

**A RESOLUTION APPROVING THE PRELIMINARY DEVELOPMENT PLAN SUBMITTED BY HALEY HOLDINGS SEVEN LLC., FOR A MIXED-USE DEVELOPMENT (PD-MxD) AND ASSOCIATED CONDITIONAL USE PERMIT FOR THE BIG BEND SQUARE SHOPPING CENTER**

**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 1310 – 1366 Big Bend Square Shopping Center (the “Property”) to allow for the construction and rehabilitation of the existing shopping center as a retail and multi-family residential mixed use development; and

**Whereas**, because multi-family residential uses are not currently permitted by the Twin Oaks Zoning Code, 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”); 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 (Stamped “Received” by City on September 7, 2016 and attached hereto as Exhibit 1 and incorporated herein; hereinafter referred to as the “Preliminary Development Plan”) submitted thereunder, with certain conditions; and

**Whereas**, the Applicant now seeks the Board of Aldermen’s approval of the rezoning to PD-MxD and associated Preliminary Development Plan as well as the CUP (collectively, the “Zoning Approvals”); and

**Whereas**, the Board of Aldermen, after holding a duly noticed and published public hearing on January 4, 2017, concerning the Zoning Approvals, has determined that the Preliminary Development Plan with the modifications, requirements and conditions set forth by the Board herein, meets the requirements for approval under §400.320(A)(3) and for the PD-MxD District under §400.355 of the Municipal Code; that certain modifications from the underlying district regulations are necessary as set forth herein; and that if conducted in accordance with the conditions imposed hereby, within the scope and density proposed and in compliance with all other requirements hereunder, the proposed conditional use as multi-family dwellings meets the requirements for approval under §400.390(D) of the Municipal Code;

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

**Section One.** The Preliminary Development Plan attached and incorporated herein is hereby approved pursuant to and subject to Municipal Code Sections §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) To allow pedestrian access to the sidewalks along Big Bend from the development, 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 (indicated on Final Development Plan).
- 3) Remove chain-link fence along Big Bend on north side of property along wall (show as TBR on Final Development Plan) and replace with a wrought iron or other ornamental fence (preferably matching the fencing on DESCO development across Big Bend to the north) and provide a copy of any maintenance agreement with St. Louis County if in the right-of-way; indicate fence materials on Final Development Plan.
- 4) 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. 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 "Future Outparcel Building" in the northeast corner of the site shall be subject to the development plan approval process and architecture, design and appearance shall be compatible with that approved by this preliminary development plan and on the Final Development Plan the area shall be labeled "future restaurant" and limited to that use.
- 9) The Final Development Plan shall indicate that the drive lane behind the retail is dedicated for access to Meramec Station Road for apartment occupants with appropriate signage for direction; 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 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) 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) Include on the Final Development Plan the fifty (50) foot buffer strip along the southern perimeter where the Property adjoins an "A" Single-Family Dwelling District.
- 17) All signage shall be installed and maintained after receipt of a permit in accordance with the City's sign regulations.
- 18) The surrounding roads and drives shall be kept clean and free of mud and debris caused by the development of the Property.
- 19) A Boundary Adjustment/Lot Consolidation Plat to consolidate the formed 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) shall be submitted with or before approval of the Final Development Plan.
- 20) The Owner/operator shall 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.

- 21) The Owner/Operator of the development shall 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.
- 22) The Owner/Operator shall at all times 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.
- 23) Occupancy limits for each apartment shall be held strictly in accordance with applicable building and fire codes.
- 24) The new apartment complex shall be marketed as “Twin Oaks Village Apartments” or some similar variation thereof carrying forward the Twin Oaks Village theme.
- 25) Owner/Operator of Multi-Family Residential Dwelling building shall provide, and require all residents with automobiles to display, automobile window stickers identifying the vehicle as one owned by a resident.

**Section Two.** Based on the Board’s approval of the Preliminary Development Plan pursuant to and subject to Municipal Code §400.355, Applicant may submit a Final Development Plan pursuant to §400.355(E)(2) for approval with modifications to the underlying district regulations (the “Modifications”) to be approved with the Final Development Plan. The Modifications to be included in and approved by the Ordinance approving the Final Development Plan are 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.
- 3) The multi-family residential density for the Property shall not exceed 19.4 units per acre.

**Section Three.** The zoning designation for the Property is approved to be changed from the “C” Commercial District to the PD-MxD Zoning District conditioned upon the submission by Applicant of a Final Development Plan in substantial compliance with the conditions and terms of this resolution and subject to the Board’s adoption of an ordinance approving a Final Development Plan.

**Section Four.** The zoning classification of this Property as a mixed-use development (PD-MxD) as set forth in Section Three 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 will place various conditions on this Development through an approving, 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 Five.** Subject to the Board's adoption of an ordinance approving the Conditional Use Permit and Final Development Plan and subject to the conditions set forth therein, the Board does hereby approve the application for a Conditional Use Permit pursuant to §400.390 for the Property 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 and as shown on the Preliminary Development Plan. The approval is based on the Applicant's demonstration and the Board's 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 Six.** Except as referenced herein, the area regulations and performance standards applicable to the individual uses within the Big Bend Square planned development shall be the same as those in Article VII of Chapter 400 ("C" Commercial Zoning District) including §400.290.

**Section Seven.** The approved Preliminary Development Plan shall be valid for a period of twelve (12) months from the date of this approval. The Board of Aldermen may grant one (1) extension not exceeding twelve (12) months upon written request. The approval of a revised preliminary development plan shall not automatically extend the time during which the preliminary development plan is valid.

**Section Eight.** This Resolution is adopted and shall be in full force and effect on and after its passage and approval.

THIS RESOLUTION WAS PASSED AND APPROVED THE 18<sup>TH</sup> DAY OF JANUARY, 2017,  
BY THE BOARD OF ALDERMEN OF THE CITY OF TWIN OAKS, MISSOURI.



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Mayor

Attest:



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City Administrator/Clerk

**EXHIBIT 1**  
**PRELIMINARY DEVELOPMENT PLAN**  
(Cover Sheet Stamped Received by City on September 7, 2016)