

CITY PLAN COMMISSION/ARCHITECTURAL REVIEW BOARD  
COUNCIL CHAMBERS – CITY HALL  
MONDAY, JUNE 3, 2019  
1730 (05:30 PM)

CALL TO ORDER

The meeting was called to order by Vice Chairman Ron Reim at 1735.

ROLL CALL

Vice Chairman Ron Reim, Interim City Manager Janet Watson, Aldermanic Representative Richard Lintz, William Liebermann, Brian Maguire, Carolyn Gaidis answered roll call.

ALSO IN ATTENDANCE

Stephanie Karr, City Attorney  
Susan M. Istenes, AIPC, Planning Director

CHAIRMAN REQUESTS

Vice Chairman Ron Reim asked that all cell phones be turned off and that conversations take place outside the meeting room.

Vice Chairman Ron Reim also asks that anyone who speaks please spell out their last name.

APPROVAL OF MINUTES

The minutes of the regular meeting of May 20, 2019 were not presented for approval and will be presented for approval at the next meeting of June 17, 2019.

Vice Chairman Ron Reim notes that the public hearings will be moved to the end of the Agenda, after New Business.

## OLD BUSINESS

### 8021 VENETIAN DRIVE – ARCHITECTURAL REVIEW BOARD – ALTERATION/EXTERIOR RENOVATION

Director Susan M. Istenes summarizes the following staff report: “THIS ITEM WAS CONTINUED FROM THE MAY 20, 2019 MEETING SO THE APPLICANT COULD BRING IN SAMPLES OF THE FENCE MATERIAL FOR THE BOARD’S CONSIDERATION.

The subject property is located on the north side of Venetian Drive between South Brentwood Boulevard and South Meramec Avenue. The proposed project consists of the construction of a six foot tall vinyl fence along the rear property line. The Brazilian Blend color fence is proposed.

Vinyl is also not a preferred material per the Architectural Review Board Guidelines. Vinyl as a building material requires full Architectural Review Board approval, regardless of the amount proposed. Staff believes a metal or wood fence would be more compatible with the neighborhood character.

The proposed vinyl fence is located in the rear yard and therefore, not directly visible from the street. There are a few existing vinyl fences in the Davis Place Neighborhood that have been constructed without proper approvals. The Architectural Review Board has previously ruled to not approve new vinyl fences on other properties in the neighborhood to be consistent with the majority of neighborhood fences constructed of wood.

STAFF RECOMMENDATION APPROVE A FENCE CONSTRUCTED OF WOOD.”

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SANDEEP SHARMA - HOMEOWNER

SS – We don’t have a privacy fence and we can see our neighbors at night and they can see us. We decided to put in a fence and looked at the neighborhood and wanted to do something similar and durable and less maintenance. It will be in the backyard. Our neighbors have vinyl fences. This vinyl fence has a life time warranty. We are proposing a color that will look good with my brick home. My neighbor who presented for me last time is ok with it. Alex Burger presented for me so he agrees with my fence and he is who will be looking at it. As a resident of Clayton, I see my neighbors fence rotting away. Maybe this is the right time to look forward to have more fence material options. Last time I showed photos of wood and vinyl fences and how they are different and how one is rotting and looks bad. I will request you guys look to the future and lets make the right decision to approve my fence.

VICE CHAIRMAN RON REIM – Well we asked you bring in a sample and you did so do the members want to go touch it, feel it, see it?

RICHARD LINTZ – What is the material exactly?

SS – It is Chesterfield vinyl.

RICHARD LINTZ – So it is no the molded on on here?

VICE CHAIRMAN RON REIM – It is vinyl.

RICHARD LINTZ – If you did the molded it is a composite material that we do approve, I think.

BRIAN MAGUIRE – Composite is just plastic with sawdust. It's plastic.

VICE CHAIRMAN RON REIM – Is there a texture on the material?

CAROLYN GAIDIS – On the plan it says 65 feet and on this it says 68 feet. \*turns off mic – rest is not audible\*

VICE CHAIRMAN RON REIM – This material is a huge improvement from the previous materials of white, grey, black. The exterior is fused with the plastic which makes the structure of it which I would think would prevent it from delaminating.

BRIAN MAGUIRE – I've never been a fan of vinyl, composite, whatever we use as a name for plastic, I think the ordinance is important to keep the aesthetic of Clayton and I'm with staff there is other materials to make a fence out of.

WILLIAM LIEBERMANN – We made an exception for height of fences behind commercial buildings, are some of those vinyl material? When was this ordinance against vinyl put into place?

SUSAN ISTENES – Yes, all of that had to come before the ARB for approval and were before my time. This ordinance was put in place before my time also, longer than 9 years.

CAROLYN GAIDIS – When we look at the fences side by side, I'm inclined to vote for the wood fence. Vinyl is not an approved material and the ones we have approved have had special circumstances. One had severe erosion due to water runoff and replacing the posts as often as she was, was not in line with our goals of sustainability. I don't know how much your neighbors will be looking at this one, but wood is always my choice.

SS – There is a house on Central that has this fence around their entire yard. There are a ton of homes that have vinyl fence. There are restaurants on Maryland and then the family center in Clayton that has vinyl fences.

WILLIAM LIEBERMANN – North of the family center is U-City, so that doesn't concern us. Are the ones behind the commercial also taller?

SS – Yes they are white vinyl and taller.

WILLIAM LIEBERMANN – That was probably approved under special circumstances.

SS – It's my backyard, no one sees it from the street. My next-door neighbor presented for me last time so he's ok with it.

VICE CHAIRMAN RON REIM – My neighbors have wooden fences, and one is continuously replacing their fence. They have children that play soccer and lacrosse, but they also have posts rotting out at the bottom. So I do think this has the potential to last longer?

RICHARD LINTZ – Aren't all the wood fences treated which causes problems for sustainability also?

WILLIAM LIEBERMANN – Depends on the type of wood.

RICHARD LINTZ – I'm leaning with you Ron, it is in his back yard...

VICE CHAIRMAN RON REIM – His neighbor presented for him...

RICHARD LINTZ – Knowing how many broken down wooden fences there are, it may be given the upgraded look. It might be time.

BRIAN MAGUIRE – Whenever someone comes in with a composite deck or vinyl fence, what they do is point to the neighbors that have them. What we discover is that they are fences no one pulled a permit for and they are actually in violation. If we start peppering Clayton with approved exceptions on top of that, then we need to review the ordinance all together, what's the point of the ordinance if you can just not pull a permit or we approve it.

VICE CHAIRMAN RON REIM – What would be the official process of having the alternative materials reviewed as apart of our ordinance and how to create a systematic evaluation as opposed to this piece by piece.

SUSAN ISTENES – We have an ordinance in play that is apart of the building code and we have our ARB Guidelines. I would suggest that if that is something this Board wants to consider that we take a look at the ARB Guidelines and make amendments to them possibly to allow this type of material, maybe in certain circumstances. That gets to how do we have a discussion about that with the BOA as well. In the past when we have changed ARB Guidelines, we sought their input and approval so to speak. That would probably require that as well and then we would have to change the fence ordinance to reflect the allowed materials.

VICE CHAIRMAN RON REIM – And in the past sometimes the BOA hasn't viewed our suggested changes positively. I recall some changes that weren't well received.

SUSAN ISTENES – They have their opinions, so we like to communicate with them and what is best for the City as a whole between the two boards. Again, these are guidelines, so it isn't such a formal ordinance change. It is the communication back and forth between the board before we adopt those. I think in the past when we reviewed the guidelines we had the Board endorse the change. But again its not an ordinance change.

VICE CHAIRMAN RON REIM – WE HAVE A STAFF RECOMMENDATION TO APPROVE A FENCE CONSTRUCTED OF WOOD.

RICHARD LINTZ – I'LL MOVE TO APPROVE THE MATERIAL AS PRESENTED.

\*NO SECOND – MOTION DIES\*

CAROLYN GAIDIS – I'd be for a motion that approves the fence because it is in the backyard...

WILLIAM LIEBERMANN – I agree these products have improved from 10 years ago and I also suspect these are going to be common place at some point in the future. Sometimes our ordinances are behind times. Personally, from my perspective I would rather replace a wooden fence than that a gamble with fading, cracking, sun damage, warping. I kind of think the ordinance is pretty good the way it is. If I were to make a motion to approve this it would be because it's in the backyard, if there is cracking you would need to maintain that, if there is damage/fading or something like that that you would be obligated to take care of it.

SS – It is my property sir, and I want to put a vinyl fence on my property. It is twice as expensive as wood. I care about my house and I'm spending this much time here, and this much money, I care about my house. If I'm not sincere I would have sent my contractor to come here, but I'm spending that much money I could have sent him but I'm here because I'm apart of the City and this is my home.

WILLIAM LIEBERMANN – I'm not questioning your sincerity, I appreciate you being a property owner, and the rights you have as one. I wanted to share my thoughts on the appropriateness of this ordinance.

SS – No one but myself and my neighbor will see this fence and I will have landscaping.

VICE CHAIRMAN RON REIM – Unless we have a motion we cannot do anything.

SS – What happens to the vinyl fences that are already up. I'm wanting to put my fence on the backside that no one will see. There is a home in my neighborhood where the whole fence is vinyl so how are they there? I'm the person presenting and you're saying no to me but people are already putting the fences up. I'm going through the right way. And that's why I should be given a chance and you looking at it. Instead of you saying no.

WILLIAM LIEBERMANN – Do you know if that fence pulled a permit for the material? Like right now? 833 S. Central?

SUSAN ISTENES – No.

BRIAN MAGUIRE – We should hold a public hearing to see how residents feel about the material. And if they are not for them still, then we should talk about enforcement. We seem to have the same conversation every time one of these comes through. It doesn't seem fair to let people skirt the rules. Would a public hearing make sense and maybe continue this until after that?

SUSAN ISTENES – That isn't a fast process. I appreciate the suggestion and I think that suggestions have a lot of merit. We've had these regulations on the books for a while and we have had new products coming out and maybe there is a feeling in the community that these would be acceptable products and worthy of discussion but it is not a fast process.

WILLIAM LIEBERMANN – I've come to the vast majority of these meetings for years and I remember the thing that we approved a higher fence in commercial and I don't remember the exact product and the last meeting we approved a situation where there were a vast amount of water hitting the wood. Traditionally we have denied them though.

VICE CHAIRMAN RON REIM – Typically we deny alternative materials. In the last year or two though we have see a lot of proposals for alternative materials. I have to empathize with the applicant because from his prospective this is costing way more than a wood fence and he feels he is installing a premium product which is an upgrade over conventional fencing.

BRIAN MAGUIRE – I'll go back to saying in all fairness, we have decided we can say no or you have to wait for a lengthy process to further get into this with a public hearing of some sort.

CAROLYN GAIDIS – I see this but honestly it looks warped in sections (833 Central).

VICE CHAIRMAN RON REIM – We have gotten into similar discussion about other materials where people have done something without approval and then they get help up as an example where they have it, why can't I?

WILLIAM LIEBERMANN – In this Central case it would be interesting to see if it was approved as wood and they switched it last minute?

BRIAN MAGUIRE – We have a public hearing about PUDs and we have a requirement for LEED and so it's like were talking out of two sides of our mouth. We want a developer to meet LEED requirements but then we are approving an enormous amount of plastic in decking and fencing.

VICE CHAIRMAN RON REIM – So not hearing any other suggestions is there a motion to grant him permission to install him a wooden fence in the same place and configuration?

BRIAN MAGUIRE – I WILL MAKE A MOTION TO APPROVE WITH STAFF RECOMMENDATIONS TO APPROVE A WOODEN FENCE

CAROLYN GAIDIS – SECOND

RICHARD LINTZ - NAY

MOTION APPROVED 5-1.

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## NEW BUSINESS

### 7418 SOMERSET AVENUE – ARCHITECTURAL REVIEW BOARD – ALTERATION/EXTERIOR RENOVATION

Director Susan M. Istenes summarizes the following staff report: “The approximately 21,760 square foot site is located on the south side of Somerset Avenue abutting Clayton Road, to the south. The property has a zoning designation of R-2 Single Family Dwelling District. The applicant is proposing to remove and replace the existing porch steps, cheek walls, front walk and the two light pedestals at the bottom of the steps. The proposed material is primarily exposed aggregate.

The applicant is not proposing to change the existing stairs or walkway footprint. The proposed exposed aggregate material would replace the existing red brick stairs and cheek walls, and the cut stone light pedestals. The existing porch at the top of the stairs will remain and will be refinished with concrete; brick pavers will remain at the porch landing. The proposed work is located in the front yard. The exposed aggregate will be a tan color. The existing black iron hand rail will be removed and reinstalled in the same location and height as the previous and the light pedestals will be the same size as previous. The cheek walls will be capped with the same limestone cap as existing and the existing lamps will be reinstalled on top of the light pedestals. One small tree (species unknown) on the west side of the steps will be removed. The plans say it is to be replaced, but the proposed location is not identified.

The existing home is a Tudor style constructed with a combination of darker, multi-colored brick, tan stucco and dark brown wood accents. The driveway is flanked by an off-white, cut stone retaining wall. The existing red brick steps appear to be in poor condition and in need of replacement.

Exposed aggregate is an approved material for driveways and is commonly used for walkways as well. Although technically not a retaining wall, the walls flanking the steps are currently constructed with brick to match the house and the cut stone light pedestals are consistent with the existing cut stone retaining walls along the driveway, which are to remain. Replacing these materials with exposed aggregate gives the house a “lighter” feel but at the same its use also takes away from the connection to other materials used on the property and appears to be of lesser quality.

STAFF RECOMMENDATION IS TO APPROVE AS SUBMITTED.”

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SAN SAN SMITH (SS) – ARCHITECT REPRESENTING THE HOMEOWNERS

SS – Addressed the Board to answer questions but has nothing to add to the staff report. Explains the tiles and joints are outdated and hard to maintain for the homeowners who are continuously repairing them. It’s also very hard to match the color. It is not sustainable. The bricks are always popping out and hard to match existing.

VICE CHAIRMAN RON REIM – So the brick steps themselves and the two cheek walls will be exposed aggregate concrete?

SS -Yes and then they will recap the existing stone back on there. It will all be exposed aggregate. It is going to be Meramec gravel. The porch walls however are apart of the house and not apart of the stairs so they will remain as is. The brick behind the bush is staying. The only thing that is going is the steps, cheek walls, and the quarry tile. So the sides of the porch are the same. The capping on the cheek walls will be the exact same cap. They are going to carefully remove it then put the limestone cap back on, including the light fixtures.

RICHARD LINTZ – It is an improvement over what was there I just wish the colors were more in line with the existing colors of the home rather than introducing another color.

VICE CHAIRMAN RON REIM – WE HAVE A STAFF RECOMMENDATION TO APPROVE AS SUBMITTED

BRIAN MAGUIRE – MOTION TO APPROVE AS SUBMITTED

CAROLYN GAIDIS – SECOND

MOTION UNANIMOUSLY APPROVED BY THE BOARD.

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CAROLYN GAIDIS – MOTION TO OPEN THE PUBLIC HEARING

JANET WATSON - SECOND

## PUBLIC HEARING

### 10 NORTH BEMISTON AVENUE – TEXT AMENDMENT – PLANNED UNIT DEVELOPMENT

Director Susan M. Istenes summarizes the following staff report: “This is a second public hearing to review and consider changes suggested by the public and the Plan Commission at the May 6, 2019 meeting. Changes to the text are outlined in red and will be verbally summarized by staff at the June 3 meeting.

This is a public hearing to solicit input regarding a staff-initiated amendment to Chapter 405 (Zoning Regulations) Article X. Planned Unit Development District. Staff and the City Attorney’s office have identified areas of the regulations that are unclear, contradictory to other code required processes and in general, need updating.

The strikethrough - underline format for proposed code changes is usually preferable in order to be able to easily review and understand proposed changes, however given the number of changes, that format would have made it too difficult for the proposed changes be easily understood. The proposal is to repeal the current Article X. and adopt the new, revised code, a copy of which is provided herein. Note – there are other areas of the Land Use Regulations that will need to be amended to be consistent with the proposed changes. Those will follow this amendment, at a future date.

Staff set out the following goals for the amendment, based on advice from the City Attorney and their own experience in trying to apply the existing PUD regulations.

GOALS:

1. Eliminate the requirement to rezone to a specific zoning district in order to be eligible to rezone to PUD.
2. Clearly identify the permitted uses in a PUD district.
3. Eliminate the need to get an additional Conditional Use Permit for those uses that are allowable only by CUP in the zoning districts once they are identified and thus allowable in the PUD zoning district.
4. Ensure that the PUD rezoning, Site Plan and Architectural Review approval processes are separate and distinct. Detailed site plans are reviewed and approved through the site plan review process and the architectural review process against the standards established by the PUD zoning district.
5. Modify provisions in overlays which require PUDs where the minimum site areas can't be established (*not part of this amendment*).
6. Eliminate duplicate references to PUDs in each eligible zoning district (*not part of this amendment*).
7. Separate zoning regulations from process requirements.
8. Clarify the minimum eligibility for commercial building size.
9. Distinguish between residential PUDs and Non-residential PUDs (including mixed use).
10. Enhance public benefits section to bring up to date, include references to sustainable practices. Require that a minimum of 5 categories of public benefits are provided.
11. Establish the requirement for a PUD document which will serve as the text for the newly formed PUD district.
12. Enhance the approval criteria section to more closely align with the purpose.

What's new? (new text or requirements does not include relocated text or combined text or minor changes that did not affect the code)

Page 1, Purpose Statement, Section 405.1360.

Number 3 – new - added reference to more greenspace or natural resource protection

Number 6 – new - added greater mix of housing types and mixed use

Number 7 – new - added creating or contributing to neighborhoods that more pedestrian and public transit oriented

Number 9 – new - added reference to the Clayton Master Plan and Downtown Master Plan

Page 2 and 3 General Requirements, Section 405.1370 (section renamed)

B. Renamed Commercial PUD to Mixed Use PUD. A commercial PUD could include a residential component; therefore, it was confusing to have two districts that could have a residential component while identifying one as commercial PUD and one as residential

D. New - added no single use of a mixed-use PUD can consume more than 80 percent of the gross floor area of the principle structure

E. New - added requirement to identify the allowable uses in the PUD by cross referencing the uses allowable in the underlying zoning district

F. New - added for non-residential uses that require a conditional use permit, the applicant for a PUD may apply for a CUP to allow the use in the PUD at the time of rezoning and not have to repeatedly file separate conditional use permit applications after the PUD is approved

G. New- added reinforcing language that a PUD must provide public benefits and cannot be used as a method to avoid existing zoning and subdivision regulations

H. New – clarified the Board has authority to approve the PUD to alter zoning, subdivision and overlay and urban design zoning districts

#### Page 3 and 4 Public Benefit, Section 405.1380

Combined A and B to make public benefits applicable to all properties instead of those specific to the downtown.

2. New – added benefit to provide or enhance public parks, and park or trail access

4. Added – language allowing for greater housing density as a benefit

5. Enhanced- to identify what is meant by sustainable building design and construction

6. Added/enhanced – specific reference to Green Globes and LEED and noted that participation is satisfactory as opposed to achieving a certification

8. New – added identified property dedication as a public benefit

11. New – added street level garden or plaza as a public benefit

12. New – added access features to public transit facilities as a public benefit

14. New – added open spaces such as patios, grassed areas for the public as a public benefit

#### Page 4-6 Application Procedure and Plan Requirements, Section 405.1390

A. New – added requirement for pre-application conference with City staff

B. New – added requirement that applicant hold a community conference prior to application. Also added new Section 405.1400 outlining the requirements for conference.

C. New – changed way of how the application is submitted and how the development standards and plans are structured

D.i. New- enhanced – require applicant coordinate with City at least 6 weeks prior to application for PUD rezoning pursuant to required traffic study

D.o. New – clarifies that the application submittal shall be in a form prescribed by the City

E. New – added the city will establish a model PUD document and the applicant’s project information shall comply with the format and content established by the model

#### Page 7-9 Criteria for PUD Rezoning Approval

Listed criteria were re-written combining some together and eliminating those specific to design standards or review.

3. Added- reference to public access to green areas preserved on site

12. New – added requirement to meet at least 5 categories of public benefits as identified in Section 405.1380 (1-14)
13. New – added

Removed references to architecture and building materials (former number 6). Those items are considered in the Architecture Review Board phase of the project review; not the PUD rezoning.

**STAFF RECOMMENDATION IS TO RECOMMEND APPROVAL OF THE TEXT AMENDMENT REVISING THE PLANNED UNIT DEVELOPMENT DISTRICT TO THE BOARD OF ALDERMEN.”**

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## 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 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 of any nature whatsoever and which shall be included but not limited to landscape areas, parks, playgrounds, 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 two of the following four categories of use, the existing zoning allows for mixed use development and no single use exceeds 80 percent of the gross floor area of the primary structure.

1. Office use;
2. Retail use;
3. Residential use;
4. Hotel;

5. Hotel & public restaurant (gross square foot limitation per 405.1370.E. shall not apply)

**E. 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).

**F. 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 shall submit a separate conditional use permit application and findings, per use, as a part of the planned unit development review.

**G. Site Layout.** A PUD must achieve a greater 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.

**H. 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.

**I. 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.

**J. 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**

[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 PUD must provide at least three (3) of public benefit items 1-7 noted below and two (2) of public benefit items 8-18, noted below. The nature and scale of public benefit shall be determined by the City and include, but not limited to:

1. Buildings exhibiting Architectural distinction and significance that would make the development unique.
2. Projects which provide or enhance public open space, public parks, and public park or trail access.
3. Provision of new or enhanced public infrastructure 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. More affordable housing or greater housing density with enhanced design standards that ensure that greater density maintains community character.
5. Sustainable building design and construction 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;
6. ~~Participation in building assessment and certification programs such as Green Globes and LEED.~~ Meeting some or all the requirements for certification under building certification programs such as Green Globes and LEED.
7. 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).
8. Dedication of land to the City for the purposes of widening or improving the adjoining right of way or for other public purposes.
9. Inclusion of a below grade public parking facility located underneath the proposed development;
10. Inclusion of parking spaces specifically available and designated for public parking.
11. Inclusion of a street level landscape garden, plaza, or park available for public use.
12. Inclusion of special access features or provisions to existing or planned public transit facilities.
13. 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.
14. An appropriate amount of open spaces is provided and available for active or passive use by the public such as courtyards, grassed areas, patios, landscaped spaces.
15. Preservation of buildings which are architecturally or historically significant or contribute to the character of the City.
16. Inclusion of at least 3 publicly available vehicle charging stations.
17. Achieve minimum certification of (blank) under LEED or (blank) under Green Globes.
18. 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 the 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.

**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.

**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.

## 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 300 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 at least five (5) categories of public benefits to the extent outlined in Section 405.1380(1-18). ~~or similar public benefits as identified by the applicant and approved by the Board of Aldermen;~~

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 in light of 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 difficult 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 become retail/restaurant);

d. Significant changes to 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.

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DIRECTOR SUSAN M. ISTENES – GOES OVER REDLINED CHANGES AND ASKS FOR INPUT.

VICE CHAIRMAN RON REIM – I'll open the conversation with the LEED/Green Globe certification. I think there is a way to combine both of the comments that I saw. The question I would have for the panel would be, do we push them to achieve qualifying their project to be certified without going through the certification process. They would have to identify the items that would qualify and fill out the checklist but not go through the process of certification. Is there an approximate standard that you all would consider say you met 90 percent of the requirements for certification or is it 100 percent or is there some threshold that would be acceptable? I personally would be fine with saying that you need to meet one of the two certification criteria but you don't need to go through the certification process, but you do need to document for us, at least, some reasonably understandable level that you have made an attempt to meet those requirements. The challenge to that is without anything binding on the applicant, what we've seen on other projects where they go through that process is that they fulfill that obligation at the beginning of the project and through the course of the project, they abandon those things because they have financial consequence. It's very difficult to track them and there is no systemized obligation on them because they are not working towards the certification. That's my only concern.

BRIAN MAGUIRE – I'm sure you're the most experienced LEED person on the panel.

CAROLYN GAIDIS – I don't know about that...

VICE CHAIRMAN RON REIM – I don't have those credentials so I think Carolyn is the most experience.

BRIAN MAGUIRE – To my understanding the requirements in the Building Code get you to about 90-95 percent. So by pulling a building permit, are you not checking all of those boxes that we've talked about?

VICE CHAIRMAN RON REIM – You're checking most of them so if you are going to get an additional public benefit that might be where we say you need to meet 100 percent or beyond. There should also be a consideration for going to a higher level. Both LEED and Green Globes, both, have a minimum threshold for compliance but they also have additional standards that are going to higher levels. If you're going to achieve higher public benefit I would think that there might be something that we can say in there about taking it past that for increased public benefit.

CAROLYN GAIDIS – My opinion would be at least 100 percent LEED Certified. I don't think we should back track and go less than that. Every firm I've dealt with has a base line so I don't see any reason to backtrack and go less than 100%. If you let them get away with 90 percent that's what they will do. I think 100 percent is the minimum.

RICHARD LINTZ – And that is 100 percent at the lowest level?

CAROLYN GAIDIS – Yes, that is the minimum threshold for certification. Would there be benefits offered for those who would be willing to go past that to say the silver, gold, or platinum level? If you provide a green roof would there be changes to FAR or how would you give them a benefit. What would be the incentive for people to go above? It becomes a problem I think.

BRIAN MAGUIRE – On the flip side of that, that last percentage of being IBC compliant and being LEED certified is a very expensive percentage for the developer that could stifle development.

WILLIAM LIEBERMANN – Its great if we have LEED certification and that everyone is educated on that.

SUSAN ISTENES – This is one item on a list.

WILLIAM LIEBERMANN – I like the way Ron described it and Brian clarified it by saying by doing IBC they are essentially checking a lot of boxes off.

CAROLYN GAIDIS – I would like to get with you, Susan, and go over the check list and create our own from it to ensure people don't cheat the list by meeting all the requirements but in very unsubstantial ways. A check list that incorporates real items that will actually be benefits.

VICE CHAIRMAN RON REIM – To get the PUD we are granting them flexibility in trade for them giving us things in benefit. We are trying to quantify those things we are giving in benefit. In theory the PUD offers the developer opportunities to be flexible with their design and make changes that are beneficial to them from a financial and design perspective that they want. I think it benefits us to insist they give the community back something that it finds of value and I think that pushing them a little harder on environmental performance is one of those things we can qualify. LEED as a system can be gamed and manipulated if you know what you are doing. I've always found it interesting that you can get water points in Missouri and right now water savings and water is really not an issue that we are concerned with as I look out my window and see more water than we can potentially manage and deal with. If you were in AZ or CA where water is scarce then I could see the benefit to doing it and gaining those points. That's why, and I think that is where Carolyn was going, that there are something's about LEED that are some what arbitrary to where they are being applied. Do you think it would be unreasonable to ask a developer to complete a green globes checklist and identify which pieces of it they plan on accomplishing and

having it become apart of the public benefit that then they are bound by so that they cannot change or remove them from the project as it's going through.

BRIAN MAGUIRE – And to be clear this is one of eighteen items to choose from.

WILLIAM LIEBERMANN – I think to basically give the opportunity to follow the LEED standards but not have to do the whole certification process.

RICHARD LINTZ – If it is stipulated by the developer that that certification is an option they are picking it needs to be documented and posted. To ensure they are following what they committed to and agreed to and what we approved.

JANET WATSON – What we are saying is that they will meet the requirement by reaching Silver level of certification.

VICE CHAIRMAN RON REIM – Does anyone have an issue pushing them to the Silver level? I'm not sure if there is an equal for equal for Green Globes but I would be open to suggesting they are able to meet one of the two standards. I don't like assigning a proprietary standard to them that is based in a private profit enterprise.

BRIAN MAGUIRE – You could say LEED Silver or equal.

RICHARD LINTZ – I'm a little uncomfortable that we have a number that is stuck on here that says if you do 3 from A and 2 from B, you qualify. Do we still both the Commission and the Board have the ability to assess, even if they mark 3 and 2, we can still say well we don't think you really quite made it. That to me is sometimes a question of how do you weigh the magnitude of the benefit to the magnitude of what they are asking for?

VICE CHAIRMAN RON REIM – What constitutes meaningful enough contribution to get the benefit in return and I didn't know if there is a way for us to quantify that says, you don't just get to check the boxes and I gave you these three things, don't a qualify because I checked the boxes. Is there anyway for us to say it has to be an agreed to or accepted benefit that is commensurate with the gains and the return that the developer is receiving. If I'm going to let you develop on the Shanley building site, I'm going to get an amazing alternative contribution that makes that option worth wild to the City. So they have to e an equal benefit for the flexibility and the gain. I'm not sure how we word that but as opposed to, I'm going to build a new building and I gave you a treat.

BRIAN MAGUIRE – What is affordable housing? We've had people say these are affordable and so what's affordable, especially in Clayton

Vice Chairman Ron Reim – There is a definition that HUD can provide for you and I'm unsure if that project would have met the definition. I'm not sure how to word this section to give us some protection as to what we are agreeing to is commensurate to what we are giving which I think is the whole goal of this ordinance.

STEPHANIE KARR – I am thinking that we would probably include that equivalent standard in 405.1410 in Criteria for PUD Rezoing Approval in subsection 12. And then have some kind of, more equivalent to the benefits from the flexibility that they are getting. Then instead of just the 5 categories. I think based on a question that I hear just moments ago, Susan and I talked about perhaps instead of having the 405.1380 appear a few sections before the criteria having it, maybe, be reworked and then relocate to the public benefit section to relate more to the criteria set forth in the 405.1410.

VICE CHAIRMAN RON REIM – I think that would be a good suggestion. I think having a points would be a good idea and have it all spelled out up front for the developer. Public art, is this a 1 point item, LEED Platinum could be a 4 point item.

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PUBLIC COMMENTS:

MATT GEEKIE – I appreciate and applaud the effort of the staff and all of the people on the board in trying to bring clarity to the PUD process. I appreciate your efforts. I think over the last several years, ten or so, we may have had 3 master plans here. and they all suggest a process as well as a pattern in how we would like to see our city here develop. and I think that is intentional. To the extent that we would grant a PUD, I think that the process would be very rigorous. I like the idea of 100 percent in things for variances to be allowed. It ought to be rigorous with the idea of ensuring adherence as closely as possible to the master plan. In connection with what you were just talking about what is the standard to apply two thoughts came to mind. 1. is as your coming up with a point system, however hard that might be to weigh over time, that might be one approach, putting the burden on the party. 2. in conjunction that is to say that yes, the proponent has that obligation but perhaps for the board here to say as well that you would or shall exercise your digression with the best interests of the entire community, residents, and businesses in line. Those are a couple of my thoughts.

SUSAN ISTENES – I do have another comment that I have had in conversations with a few members of the development community and one concern that came up was the a more refined definition of mixed use where we said that basically one use cannot constitute more than 80 percent of the gross floor area and that individual had concern over that number the 20 percent number was of more concern. For example if they were going to do an office project, they did a calculation for me and they said well 20 percent of 250,000 square feet is XYZ and I'm concerned we're not going to be able to fill the use if it is retail. The mixed-use, it is defined by various agencies and communities further refined in a lot of different ways like for example one community said "a full floor has to be different, a different use than the rest of the building or some equivalent like that." I suggested that I would do more research but would also appreciate anymore feedback if they had a "better number". Any thoughts on that, I apologize I don't have the math in front of me but that was a comment I received from the development community. The reason we went down the road of quantifying mixed-uses is because in some cases... mixed-use concept really helps implement our downtown master plan and mixed-use is really intended to bring a mixture of uses within one or several buildings where it decreases the need for cars and increases the vibrancy of downtown and provides services and amenities to people that live in the buildings. So you could live, work, shop, theoretically in the same building or within a mile and not have to get in your car. There is a lot more to it than that but anyway I had suggested that they maybe come up with a better number for that but that I think the way our current ordinance is structured we are getting these things like the project at Hanley and Clayton Road (its not a bad project). We ended up with a coffee shop that is supposedly is going to be open to the public that might be 1500 square feet in area and by our definition constituted mixed-use.

KATHY BEILEIN – I think the master plan is important when you are talking about all these public benefits maybe as a counter part to how you can go with things. Talking about the Shanley Building, which I think is great, it is a big emotional subject so if a developer somehow keeps that does he get to build a 20-story building? I want to keep things in perspective and value what is good for the neighborhood adjacent to where that building is going to be. I think what you're doing is hard but I think it will definitely add value by creating specificity, but I want to keep things in balance and really respect the fact that certainly that central whatever they call it. The area that HBE bought is a transition to the residential and was airmarked as low rise. I would like for you guys to give that some thought

VICE CHAIRMAN RON REIM – Do we have a motion to close the public hearing?

BRIAN MAGUIRE - MOTION TO CLOSE THE PUBLIC HEARING

WILLIAM LIEBERMANN – SECOND

ALL - AYE

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CITY BUSINESS

ETHICS PRESENTATION BY CITY ATTORNEY, STEPHANIE KARR

HAVING NO FURTHER BUSINESS BEFORE THE COMMISSION, THE MEETING WAS ADJOURNED AT 8:10 (20:10).

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Recording Secretary