and executed with the intention of being staged on private property, outside and which is accessible to the public.

13. An appropriate amount of open space is provided and available for active or passive use by the public such as courtyards, grassed areas, patios, landscaped spaces.

14. Preservation of buildings which are architecturally or historically significant or contribute to the character of the City.

15. Enhancements to offsite City owned parks or other Public Facilities such as the replacement of recreation related facilities or the installation of streetscape standards where none currently exists.

16. Any other public benefit which is determined by the Board of Aldermen to meet the purpose and objectives set forth in Section 405.1360.

Table 405.1380.1.

Public Benefit (as set forth	Maximum Point Ranges	Standards (as set forth in 405.1380.A)
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in 405.1380.A.)		
405.1380(1)	0-5	Constructing buildings exhibiting Architectural distinction and significance that would make the development unique.
405.1380 (2)	0-5	Projects which provide or enhance public open space, public parks, and public park or trail access.
405.1380(3)	0-2 per enhancement	Provision of new or enhanced public infrastructure, greater than the minimum code requirements, including, but not limited to, the establishment of onsite common areas (exclusive of yards as defined herein), streets, curbs, sidewalks, sanitary sewers, stormwater sewers, landscape buffers, lighting.
405.1380(4)	0-5	Greater housing density with enhanced design standards where appropriate and which results in more affordable housing and ensures that community character is maintained.
405.1380(5) a-h	0-1 point per design standard	Sustainable Building Design and Construction.
405.1380(6)	0-5	Projects which provide and protect green infrastructure such as planned and managed networks of open spaces (including parks) and features that use natural means such as vegetation to capture, store and infiltrate stormwater runoff (including bioswales, green roofs, and rain gardens).
405.1380(7)	0-10	Dedication of land to the City for the purposes of widening or improving the adjoining right of way (when otherwise not required) or for other public purposes, over and above City requirements.
405.1380(8)	0-10	Inclusion of a below grade public parking facility located underneath the proposed development.
405.1380(9)	0-5	Inclusion of parking spaces specifically available and designated for public parking.
405.1380(10)	0-5	Inclusion of a below grade parking facility which meets the parking requirements for the development.
405.1380(11)	0-2	Inclusion of special access features or provisions to existing or planned public transit facilities.
405.1380(12)	0-5	A significant form of public art in any media that has been planned and executed with the intention of being staged on private property, outside and which is accessible to the public.
405.1380(13)	0-5	An appropriate amount of open space is provided and available for active or passive use by the public such as courtyards, grassed areas, patios, landscaped spaces.
405.1380(14)	0-7	Preservation of buildings which are architecturally or historically significant or contribute to the character of the City.
405.1380 (15)	As determined by the Board of Aldermen	Enhancements to offsite City owned parks or other Public Facilities such as the replacement of recreation related facilities

		or the installation of streetscape standards where none currently exists.
405.1380(16)	As determined by the Board of Aldermen	Any other public benefit which is determined by the Board of Aldermen to meet the purpose and objectives set forth in Section 405.1360.

## Section 405.1390. Application Procedure and Plan Requirements

[Ord. No. 5814 §1(12.4), 4-27-2004; Ord. No. 5935 §1(12.4), 7-11-2006]

The following requirements shall be submitted for all PUD rezoning applications, unless otherwise specified in the text of this chapter. Additional requirements may be required by the Director of Planning and Development Services prior to or upon review of the application.

**A. Pre-Application Conference.** Prior to applying for a PUD, the applicant shall participate in a pre-application conference with city staff. The purpose of the pre-application conference is to allow city staff to review and provide comments on the suitability of the development concept as a PUD, as well as to provide guidance to applicant on the procedures and standards for PUD approval.

**B. Community Conference.** Prior to applying for a PUD, the applicant shall conduct a community conference as set forth in Section 405.1400.

**C. PUD document and plan.** Applications for amendments to, or rezoning to PUD shall be in the form of a PUD document in a form set forth by the City and which lists permitted and accessory uses, development standards, location of land uses, number of dwelling units, square footage of non-residential uses, developer commitments, etc. and shall include a schematic plan of the property showing the general location of all land use types, landscape buffers, preliminary open space amenities and trail plan, site circulation and vehicular access points. The PUD document shall also include a list of any proposed deviations from the Zoning Regulations, including any applicable Overlay and Urban Design Overlay districts.

**D. Application and submission requirements.** An application for a PUD shall be filed with the City on forms provided by the City. All formal applications for a PUD shall include at least the following information:

- a. The applicant's name, address, telephone number and interest in the property;
- b. Certification that the applicant is registered to do business in the State of Missouri and is in good standing to develop the site;
- c. The owner's name, address and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application;
- d. A certificate of disclosure of ownership interest;
- e. The street address and legal description of the subject property;



- f. The zoning classification, zoning district boundaries and present use of the subject property;
- g. A vicinity map with north arrow, scale and date, indicating the zoning classifications and current uses of properties within two hundred fifty (250) feet of the subject property;
- h. The proposed title of the project and the name, addresses and telephone numbers of the architect, landscape architect, planner or engineer on the project;
- i. A completed traffic impact study and a parking study (if requesting a modification to the required parking spaces). The scope of any study shall be coordinated with the City at least 6 weeks prior to the application for PUD rezoning and shall be prepared by a registered traffic engineer;
- j. Other professional or technical studies or reports as may be required by the Director of Planning and Development Services to clearly understand the project. The applicant shall be responsible for any costs and/or expenses incurred as a result of engaging such outside professional assistance;
- k. Copies of any restrictive covenants that are to be recorded with respect to property in the proposed planned unit development;
- l. A plat of survey of the parcel of land, lot(s), block(s) or parts or portions thereof, drawn to scale, showing the actual dimensions of the parcel, lot(s), block(s) or parts or portions thereof according to the registered or recorded plat of such land;
- m. Soils and subsurface conditions, if requested;
- n. The required application fee as set forth in the fee schedule as approved by the Board of Aldermen;
- o. The required PUD document in the form and content prescribed by the City;
- p. A tree preservation plan prepared by a registered Landscape Architect or Arborist;
- q. LEED checklist and documentation to the City as part of the application process, approved by a LEED Accredited Professional (LEED-AP), that shows that the project will comply with LEED Silver requirements.

**E. PUD document.** The applicant shall submit a PUD document as prescribed by the City's model PUD document and shall comply with the format and content established in the "Model PUD and Guidelines for Submission," published by the Planning and Development Services Department. The following information shall be included:

- a. The location, dimensions, floor area, type of construction and proposed use of each proposed building or structure;
- b. The number, the size and type of dwelling units in each building and the overall dwelling unit density (if residential uses are proposed);

- c. The number, location and dimensions of parking spaces and loading docks, with means of ingress and egress;
- d. The location and proposed treatment of any historical structure or other historical design element or feature;
- e. A written statement showing the relationship of the proposed planned unit development to the Master Plan or Downtown Master Plan and justification for any proposed variations;
- f. A written statement addressing each of the standards set forth in Section **405.1410** below and such additional standards, if any, as may be applicable under the specific provisions of these regulations. The statement shall explain specifically how the proposed planned unit development relates to and meets each such standard;
- g. A written description showing why the proposed planned unit development is compatible with other property in the neighborhood;
- h. When the proposed planned unit development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a government authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.

**F. Site Plan Required.** Pursuant to Article VIII. *Site Plan Review*, A site plan application for the project shall be submitted and approved in accordance with the requirements and procedures set forth in Article VIII. Approval of the PUD site plan is determined by consideration of the site plans compliance with the PUD development standards set forth in the approved PUD document and schematic plan, the City's Land Use Regulations and good planning practices. The site plan application shall be submitted with the application for PUD rezoning and architectural review.

**G. Architectural Review Required.** Pursuant to Article III. *Architectural Review Board*. An Architectural Review Board application shall be filed in accordance with Article III and shall include architectural graphics including typical floor plans and elevations, colored renderings, profiles and cross sections and digital representation of the project providing street level views of each elevation. The Architectural Review Board application shall be submitted with the application for PUD rezoning, and site plan.

## Section 405.1400 Community Conference

**A. Purpose.** The community conference is an informal public meeting hosted by the applicant prior to submittal of a PUD application. The purpose of the meeting is to provide early and informal notification to the public, to generate discussion, and make the applicant aware of community concerns relative to the proposed project. It is intended to provide a means by which the applicant and the public can work together in a productive and creative manner. However, options and issues raised may not be all-inclusive and no decisions or guarantees on the project design or outcome are made. Revision of the proposal based on input from the community conference is solely at the discretion of the applicant.

**B. Process.** The community conference shall be held in a place that is readily available to the public and large enough to accommodate the anticipated number of people who may be present at the meeting, such as the Clayton Center or another public or private meeting facility. Notice of the date, time and location and a project description, shall be provided to the City and by mail to all owners of property within 1000 feet of the PUD site, two weeks prior to the scheduled meeting date. All mailing requirements are the responsibility of the project applicant and shall be documented by affidavit to the City. City staff shall post the site, post a copy of the developer's notice at Clayton City Hall and on the City's website.

**The applicant shall:**

1. Explain the project concept to the audience and solicit input as to the issues which concern them; and,
2. Prepare a written report documenting the community meeting, summarizing the issues raised, and describing how the proposed project, as submitted, addresses the issues raised in the project design and/or explains why it does not; and,
3. Submit said written report to the city for inclusion with the PUD application materials; and,
4. Provide a copy of the report to all the community meeting attendees prior to or concurrent with submittal of the PUD application materials to the City.

**C. Expectations.** The applicant can expect the following results from the community conference:

1. The more information an applicant can provide for a community conference, the earlier the applicant can address community concerns in the proposed project;
2. Any information or opinions expressed by the applicant shall not be binding on the final decision or constitute approval or denial of the proposed project;
3. The public and the applicant should discuss creative approaches to address challenging site constraints or potential mitigations;
4. The public will be invited to speak to issues related to the proposal, but their input shall not be considered public testimony regarding the application when and if submitted.

## Section 405.1410. Criteria for PUD Rezoning Approval

[Ord. No. 5814 §1(12.5), 4-27-2004; Ord. No. 5935 §1(12.5), 7-11-2006]

A. The approval criteria are designed to achieve the objectives as set forth in **Section 405.1360** of this Article. The Plan Commission may recommend, and the Board of Aldermen may adopt modifications to requirements contained in Chapter 405.010 et. seq. titled Zoning Regulations as amended and Chapter 415.010 et. seq. titled Subdivision Regulations as amended, as part of its consideration and approval of a planned unit development. In considering and acting upon development plans, landscape plans and other applicable plans, the Plan Commission and Board of Aldermen shall take the following criteria into consideration through the planned unit development

process:

1. The proposed development is in harmony with general purposes and intent of Chapter **405** of the Municipal Code and is compatible with and implements the planning goals and objectives of the City as set forth in the City's Master Plans;

2. **Open Space and Landscaping.** The quality and quantity of public and common open space and landscaping provided are consistent with higher standards of design and amenities expected of a PUD. Common spaces are adequate in size and design to accommodate public use;

3. **External Circulation.** Streets, sidewalks, pedestrian ways, bike paths, off-street parking and loading as appropriate to the planned land uses are provided and meet the City of Clayton standards. They will not unduly interfere with the safety and capacity of adjacent streets. or other means of access to the site;

4. **Internal circulation.** The internal circulation system of the proposed development encourages safe movement for vehicles and pedestrians, and provides public access to green areas and open space preserved on site which are designated for public use;

5. **Design.** The PUD represents a more creative approach to the unified planning of development and incorporates a higher standard of integrated design and amenity than could be achieved under otherwise applicable zoning district and subdivision regulations;

6. Existing or proposed utility services are adequate for the proposed development;

7. Appropriate buffering is provided to protect adjacent land uses from light, noise and visual impacts;

8. **Natural Features.** The design of the PUD is as consistent as practical with the preservation of natural features of the site such as stands of mature trees, steep slopes, natural drainage ways, wetlands, or other areas of sensitive or valuable environmental character. The topography of the property is preserved to the greatest extent possible;

9 The proposed site layout and uses are compatible with the neighborhood surrounding the proposed development and the City as a whole;

10. The proposed development complies with all other applicable codes and ordinances;

11. The proposed development preserves buildings which are architecturally or historically significant or contribute to the character of the City;

12. The proposed development provides the required number of points to the extent outlined in Section 405.1380;

13. **Public Welfare.** The PUD will not be detrimental to the public health, safety or general welfare.

## Section 405.1420. Procedures for Approval of a Planned Unit Development

[Ord. No. 5814 §1(12.6), 4-27-2004; Ord. No. 5935 §1(12.6), 7-11-2006]

Upon the review of an application and plans, the Director of Planning and Development Services or his/her designee shall notify the applicant of any deficiencies and/or modifications necessary to perfect the application. Once the submittal is deemed complete, the application is forwarded to the Plan Commission and Board of Aldermen for their consideration and approval, respectively. The Plan Commission may recommend, and the Board of Alderman may adopt, modifications to development standards from the following as part of its consideration and approval of a planned unit development:

1. Chapter 405: Zoning Regulations
2. Chapter 410: Overlay and Urban Design Districts
3. Chapter 415: Subdivision Regulations (limited to the following standards from Article VII: Minimum Design Standards):
  - a. Section 415.590: Blocks.
  - b. Section 415.600: Lots.
  - c. Section 415.630: Street Design Standards (minimum right-of-way, minimum tree lawn width, horizontal radius of centerline, and medians only).
  - d. Section 415.640: Intersections and Street Alignment (curb radius only).

The application for a development plan shall be reviewed and decided upon in accordance with the procedures for a zone change established by Article **XI** of this Zoning Ordinance. Approval of the planned unit development is determined solely in the legislative discretion of the Board of Aldermen. Once approved, the planned unit development becomes the specific zoning regulations of the property.

## Section 405.1430. Conditions of Approval

[Ord. No. 5814 §1(12.7), 4-27-2004; Ord. No. 5935 §1(12.7), 7-11-2006]

A. The Board of Aldermen may impose such conditions and limitations as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements near the planned unit development, upon the City as a whole or upon public facilities and services. These conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, parking, maintenance, operational elements that would impact adjoining land uses and other matters relating to the purposes and objectives of these regulations. Such conditions shall be expressly set forth in the PUD document which shall be an exhibit attached to the PUD ordinance authorizing the planned unit development. Violation of any such condition or limitation shall be a violation of these regulations and subject the offender to the penalties prescribed for the violation of this Chapter. Additionally, violation of any such condition or limitation shall be a violation of these regulations and shall constitute grounds for revocation of the approval authorizing the planned unit development.

B. The ordinance approving a planned unit development shall contain a legal description of the property subject to the planned unit development. The ordinance along with the PUD document and approved site plan shall be recorded by the applicant in the office of County Recorder of Deeds. The

applicant must present proof of such recording before any permits may be issued.

C. Following planned unit development plan approval, the PUD document and approved site plan, rather than any other provision of Chapter **405**, shall govern the use, parking, loading, height, building locations, open space and yard regulations applicable to the subject property and no use or development, other than temporary uses, shall be permitted within the area of the planned unit development pursuant to the zoning district regulations otherwise applicable to such area.

## Section 405.1440. Reapplication

[Ord. No. 5814 §1(12.8), 4-27-2004; Ord. No. 5935 §1(12.8), 7-11-2006]

In the event the Board of Aldermen denies an application for planned unit development, no request for hearing upon the same application or substantially similar application will be accepted for a period of at least one (1) year from the date of denial by the Board of Aldermen.

## Section 405.1450. Appeals

[Ord. No. 5814 §1(12.9), 4-27-2004; Ord. No. 5935 §1(12.9), 7-11-2006]

An aggrieved party may, within fifteen (15) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decisions of the Board of Aldermen under this Article. The written request must set forth in a concise manner the decision being appealed, and all grounds known to the appellant as to wherein and why the decision is allegedly in error. The request for reconsideration and appeal must be filed with the City Clerk within the time specified above. A copy of the request and any supporting documents or materials filed by aggrieved party must be served by the aggrieved party on the applicant (if different than the aggrieved party) by certified U.S. mail, return receipt requested, within three (3) days of filing with the City Clerk. Proof of service on the applicant must be filed with the City Clerk within six (6) days of filing of the request. The Board of Aldermen may consider the appeal on the record of the prior decision or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances.

## Section 405.1460. Time Limit on Approved Planned Unit Development

[Ord. No. 5814 §1(12.10), 4-27-2004; Ord. No. 5935 §1(12.10), 7-11-2006]

No planned unit development permit shall be valid for a period longer than one (1) year unless a building permit is issued, and construction is actually begun and is diligently pursued within that period. A written request for an extension must be received by the City Clerk not less than forty-five (45) days prior to the expiration of the original one (1) year period. The applicant shall bear the burden of providing just cause for delay, proof that the project remains the same and proof that no circumstances bearing on the suitability of the project have changed. Approval of a request for an extension is at the sole discretion of the Board of Aldermen.

## Section 405.1470. Building Permit Issuance

[Ord. No. 5814 §1(12.11), 4-27-2004; Ord. No. 5935 §1(12.11), 7-11-2006]

A. The approval of a proposed planned unit development by the Board of Aldermen shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall authorize the preparation, filing and processing of applications for any permits or approvals that may be required by the regulations of the City including, but not limited to, a building permit, certificate of occupancy and, where applicable, subdivision approval.

B. Building permits shall be issued in accordance with the approved site development plan.

## Section 405.1460. Revocation

[Ord. No. 5814 §1(12.12), 4-27-2004; Ord. No. 5935 §1(12.12), 7-11-2006]

The City shall have the authority to order the abatement, removal and/or conformity of any planned unit development or any portion thereof that is contrary to any of the conditions and/or provisions of the approved planned unit development. Provided however, that the property owner was first served with an order to abate, remove and/or bring into conformity the violation(s) and the property owner failed to comply with the order within ten (10) days of receiving the order and following a public hearing held in accordance with this Article.

## Section 405.1470. Adjustments

[Ord. No. 5814 §1(12.13), 4-27-2004; Ord. No. 5935 §1(12.13), 7-11-2006]

A. No adjustment shall be made in the construction, development or use without a new application under the provisions of these regulations. However, minor adjustments may be made subject to written approval by the City Manager. Additionally, a request for an extension to the date of completion may be approved by the Board of Aldermen upon recommendation from the Director of Planning and Development Services.

1. **Minor adjustments.** The City Manager may authorize minor adjustments to the approved development plan when such adjustments appear necessary considering technical or engineering considerations. Such minor adjustments shall be limited to the following elements:

a. Adjusting the distance as shown on the approved development plan between any one (1) structure or group structures and any other structure or group of structures or any vehicular circulation element or any boundary of the site.

b. Adjusting the location of any open space.

c. Adjusting any final grade.

d. Altering the types of landscaping elements and their arrangement within the required landscaping buffer area.

e. The City Manager may decline to approve such minor adjustments if he/she deems the changes are significant and refer the application to the Board of Aldermen (see Major Amendments). Such minor adjustments shall be consistent with the intent and purpose of these regulations and the

approved development plan and shall be the minimum necessary to overcome the particular difficulty and shall not be approved if such adjustments would result in a violation of any standard or requirement of these regulations.

**2. Major amendments.** All major amendments will require a public hearing held by the Board of Aldermen and notice to all property owners whose properties are located within two hundred (200) feet of the planned unit development. A request for a major amendment to the approved development plan shall be considered a major amendment, only if the following apply:

- a. An increase in square footage or density from the original proposal.
- b. Change in the number of parking spaces from the original approval.
- c. Changes in proposed land uses (office becomes retail/restaurant, etc.).
- d. Significant changes to the outside appearance of the building including decorative lighting, building materials, colors, etc., the site, landscaping and/or streetscape.
- e. The amendment requires a modification of any written conditions of approval or recorded easements.
- f. Changes in the PUD plan as approved shall be in substantial conformity with the approved site plan or an amendment to the approved site plan shall be submitted and approved by the Plan Commission/Architectural Review Board.

**Passed by the Board of Aldermen on this 27th day of August 2019.**

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Mayor

Attest:

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City Clerk