

AN ORDINANCE APPROVING THE FINAL DEVELOPMENT PLAN SUBMITTED BY HALEY HOLDINGS SEVEN LLC FOR A MIXED-USE DEVELOPMENT; REZONING THE PROPERTY TO PD-MxD; AND APPROVING A CONDITIONAL USE PERMIT FOR A DEVELOPMENT KNOWN AS THE VILLAGES OF TWIN OAKS

Whereas, Haley Holdings Seven LLC (the “Applicant”), as owner under contract and on behalf of the property owners, Green Park Care, Inc. and Big Bend Square, LLC, submitted an application for a change in zoning designation from the “C” Commercial District to the PD-MxD Zoning District and for approval of its associated Preliminary Development Plan on August 9, 2016, for an 11.271± acre site, known and numbered as 1310 – 1366 Big Bend Square Shopping Center (the “Property”) to allow for the reconstruction and rehabilitation of the existing shopping center as a retail and multi-family residential mixed use development to be known as *the Villages of Twin Oaks*; and

Whereas, Applicant also submitted an application for a Conditional Use Permit pursuant to §400.390 of the Twin Oaks Zoning Code to allow multi-family dwellings (apartments) as a conditional use on the Property (the “CUP”) because multi-family residential uses are not permitted by the Twin Oaks Zoning Code; and

Whereas, on November 7, 2016, the Twin Oaks Planning & Zoning Commission recommended approval of the request by Applicant for Rezoning of the Property from “C” Commercial to a Mixed Use Planned Development (“PD-MxD”) pursuant to Article IX of the Twin Oaks Zoning Code and recommended approval of the associated Preliminary Development Plan, with certain conditions; and

Whereas, after holding a duly noticed and published public hearing on January 4 and January 18, 2017, concerning the Zoning Approvals, the Board of Aldermen on January 18, 2017, via Resolution 17-01, approved the Preliminary Development Plan for rezoning of the site to PD-MxD as well as the CUP (collectively, the “Zoning Approvals”) to allow multi-family residential, all with twenty-five (25) conditions as set forth in Resolution 17-01 (the “Conditions”); and

Whereas, on February 8, 2017, Applicant submitted to the City an application for Final Development Plan review pursuant to §400.355(C)(3) and §400.320(A)(5) and submitted with the application a Final Development Plan, attached as Exhibit A and incorporated herein by reference (the “Final Development Plan”); and,

Whereas, on February 22, 2017, after staff reviewed the Final Development Plan and found it to be in compliance, the Planning and Zoning Commission pursuant to §400.355(C)(3) recommended approval of the Final Development Plan, including the Conditions and modifications, finding it to be in substantial conformance to the approved Preliminary Development Plan;

Whereas, the Board now wishes to grant final approval of the development including the Final Development Plan, amending the zoning from “C” Commercial to PD-MxD and approving the CUP;

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

Section 1. Based upon the Applicant’s submission of a Final Development Plan in substantial compliance with the conditions and terms of the Board’s Resolution 17-01, the zoning designation for the Property is amended from the “C” Commercial District to the PD-MxD Zoning District and the PD-MxD zoning and the Final Development Plan (attached as Exhibit A and incorporated herein) is hereby approved pursuant to and subject to Municipal Code §400.355(B)(2) and §400.320 with the following conditions:

- 1) Use of the Property shall be for a mixed-use development consisting of retail, service commercial and multi-family residential dwellings and shall be used and maintained in compliance with the approved Final Development Plan, including all notes thereon.
- 2) As indicated on the Final Development Plan, Applicant shall install a sidewalk connection at the removed curb cut at the northwest corner and install a new sidewalk along Big Bend where entrance area was removed to allow pedestrian access to the sidewalks along Big Bend from the development.
- 3) As indicated on the Final Development Plan, Applicant shall remove chain-link fence along Big Bend on north side of property along wall and replace with an ornamental fence (fence materials shown on Final Development Plan) and provide a copy of any maintenance agreement with St. Louis County if in the right-of-way.
- 4) As indicated on the Final Development Plan, Applicant shall continue ornamental lamp posts along north property line matching Big Bend-141 intersection meeting Twin Oaks specifications (Holophane, Washington Post with LED bulbs) and using same spacing as the intersection and dedicated to Twin Oaks to power and maintain.
- 5) Owner/operator of the development shall establish and maintain a capital reserve fund as directed by project lender for the purpose of effecting replacements and repairs to the property in an effort to maintain the property in a "first class condition" consistent with the other mixed use properties in the market.
- 6) Landscaping for the development’s drives and entrances should be consistent with Twin Oaks’ offsite landscaping improvements at Big Bend and 141 and should be reviewed by Twin Oaks’ landscaping consultant for recommendations for cohesive design and plantings.
- 7) The water quality and storm water control for the Property shall be as approved by the Metropolitan Sewer District (“MSD”). Developer shall provide Twin Oaks with as-built information and MSD construction acceptance when available and provide Twin Oaks with a copy of all recorded easements and agreements for sanitary sewers, storm sewers and storm water quality basin, including maintenance agreements.
- 8) Any future buildings on or re-development of the area labeled “Future Restaurant” in the northeast corner of the site shall be subject to the development plan approval process and shall be of a design and appearance shall be compatible with that

approved by this Final Development Plan and the area shall be labeled limited to “restaurant” use.

- 9) The proposed 22 foot-wide drive lane to the south of the existing retail building is dedicated for access to Meramec Station Road for apartment occupants with appropriate signage for direction; the current PNC site, if obtained by developer, shall be considered for direct access to Meramec Station Road for residents.
- 10) Exterior lighting shall be in accordance with the photometric lighting plan (Sheet PH100) and shall not exceed the City’s required candle power at property line except where shown on the plan as approved.
- 11) All screening for trash containers shall be masonry and designed, located, and maintained as set forth on the approved plan and the trash container shall be screened at all times in accordance with the Development Plan and the City of Twin Oaks parking requirements.
- 12) No outside storage is permitted.
- 13) All materials and workmanship associated with any work performed in the City’s right-of-way shall be subject to the conditions of a Right-of-Way Permit issued by the City and conform to the applicable standards and specifications of the City of Twin Oaks and St. Louis County Department of Highways and Traffic.
- 14) The owner shall be responsible for the maintenance of all elements of the Final Development Plan, including all landscaping, and all conditions of plan approval. The restrictions on redevelopment and the responsibility for continuing maintenance and compliance with the Final Development Plan, including all landscaping, shall be binding upon all successors and assigns unless the plan is amended in conformance with the procedures set forth in the City Code. Failure to maintain the landscaping as set forth on the Final Development Plan is a violation of the City Zoning Code, the Final Development Plan and this ordinance. Specific maintenance provisions are as follows:
 - a. The sight-proof fence along southern boundary shall be of high-quality materials and appearance and shall be kept in good repair at all times and a detail of the fencing materials and type shall be added to the Final Development Plan;
 - b. All landscaping shall be maintained by an irrigation system;
 - c. A copy of the maintenance agreement for the proposed shared storm water quality basin on site shall be provided to the City of Twin Oaks
- 15) Applicant shall submit to the City at the time of application for building permits, a Surety Bond or Letter of Credit/Deposit Agreement insuring completion of public and quasi-public improvements (landscaping, “park,” stormwater system (unless MSD requires a separate bond/agreement), internal drives, sidewalks, removal of curb cut at northwest corner, etc.) (per §400.355(C)(3)).
- 16) While the Applicant, as required by §400.320(A)(4)(1), has submitted drawings showing the “[l]ocation, size and type of material of all proposed monument or freestanding signs” (Signs A and B as shown on the sheets labeled “Signage” new sheet 02-6-2017 of the Final Development Plan), the signs as submitted do not meet the Sign Code requirements for Monument Signs contained in §410.050(A)(d) permitting a maximum of five (5) feet in height and fifty (50) square feet in area, and

thus are specifically not approved hereby but shall be either reduced in size to meet the City's sign height and area requirements or submitted as part of a master common signage plan under §410.050(B) which shall be a supplement to the Development Plan approved by this Ordinance.

- 17) The surrounding roads and drives shall be kept clean and free of mud and debris caused by the redevelopment of the Property.
- 18) Approval is contingent on the recording of a Lot Consolidation Plat to consolidate the former MODOT parcel to the northwest (more specifically described in the quitclaim deed recorded with the St. Louis County recorder of Deeds at Bk. 22065, Pg. 0311).
- 19) With regard to the future and ongoing operation of the multi-family residential component of the development, the Owner/operator shall:
 - a. Install, operate and maintain a system of cameras and speakers such as the "intercept" system provided by Blue Eye Monitoring or a similar system. Such system shall maintain the capability of 24/7 communication with the St. Louis County Police Department to protect the general welfare of the community and character of the neighborhood;
 - b. Conduct a criminal background check on all prospective tenants prior to leasing any real property within the development. This condition is rationally related to the public purpose of encouraging upkeep of the property for the public health, safety, and welfare of the owners and occupants of the Property as well as the residents, business owners and property owners of the City of Twin Oaks and to conserve the value of real and personal property in the Development and surrounding area;
 - c. Use and keep control of the Property and the operations thereon in a harmonious and mutually beneficial way so as to maintain the compatibility and congruency of the retail, office and multi-family residential uses;
 - d. Comply with and enforce occupancy limits for each apartment in accordance with applicable building and fire codes; and
 - e. Provide, and require all residents with automobiles to display, automobile window stickers identifying the vehicle as one owned by a resident.
- 20) The new apartment complex shall be known and operated as the "Villages of Twin Oaks."

Section 2. The Final Development Plan is approved with modifications to the underlying district regulations pursuant to §400.355(E)(2) (the "Modifications") as follows:

- 1) The requirement of §400.310 that "[a]ll uses ... shall be conducted entirely within an enclosed building or structure" is hereby modified to allow outdoor seating and dining for restaurants within the Big Bend Square development;
- 2) The thirty-five (35) foot height maximum of §400.290 for buildings in the commercial district is hereby modified to all the multi-family dwelling structures to have a maximum height of sixty-seven (67) feet above average grade level and five (5) stories; and,

- 3) The multi-family residential density for the Property shall not exceed 19.4 units per acre.

Section 3. The zoning classification of this Property as a mixed-use development (PD-MxD) as set forth in Section One above is based on a determination by the Board of Aldermen that the proposed and prospective uses of retail and multi-family residential uses are compatible and complementary and is an accommodation to the Applicant in that the use “multi-family residential” is not an expressly permitted use; whether as-of-right, planned or conditionally. As a result, the Board has placed various conditions on this Development through this site-specific planned use ordinance in an attempt to ensure the proper co-existence of the mixed uses permitted. If, however, at any time after its redevelopment, the operation of the development proves to be incompatible or one use classification become detrimental to viability of the other use classification, the Board of Aldermen may be constrained to take action to protect the health, safety and welfare of all users of the Property as well as that of the City as a whole. To that end, the Board does hereby find and determine that a strong indication of such incompatibility would be demonstrated where the Board determines that (a) the Police Department is repeatedly being dispatched to the Property and citations being issued for occurrences of alleged unlawful activity pursuant to Chapter 210 of the Twin Oaks City Code (or equivalent offenses under State law) and (b) the calls for service and citations are habitual to the point the City can reasonably ascertain the classification of the use of the property as a mixed-use development presents serious health, safety and welfare concerns to the development or the City as a whole. In such case, the City may take any or all of the following actions:

- 1) Amend the zoning for the Property;
- 2) Hold a hearing in which the Owner/Operator shall explain why the Board of Aldermen should not limit any further expansion of the use or uses under the PD-MxD Zoning District and to present evidence as to why the mixed-use development does not present health, safety and welfare concerns;
- 3) Prohibit new occupancy permits from being issued until the Board determines based on the corrective actions taken by the Owner/Operator of the Property that the mixed-use development no longer presents a serious health, safety and welfare concern;
- 4) Prosecute the Owner/operator in Municipal Court for a violation of this Ordinance; and
- 5) Such other actions in law or equity as may be necessary to protect the health, safety and welfare of the citizens of Twin Oaks.

The above actions have been determined by the Board to be reasonably and rationally related to promoting the public health, safety, morals, or general welfare of the City of Twin Oaks.

Section 4. The Board does further approve hereby the application for a Conditional Use Permit pursuant to §400.390 to allow multi-family dwellings in the form of apartments (the buildings for which are not to exceed five (5) stories) as a conditional use on the Property in strict compliance with this Ordinance and the Final Development Plan. The approval is based on the Applicant’s demonstration and the Board’s express finding that the development will not substantially increase traffic hazards or congestion; will not substantially increase fire hazard; will not adversely affect the character of the neighborhood; will not adversely affect the general welfare of the community; and will not overtax or adversely impact public utilities.

Section 5. The City Administrator is authorized and directed to take all actions necessary to show the zoning of the Property as PD-MxD on the official zoning map of Twin Oaks.

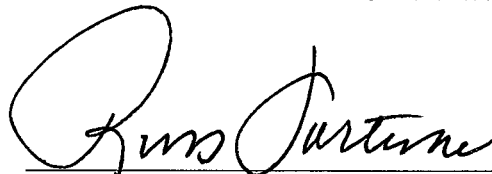
Section 6. Except as otherwise provided herein, the area regulations and performance standards applicable to the individual uses within the PD-MxD District shall be the same as those in Article VII of Chapter 400 ("C" Commercial Zoning District) including §400.290.

Section 7. The approved Final Development Plan shall be recorded, at the Applicant's expense, with the St. Louis County Recorder of Deeds and a reproducible mylar (or other such format as the City may require) of such recorded plan furnished to the City.

Section 8. The approved Final Development Plan shall be valid for a period of twelve (12) months from the date of this approval unless within such period a building permit is obtained and substantial construction (i.e., completion of at least ten percent (10%) of the construction in terms of the total expected cost of the project for which the permit was issued) is commenced and all additional building permits necessary to complete the project as approved in the Final Development Plan schedule are obtained in a timely fashion as determined by the City Administrator/Clerk. The Board of Aldermen may grant one (1) extension of no more than twelve (12) months upon written request of the original applicant and filed before the Final Development Plan expires. Upon granting an extension, the Board of Aldermen may attach new conditions to the approved Final Development Plan as the Board deems appropriate.

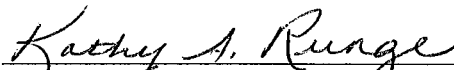
Section 9. This Ordinance shall be in full force and effect on and after its passage and approval by the Mayor.

PASSED AFTER HAVING BEEN READ IN FULL OR BY TITLE TWO TIMES PRIOR TO PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI, THIS 1st DAY OF MARCH, 2017.



Russ Fortune, Mayor

Attest:



Kathy A. Runge, City Administrator/Clerk

EXHIBIT 1
FINAL DEVELOPMENT PLAN

1. Plan entitled "Final Development Plan" Exhibit 1, 02-06-2017 (1 page)
2. Elevations, City Date Stamped Feb 22, 2017 (1 page)
3. Landscape Plan, Plan Sheets L-1 and L-2, dated 02-06-2017 (2 pages)
4. Irrigation Plan, Plan Sheet I-1, dated 02-06-2017 (1 page)
5. Site Plan – Photometric, Sheets PH100-102, dated 02-06-2017 (3 pages)
6. Floor Plan, Levels 1-5, Sheets A2.11, A2.21, A2.31, A2.41, and A2.51, dated 02-06-2017 (5 pages)
7. Materials Samples, New Sheet 02-06-2017 Final Development Plan (1 page)
8. "Project Data" Table from Site Plan Sheet, Exhibit 8, dated 09-06-2016 (1 page)
9. Parking Distribution, Exhibit 9, dated 09-06-2016 (1 page)
10. Floor Plan with color Room Legends, Levels Ground, Second, Third, Fourth, and Fifth, undated (5 pages)
11. Retail Elevations, undated (1 page)