

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE APPROVING A REZONING FROM DISTRICT R-12 (TWO FAMILY RESIDENTIAL) AND DISTRICT C-2 (NEIGHBORHOOD COMMERCIAL) TO DISTRICT C-2/PUD (GENERAL COMMERCIAL/PLANNED UNIT DEVELOPMENT) AND APPROVING A PRELIMINARY DEVELOPMENT PLAN FOR THE PROPERTIES AT THE NORTHWEST CORNER OF 23<sup>rd</sup> STREET AND COTTAGE STREET, IN INDEPENDENCE, MISSOURI.

WHEREAS, the application submitted to the City of Independence requesting approval of a rezoning from District R-12 (Two Family Residential) and District C-2 (General Commercial) to District C-2/PUD (General Commercial/Planned Unit Development) and a preliminary development plan for 916 and 1004 W. 23<sup>rd</sup> Street, 910, 920, 922 W. 23<sup>rd</sup>, and 1130 S. COTTAGE STREET was referred to the Planning Commission as required by the Unified Development Ordinance; and,

WHEREAS, the Unified Development Ordinance provides for the approval of a rezoning and preliminary development plan following public hearings by the Planning Commission and City Council; and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held public hearings for the consideration of the request on January 10 and April 25, 2023, and rendered a report to the City Council with its vote to recommend approval of this application passed by a vote of 6-0; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on June 20<sup>th</sup>, 2023, and rendered a decision to approve the rezoning and preliminary development plan for the said property; and,

WHEREAS, in accordance with the Unified Development Ordinance, it was determined that the rezoning and preliminary development plan was consistent with the review criteria in Section 14-701-02 and 14-703-05 respectively; and,

WHEREAS, no legal protests were signed, acknowledged, and presented for the application.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That the following legally described tracts of real estate is hereby rezoned from District R-12 (Two Family Dwelling) and District C-2 (General Commercial) to C-2/PUD (General Commercial/Planned Unit Development) and shall be subject to the regulations of said district:

All of Lots 1, 2, and 3 (except part in ROW) Race's Addition, a subdivision in Independence, Jackson County, Missouri; and,

Lot 10 and the East half of Lot 9, Block 8, also a tract described as follows: Beginning at the Northeast corner of said Lot 10; thence North 100 feet to the South line of Stone Street, thence West along the South line of said Stone Street 90 feet; thence South 100 feet to the North line of Lot 9; thence East to the point of Beginning, all being in South Side Addition No. 2, a subdivision

in Independence, Jackson County, Missouri, except that part in road, according to the recorded plat thereof; and,

Lot 11, except the South 135 feet thereof, and all of Lot 12, except the South 135 feet of the West Half thereof, and all of Lot 13, Block 8, South Side Addition No. 2: Also, all that part reserved part in said addition adjacent to said Lots 11, 12, and 13 on the North and running North to Water Street. Also, beginning at the Southeast corner of Lot 13, Block 8, South side Addition No. 2; thence North to the South line of reserved; thence in a Southeasterly direction to the West line of Lot 14, Block 8, South Side Addition No. 2; thence South to the Southwest corner of Lot 4, Race's Addition; thence West to the beginning, more fully described as being a strip 12 feet wide lying East of and adjoining Lot 13, Block 8, South Side Addition No. 2. All of the foregoing tract being in the South Side Addition No. 2, an addition in Independence, Jackson County, Missouri. Also, all that part of the reserved part in said addition adjacent to the above described 12-foot strip on the North and running North to Water Street, except that part in Route K (M-78); and,

Parts of Lots 11 and 12, Block 8, South Side Addition No. 2, a subdivision in Independence, Jackson County, Missouri described as follows: Beginning 45 feet East of the Southwest corner of Lot 11, Block 8; thence North 135 feet; thence East 45 feet; thence South 135 feet, thence West 45 feet to the point of beginning, except that part in Highway; and,

All that part of Lot 11, Block 8, South Side Addition No. 2, to the City of Independence, Missouri, described as follows: Beginning at the Southwest corner of Lot 11, thence North 135 feet, thence East 45 feet; thence South 135 feet; thence West 45 feet to the point of beginning, in Independence, Jackson County, Missouri, except that part conveyed to the State of Missouri for highway purposes by the instrument recorded April 12, 1966 as Document No. 883506 in Book 1821 at Page 373; and,

All of Lot 4, Race's Addition, a subdivision of Lot 15 to 19 inclusive, and the South 22 1/10 feet of Lot 14, Block 8, South Side Addition No. 2, an addition to the City of Independence, Jackson County, Missouri.

SECTION 2. That the Preliminary Development Plan, is attached hereto and is incorporated by reference as if fully set out herein, is hereby approved with the following conditions:

1. The permissible uses for this property includes all C-2 uses permitted by right, or with a special use permit (in accordance with Section 14-704), plus the sale of landscaping materials including river rock, stone, sand, mulch, dirt and related products.
2. The lots must be consolidated into a single lot through the minor subdivision process prior to a business license being approved.
3. All business activities are limited to the southern 275 feet of the property to allow for the stream buffer, and the construction of the detention basin. Selected minor activities may be permitted north of the 275-foot line with the approval by the Community Development Director.
4. All development and building elevations shall be in accordance with the preliminary development plan.
5. Bins that are subject to dust shall be covered with a framed canvas awnings when not in use.
6. The final development plan must include complete building elevations of the office building and bin canopy, based upon the designs shown on the preliminary development plan. The final plan must also include details regarding bin dust containment covers, best management practices for stormwater management, site lighting, fencing, landscaping, and parking areas.

7. Any trash dumpster must be enclosed in a proper dumpster enclosure per Code Section 14-503-08.
8. Any areas used for the parking/storage of employee’s or company vehicles (i.e., dump trucks, backhoes) must be on a paved surface and within an enclosed building, such as an expansion of the office building, to provide a garage area for such vehicles and equipment.
9. Business hours being 8:00am to 5:00pm Monday through Friday and 8:00am to 3:00pm Saturday.
10. All parking and driveway areas must have a chip/seal, chemical seal, or other satisfactory surface, as approved by the Community Development Department.

SECTION 3. Nonseverability. All provisions of this ordinance are so essentially, and inseparable connected with, and so dependent upon, each other that no such provision would be enacted without all others. If a court of competent jurisdiction enters a final judgement on the merits that is not subject to appeal and that declares any provision or part of this ordinance void, unconstitutional, or unenforceable, then this ordinance, in its collective entirety, is invalid and shall have no legal effect as of the date of such judgement.

SECTION 4. Scrivener’s Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this ordinance, as determined by the City Clerk and City Counselor, may be corrected with the endorsement of the City Manager without the need to come before City Council.

SECTION 5. That failure to comply with all the provisions contained in this ordinance shall constitute violations of both this ordinance and Chapter 14, the Unified Development Ordinance, of the Code of the City of Independence, Missouri.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

\_\_\_\_\_  
Presiding Officer of the City Council  
of the City of Independence, Missouri

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
City Counselor

REVIEWED BY:

\_\_\_\_\_  
City Manager