

ORDINANCE NUMBER 1333

AN ORDINANCE AMENDING ORDINANCE NUMBER 1316, AN ORDINANCE REGULATING THE USE OF LAND AND STRUCTURES IN MILWAUKIE, OREGON, AND ESTABLISHING ZONES FOR THAT PURPOSE.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. That Section 4.010.1. of Ordinance Number 1316 is hereby amended by adding the following sentence to the beginning:

"Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:"

Section 2. That Section 3.160. of Ordinance Number 1316 is hereby deleted and the following Section 3.160. substituted therefor:

"Section 3.160. Planned Development Zone PD. In a Planned Development zone the following regulations shall apply:

1. Purpose. The purpose of a PD Planned Development zone is:
 - a. To provide a more desirable environment than is possible through the strict application of Zoning Ordinance requirements;
 - b. To encourage greater flexibility of design and the application of new techniques in land development;
 - c. To provide a more efficient, aesthetic and desirable use of public and private common open space; and,
 - d. To promote variety in the physical development pattern of the City.
2. Use. A planned development approved by the City Council and based on a Final Development Plan and Program shall constitute the Planned Development zone. The PD zone when adopted shall be considered an overlay on the original zone. A PD zone shall be comprised of such combinations of types of dwellings and other structures and uses as shall be authorized by the Council, but the Council shall authorize only those types of dwellings and other structures and uses as will:
 - a. Conform to the City's Comprehensive Plan.
 - b. Form a compatible and harmonious group.
 - c. Be suited to the capacity of existing and proposed community utilities and facilities.
 - d. Be cohesively designed and consistent with the protection of public health, safety and welfare in general.
 - e. Afford reasonable protection to the permissible uses of properties surrounding the site. In addition to residences and their accessory uses, the Council may authorize commercial and other non-residential uses which it finds to be:
 - (1) Designed to serve primarily the residents of the planned development.

- (2) Limited to those non-residential uses which do not exist in the vicinity.
 - (3) Fully compatible with and incorporated into the design of the planned development.
3. Development Standards. All standards and requirements of this Ordinance and other City ordinances shall apply in a PD zone unless the Planning Commission grants a variance from said standards in its approval of the PD zone or accompanying subdivision plat
- a. Minimum Size of PD Zone. A PD zone may be established only on land which is suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes of this zone. A PD zone shall not be established on less than three acres of contiguous land unless the Planning Commission finds that a smaller site is suitable because of unique character, topography, landscaping features, or constitutes an isolated problem area.
 - b. Special Improvements. In its approval of the final plan or subdivision plat within a PD zone, the City may require the developer to provide special or oversize sewer lines, water lines, roads and streets or other service facilities. Such approval shall not obligate the City to expend funds for additional construction equipment or for special road, sewer, lighting, water, fire or police service.
 - c. Density Increase and Control. The Council may permit residential densities which exceed those of the underlying zone, if it determines that the planned development is outstanding in planned land use and design, and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning. In no case shall such density increase be more than 25 percent greater than the density range prescribed for the primary land use designation indicated in the Comprehensive Plan.
 - d. Peripheral yards. Along the periphery of any PD zone, additional yard depth, buffering or screening may be required. Peripheral yards shall be at least as deep as that required by the front yard regulations of underlying zones. Open space may serve as peripheral yard and/or buffer strips to separate one planned area from another, if such dual use of the land is deemed to comply with this section.
 - e. Open Space. Open space means the land area to be set aside and used for scenic, landscaping, or open recreational purposes within the development. Open space may also include areas which, because of topographic or other conditions, are deemed by the Council to be suitable for leaving in a natural condition. Open space shall be adequate for the recreational and leisure needs of the occupants of the development, and shall include the preservation of areas designated for Open Space or Scenic Preservation in the Comprehensive Plan.
- The development plan and program shall provide for the landscaping and/or preservation of the natural features of the land. To insure that open space will be permanent, deeds or dedication of easements or development rights to the City of Milwaukee may be required. Instruments and documents guaranteeing the maintenance of open space shall be approved as to form by the City Attorney. Failure to maintain open space or any other

property in a manner specified in the development plan and program shall empower the City to enter said property in order to bring it up to specified standards. In order to recover such maintenance costs, the City may, at its option, assess the real property and improvements within the planned development.

4. Any development within a PD zone shall be subject to the provisions of design review as outlined in a separate ordinance.
5. Preliminary Development Plan and Program.
 - a. Applicant. For the purpose of this section, "owner" or "owner-applicant" shall mean and include any individual(s), partnership(s), corporation(s), public body(s), legal entity(s), or holder(s) of a written option to purchase said property. An owner of land located outside, but contiguous to, the City may submit a preliminary development plan for consideration by the City.
 - b. A preliminary development plan and program shall be submitted by the applicant with information as required by resolution of the Planning Commission.
6. Planning Commission Review of Preliminary Development Plan and Program.
 - a. Conditional Approval by Planning Commission. Following the meeting, or any continuance thereof, the Planning Commission shall notify the applicant whether, in its opinion, the provisions of this Ordinance have been satisfied, or advise of any deficiencies.
 - b. Upon approval in principle of the preliminary development plan and program by the Planning Commission, with or without modifications, the owner-applicant shall, within six months, file with the City a final development plan and program and an application for a change of zone classification.
7. Final Development Plan and Program. The final development plan and program shall contain information as required by resolution of the Planning Commission.
8. Subdivision Plat. If the planned development will involve the subdivision of land as defined in City subdivision regulations, the owner-applicant shall prepare and submit a preliminary subdivision plat along with information required by said ordinance to be considered at the same time as the final development plan and program. The final subdivision plat shall be submitted within one year subsequent to approval of the Planned Development zone by Council.
9. Application for Zone Change. Together with submission of the final plan and development program the owner-applicant shall submit an application for a zone change to apply the PD zone to the subject property.
10. Planning Commission Action on Final Development Plan and Program.
 - a. Upon receipt of the final development plan and program, zone change application, and preliminary subdivision plat, where applicable, the Planning Commission shall hold a public hearing on these matters in accordance with Article 9. If the final development plan and program is found to be in compliance with the intent and requirements of this Ordinance, it shall recommend the same, together with appropriate documents and conditions, to the City Council for adoption.

- b. It shall at the same time recommend the change to PD zone in accordance with the provisions of Article 9. The approved final development plan and program shall be the basis upon which the change in zone is made. It shall at the same time approve the preliminary subdivision plat in accordance with the Milwaukie subdivision regulations.
 - c. If the land upon which the change to PD zone is sought is not within the boundaries of the City, the Planning Commission may approve the zone change and recommend it to the City Council to become effective when the land becomes annexed to the City; or continue the public hearing for the purpose of suitably amending the proposal; or disapprove the proposed developments and abandon hearings and proceedings thereon.
11. Council Action on Final Development Plan and Program.
 - a. Upon receipt of Planning Commission recommendations as set forth above, the final development plan and program and zone change application shall be considered by the City Council
 - b. Following the consideration, the Council may adopt an ordinance applying the PD zone to the subject property and, in so doing, shall adopt the approved final development plan and program as the standards and requirements for said zone. Council, by said ordinance, shall also accept or reject all or part of the dedications of public facilities, land and open space.
 - c. If the proposed PD zone is contiguous to, but not within, the City boundaries, the City Council shall delay final action until the land is officially annexed to the City.
 - d. The Council may also continue consideration and refer the matter back to the Planning Commission with recommendations for amendment thereof, or reject the proposals and abandon further hearings and proceedings thereon.
12. Filing of Approved Final Plan and Program. Following action to amend the Zoning Ordinance and prior to its effective date, the owner-applicant shall file with the City of Milwaukie a conformed and approved final development plan and program, together with all pertinent documents approved as to form by the City Attorney.
13. Recording of Notice of Final Development Plan. Each owner of property so rezoned shall execute a notice prepared by the City which acknowledges that the final development plan and program approved by the City Council constitutes zoning for the property. Such notice shall contain a legal description of the property and reference to the certified copy of the final development plan and program filed in the office of the City Recorder. Said notices shall be recorded in the office of the County Recorder of Clackamas County.
14. Development Improvement Prohibited Pending Compliance. No excavation, grading, construction, improvement or building shall begin, and no permits therefor shall be issued, within the PD zone until all provisions of this article including execution and filing of required documents, all requirements of the City Subdivision Ordinance and Building Code, and all requirements of the final development plan and program have been complied with, unless approved by the Planning Commission.

15. Variations from Final Development Plan and Program.

- a. Proposed changes which do not meet these criteria shall be processed in the same manner as for a new planned development.
- b. The development may vary from the approved final plan and program so long as it is consistent with any subsequent subdivision plat approved by the Planning Commission, and does not alter total density, ratio of dwelling unit types, boundaries of the planned development or location or area of public spaces
- c. Where changes in a subdivision plat are not required, an application for approval of variations to the recorded final plan and program may be submitted in writing. Such variations may be approved by the City staff provided they do not alter dwelling unit densities, alter dwelling unit type ratios, increase or change the type or location of commercial or residential structures, change the boundaries of the planned development, or change the location and area of public open spaces and recreational areas.

16. Expiration of Planned Development Zone If, within six months of its effective date, substantial construction or development in the PD zone has not occurred in compliance with the approved final development plan and program and schedule for stage completion, the Planning Commission may initiate a review of the PD zone and hold a public hearing to determine whether its continuation in whole or in part is in the public interest. If found not to be, the Planning Commission shall recommend to the City Council that the PD zone be removed by appropriate amendment to the Zoning Ordinance and property changed back to original zoning."

Read the first time this 17th day of February, 1976, and moved to second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council this 17th day of February, 1976.

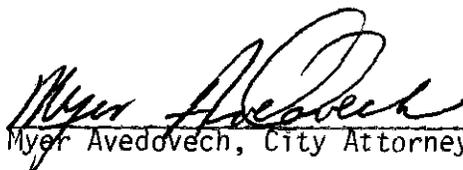
Signed by the Mayor this 17th day of February, 1976.


 Bill Hupp, Mayor

ATTEST:


 Dorothy E. Farrell, Recorder

Approved as to form:


 Myer Avedovech, City Attorney