

ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1098

AN ORDINANCE TO AMEND SECTION 5.15 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 5.15 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Amendment of Section 5.15. Section 5.15 of Ordinance No. 848 is hereby amended to read:

Section 5.15 PUD PLANNED UNIT DEVELOPMENT DISTRICT (Overlay District)

5.15.01 Intent: The intent of the PUD District is to encourage the creative design of new living and retail areas, as distinguished from subdivisions of standard lot sizes, in order to permit such creative design in buildings, open space, and their inter-relationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

The PUD District is an overlay zone. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met.

5.15.02 Recommendation, findings of fact and development sizes

The planning commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a PUD District, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.

- 5.15.02.01 Said planned unit development shall be in general conformity with the provisions of the La Vista Comprehensive Plan.
- 5.15.02.02 Said planned unit development shall not have a substantially adverse effect on the development of the neighboring area.
- 5.15.02.03 The minimum size allowed for a PUD District shall be 3 acres.
- 5.15.02.04 Height, bulk, density, parking, and setback requirements may be varied so as to promote an efficient and creative PUD District.

5.15.03 Use regulations.

In the PUD District no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for mixed-use development or any use permitted in R-1 through R-4 Districts inclusive and C-1 through C-3 Districts, and I-1 and I-2 Districts. All uses in the underlying zoning district may be permitted or conditionally permitted, unless certain uses are limited by City Council. Additionally, other uses (outside the underlying zoning district) may be allowed by City Council to promote mixed-use development.

5.15.04 Standards and conditions for development.

A planned unit development shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, public facilities, and the development by geographic division of the state:

- 5.15.04.01 The applicant shall submit a schedule of construction. The proposed construction shall begin within a period of twelve (12) months following the approval of the final application by the City Council. A minimum of fifty (50) percent of the total planned construction shown on the final plan shall be completed within a period of five (5) years following such approval or the Final PUD plan shall expire. The period of time established for the completion of the development may be modified from time to time by the City Council upon review and recommendation by the Planning Commission upon the showing of good cause by the developer.
- 5.15.04.02 The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the City Council to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
- 5.15.04.03 The site shall be accessible from public roads and/or private roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
- 5.15.04.04 The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
- 5.15.04.05 The entire tract or parcel of land to be occupied by the planned unit development shall be held in single ownership or control, or if there are two (2) or more owners, the application for such planned unit development shall be filed jointly by all owners.
- 5.15.04.06 The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a planned unit development not used for structures, parking and loading areas, or access ways shall be landscaped or left as common open space.

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- 5.15.04.07 Adequate parking shall be provided for each building and use. Planned Unit Development (PUD) plans may reduce the minimum parking requirements, in Section 7.06, if parking is shared by more than one land use or business.
- 5.15.04.08 When a commercial or industrial use within a PUD District abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet high, but not more than eight (8) feet high, and having a density of not less than eighty (80) percent per square foot, shall be provided adjacent to any adjoining residential district; except in the event the adjacent residential district and the commercial developer are separated by a street right-of-way. If a fence or wall is constructed, then pedestrian connections shall be installed where appropriate to allow pedestrian movements from the residential district to the commercial uses.
- 5.15.04.09 All residential, commercial, and industrial buildings shall set back not less than twenty-five (25) feet from the right-of-way of any street and ten (10) feet from any district boundary lines that do not abut a street right-of-way. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the Planning Commission and City Council for the protection of health, safety, and general welfare.
- 5.15.04.10 Building coverage shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of planned unit development:
Residential, forty (40) percent maximum.
Commercial, sixty (60) percent maximum. (*Ordinance No. 882, 11-19-02*)
Industrial, sixty-five (65) percent maximum. (*Ordinance No. 882, 11-19-02*)
- 5.15.04.11 A minimum of thirty (30) percent of the net area of that part of a planned unit development reserved for residential use shall be provided for open space as defined by these regulations under Section 5.15.04.16 below. Common open space for the leisure and recreation shall be maintained, through a homeowner's association or other approved entity. (*Ordinance No. 950, 3-1-05*) Open space as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, or accessory structures, except recreational structures. Common open space as defined under this zoning district shall mean open space which is accessible and available to all occupants or their guests.
- 5.15.04.12 The PUD District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation, and maintenance, and to insure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community.
- 5.15.04.13 No single family residential lot shall have direct access onto an arterial street.
- 5.15.04.14 All commercial areas must have access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets, unless the access is shared among more than one lot or building.
- 5.15.04.15 Sidewalks shall be built to City specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be required which provides pedestrian access between each building or use in the planned unit development.
- 5.15.04.16 When a developer intends to design a new concept development, the Planning Commission and City Council may grant lesser front, side, and rear yard setbacks, including zero (0) lot line setbacks.
- 5.15.04.17 Architectural design and style are not restricted; however architectural style should be consistent throughout the PUD District. See Gateway Corridor District Design Guideline Booklet for examples of developments considered meeting this concept. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
- 5.15.04.18 Building materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
- 5.15.04.19 All building within the PUD District shall use harmonious colors and shall use only compatible accents.
- 5.15.04.20 Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.
- 5.15.04.21 Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be directed downward and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas (i.e. Dark Sky compliant.)

5.15.05 Application for approval of Preliminary PUD.

- 5.15.05.01 An application for a PUD shall be handled in the same manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public hearing, protests, and adoption shall be required as zoning changes.
- 5.15.05.02 The applicant shall prepare the preliminary PUD plan for review and approval by the planning commission. Said preliminary PUD plan shall include a site plan showing:

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1. Contours at intervals of two (2) feet or spot elevations on a one hundred (100) foot grid shall be required on flat land;
 2. Location, size, height, and use of all proposed structures in conformance with the yard requirements;
 3. All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
 4. All pedestrian sidewalks and walkways for internal circulation among buildings within the PUD as well as existing and proposed perimeter sidewalks.
 5. All streets adjoining subject property and the width of the existing right-of-way;
 6. Areas set aside for public and private open space with the type of recreational facilities planned for each;
 7. Designation of individual parcels if the proposed development is to be set up in separate construction phases;
 8. Designation of individual lots if such lots are proposed to be sold to individual owners;
 9. Location of required screening;
 10. Location of natural features such as ponds, tree clusters, drainageways, and rock outcroppings;
 11. Existing development on adjacent properties within two hundred (200) feet.
- 5.15.05.03 The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when, said items are applicable:
1. Net area in square feet or acres. (*Note:* Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one parcel is proposed, designate net area by parcel as well as total net area.)
 2. Density of dwelling units per acre of the total dwelling units for the entire plan.
 3. Building coverage of the net area of the planned unit development by individual parcel or total development.
 4. The percentage of the development plan provided for common open space as defined by this regulation.
 5. If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
 6. Required number of off-street parking spaces.
 7. Gross floor area proposed for commercial buildings.
 8. All proposed land uses shall be listed by parcel.
- 5.15.05.04 A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
- 5.15.05.05 The full legal description of the boundaries of the property or properties shall be included in the planned unit development.
- 5.15.05.06 A vicinity map shall be included, showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed planned unit development.
- 5.15.05.07 A rendering or drawing of the general characteristics of the proposed buildings shall be submitted.
- 5.15.05.08 When a planned unit development includes provisions for common space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
- 5.15.05.09 Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.
- 5.15.05.10 The Planning Commission shall hold a Public Hearing on the preliminary PUD after the PUD has been reviewed by City of La Vista staff after giving notice as required by Statute for hearings.
- 5.15.05.11 Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the Planning Commission shall prepare and transmit to the City Council and the applicant specific findings of fact with respect to the extent which the preliminary PUD plan complies with those regulations, together with its recommendations in respect to the action to be taken on the preliminary PUD.
- 5.15.05.12 The City Council may or may not approve the preliminary PUD plan and authorize the submitting of the final PUD plan.
- 5.15.05.13 Substantial or significant changes in the preliminary PUD shall only be made after rehearing and re-approval.
- 5.15.06 Final approval.**
- 5.15.06.01 After approval of a preliminary plan and prior to the issuance of any building permit, the applicant shall submit an application for final approval. Said final application may include the entire PUD District or may be for a unit or section thereof as set forth in the approval of the preliminary PUD plan. The application shall include drawings, specifications, covenants, easements, conditions, and a form of performance guarantee as set forth in the approval of the preliminary PUD plan and in accordance with the conditions established in this Ordinance for a PUD District. The final PUD

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plan shall include the same information as the preliminary PUD plan except the following shall also be provided:

1. Provide a Final Plat consistent with the City of La Vista's Subdivision Regulations, if applicable, otherwise provide a site development plan for use as the PUD plan.
2. A waiver of claim by the applicant for damages occasioned by the establishment of grades or the alteration of the surface of any portion of streets and alleys to conform to grades established.
3. A PUD plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification of the plan by the landowner is tentatively approved does not:
 - A. Vary the proposed gross residential density or intensity of use by more than five (5) percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor
 - B. Increase by more than five (5) percent the floor area proposed for non-residential use; nor
 - C. Increase by more than five (5) percent the total ground area neither covered by buildings nor involve a substantial change in the height of buildings.
 - D. Substantially change the design of the plan so as to significantly alter:
 - (1) Pedestrian or vehicular traffic flow.
 - (2) The juxtaposition of different land uses.
 - (3) The relation of open space to residential development.
 - (4) The proposed phasing of construction.
 - (5) Proposed use of one or more buildings to a more intensive use category as delineated in this Ordinance.

5.15.06.02 A public hearing with the Planning Commission need not be held for the approval of a final PUD plan if it is in substantial compliance with the approved preliminary PUD plan. After the City Planner has reviewed the final PUD plan, said final PUD plan shall be filed with the City Council for final approval and acceptance.

5.15.06.03 In the event that the final PUD plan submitted contains substantial changes from the approved preliminary PUD plan, the applicant shall resubmit the preliminary PUD plan for a public hearing with Planning Commission. This preliminary PUD plan shall be modified in the same manner prescribed in this division as for original approval.

5.15.07 Density Bonuses

5.15.07.01 The use of the PUD District, in conjunction with Conservation Easements, will allow a developer of a Planned Unit Development (PUD) to institute Density Bonuses.

5.15.07.02 Density Bonuses may be awarded in direct proportion to the amount of the proposed Subdivision that is placed within a Conservation Easement.

For example:

If a developer places 30% of the proposed Subdivision into a Conservation Easement, then the required Lot Area may be reduced by 30% in order to maintain the same number of buildings or dwelling units that would have been allowed by the minimum lot size of the Zoning District.

Conventional Development

- A developer has 10 acres of land to develop = 435,600 square feet
- Minimum lot area of the Zoning District = 10,000 square feet
- Total lots (minus streets) = 43.56

Development with Conservation Easements

- Same site of 10 acres = 435,600 square feet
- 30% of site is placed in a Conservation Easement = 130,680 square feet
- Density Bonus allows total lots of 43.56
- New minimum lot area for Subdivision = 7,000 square feet

5.15.07.03 Density Bonuses shall not be a means for a developer to lower the Minimum Lot Area within a Subdivision to below three (3) acres, when said lots are on private wells and septic systems. All lots shall be required to meet the criteria established for wells and septic systems as regulated by the Nebraska Department of Environmental Quality.

5.15.08 Enforcement and modification of plan.

To further the mutual interest of the residents and owners of the planned unit development and of the public in the preservation of the integrity of the PUD plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:

5.15.08.01 The provisions of the plan relating to:

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1. The use of land and the use, bulk, and location of buildings and structures; and
 2. The quality and location of common space; and
 3. The intensity of use or the density of residential units shall run in favor of the City and shall be enforceable in law or in equity, by the City, without limitation on any powers or regulation otherwise granted by law.
- 5.15.08.02 All provisions of the plan shall run in favor of the residents and owners of the planned unit development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or equity by said residents and owners acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the planned unit development except as to those portions of the plan which have been finally approved by City Council.

5.15.09 Amendments.

The PUD District ordinance or an approved preliminary or final PUD plan may be amended in the same manner prescribed in this section for approval of a final PUD plan. Application for amendment may be made by the homeowner's association or fifty-one (51) percent of the owners of the property within the PUD District.

5.15.10 Platting.

For unplatted tracts or tracts being re-platted, the approval of the preliminary PUD shall be considered as the approval of a preliminary PUD plan. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations, except the scale shall be either one hundred (100) feet, fifty (50) feet, or twenty (20) feet to the inch.

5.15.11 Fees.

For the following applications, the indicated fees shall be paid to the City:

1. Preliminary PUD; as set in the Master Fee Schedule.
2. Final PUD; as set in the Master Fee Schedule.

These fees are separate and do not include any Preliminary and Final Plat Fees required by the City of La Vista. (**Ordinance No. 882, 11-19-02**)

SECTION 2. Repeal of Section 5.15 as Previously Enacted. Section 5.15 of Ordinance No. 848 as previously enacted are hereby repealed.

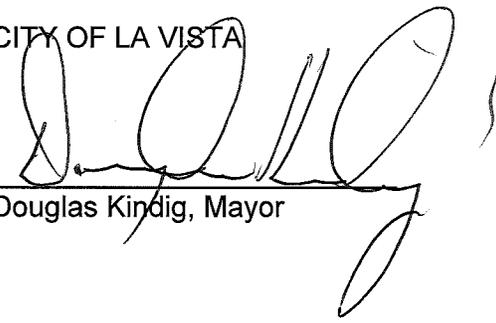
SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 5. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 18TH DAY OF AUGUST 2009.

CITY OF LA VISTA


Douglas Kindig, Mayor

ATTEST:


Pamela A. Bueche, CMC
City Clerk