

ORDINANCE 157

AN ORDINANCE TO REVISE "THE MUNICIPAL ZONING ORDINANCE OF ASHLAND CITY, TENNESSEE" AS OFFICIALLY ADOPTED ON DECEMBER 21, 1971, AS SUBSEQUENTLY AMENDED.

WHEREAS, the following revisions were recommended by the Ashland City Planning Commission, and

WHEREAS, a public hearing was conducted in this regard before the Mayor and City Council of Ashland City, Tennessee on August 13, 1976 and

NOW, THEREFORE, BE IT ORDAINED, that after the effective date of the adoption of this amendment as cited below, the Zoning Ordinance of Ashland City, Tennessee will hereby be revised to read as follows:

ARTICLE IV - GENERAL PROVISIONS

Section 14. Planned Development Regulations. The purpose and intent of this section is to encourage the total planning of tracts of land consistent with the long-range general comprehensive plan of the City, encourage innovations in design and the application of sound design principles, provide a framework within which an effective relationship of different land uses and activities can be planned on a total basis, provide a harmonious relationship with surrounding development, minimize such influences as land use incompatibilities, heavy traffic congestion, and excessive demands on planned and existing public facilities, and provide a means of developing areas of physiographic or other physical features to enhance natural beauty and other attributes. This section shall only be used for planned developments upon determination by the Board of Zoning Appeals that the proposed development is in harmony with the purpose and intent as stipulated in Article XII, Subsection 4.2 of this Ordinance. Planned developments are permitted only as special exceptions after review by the Board.

14.1. General Provisions. The following general provisions apply to all planned developments.

- (1) Ownership and Division of Land: No tract of land may be considered for or approved as a planned development unless such tract is under single ownership. The holder of a written option to purchase, any governmental agency, or a redeveloper under contract shall be considered landowners for purposes of this section. Unless otherwise provided as a condition of approval of a planned unit development, the landowner of an adopted planned unit development may divide and transfer parts of such development. The transferee shall complete each such unit, and use and maintain it in strict conformance with the adopted final master development plan.
- (2) Relationship to Subdivision Regulations: The uniqueness of each proposal for a planned development may require that there be modification from the specifications established in the subdivision regulations adopted by the Ashland City Municipal Planning Commission. Modifications may be incorporated only with the approval of the Planning Commission.
- (3) Common Open Space and Dedicated Cross-Easements:
  - (a) In all planned developments there shall be a dedication of land for common open space, and if required by the Board of Zoning Appeals dedicated cross-easements for joint access to fee-simple properties. Easements for the provision of servicing utilities to fee-simple properties may also be required by the Board.
  - (b) The location, shape, site, and character of the common open space shall be reviewed in detail.

- (c) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development considering its size, density, expected population, topography, and the number and type of dwellings or structures to be provided.
- (d) Common open space must be suitably improved for its intended uses but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition. Acceptable examples of improved open space are: tennis courts; playfields; playgrounds; soccer, football, baseball, and softball fields; picnic shelters and tables; improved walking and jogging trails, etc.
- (e) The use and improvements of common open space must be planned in relation to any existing or proposed public or semi-public open space which adjoins or which is within close proximity to the perimeter of the planned development.
- (f) All land shown on the final development plan as common open space, when not retained by the developer, must be conveyed under one of the following options:
- (i) It may be conveyed to a public agency which will agree to maintain the common

open space and any buildings, structures, or improvements which have been placed on it.

- (ii) It may be conveyed to a trustee provided in a deed of record which establishes an association or similar organization for the maintenance of the planned development. The common open space may be conveyed to the trustee(s) subject to the approval of the Board of Zoning Appeals. Such common open space must be restricted to the uses specified on the final development plan, and which will provide for the maintenance of the common open space in a manner which assures its intended purpose.
- (g) No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use. However, no change of use authorized may be considered as a waiver of enforcement.
- (h) The developer or any organization established for the ownership and maintenance of any common open space shall not dispose of any common open space by sale or otherwise (except to an organization established to own and maintain the common open space) without first offering to dedicate the same to the City. Said dedication must be approved by the Board of Zoning Appeals and accepted by the Ashland City Council.
- (i) In the event that the developer or the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment of the planned development fail to

maintain the common open space in reasonable order and condition in accordance with the adopted master development plan, the Building Inspector may serve written notice upon such organization and/or the owners or residents of the planned development. If deficiencies or maintenance problems are not corrected after thirty (30) days, the Building Inspector shall call upon any public or private agency to maintain the common open space. The cost of such maintenance by such agency shall be assessed proportionally against the properties within the planned development that have a right of enjoyment of the common open space, and shall become a lien on said properties.

- (4) Public Sewer and Water Service Required: Under no circumstance shall any Planned Development be approved which is not served by public sewers, as well as by public water facilities.

14.2. Minimum Size. The minimum size of a planned development is established according to the following table:

Minimum Area (Acres)	Per Applicable District	
	R-A	R-B
5		X
10	X	

14.3. Types of Planned Developments. Planned developments shall consist of two (2) types. There are as follows:

- (1) Single Purpose Planned Development.

A single purpose planned development is one which shall consist primarily of one (1) principal type or use or activity. This principal use or

activity may be either single-family residential, two-family residential, three-family residential or multi-family residential.

(2) Mixed Purpose Planned Development:

A mixed purpose planned development is one which shall consist primarily of several principal types or combinations of residential uses or activities, which may be single-family, two-family, three-family and multi-family residential dwellings.

14.4. Obstructions, Height Regulations, Accessory Structures, Customary Home Occupations, Off-street Parking and Sign Control. All structures and facilities within a planned development shall conform to the requirements governing these items as specified in the regulation pertaining to the appropriate district within such which it is located.

14.5. Overall Densities and Lot Coverage for Residential Activities in Planned Developments. The maximum overall densities and lot coverages for residential activities in planned developments shall be in terms of the number of dwelling units per net acreage, and in terms of the required open space of all areas within a development as provided herein.

- (1) The maximum net density or lot coverage for any residential component shall not exceed the maximum density or lot coverage per gross acre permitted in the zone district where the planned development is located. In computing the maximum allowable net density in relation to the maximum gross density as stated within the applicable zoning district provision, 25 percent of this figure shall be subtracted from the total available project acreage for servicing streets, and street rights-of-way as applicable, regardless of how much land is actually utilized for servicing streets, or street rights-of-way. Also, any land lying in a regulatory floodplain (a 100 year flood zone), as well as any land containing

topographic slopes of over 22 percent shall not be utilized in the computation of the allowable net density of development within the total acreage within the planned development project, nor in the computation of land therein reserved for developed open space.

(2) Further reductions in this permitted maximum net density figure may be required by the Board of Zoning Appeals if it is determined that such reduction is warranted by the following conditions:

1. Inconvenient or unsafe access of the planned development.
2. Unsatisfactory traffic congestion for streets adjoining the development.
3. An excessive burden imposed on public parks, recreational areas, schools and other public facilities which serve or are proposed to serve the development.

14.6. Minimum Lot Area and Frontage Requirements Within a Planned Development.  
No minimum lot size or yards shall be required within a planned development, except that frontage on dedicated public roads shall observe front yard requirements in accordance with the zoning classification where the development is located, and peripheral yards abutting the exterior limits of the planned development boundary shall observe yard requirements in accordance with Section 14.9(2) herein. Every dwelling unit or other permitted use in the planned development shall have access to a public road or street, either directly or via an approved private road, pedestrian way, court, or other area dedicated to public use or reserved for private use, or common element guaranteeing access. Permitted uses may not be required to always front on a public dedicated road or street.

14.7. Mobile Homes not Allowed in Planned Developments. No mobile homes shall be allowed to be placed in any planned development project.

14.8. Other Developmental Requirements Pertaining to Zero Lot Line Developments

- (1) The side yard setback may be zero on any parcel provided that the parcel adjacent to that side yard is held under the same ownership at the time of initial construction.
- (2) No zero side yard shall be adjacent to any public or private right-of-way, nor shall it be adjacent to any parcel of land not being approved by the Board of Zoning Appeals for a planned development.
- (3) No portion of a dwelling or architectural features of a structure shall project over any property line.
- (4) Where the same interior property line is utilized for the zero side yard construction of any dividing structure, such dividing structure shall consist of double walls separated by a minimum air space of two (2) inches, in order to limit undue noise between adjoining dwelling units.
- (5) Where the same interior property line is utilized for the construction of any zero side yard structure, at a minimum, all the provisions of the Standard Building Code shall be met.
- (6) All residential structures must contain a fire wall between the various dwelling units, extending from the footing to the underside of the roof deck without openings which would permit the spread of fire. Such wall shall not have less than two hours fire rating. The fire wall must be bisected by a line dividing each dwelling unit so that one-half of the fire wall is on each parcel.

14.9. Building Spacing.

- (1) Minimum Building Spacing: Space between buildings shall be a minimum of thirty (30) feet, with a minimum of five (5) additional feet required per each additional story above two story buildings.
- (2) Minimum Distance to Side and Rear Property Line: The minimum distance between the building and the side and/or rear property line shall be thirty (30) feet, with a minimum of five (5) additional feet required per each additional story above two story buildings.

14.10. Perimeter Requirements. If topographical or other barriers do not provide adequate privacy for existing uses adjacent to the planned development, the board of zoning appeals may impose either of the following requirements:

- (1) Structures located on the perimeter of the planned development must be set back by a distance sufficient to protect the privacy and amenity of adjacent existing uses, if applicable. These requirements may supersede the standard cited in Section 14.9(2) above.
- (2) Structures located on the perimeter of the planned development must be permanently screened in a manner which is sufficient to protect the privacy and amenity of adjacent existing uses. Such screening or buffering shall at a minimum be 10 feet wide. It shall consist of the planting of one row of evergreen trees no smaller than 5 feet in height at the time of planting spaced no further than 20 feet apart, with two staggered rows of evergreen bushes located no further than 5 feet apart, which shall grow to a height of 5 feet in one full growing season.

14.11. Administrative Procedure.

(1) Outline Development Plan:

- (a) The developer shall make a request to construct a planned development within one of the allowable districts to the building inspector. At his option, the developer may accompany his request with an outline development plan specified in this section. If no outline development plan is filed with the request, the developer shall submit a preliminary development plan as outlined in the following section.
- (b) An outline development plan consists of both maps and a written statement.
- (i) The maps may be in a general schematic form, but must contain the following information
- The existing topographic character of the land.
  - Existing and proposed land uses and the approximate density of the existing dwellings.
  - The approximate location of any road shown on the major thoroughfare plan.
  - Public uses, including schools, parks, play areas, and other open spaces, both existing and proposed.
- (ii) The written statement to accompany the outline development plan must contain the following information.
- A statement of the present ownership of the land included with the proposed development.

-A general indication of the expected schedule of the development.

- (c) Within twenty (20) days after the filing of the outline plan, the staff shall forward the plan to the Board of Zoning Appeals with a written report recommending the plan be approved, approved with modifications, or disapproved, giving reasons for these recommendations.
- (d) The Board of Zoning Appeals will act on the recommendation by the staff and the procedure specified for special exceptions in Subsection 4.2 within ARTICLE XII of this ordinance shall be followed. However, no building permits will be issued on land within the planned development until final plans for the development have been reviewed and approval granted by the Board of Zoning Appeals.

(2) Preliminary Development Plan:

- (a) If an outline development plan has been submitted and approved, the Board shall review the submission of a preliminary development plan as a whole. If a preliminary development plan has not been submitted within three (3) months following the approval of the outline development plan, the Board may withdraw its approval of the planned development. In its discretion and for good cause, the Board may extend for three (3) months the period for the filing of the preliminary development plan.

- (b) The preliminary development plan must include all the pre-cited information as applies to an outline development plan, as well as all of the following information:
- (i) A map showing street systems, lot lines, lot designs, and existing topographic characteristics (contours at five foot intervals).
  - (ii) Areas proposed to be conveyed, dedicated, or reserved for parks, playgrounds, football fields, soccer fields, baseball fields, picnic shelters and tables, tennis courts, developed walking trails, swimming pools, recreation buildings, and similar public and semi-public uses.
  - (iii) Easements reserved for all servicing utilities and underground structures.
  - (iv) A site plan for each building site and common open area, showing the approximate location and dimensions of all buildings, structures, and improvements, the square footage of each dwelling unit and proposed building, and an indication of the open space around buildings and structures.
  - (v) Elevation and perspective drawings of all proposed structures and improvements. The drawings need not be the results of final architectural decisions and need not be in detail.
  - (vi) A development schedule indicating; (1) the approximate date when construction of the project can be expected to begin; (2)

the stages in which the project will be built and the approximate date when construction of each stage can be expected to begin; (3) the anticipated rate of development; (4) the approximate dates when the construction of each of the stages in the development will be completed; and (5) the area and location of common open space that will be provided at each stage, as well as a tabular listing of the approvable open space within each stage in terms of acreage figures, as specified in Subsection 14.5 herein.

- (vii) An off-street parking and loading plan.
- (viii) An estimation of the population and density and extent of activities to be allocated to parts of the project.
- (ix) The general means of the disposition of storm water, if the entire project is to be developed at the time of final development plan approval in a single stage. If the planned development project is to be developed in separate stages, detailed information pertaining to the disposition of stormwater shall be submitted to the extent that each prospective stage of development may be adequately related to the entirety of the project.
- (x) A tabulation of the land area to be devoted to various uses and activities and overall densities.

- (xi) The location and size of all servicing water and sewer lines, as well as the location of all proposed fire hydrants.
- (xii) An adequate geotechnical analysis and study whereby the geological and topographical characteristics of the entire project is supplied, and each development stage properly related thereto, if required by the Board.
- (xiii) Agreements, provisions, or covenants which govern the use, maintenance, and continued protection of the planned development, and any of its common open areas, which at a minimum shall contain the following:

- An agreement covering the status, including the ownership, maintenance, etc., of the common wall separating the units.

- Adequate language to assure proper maintenance etc., of any portion of the structure where maintenance must be shared (ex. common roof). If the correction of a maintenance problem incurred in a dwelling unit on one parcel necessitates construction work or access on a dwelling unit situated on another parcel, either parcel owner shall have an easement on the property of the other for the purpose of this construction. Each party shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others

under any rule or law requiring liability for negligent or willful acts or omissions.

-Adequate language to assure that any property divided under this provision shall be continuously subject to the unified plan under which originally approved. Such language shall specifically include clear and precise statements whereby the purchaser is informed that the property may not be used in any manner which would have the effect of negating the unified plan under which original approval was granted, and language indicating that the purchaser of any such parcel understands that in no instance will any such parcel be viewed as a separate independent parcel for zoning purposes.

-Adequate language covering any and all easements as are necessary to assure the proper maintenance of all utility services.

-If a fire wall is destroyed or damaged by fire or other casualty, any owner may restore it and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule or law requiring liability for negligent or willful acts or omissions. Either parcel owner shall have an easement on the property of the other

for the purpose of reconstruction and protection of the remaining unity from the elements.

(xiv) The following plans and diagrams, insofar as the Board of Zoning Appeals finds that the planned development creates special problems of traffic, parking, landscaping or economic feasibility:

-A traffic study prepared by a licensed traffic engineering firm, supplying the requisite traffic counts, as well as circulation diagram indicating the proposed movement of vehicles, goods, and pedestrians within the planned development, as well as to and from existing and proposed thoroughfares. Any special engineering features including access and lane improvements, as well as traffic regulation devices needed to facilitate or insure the safety of this circulation pattern must be noted on the preliminary development plan.

-A landscaping and tree planting plan, prepared by a licensed landscape architect, including a landscape table listing the type and number of trees and bushes to be planted.

-An economic feasibility report or market analysis.

(c) The Board of Zoning Appeals shall review the preliminary development plan and recommend its approval if it complies with the intent of this planned development section and contains all the information as specified in Section 14.11(2)(b) cited previously herein.

(3) Final Development Plan:

- (a) Within three (3) months following the approval of the preliminary development plan, the developer shall file with the Board of Zoning Appeals a final development plan in stages or as a whole containing in final form all the information previously required in the granting of preliminary development plan approval. The final development plan in addition shall contain: the location of water, sewerage, and drainage facilities, detailed building plans and elevations, landscaping plans and tabulation thereof, character and location of signage, plans for street improvements, grading and earth moving plans showing existing and proposed topography, as well as any other information required to indicate fully the ultimate operation and appearance of the development. In its discretion, and for good cause, the Board may extend for three (3) months the period for the filing of the final development plan.
- (b) The Board shall review the final development plan, and only if it is in substantial compliance with the preliminary development plan, shall it recommend approval.
- (c) The Building Inspector shall issue building permits for buildings and structures in the area covered by the approved final development plan if they are in conformity with the approved final development plan and with all other applicable regulations. He shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final development plan, if the complete building or structure conforms to the requirements of

the approved final development plan and all other applicable regulations.

(4) Change to Final Development Plan:

- (a) No changes may be made in the approved final development plan during the construction of the planned development except as specified.
  - (i) Minor changes in the location, siting, and height of buildings and structures may be authorized by the Board of Zoning Appeals if required by engineering or other circumstances not foreseen at the time the final plan was approved. In this respect, no change authorized by this section may change the size of any building or structure by more than ten (10) percent.
  - (ii) All other changes in use, rearrangement of lots, blocks, or building tracts, provisions for open spaces, or any other desired changes in the approved final plan must be submitted to the Board which will make its recommendation for approval or disapproval. No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the City.
- (b) Any changes which are approved for the final plan must be recorded as amendments to the recorded copy of the final plan.
- (c) If no construction has begun or no use has been established in the development within two (2) years

after approval of the final development plan, the final development plan will lapse and be of no further effect.

(5) Control of Planned Development Following Completion:

- (a) Upon completion of all the work within the development, the Board of Zoning Appeals shall issue a certificate of completion. The Secretary of the Board shall note the issuance of the certificate on the approved final development plan. This certificate of completion shall not be issued until the performance bond or letter of credit is released as required in the plating process, after all improvements have been inspected by the city engineer and/or his designated representative and found to be acceptable.
- (b) After the certificate of completion has been issued, the use of land and the construction, modification, or alteration of any buildings or structures within the planned development will be governed by the approved final development plan rather than by any other provisions of this regulation.
- (c) After the certificate of completion has been issued, no changes may be made in the approved final development plan except upon application to the Board under the procedures provided below:
  - (1) Any minor extensions, alterations, or modifications of existing buildings, or structures, or open space may be authorized by the Board of Zoning Appeals if they are consistent with the purposes and intent of the final plan. No change authorized by this

section may change the size of any building or structure by more than ten (10) percent.

- (ii) A building or structure that is totally or substantially destroyed may be reconstructed but only in compliance with the final development plan unless an amendment to the final development plan is approved under Subsection (5)(c)(i) above.
  - (iii) Changes in the use of common open space may be authorized by an amendment to the final development plan, under Subsection (5)(c)(i) above.
  - (iv) All other changes in the final development plan must be made by the Board of Zoning Appeals under the procedures authorized by this regulation. No changes may be made in the final development plan unless they are required for the continued successful functioning of the planned development, or unless they are required by changes in the development policy of the City of Ashland City.
- (d) No changes in the final development plan which are approved under this section are to be considered as a waiver of the covenants limiting the use of land, buildings, structures, and improvements within the area of the planned development, and all rights to enforce these covenants against any changes permitted by this section are expressly reserved.

(6) Subdivision and Resale of the Planned Development:

- (a) A planned development may be subdivided or resubdivided for purposes of sale or lease after the certificate of completion has been issued.
- (b) If the subdivision or resubdivision of a planned development will create a new lot line the applicant shall make a request to the Planning Commission for the approval of the subdivision or resubdivision. The Planning Commission shall approve the subdivision or resubdivision if each section of the subdivided or resubdivided planned development meets the provisions of this regulation governing density, common open space, and dimensional requirements.
- (c) All sections of a subdivided or resubdivided planned development are to be controlled by the final development plan.

(7) Summary Outline of the Basic Plans Approval Process of a Planned Development Project

- (a) The Board of Zoning Appeals must approve the outline development plan and/or preliminary development plan as a special exception.
- (b) The Planning Commission must approve the preliminary subdivision plat.
- (c) The Board of Zoning Appeals must approve the final development plan as a special exception.
- (d) The city engineer must approve construction plans as pertain to the project.

(e) The Planning Commission must approve the final subdivision plat.

AND BE IT FURTHER ORDAINED, that these provisions shall take effect and shall supersede any prior provisions so entitled from and after its passage on second and final reading, the public welfare requiring it.

DULY PASSED ON FIRST READING this 9<sup>th</sup> day of July, 1996.  
DULY PASSED ON SECOND READING this 13<sup>th</sup> day of August, 1996.

CITY OF ASHLAND CITY, TENNESSEE

BY:

Mary Gray Jenkins

ATTEST:

BY:

Demetra O'Neal