

ORDINANCE NO. 2003-61

AN ORDINANCE OF THE TOWN OF TALTY, TEXAS, AMENDING ARTICLE TWO OF THE COMPREHENSIVE ZONING ORDINANCE, AS HERETOFORE AMENDED, TO ESTABLISH AND PROVIDE REGULATIONS FOR THE PLANNED DEVELOPMENT DISTRICT (PD); PROVIDING FOR PERMITTED USES; PROVIDING FOR THE FILING AND REVIEW OF APPLICATIONS, CONCEPT PLANS AND DEVELOPMENT PLANS; PROVIDING FOR SITE PLAN AND LANDSCAPE PLAN REVIEW AND APPROVAL; PROVIDING FOR PARKING AND STREET REQUIREMENTS; PROVIDING FOR APPLICATION DEADLINES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the Town of Talty and the governing body of the Town of Talty, in compliance with state laws with reference to amending the Comprehensive Zoning Ordinance, have given the requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, the governing body of the Town Talty is of the opinion that said zoning ordinance should be amended as provided herein; Now, Therefore,

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF TALTY , TEXAS:

SECTION 1. That the Comprehensive Zoning Ordinance of the Town of Talty, Texas, as heretofore amended, be and the same is hereby amended to include a new zoning district entitled “Planned Development District (PD)” to read in its entirety as follows:

**PLANNED DEVELOPMENT DISTRICT (PD)
DISTRICT REGULATIONS
SECTION 2-106**

(A) Intent

(1) A Planned Development District (a “PD District”) is intended to allow the phased development of large tracts of land in a manner that will permit flexibility, that will encourage a more creative, efficient and aesthetically desirable design and placement of buildings, open spaces, circulation patterns, that will best utilize special site features such as topography, useable open space, landscape features, and that will maintain the integrity and value of surrounding areas. To the extent reasonably possible, PD Districts should provide for the integrity, maintenance, and improvement of drainage ways, wetlands, and other natural features. PD Districts allow flexibility with respect to the placement of buildings and structures on the land, permissible uses of the land, and development regulations for the land, as well as flexibility with respect to the review and approval process. This authority extends to discretionary approval by the Board of Aldermen over Concept and Development Plans for each PD District as required by this ordinance, including consideration by the Board of Aldermen of such items as proximity to major transportation arteries (such as freeways, expressways or mass transit routes), parking, setbacks, square footage of buildings and structures, sign placement, screening, landscaping, buffer zones, residential and non-residential density, and the ratio of mixed commercial or retail and residential uses and structures. To the extent reasonably possible, PD Districts should be separated or well buffered from adjacent properties. While flexibility is given to allow special conditions or restrictions, the following procedures are established herein to ensure against inappropriate exercise of this flexibility. **It is intended that, prior to the approval of a PD District, it should be demonstrated that adequate public services and infrastructure capacity exist or are planned that will support development within the PD District throughout the estimated “build out” period based on the size and nature of the proposed development within the PD District.**

(2) In the event of any conflict or inconsistency between the provisions of an ordinance creating a PD District and the provisions contained in any other provision of the Town’s Comprehensive Zoning Ordinance, subdivision regulations, or other ordinances, the provisions of the PD Ordinance shall control.

(3) In the event a PD Ordinance does not include a zoning standard or regulation that is otherwise required by the Town’s Comprehensive Zoning Ordinance, then the standard or regulation required by the Comprehensive Zoning Ordinance shall be applied to development within the PD District.

(B) Use regulations

In a PD District, no land shall be used and no building shall be used, erected, or converted to any use other than those authorized in the various zoning districts set forth in Article Two of the

Comprehensive Zoning Ordinance of the Town of Talty.

(C) Application requirements

(1) Each application for a PD District shall contain a minimum land area of 10 acres (described by metes and bounds) and shall specify the proposed development standards required by this Section. No application shall be complete and no application shall be deemed to have been filed until all of the required information is on file with the Town Secretary and any required filing or application fees have been paid in full. At least 15 copies of the Application must be submitted. All development standards contained in the application and approved by the governing body of the Town shall become part of the PD Ordinance.

(2) The following items shall be included with an application:

a. A Concept Plan for the property, drawn to a scale of not less than one inch equaling 200 feet. When approved by the Board of Aldermen, the Concept Plan shall become part of the PD Ordinance. Concept Plans must be consistent with the development standards contained in the application and must show or contain the following information:

- i. Floodplain locations (based on best available information), and the locations of major drainage ways;
- ii. Existing and proposed major thoroughfare and arterial and collector street layouts within and outside the property;
- iii. Major utility layouts showing the locations of existing and proposed major utility easements and water and wastewater lines;

- iv. Areas intended for single family development, including unit density per acre;
 - v. Areas intended for other residential development, including unit density per acre;
 - vi. Areas intended for non-residential development, including schools, commercial and retail areas, and locations of utility plants;
 - vii. Areas intended for common areas, open space, or recreational uses, such as parks, green belts and golf courses;
 - viii. To the extent known (but not required), major landscaping elements and features;
 - ix. To the extent known (but not required), significant physical or natural features that will be preserved;
 - x. Areas to be left open as open space of not less than two percent (2%) of the gross area of the tract, exclusive of streets, alleys and rights-of-way; and
 - xi. Signage requirements and standards, including entry signs.
- b. A traffic impact analysis prepared by a qualified traffic engineer. Such analysis shall take into consideration the capacity of existing and future streets, projections of the traffic that will be generated by the proposed development, the ability of existing and future streets to accommodate the projected traffic generated by the proposed development, and measures to mitigate high traffic areas and effects. The traffic impact analysis will be provided for informational purposes only and shall not become part of the PD Ordinance.

- c. A preliminary drainage study and a general description of the storm water management techniques that will be used to develop the property. Such study and general description will be provided for informational purposes only and shall not become part of the PD Ordinance. Detailed drainage plans for flood plain and storm water management will be prepared and approved in accordance with the Town's zoning and subdivision regulations.
- d. A description of the manner in which water and wastewater service will be provided to the property and a utility impact study/analysis showing the effect on existing and future area utility systems. Such general description will be provided for informational purposes only and shall not become part of the PD Ordinance. Detailed plans for water and wastewater service will be prepared and approved in accordance with the Town's zoning and subdivision regulations.
- e. A capital improvements study specifying the current and future capital improvements, facilities expansion, and anticipated level of increase in municipal services generated by the proposed PD District. Such study shall include a description of any anticipated special, road, flood, or utility districts which may be created to serve the PD District as well as any potential impact on present and future ad valorem and sales tax levels. Such study and description will be provided for informational purposes only and shall not become part of the PD Ordinance.
- f. A general map showing areas of significant vegetation and tree groupings.
- g. Any additional information the applicant feels may be beneficial to the Town in the evaluation of the application. Such additional information will be provided for informational purposes only and may become part of the PD Ordinance.

(D) Planned development review procedures

(1) An application for PD District zoning shall be processed in the same manner as an application for a zoning change. Upon submission, review and approval of the Concept Plan, the Town shall adopt a PD ordinance that will further identify the types, intensity and density of land uses on the site. No actual construction shall commence on the site or on any portion thereof unless and until a Development Plan has been processed and approved. A Development Plan may provide for the development of the entire tract or may provide for development to occur in certain specified phases over a defined period of time. Approval of the Concept Plan and the adoption of an ordinance designating the tract as having PD Planned Development zoning shall reflect zoning approval only of the basic concept and may not be implemented until full Development Plan approval has been granted by the Board of Aldermen for each section or phase. However, the approval of a Concept Plan shall entitle the property owner to proceed with submission of one or more appropriate Development Plans. A Development Plan may, however, be submitted and considered simultaneously with a Concept Plan.

(2) A Development Plan shall be consistent with the approved Concept Plan and ordinance adopting the Planned Development zoning. Inconsistencies, noncompliance or material variances between a Development Plan and the approved Concept Plan shall be grounds for denial of the Development Plan.

(3) A Development Plan, when approved, shall become a part of the amending zoning ordinance and shall be referenced on the official map. The Development Plan shall include the following elements:

a. An accurate scale drawing showing the proposed streets and alleys; proposed building sites or lots and dimensions; parking areas; areas proposed for sidewalks, walkways, and pedestrian and bicycle paths; areas proposed for dedication; areas proposed for parks, playgrounds, golf courses, green belts and utility easements; areas proposed for drainage easements; areas proposed for non-residential parking; proposed school and municipal facilities sites and areas; and, proposed points of ingress and egress from existing streets;

b. Elevations and/or perspective drawings of non-residential buildings shall be required in order to ensure consistency in the relationship between buildings to adjacent properties, open spaces, landscape features and other features of the Development Plan. Such drawings need only show the height, number of floors and exposures for access, light and air, and shall not become a part of the amending zoning ordinance;

c. Material changes, if any, to the preliminary drainage study and a topographical map with 2 foot interval contours showing drainage courses and flood plain locations submitted with the application for the PD District, which changes and map shall not become a part of the amending zoning ordinance;

d. Screening and landscaping plans, and tree preservation and conservation plans, if applicable;

e. Deed restrictions and covenants for residential areas and subdivisions which shall not become a part of the amending zoning ordinance; and,

f. Site plans for non-residential building sites.

(4) A Development Plan may be approved if:

a. It contains each of the elements required in this Section;

b. The elements are in conformance with the approved Concept Plan;

c. The elements are in compliance with the PD Ordinance; and

d. The Development Plan is in compliance with the Town's subdivision regulations and Comprehensive Zoning Ordinance.

(5) The studies and analyses required to be submitted with a Concept Plan which are noted as not to be a part of the PD ordinance shall be used and considered by the Board of Aldermen in determining whether the Development Plan should be approved. The studies and analyses to be submitted with a Concept Plan and with a Development Plan shall be used by the Board of Aldermen in determining whether a preliminary plan and final plat application should be approved.

(E) Amendments

(1) A minor amendment to a PD District (including minor amendments to an approved Concept Plan) shall be defined as a change which: (1) does not decrease lot coverage or increase density; (2) does not change maximum structure height, setbacks, or required parking; and (3) does not change access to the property or circulation within or adjacent to the property.

(2) In cases of minor amendments to a PD District (including amendments to an approved Concept Plan), the Board of Aldermen shall be authorized to approve such changes upon written application and explanation of the requested change by the owner of the property. No further public hearings shall be required.

(3) Any other change to a PD District (including amendments to an approved Concept Plan or Development Plan) shall be considered a change in zoning and shall be processed through the normal rezoning procedure, requiring public hearings before the Planning and Zoning Commission and Board of Aldermen.

(F) Site plan approval

(1) Non-residential development. Except as provided by the PD Ordinance, all non-residential development within a PD District shall require site plan approval in accordance with the Town's Comprehensive Zoning Ordinance. Non-residential site plans may be approved if they (1) comply with the applicable PD Ordinance, (2) comply with the other applicable provisions of the Town's Comprehensive Zoning Ordinance, and (3) are in substantial conformance with the approved Concept Plan and Development Plan.

(2) Residential development. Final plat approval shall constitute site plan approval for residential development.

(G) Parking and street regulations

All streets, alleys, sidewalks and public rights-of-way shall be paved with concrete. Parking shall be provided in accordance with the Town's Comprehensive Zoning Ordinance unless otherwise specifically provided by the PD Ordinance.

(H) Landscape plan approval

Except as provided by the PD Ordinance, all development with a PD District shall require

landscape plan approval in accordance with the Town's Comprehensive Zoning Ordinance.

(I) List of property owners

An applicant for a PD district shall submit to the Town with the initial application a list of the names and addresses of all owners of real property located within 500 feet (inclusive of streets and alleys) of the property which is the subject of the application for PD District zoning. Such list shall be as indicated on the most recent municipal or county tax roll.

(J) Filing and Expiration Deadline

(1) An application for a PD District shall be submitted to the Town Secretary at least fifteen (15) days prior to the meeting of the Planning and Zoning Commission at which such application may first be considered. A minimum of one (1) regularly scheduled meetings shall be required for review. No public hearings shall be held until at least thirty (30) days have elapsed following the submission and filing of the application, Concept Plan and other required information. The Planning and Zoning Commission, upon consideration of the application, the Concept Plan, and the information submitted therewith, shall make its recommendation to the Board of Aldermen. The Board of Aldermen shall consider the application, Concept Plan and other information, as well as the recommendation of the Commission, and shall approve or deny the application or shall require the applicant to submit additional information or make appropriate revisions to the materials submitted. A PD ordinance may be adopted upon approval of the application, Concept Plan and related information.

(2) A Development Plan shall be submitted to the Planning and Zoning Commission at least fifteen (15) days prior to the meeting of the Commission at which such Development Plan may first be considered. The Board of Aldermen shall consider the application, Concept Plan, Development Plan, studies, and other information, as well as the recommendation of the Commission, and shall approve or deny the Development Plan and subsequent plat application or shall require the applicant to submit additional information or make appropriate revisions to the materials submitted.

(3) If a Development Plan for all or a portion of a PD district is not filed within 12 months from the approval of a Concept Plan and the adoption of an ordinance granting PD zoning for a particular tract, the Planning and Zoning Commission and the Board of Aldermen may review the Concept Plan and the ordinance granting PD zoning to determine whether the underlying concepts and assumptions are still valid. If any concepts and assumptions are no longer valid, a new Concept Plan may be required or different zoning may be established for the tract.

(4) If a project is not commenced and no preliminary plan application has been filed

within 12 months from the approval of a Development Plan for a particular tract, the Planning and Zoning Commission and the Board of Aldermen may review the Concept Plan, the Development Plan and the ordinance granting PD zoning to determine whether the underlying concepts and assumptions are still valid. If any concepts and assumptions are no longer valid, a new Development Plan may be required or different zoning may be established for the tract.

SECTION 2. That all provisions of the ordinances of the Town of Talty in conflict with the provisions of this ordinance be and the same are hereby repealed, and all other provisions of the ordinances of the Town of Talty not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 4. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the Town of Talty, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand (\$2,000.00) Dollars for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 5. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

DULY PASSED by the Board of Aldermen of the Town of Talty, Texas, on the 30th day of September, 2003.

APPROVED:

MAYOR

ATTEST:

TOWN SECRETARY

APPROVED AS TO FORM:

TOWN ATTORNEY

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