

1st Reading: November 19, 2018
2nd Reading: November 19, 2018

SPONSOR: GLICK

ORDINANCE NO. 3875

BILL NO. 18-112

AN ORDINANCE REPEALING IN ITS ENTIRETY SECTION 475.070, “BP-4” PLANNED BUSINESS PARK DISTRICT, OF CHAPTER 475, “BUSINESS ZONING DISTRICTS” AND ENACTING A NEW SECTION 475.070, “BP-4” PLANNED BUSINESS PARK DISTRICT REGULATIONS, OF THE MUNICIPAL CODE OF THE CITY OF FENTON.

WHEREAS, the Planning and Zoning Commission held a duly noticed public hearing on November 7, 2018, in compliance with the City Code and Chapter 89 RSMo. regarding amending the Municipal Code relating to the “BP-4 Planned Business Park District Regulations; and

WHEREAS, the Commission made a recommendation to the Board of Aldermen to amend the Municipal Code to repeal Section 475.070, “BP-4 Planned Business Park District” in its entirety and enact a new Section 475.070, “BP-4 Planned Business Park District Regulations”; and

WHEREAS, at the November 8, 2018 Committee Meetings, the Board of Aldermen reviewed the Planning and Zoning Commission’s recommendation, discussed the proposed amendments to Section 475.070, and agrees with the Commission’s recommendations and, therefore, desires to approve such changes; and

WHEREAS, the City is authorized to enact certain regulations to facilitate the establishment of combinations of development and uses in a planned environment; and

WHEREAS, consistent with the recommendation of the Planning and Zoning Commission, the Board desires to repeal Section 475.070, “BP-4 Planned Business Park District” in its entirety and enact a new Section 475.070, “BP-4 Planned Business Park District Regulations”.

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

Section 1. The Municipal Code of the City of Fenton, Missouri is hereby amended by repealing in its entirety Section 475.070, “BP-4 Planned Business Park District, and adopting in its place a new Section 475.070, to read in substantially the form of Exhibit 1, attached hereto and incorporated herein by reference.

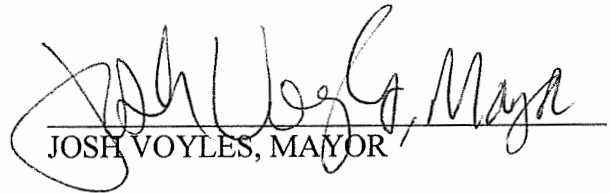
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Section 2. If any clause, word, paragraph, section or other part or portion of this ordinance is held to be invalid, illegal or unconstitutional for any reason, the Board of Aldermen hereby declares it would nevertheless have enacted the remaining portions thereof and such remaining portions shall remain in full force and effect.

Section 3. This ordinance shall be in full force and effect after the date of its passage and approval.

PASSED this 19th day of November 2018.



JOSH VOYLES, MAYOR

APPROVED this 19th day of November 2018.



JOSH VOYLES, MAYOR

ATTEST:



Morgan Kuepfert, City Clerk

Motion to approve. Roll Call vote:

Ayes: Seemayer, Sobey, Hefele, Maurath, Clauss, Brasses, Patton, Glick

Nays: 0

Absent: 0

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EXHIBIT 1

Section 475.070. "BP-4" Planned Business Park District Regulations.

- A. *Purpose.* This Section contains the regulations and procedures of the "BP-4" Planned Business Park District (hereinafter "BP-4" District). It is the purpose of the "BP-4" District to facilitate the establishment of combinations of development and uses in a planned environment for which no provision is made in any single "BP" Business Park District and to encourage a creative approach to the use of land and affiliated physical facilities that results in a better development and design under conditions of approved site and development plans. Furthermore, the "BP-4" District is intended for varying intensity business and associated retail services of high quality that can justify the amenities and high level of performance standards governing development in a planned business park setting. These regulations are supplemented and qualified by additional regulations appearing elsewhere in this Title.
- B. *Establishment of a "BP-4" District.*
1. A "BP-4" District may be established on a tract of land in a single ownership or management control provided that:
 - a. An application for a change of zoning and a concept plan (hereinafter "Concept Plan") is approved by the Board.
 - b. A Site Development Plan in compliance with the conditions for rezoning and Concept Plan approved by the Board is submitted to Commission and Board for approval and recorded with the St. Louis County Recorder of Deeds.
 - c. The schedule of construction is complied with in accordance with the approved rezoning ordinance and/or Site Development Plan approval.
 2. A "BP-4" District may be established the Board in the same manner that other Zoning Districts are established where the Board determines that any particular tract or areas should be developed accordingly, but because of possible conflicts with adjoining uses, more development control is necessary to protect the general welfare than is possible under the regulations of the "BP-1" "BP-2" and "BP-3" Business Park Districts.
 3. The minimum tract or combined property area to establish a "BP-4" District shall be three (3) contiguous acres unless said property adjoins a "BP-4" District. For property adjoining an existing "BP-4" District, the minimum area is one (1) contiguous acre.
- C. *Permitted Uses and Uses allowed by Special Use Permit.* Permitted Uses and Uses allowed by Special Use Permit in the "BP-4" District shall be established in the conditions of the rezoning ordinance governing the District. Specific uses may include those designated Permitted Uses and by Uses allowed by Special Use Permit in any "BP" Business Park District, except not more than fifty percent (50%) of the gross floor area of any building may be used for warehouse.
- D. *Lot Regulations.*
1. *Setbacks and buffer areas.*

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a. *Front setback and buffer area.* Each lot shall have a minimum fifty (50) foot front setback with a landscaped buffer area of not less than thirty (30) feet from the front lot line(s). Parking lots may encroach the established front setback but shall not encroach the required landscaped buffer area provided herein.

b. *Side and rear setbacks.* Except as otherwise required in this Section, all required side and rear setbacks and buffer areas shall be as approved on the recorded Concept Plan or rezoning ordinance. Parking lots may encroach the established side and rear setbacks but shall not encroach the established landscaped buffer area.

c. *Exceptions.* The required setbacks and buffer areas along the lot line of all lots adjacent to another zoning district shall not be less than such requirement for the abutting property. Where a lot abuts more than one (1) other zoning district, the most restrictive shall apply.

2. *Intensity of use.* Maximum lot coverage of the principal building(s) shall not exceed fifty percent (50%) of the lot area.

3. *Lot area.* The minimum lot area shall be one (1) acre, with a minimum lot width of two hundred (200) feet at the required building line.

4. *Number of buildings per lot.* More than one (1) principal building may be located on a lot provided all setbacks and parking requirements are met.

E. *Building Regulations.*

1. *Building height.* The maximum building height shall be five (5) stories, not to exceed fifty (50) feet in height.

2. *Building design and materials.* Building design and materials shall be consistent with permitted design and materials of the "BP-3" Business Park District.

F. *Procedure for establishment of "BP-4" District.* In order to establish a "BP-4" District to utilize land in an established "BP-4" District, the procedure shall be as follows:

1. *Application.* The owner or owners of record or owners under contract of a lot or tract of land or their authorized representatives shall petition the Board on forms prescribed for this purpose by the Director. These forms are to be submitted to the Community Development Department and accompanied by the following:

a. Filing fee per requirements of Section 420.030 (Procedures for a Change in Zoning);

b. Legal description of the property;

c. Outboundary plat of the property;

d. Preliminary site plan in compliance with Section 470.070;

e. Concept Plan identifying the general location of streets, utilities, and other proposed infrastructure and the general location of the proposed uses of the District;

f. Description/list of proposed uses; and

g. Any additional information reasonably required by the Director to determine compliance with the requirements herein.

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2. When approving the change of zoning and Concept Plan, the Commission shall recommend and the Board shall establish within the governing ordinance the permitted uses and uses allowed by Special Use Permit for the proposed “BP-4” District, required infrastructure and rules related to the same, open space requirements, required setbacks, landscape buffers, building heights and materials, lot size and coverage requirements, density requirements, and other conditions and requirements to meet the requirements of this Section. All other provisions and procedures for a change of zoning of Section 420.030 (Procedures for a Change in Zoning) shall apply.
3. *Site Development Plans.*
 - a. After passage of the rezoning ordinance and approval of the Concept Plan by the Board the developer shall proceed with submitting a Site Development Plan. A Site Development Plan can either be presented for the entire “BP-4” District or the developer can proceed to construct the District in phases and submit multiple Site Development Plans. No building permits or authorization for improvement or development for any use requested under provisions of this Section shall be issued prior to approval of such Plans.
 - b. Site Development Plans shall be submitted to Director for review. These plans shall contain the minimum requirements established in the conditions of the ordinance governing the “BP-4” District and, further, shall comply with the applicable provisions of the Subdivision Ordinance and other City ordinances. If the Director finds the Plan(s) to be in substantial compliance with the zoning ordinance, the approved Concept Plan, and this Section (“Applicable Authority”), the Director shall forward to the Commission for review and recommendation. For purposes of this Section, "substantial compliance" shall mean a level of compliance with the requirements of the Applicable Authority such that any identified inconsistencies do not allow a lesser amount of performance on behalf of the Developer nor impose a greater burden or risk upon the City or its citizens than that of the Applicable Authority. Specifically, the Director must determine that:
 1. Development density and intensity have not materially changed such that density of any use exceeds the permitted density of that use, or the permitted height of the buildings;
 2. Design has not materially changed, in that the roadway patterns, particularly ingress egress points, are in the same general location as shown on the Concept Plan, landscaped open space is in the same general location, is of the same or greater amount, or the proposed changes do not have the effect of creating any noncompliance or nonconformity with the strict application of the zoning code that were not previously approved at public hearing, or of expanding the scope of existing variances, alternative site development, options, or other

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approvals pursuant to alternative development standards such that they would differ to a greater degree from the strict application of the zoning code; and

3. Uses have not changed to include uses not approved by the Applicable Authority.
- c. The Commission shall review the Site Development Plan for compliance with the Applicable Authority and make a recommendation to the Board. The Board may approve, approve with conditions, or deny the Site Development Plan in accordance with the Applicable Authority. Within sixty (60) days of approval by the Board, the Site Development Plan(s) shall be recorded with the St. Louis County Recorder of Deeds by the developer at its cost and thereby authorize development as depicted thereon. Failure to record such Plan within the required timeframe shall result in the Site Development Plan becoming null and void.
4. *Guarantee of improvements.* Unless otherwise provided for in the conditions of the ordinance governing a “BP-4” District, no building permits or permits authorizing the occupancy or use of any building, facility, commercial establishment or structure may be use or occupied until required related off-site improvements are constructed or a performance bond, escrow, or other acceptable instrument is posted covering their estimated cost as determined by the Director. This requirement shall not apply to foundation permits or permits necessary for the installation of required related off-site improvements. Required related off-site improvements shall include, but not be limited to, streets, sidewalks, sanitary and storm sewers, street lights, and street trees. If a “BP-4” District is developed in phases, the requirement shall also apply to all major improvements necessary to the proper operation and function of the phase in question, even though such improvements may be located outside of the phase in question.
5. *To amend the Rezoning Ordinance or Concept Plan.* Amendment to the Concept Plan or conditions or terms of the rezoning ordinance shall proceed through the same procedure for approval of the original Concept Plan and rezoning ordinance.
6. *To amend the recorded Site Development Plans.*
 - a. The property owner or authorized representative shall submit an amended Site Development Plan to the Director for review. The Director shall then evaluate the request for consistency in purpose and content with the nature of the approved Concept Plan, rezoning ordinance, and original Site Development Plan.
 - b. If the Director determines that the proposed amendment to the Site Development Plan is major in nature and is not in conflict with the approved Concept Plan and meets all conditions of the “BP-4” District ordinance, said Plan shall be reviewed by the Commission and forwarded to the Board for approval. If approved, said amended Plan shall be

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recorded with the St. Louis County Recorder of Deeds by the developer at its cost within sixty (60) days of review and report by the Commission and approval by the Board. Failure to record within the prescribed timeline shall result in the approval of the amendment being null and void.

- c. If the Director determines that the proposed amendment to the Site Development Plan is minor in nature and is not in conflict with the original proposal as advertised and the Concept Plan and meets all conditions of the "BP-4" District ordinance, the Director may administratively approve such amendment. Said amended Plan shall be retained on file by the Community Development Department and shall be recorded with the St. Louis County Recorder of Deeds by the developer at its cost within sixty (60) days of approval by the Director. Failure to record within the prescribed timeline shall result in the approval of the amendment being null and void.
 - d. If the Director determines that the proposed amendment to the Site Development Plan is not consistent in purpose and content of the rezoning ordinance or with the Concept Plan approved by the Board, the Director shall so report to the applicant and the Commission. The Commission shall then review the amended Site Development Plan and make a recommendation to the Board for final determination.
7. *Appeals.* The developer/petitioner may appeal a decision by the Director. The petitioner shall have a fifteen (15) day period in which to file a written appeal and plan with the Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the Department. The Commission will make a final determination of the matter. No exceptions will be granted that are in violation of the particular ordinance governing the Site Development Plan. Such final determination by the Commission is subject to the appeal procedures of Chapter 160. To the fullest extent permitted by law, such review procedures shall be exhausted before any action may be filed in any court against the City or its officers, employees, boards, officials, or commissions.
8. *Failure to commence construction.*
- a. Unless otherwise determined by the Board in the rezoning ordinance, the Board shall consider the "BP-4" District development subject to revocation if substantial construction fails to commence within one (1) year of filing of the Site Development Plan or construction is not completed within five (5) years from approval of the Site Development Plan. As used in this Section, "*substantial construction*" shall mean final grading for roadways necessary for first (1st) approved plat or phase of construction and commencement of installation of sanitary and storm sewers. Any extension herein provided for shall be filed with the Director prior to the expiration date for which the extension is being requested. The developer shall be notified in writing at least sixty (60) days prior to any revocation hearing.

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- b. The Board may grant an extension to commence construction for not more than one (1) additional year. Any extension herein provided for shall be filed with the Director prior to the expiration date for which the extension is being requested.
 - c. In the event the Site Development Plan is not submitted or substantial construction has not commenced within the prescribed time limits, the Site Development Plan and Concept Plan shall terminate and the Commission shall within forty-five (45) days recommend initiation of a new public hearing to revert the property to its prior classification in accord with the proceedings specified in Section 420.040 Petitions for Change, Filing Fee, Form and Contents. When a “BP-4” District has terminated by reason of provisions of this Subsection, no building permit shall be issued on that property until a public hearing has been held for the purpose of reinstating the “BP-4” District or reversion of said property to its prior zoning classification and action taken thereon by the Board.
9. *Unfinished portions of a Site Development Plan.* Any ground in an unfinished phase of a Site Development Plan in the “BP-4” District not completed within one (1) year from the date of Site Development Plan approval by the Board shall be graded and seeded with a perennial grass seed. Said undeveloped ground shall be maintained with appropriate mowing and trimming to meet City standards, until it becomes an active construction site.