

**ORDINANCE NO. 1367**

**AN ORDINANCE AMENDING ZONING ORDINANCE #1247 OF THE CITY OF BALDWIN CITY, KANSAS AND AS SET FORTH IN CHAPTER 16 OF THE MUNICIPAL CODE OF THE CITY OF BALDWIN CITY, KANSAS, BY ADDING A NEW ARTICLE 17 "PLANNED UNIT DEVELOPMENT", CITY OF BALDWIN CITY, KANSAS, DOUGLAS COUNTY, KANSAS**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALDWIN CITY, KANSAS, THAT:**

**SECTION 1**

Zoning Ordinance #1247 of the City of Baldwin City, Kansas, and as set forth in Chapter 16 of the Municipal Code of the City of Baldwin City, Kansas be and the same is hereby amended to include a new Article 17, as described below:

**17-100 Statement of intent.**

The planned unit development (PUD) district is intended and designed to encourage large-scale and quality development of vacant or underutilized tracts of land throughout the city pursuant to a unified building and site development plan incorporating a comprehensive design based on a thorough application of professional standards of excellence. It is further the intent of this division to allow greater flexibility of standards and diversification of land uses than provided in the regulations of other zoning districts set forth in this Article in order to accomplish the objectives to:

- a) Encourage innovative design and appropriate mixed-use developments.
- b) Encourage revitalization of older neighborhoods by permitting development or redevelopment of vacant or underutilized tracts of land substantially surrounded by other properties which have been developed with buildings.
- c) Permit development of land which, because of topographical or shape problems or other practical difficulties, otherwise cannot be feasibly developed.
- d) Preserve open space and other environmentally sensitive areas, and historic building(s), structure(s) and site(s) consistent with the intent of a designated historic district

**17-101 Pre-application conference.**

- a) The owner of a contiguous parcel of land may file an application for a change to the PUD district classification. Such land shall be no less than three gross acres in area.
- b) Before submitting such application, the developer shall confer with representatives of the community development department and other relevant city departments. The purpose of the conference shall be to discuss the feasibility of the proposal and to provide the developer with information and guidance regarding applicable city ordinances,

specifications, standards and procedures before the developer enters into binding commitments or incurs substantial expenses.

- c) The developer is encouraged to contact neighborhood groups, if applicable, and organizations as soon as possible and shall conduct at least one neighborhood meeting prior to the Planning Commission's public hearing.

#### **17-102 Conceptual plan and evidence required.**

The application for a change to the PUD district classification and all required information must be filed by the applicant for placement on the Planning Commission agenda. The application also shall be accompanied by two copies of evidence, e.g., background studies, letters from appropriate agencies, agency comments from the pre-application conference, etc., showing the following:

- a) The proposed development is in harmony with existing or anticipated uses of other properties in the neighborhood.
- b) The manner in which the developer proposes to maintain any common ground to be included within the development.
- c) The feasibility of providing adequate stormwater and surface water drainage, sanitary sewer capacity, grading plan, and water service for the proposed development. All plans shall be designed to a level that is deemed conceptually satisfactory before being approved.
- d) The surrounding streets are capable of accommodating the increased traffic that would be generated by the new development, including a traffic study if required by city staff at the pre-application conference.
- e) Off-street parking and loading will be provided as appropriate to the size and character of the proposed development.
- f) A study to indicate a market for the proposed development, provided such study is required by city staff at the pre-application conference.
- g) The developer has the financial resources and the professional ability to successfully complete the proposed development within the time schedule set forth in the conceptual plan.
- h) An environmental report, if required by city staff at the pre-application conference, shall be submitted by a qualified professional addressing issues relative to development on the site.
- i) The minimum size required for any PUD shall be three gross acres.
- j) A written statement by the applicant shall be submitted setting forth the reasons why the

PUD would be in the public interest and would be consistent with the comprehensive planning and zoning regulations.

**17-103 Contents of the conceptual plan.**

The conceptual plan required in Section 17-102 shall be submitted on a sheet size no larger than 24 inches by 36 inches, including a north arrow, scale, general lot and block layout, and a summary table. The conceptual plan shall show in schematic form the following:

- a) The boundaries of the proposed PUD district and a description of the existing structures and uses on surrounding properties within 200 feet,
- b) A project narrative describing the following:
  1. Net area in square feet or acreages. Net area does not include land dedicated or necessary to be dedicated for public right-of-ways.
  2. Density in dwelling units per acre or a total number of dwelling units for the entire plan.
  3. Total square footage of all commercial and industrial uses, including outdoor display and/or storage; percentage of building coverage.
  4. Percentage of the development that will be provided for open space.
  5. A description and timeline for all recreational facilities.
  6. Proposed development standards for all land uses other than existing zoning district(s).
  7. Project phasing plan.
  8. Topographic features of the site, including major existing natural features.
  9. A building plan showing all proposed building(s) and uses, number of stories, general exterior design and building materials, dimensions, and floor areas.
  10. Parking areas and access drives.
  11. Streets abutting and within 200 feet of the proposed development.
  12. Landscaping plan for the entire PUD district showing the general location and type of proposed landscaping and screening buffers, including sidewalks, fences, walls and other screenings methods. Depending on the proposed land use(s), staff may require a decorative wall rather than a fence to provide sufficient screening and noise abatement.
  13. Location, size, and type of any existing and proposed signs.
  14. Required peripheral yards.
  15. Common land, detention basins, recreation areas, parks, school sites and any other amenities, and shall show if any area is to be dedicated to a governmental entity with its written acknowledgement of such dedication.
  16. Existing and proposed utility and other easements.

17. Development stages and schedule for commencement after the director's approval of the development plan and completion of construction after commencement in each stage.

**17-104 Approval of conceptual plan and rezoning by Planning Commission and Governing Body.**

The application, accompanying evidence, and conceptual plan shall be considered by the Planning Commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of this Article and with recognized principles of civil/urban design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the conceptual plan and request for rezoning as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this Article to promote public health, safety, and general welfare. The recommendations of the Commission shall be referred to the Governing Body. The Governing Body may approve or disapprove the conceptual plan and request for rezoning, as submitted or as amended after hearing before the Commission, or may require such changes in the plan or rezoning as the Governing Body deems necessary to preserve the intent and purpose of this Article to promote public health, safety, and general welfare.

**17-105 Time requirements for submittal of development plan.**

If the Governing Body approves the conceptual plan and request for rezoning, the developer shall submit within two years thereafter to the community development department six copies of a development plan of one or more development stages. The community development director, upon written application and for good cause shown, such as regulatory delays, unavailability of financing, or unusual weather conditions, may grant one extension of not more than one year for the submission of a development plan.

**17-106 Contents of development plan.**

Every development plan submitted pursuant to this Article shall comply with the conceptual plan requirements in this Article and approved by the Governing Body. In addition to depicting all the information from the conceptual plan, the development plan shall include the following items of information, unless otherwise waived by the community development director:

- a) Existing and proposed contours at an interval not to exceed two feet, provided that at least two contours shall be shown, unless modified by the community development director.
- b) Existing and proposed utility lines and easements.
- c) Certification by a licensed land surveyor that the dimensions and bearings of the property lines are accurately delineated.
- d) Location, shape, exterior materials and dimensions, and number of stories of each existing building to be retained and of each proposed building.

- e) All required yard setbacks.
- f) Location, grade, and dimensions of all existing and proposed paved surfaces and of all abutting streets.
- g) Complete traffic circulation and parking plan, showing the location and dimensions of all existing and proposed parking stalls, loading areas, entrance and exit drives, dividers, planters, and other similar permanent improvements.
- h) Location of existing trees, any springs and streams and other water bodies, and any areas subject to flooding.
- i) A vicinity map showing the general location of the property.
- j) Soils tests and similar information if deemed necessary by the community development director to determine the feasibility of the proposed development.
- k) If the applicant proposes to fill or grade on the site, a fill permit application shall be submitted to the Public Works Department for review and approval, if applicable.

**17-107 Documents required with development plan.**

Every development plan submitted pursuant to this Article shall be accompanied by the following documents, unless such documents have been previously submitted to the community development department:

- a) If the proposed development includes common land which will not be dedicated to the city and the proposed development will not be held in single ownership, proposed bylaws of a unit owners' association fully defining the functions, responsibilities and operating procedures of the association. The proposed bylaws shall include but not be limited to the following provisions:
  - 1. Automatically extending membership in the association to all owners of units within the development.
  - 2. Limiting the uses of the common property to those permitted by the final development plan.
  - 3. Granting to each owner of a unit within the development the right to the use and enjoyment of the common property.
  - 4. Placing the responsibility for operation and maintenance of the common property in the association.
  - 5. Giving every owner of a unit voting rights in the association.
  - 6. If the development will include rental units, stating the relationship between the

renters and the association and the rights renters shall have to the use of the common land.

7. Performance bonds approved by the public works director in an amount not less than the estimated cost of the following:

i. Stabilizing the site if the grading and soil erosion measures are not done in accordance with the approved grading plan, which may include, but not be limited to, grading, seeding, and/or construction of retaining walls.

ii. Amenities and facilities proposed for construction or installation on any land within the entire PUD district to be either:

Dedicated to the city; or

Used as common land which will not be dedicated to the city.

b) Covenant to run with the land, in favor of the city and all persons having a possessory interest in any portion of the development premises, providing that the owners of the land or their successors in interest shall maintain all interior streets, parking areas, sidewalks, parks, plantings and others as deemed necessary by the Governing Body, which have not been dedicated to the city in compliance with city ordinances and with the development plan as approved by the Governing Body, which covenant shall be recorded by the developer in the office of the County Recorder.

c) Warranty deeds to all land to be dedicated to the city, all required easements and all agreements which may be required by the Governing Body at the time of conceptual plan approval, provided that all such deeds and any such easements and agreements which run with the land shall be recorded by the developer in the office of the county recorder.

#### **17-108 Approval of development plan by community development director.**

Every development plan and required documents submitted pursuant to this Article shall be reviewed by the community development director or designee, who shall approve the development plan if it complies with the standards of this Article and is in compliance with the conceptual plan.

#### **17-109 Amendments to conceptual plan.**

Any change in a conceptual plan proposed after the Governing Body has approved the plan pursuant to this division shall be resubmitted in the same manner as the original conceptual plan. Any such change, except an insubstantial change, as described in this Article shall be considered in the same manner as the original conceptual plan. An insubstantial change may be approved by the community development director if it complies with the standards of this Article. Within the meaning of this Article, insubstantial changes are those changes, as determined by the community development director, to be minor and in harmony with the intent and objectives of this Article.

**17-110 Amendments to development plan.**

Any change in a development plan proposed after the community development director has approved the plan pursuant to this Article shall be resubmitted and considered in the same manner as the original development plan. However, if any such change involves an amendment to the conceptual plan, the community development director shall not approve the amendment to the development plan until the Governing Body has approved the amendment to the conceptual plan.

**17-111 Reserved**

**17-112 Appeals from decisions.**

- a) The applicant aggrieved by a decision of the community development director to approve or deny a proposed development plan or amendment thereto pursuant to this Article shall have the right to appeal any determination or action of the community development director made within the scope of this Article. Appeal shall be made, without cost, by written notification received by the community development department within 15 calendar days after the date of the action by the community development director.
- b) The appeal shall first be considered and acted upon by the Planning Commission. The Planning Commission shall decide all appeals within 45 calendar days after the written notification has been received by the community development department, provided the appellant may agree to a longer time period not to exceed 90 calendar days after receipt of the written notification. Failure to decide the appeal within such time period shall have the effect of overturning the director's action and approving the development site plan as appealed. The decision of the Planning Commission may be appealed to the Governing Body. Appeal shall be made by written notification received by the city clerk within 15 calendar days after the date of the action by the Planning Commission.
- c) The City Council shall decide all appeals within 45 calendar days after the written notification has been received by the city clerk, provided the appellant may agree to a longer time period not to exceed 90 calendar days after receipt of the written notification. Failure to decide the appeal within such period shall have the effect of overturning the Planning Commission action and approving the development site plan, as appealed. Except as provided in this subsection, the affirmative vote of three-fourths of the Governing Body members shall be necessary to overturn or modify the action of the Planning Commission.

**17-113 Permitted uses.**

Any use of structures or land permitted in any district may be permitted in the PUD district.

**17-114 Standards.**

- a) All uses proposed in a PUD district plan shall be in harmony with the existing or

anticipated uses of other properties in the surrounding neighborhood and shall generally be in conformance with the city's land use plan. The design of a PUD district shall be based on harmonious architectural character, compatible materials, orderly arrangement of structures and open space, and conservation of woodlands, streams, scenic areas, open space and other natural resources.

- b) Setbacks and other appropriate screens shall be provided around the boundary of a PUD district to protect the adjoining district properties.
- c) A PUD district shall comply with all applicable city ordinances, specifications, and standards relating to all dedicated street, sanitary sewer, and storm sewer facilities, and to surface drainage and floodwater retention.
- d) The streets surrounding a PUD district must be capable of accommodating the increased traffic that would be generated by the new development. The development shall be designed to provide maximum feasible separation of vehicular traffic from pedestrian ways and recreational areas. If turning lanes or other forms of traffic controls within or adjacent to the development are deemed necessary by the Governing Body, the developer shall provide the necessary improvements.
- e) Off-street parking and loading spaces shall be provided as appropriate to the size and character of the development. Each off-street loading space shall be not less than specified in Article 22. All off-street parking spaces shall be provided in accordance with the requirements of Article 22, unless modified by the Governing Body.
- f) Where appropriate to the size and character of a PUD district, provision shall be made therein for open space for recreation and other outdoor uses, and for places of worship, convenience shopping, and other community services.

**17-115 Building permits.**

No building permit concerning any stage of a planned unit development shall be issued until after the development plan for that stage has been approved by the community development director, and until after the developer has provided the community development department with satisfactory evidence of the recording with the county recorder of any covenant, deed, easement, or agreement required to be so recorded pursuant to this Article.

**17-116 Board of Zoning Appeals review precluded.**

Because the PUD district is intended to provide relief from the rigid regulations of more conventional zoning districts pursuant to a carefully integrated overall development plan, the Board of Zoning Appeals shall have no jurisdiction to grant any variation, exception, or special permit relating to any property in the PUD district.

**17-117 Failure to submit development plan or to commence construction.**

If the developer fails either (a) to submit a development plan within the time requirements of this Article or (b) to commence construction in accordance with the time schedule set forth in the development plan, a public hearing shall be scheduled before the Planning Commission regarding such failure, and the developer shall be served prior notice thereof by certified mail. At such meeting, the Commission shall consider all circumstances relevant to the developer's failure and shall vote to recommend to the Governing Body that appropriate remedial measures be initiated, which measures may include (a) the initiation of rezoning of the subject property to the zoning classification effective immediately prior to the rezoning of the subject property to a PUD district classification or as determined by the Governing Body, and/or (b) referral of the matter to the City's attorney for institution of enforcement proceedings in the courts pursuant to this Code. Upon receipt of the recommendations of the Commission, the Governing Body shall act to initiate remedial measures in conformity to the Commission's recommendations or to initiate such other remedial measures as the Governing Body determines to be reasonably necessary under the circumstances.

**17-118 Maintenance.**

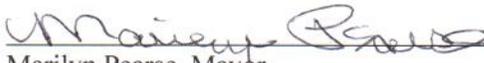
In addition to conditions of approval described for a specific PUD district and development plan, all private common areas, landscaping, amenities, parking lots, roads, storm water management facilities, and other privately-owned areas shall be maintained by the property owner(s) and any subsequent property owner(s) in perpetuity, unless such area(s) are dedicated to the city or amended by Governing Body in accordance with this Article.

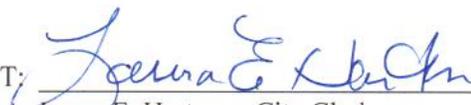
**17-119 Enforcement.**

Enforcement shall be consistent with Article 32.

**SECTION 2. EFFECTIVE DATE OF ORDINANCE.** This Ordinance shall take effect on its passage and upon its publication as required by law.

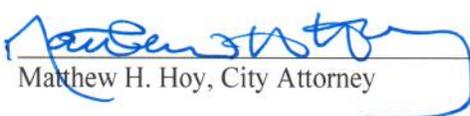
Passed by the City Council this 14 day of May, 2017.

  
Marilyn Pearse, Mayor

ATTEST:   
Laura E. Hartman, City Clerk



*(Approved as to Form):*

  
Matthew H. Hoy, City Attorney