

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

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

AN ORDINANCE APPROVING A REZONING FROM DISTRICT C-2 (GENERAL COMMERCIAL) TO DISTRICT R-30/PUD (HIGH DENSITY RESIDENTIAL/PLANNED UNIT DEVELOPMENT) AND APPROVING A PRELIMINARY DEVELOPMENT PLAN FOR THE PROPERTIES AT 17610 E. 39<sup>TH</sup> STREET S., IN INDEPENDENCE, MISSOURI.

WHEREAS, the application submitted to the City of Independence requesting approval of a rezoning from District C-2 (General Commercial) to District R-30/PUD (High Density/Planned Unit Development) and a preliminary development plan for 17610 E. 39<sup>th</sup> Street S. 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 June 27, 2023, and rendered a report to the City Council with its vote to recommend approval of this application passed by a vote of 4-1; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on August 21, 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 C-2 (General Commercial) to District R-30/PUD (High Density Residential/Planned Unit Development) and shall be subject to the regulations of said district:

A TRACT OF LAND BEING LOT 3, THE RESUBDIVISION OF LOTS 2 AND 3 OF BOLGER SQUARE, A SUBDIVISION IN THE CITY OF INDEPENDENCE, JACKSON COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF OUTLOT "A" OF BOLGER SQUARE RECORDED IN DOCUMENT NUMBER 98-I-15411, JACKSON COUNTY RECORDS WITH THE EAST LINE OF CRACKERNEC (VARIABLE WIDTH) ROAD;  
THENCE ALONG SAID EAST LINE, NORTH 01 DEGREES 45 MINUTES 52 SECONDS EAST, A DISTANCE OF 946.66 FEET TO A POINT OF TANGENCY IN THE SOUTH LINE OF BOLGER (50'W) ROAD;  
THENCE ALONG SAID SOUTH LINE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AN ARC DISTANCE OF 39.50 FEET;  
THENCE CONTINUING ALONG THE SOUTH LINE OF BOLGER ROAD, SOUTH 87 DEGREES 43 MINUTES 03 SECONDS EAST, A DISTANCE OF 5511.37 FEET TO THE WEST LINE OF LOT 2 OF THE

AFOREMENTIONED RESUBDIVISION OF LOTS 2 AND 3 OF BOLGER SQUARE AS RECORDED IN PLAT BOOK 1-63 PAGE 20, JACKSON COUNTY RECORDS.

THENCE ALONG SAID WEST LINE THE FOLLOWING COURSES AND DISTANCES:

SOUTH 02 DEGREES 19 MINUTES 43 SECONDS WEST, A DISTANCE OF 168.51 FEET,  
NORTH 87 DEGREES 40 MINUTES 17 SECONDS WEST, A DISTANCE OF 113.95 FEET,  
SOUTH 02 DEGREES 19 MINUTES 43 SECONDS WEST, A DISTANCE OF 73.75 FEET,  
NORTH 87 DEGREES 40 MINUTES 17 SECONDS WEST, A DISTANCE OF 22.65 FEET,  
SOUTH 02 DEGREES 19 MINUTES 43 SECONDS WEST, A DISTANCE OF 210.55 FEET,  
NORTH 87 DEGREES 40 MINUTES 17 SECONDS WEST, A DISTANCE OF 51.12 FEET,  
SOUTH 02 DEGREES 19 MINUTES 43 SECONDS WEST, A DISTANCE OF 267.22 FEET,  
SOUTH 87 DEGREES 40 MINUTES 18 SECONDS EAST, A DISTANCE OF 42.67 FEET,  
AND SOUTH 02 DEGREES 19 MINUTES 43 SECONDS WEST, A DISTANCE OF 200.53 FEET TO THE  
NORTHERLY LINE OF OUTLOT "C" AS RECORDED IN PLAT BOOK 1-63 PAGE 20, JACKSON COUNTY  
RECORDS;

THENCE ALONG SAID NORTHERLY LINE AND THE NORTHERLY LINE OF OUTLOT "B" AND THE  
AFOREMENTIONED NORTH LINE OF OUTLOT "A" OF BOLGER SQUARE RECORDED IN DOCUMENT  
NUMBER 98-1-15411, JACKSON COUNTY RECORDS THE FOLLOWING COURSES AND DISTANCES:

ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 214.00 FEET, AN ARC DISTANCE OF 5.36 FEET TO  
A POINT OF REVERSE CURVE;

THENCE ALONG SAID REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 300.00 FEET, AN ARC  
DISTANCE OF 117.62 FEET;

THENCE CONTINUING, NORTH 87 DEGREES 40 MINUTES 18 SECONDS WEST, A DISTANCE OF 302.20  
FEET TO THE POINT OF BEGINNING AND CONTAINING 438,406 SQUARE FEET OR 10.064 ACRES.

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) Prior to the issuance of any building permits, create a replat with all necessary cross-access and parking lot easements and that indicates the adjustments made to the eastern boundary of the lot;
- 2) The trees abutting the north side of the property, on the berm, should be preserved;
- 3) Provide parking lot parameter and end cap trees and shrubs, and trees and shrubs around the buildings (the exact number of plantings worked out with staff for the Final Development Plan);
- 4) The Final Development Plan should provide an elevation of entry signs/features;
- 5) Include elevations of the trash enclosures with Final Development Plan;
- 6) For the Final Development Plan, provide a elevation of the west wall of the the box store east of Buildings A and B to show landscaping and treatments “softing” the look of the exposed wall;
- 7) The development shall provide stormwater quality measues.
- 8) The units will be addressed on the Final Development Plan.
- 9) To provide additional queue storage for the southbound left-turn movement the pavement markings on the southbound approach to the 39th Street & Crackerneck Road intersection should be modified to provide at least 200 feet of storage.

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