

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 190407

Approving a preliminary development plan in District MPD on approximately 1.5 acres generally located on a portion of the block bounded by Broadway, W. 46th Street, Wornall Road, and W. 46th Terrace, to allow an approximately 265,000 square foot development, including two hotel towers. (CD-CPC-2019-00038)

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section A. That a preliminary development plan in District MPD (Master Plan Development) on approximately 1.5 acres generally located on a portion of the block bounded by Broadway, W. 46th Street, Wornall Road, and W. 46th Terrace, and more specifically described as follows:

All of Lots 1 and 2, Commerce Bank Plaza, a subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

is hereby approved, subject to the following conditions:

1. Prior to issuance of a building permit the developer shall secure approval of a MPD final development plan from the City Plan Commission which shall include:
 - a. Provide full color building elevations for each tower with building materials labeled and a pictorial inventory of all material provided.
 - b. Incorporate screening of the visible portions of the parking garage in compliance with Section 88-425-07.
 - c. Additional articulation, material breaks, color changes or other architectural features to the large wall along W. 46th Street that is used to cover the patron drop off for the western hotel, specifically:
 - i. That the exterior design of those portions of the building below the arcade deck and adjacent to public streets include a level of detail, articulation, and ornamentation similar to that found on the Country Club Plaza and include two or more of the following design elements/building materials: brick, stucco, colorful ceramic tile, terra cotta ornamentation, decorative ironwork, day-tile roofs, bell towers or other features commonly found in the Country Club Plaza area.
 - ii. That a minimum of 50% of the building facade between 4 and 10 feet above adjacent grade in all pedestrian zones shall be comprised of windows that allow view of interior

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commercial space, product display, art or mural display, or interactive lighting. For the purposes of this condition, a pedestrian zone is any portion of the ground-level building façade adjacent to a street and occupied by a use other than the parking garage and the publicly accessible portions of the arcade or pedestrian deck.

- iii. That rooftop mechanical equipment be screened with a parapet or solid screen that is a height equal to or greater than the maximum height of the mechanical equipment proposed and that said parapet or screen wall shall be constructed of materials compatible with the overall building design.
 - d. Shall provide photometric lighting plans in accordance with Section 88-430.
 - e. Show perimeter landscaping of vehicular use areas in compliance with Section 88-425-05.
 - f. Show street trees in compliance with Section 88-425-03.
 - g. Show landscaping in compliance with general landscaping requirements of Section 88-425-04.
 - h. That if garage access to the alley is proposed, either that portion of the alley between Broadway and the garage access be widened to 20 feet to accommodate two-way traffic, or the alley be converted to a one-way operation.
 - i. Provide separate sidewalks will be constructed in the area of the hotel entrances so that pedestrians are separated from any vehicular circulation.
 - j. Roof top apparatus, including HVAC, will be kept to a minimum and aesthetically screened. Size of HVAC equipment will be considered in the selection of units, with smaller being more desirable. The HVAC equipment for each building will be situated on that portion in what appears to be the middle building.
 - k. Provide floor plans for Levels 07 and 08 or update sheets A106 and Cover Sheet to reflect “Levels 06 – 08”.
2. The structure height (excluding roof access and roof top equipment) of the easterly hotel tower will not exceed 105 feet measured at the northeast corner at 46th Terrace and Wornall Road, and 110 feet measured at the southeast corner at 46th Terrace and Wornall Road. Given the significant

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north to south grade changes along Wornall Road, the building heights will vary, however, at no point from 52 feet north of the southeast corner will the building height exceed 120 feet, with an intermediate transition benchmark approximately 140 feet north of the southwest corner being 114 feet to the maximum 105 feet at the northeastern corner. The structure height excluding roof access and roof top equipment) of the westerly hotel tower will not exceed 100 feet at the northwest corner of 46th Street and Broadway.

3. The developer shall not seek to increase height between the preliminary and the final plan as a part of the MPD process, and therefore any increase that would have been allowed by 88-520-04-B.4 will not apply. Specifically, if rock is encountered in the construction of the underground garage, the developer will not seek to increase heights of the structure.
4. Any amenities for the hotel rooftops, that have any vertical elements (e.g. pergola, awning, etc.) shall be located in close proximity to the HVAC screening walls. These vertical elements of the amenities shall not extend above the HVAC screening walls. Elevator access to the rooftop area should also abut the HVAC screening walls to the extent practical in a manner to not increase the height above what is necessary to provide required rooftop egress.
5. The developer shall combine the two site parcels as needed prior to the issuance of any building permits.
6. The tenant space classified as "Retail 02" shall provide a pedestrian entrance onto Wornall Road if used as a separate space from "Retail 01" or is not otherwise associated with any service operations to either hotel use.
7. Prior to certificate of occupancy, the developer shall submit an affidavit, completed by a landscape architect licensed in the State of Missouri, verifying that all landscaping required of the approved plan has been installed in accordance with the plan and is healthy.
8. Prior to issuance of a final certificate of occupancy, a sealed letter by a licensed engineer shall be submitted, stating that photometrics on the site comply with the approved photometric plan.
9. The proposed building on the east portion of the site shall incorporate relevant guidelines to "be visually compatible with the existing built environment of the Country Club Plaza". The MPD Final Development Plan shall include color architectural renderings that show the incorporation of building materials and architectural elements consistent with the guidelines for new development in Planning Area A of the Midtown Plaza

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Area Plan. Elements should be incorporated into all floors, but emphasis should be placed on the first 3 floors near street level and should be focused to the south and east portion of the site (closest to the Country Club Plaza).

10. The MPD final development plan shall provide a detailed civil site plan showing any proposed site work in the public right-of-way.
11. The developer shall submit plans to the Land Development Division and obtain permits to construct sidewalks along the platted frontage if necessary, and construct associated ADA ramps.
12. The developer shall integrate into the existing streetlight system any relocated existing streetlights within the street right-of-way impacted by the new drive or approach entrances as required by the Land Development Division, and the relocated lights must comply with all adopted lighting standards.
13. The developer shall grant a City approved pedestrian right-of-way easement, for any portions of the public sidewalks approved to be outside of the street right-of-way, to the City as required by the Land Development Division, prior to recording the plat.
14. The developer shall submit an analysis to verify adequate capacity of the existing sewer system as required by the Land Development Division prior to issuance of a building permit to connect the private system to the public sewer main and depending on adequacy of the receiving system, make other improvements as may be required.
15. The developer shall submit a storm drainage analysis from a Missouri-licensed civil engineer to the Land Development Division, in accordance with adopted standards, including a BMP level of service analysis prior to approval and issuance of any building permits, and the developer shall secure permits to construct any improvements as required by the Land Development Division prior to issuance of any certificate of occupancy.
16. The developer shall pay impact fees as required by Chapter 39 of the City's Code of Ordinances, as required by the Land Development Division.
17. The developer shall grant a BMP easement to the City as required by the Land Development Division, prior to recording the plat or issuance of any building permits.
18. The developer shall obtain the executed and recorded City approved grading, temporary construction, drainage/sewer, or any other necessary easements from the abutting property owner(s) that may be required prior to submitting any public improvements crossing properties not controlled by the developer and include said document(s) within the public improvement applications submitted for permitting.

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19. The developer shall cause the area to be platted and processed in accordance with Chapter 88, Code of Ordinances of the City of Kansas City, Missouri.
20. The owner/developer shall submit plans for grading, siltation, and erosion control to the Land Development Division for review and acceptance, and secure a site disturbance permit for any proposed disturbance area equal to one acre or more prior to beginning any construction activities.
21. The developer shall submit a letter to the Land Development Division from a licensed civil engineer, licensed architect, or licensed landscape architect, who is registered in the State of Missouri, that identifies sidewalks, curbs, and gutters in disrepair as defined by Public Works Department's "OUT OF REPAIR CRITERIA FOR SIDEWALK, DRIVEWAY AND CURB revised 11/5/2013" and based on compliance with Chapters 56 and 64, Code of Ordinances, for the sidewalks, curbs, and gutters where said letter shall identify the quantity and location of sidewalks, curbs, and gutters that need to be constructed, repaired, or reconstructed to remedy deficiencies and/or to remove existing approaches no longer needed by this project. The developer shall secure permits to repair or reconstruct the identified sidewalks, curbs, and gutters as necessary along all development street frontages as required by the Land Development Division and prior to issuance of any certificate of occupancy permits including temporary certificate of occupancy permits.
22. The MPD final development plan shall show and label domestic water and fire service lines.
23. A professional engineer must submit signed and sealed fire flow test calculations and depending on the height and the fire flow capacity, determine whether two fire service lines from water mains located in different streets may be required.
24. Domestic water and fire service lines must be brought in compliance with current Kansas City, Missouri Rules and Regulations for water service lines.
25. The developer shall submit an analysis by a registered professional engineer in Missouri to verify adequate capacity of the existing water mains and verify fire flow capacity prior to the issuance of new water service permits. Depending on adequacy of the existing water mains systems, making other improvements may be required.
26. Prior to approval of MPD Final Development Plan, the developer shall petition the City to prohibit the eastbound left-turn movement from 47th Street into Wornall Road during weekday PM peak traffic periods (from 4:30 pm to 6:00 pm on weekdays), as required by the Public Works Department.

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27. Prior to certificate of occupancy, at the intersection of 47th Street and Broadway, the developer shall construct exclusive eastbound and westbound left-turn lanes on 47th Street with 100 feet of storage plus tapers, including associated elimination of adjacent on-street parking, loading, and unloading, as required by the Public Works Department.
28. Prior to approval of MPD Final Development Plan, the developer petitions the Public Works Department to prohibit the eastbound left-turn movement from 46th Terrace into JC Nichols Parkway during weekday afternoon peak traffic periods (from 4:30 pm to 6:00 pm on weekdays), as required by the Public Works Department.
29. Prior to approval of MPD Final Development Plan, the developer shall prepare and submit to the Public Works Department for review proposed modifications to the traffic signal timing and coordination plan along the 47th Street corridor from Jefferson Avenue to Main Street so as to re-optimize the operation of the traffic signal system taking into account the changes required herein, as required by the Public Works Department.
30. Prior to approval of MPD Final Development Plan, the developer shall prepare and submit to the Public Works Department for review and approval two options for improvements to the five-leg intersection of 46th Terrace, Wyandotte Street, and Wornall Road, as required by the Public Works Department. The first option shall be a mini-roundabout and the second option shall be a tee intersection with Wornall Road teeing into Wyandotte Street south of 46th Street. The developer and Public Works Department shall meet to discuss the proposed improvements. The Public Works Department shall select which, if any, of the options the developer shall construct, and the developer shall construct the selected option.
31. Prior to certificate of occupancy, the developer shall re-stripe Broadway from 46th Terrace to 45th Street so as to provide for a second northbound lane and petition the Public Works Department to restrict on-street parking, loading, and unloading on the east side of Broadway from 46th Terrace to 45th Street during weekday afternoon peak traffic periods (from 4:30 pm to 6:00 pm on weekdays), including transitioning the striping north of 45th Street to match the existing striping configuration, as required by the Public Works Department.
32. Prior to certificate of occupancy, at the intersection of 47th Street and Broadway, the developer shall re-stripe the north leg of Broadway so as to add an exclusive southbound left-turn lane with 100 feet storage plus taper, including associated prohibition of adjacent on-street parking, loading, and unloading on Broadway from 47th Street to 46th Terrace, as required by the Public Works Department.

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33. Prior to certificate of occupancy, at the intersection of 47th Street and Broadway, the developer shall modify the traffic signals so as to provide for protected-permissive traffic signal phasing for all left-turn movements, as required by the Public Works Department.
34. Prior to certificate of occupancy, the developer shall modify the intersection of 47th Street and Central Street so as to eliminate the existing pedestrian crossing across 47th Street on the east side of Central Street and provide a wider raised median for pedestrian refuge for the pedestrian crossing across 47th Street on the west side of Central Street, as required by the Public Works Department.
35. Prior to certificate of occupancy, the developer shall re-stripe 47th Street between Wyandotte Street and JC Nichols Parkway so as to allow for a third eastbound through lane on 47th Street and petition the Public Works Department to restrict parking, loading, and unloading on the south side of 47th Street during weekday afternoon peak traffic periods (from 4:30 pm to 6:00 pm on weekdays), as required by the Public Works Department.
36. The developer shall submit a streetscape plan with street tree planting plan per Section 88-425-03 for approval and permitting by the Parks and Recreation Department's Forestry Division prior to beginning work in the public right-of-way of W. 46th Street, W. 46th Terrace, and Wornall Road.

A copy of said development plan is on file in the office of the City Clerk with this ordinance and is made a part hereof.

Section B. That the City recognizes that the developer and certain neighboring property owners have agreed to the following additional conditions (Only the conditions contained in Section A above, and the requirements contained in the City's Code of Ordinances, will be enforced by the City):

1. The developer agrees to continue evaluating ways to decrease height where possible in the MPD Final Development Plan.
2. Roof top apparatus, including HVAC, will be kept to a minimum and aesthetically screened. The size of HVAC equipment will be considered in the selection of the units, understanding that larger units will reduce the number of total units necessary to service the buildings and that using smaller units will cause the number of units to increase. Developer will review the visual effects of each scenario with the Sounding Board prior to the submittal of the final plan. The developer shall evaluate the feasibility of incorporating an environmentally friendly green roof.
3. Subject to City approval, the developer will route as much of its traffic as possible from the westerly hotel tower away from Broadway so as to exit onto 46th Terrace, so as to reduce traffic on 46th Street and shall seek City

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approval to prohibit parking along 46th Street, from Broadway to Wornall due to the narrow nature of such street and the high volume of already existing traffic.

4. The architectural emphasis will be masonry in a contextual exterior design compatible with the Plaza setting, old and new, with an understanding that it will be contemporary design to echo, by not necessarily replicate, the Plaza. The architectural design will be compatible with the Midtown Plaza Area Plan guidelines and recommendations.
5. The developer will finalize the traffic improvement design for the work specifically required in this Ordinance and seek approval by the City for the work prior to the issuance of the building permit, and the work will be implemented at the developer's expense as a part of the redevelopment that will increase vehicular and pedestrian safety and walkability, with a particular emphasis on the five leg intersection of the juncture of Wornall Road, Wyandotte and 46th Terrace. The developer shall take into account and dedicate any additional widening of street right-of-way or wider width of sidewalk to accommodate the approved traffic improvements in the final development plan as submitted.
6. A comprehensive traffic study for the area from 47th Street to 43rd Street, J.C. Nichols Parkway to Roanoke taking into account the effects of the combined approved development, whether or not yet constructed, on existing and future traffic conditions, including the negative impact of pedestrians is desired by the Sounding Board on behalf of the area neighbors and would be supported by the developer. A cost has not been determined by City staff to fund, commence and complete such comprehensive traffic and use study for this limited area. The developer had funds allocated for specific traffic improvements required by the City (listed in this Ordinance's Section A) and would consider reallocation of those funds to help construct alternative traffic improvements in conjunction with the City or other local groups conducting work, not yet identified, as part of a "bigger" traffic and use plan to improve the walkability and safety in and around the neighborhood.
7. Any outdoor entertainment venue along Wornall Road will be operated in a manner conducive to residential neighborhood. Those operational limitations will impose work week night hours, and with different weekend hours and at all times noise levels respectful of the surrounding residential homes and hotel guests.
8. Developer will step back the upper floor guestroom portions of the building on the northeast and southeast so as to provide a more open feel to pedestrians along 46th Street and 46th Terrace.

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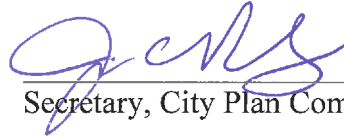
9. During the process of refining the development to the final development plan, and the selection of specific traffic improvements to be made as a part of this development, the developer will work with a select group of no more than three resident owner individuals, one each from Parkway Towers, 4646 Broadway, and the Plaza Westport Neighborhood Association, and in addition, a representative from Historic Kansas City Foundation, which four representatives will act as a sounding board and to provide input, with an emphasis on timely engagement and response. The architectural exterior design in a contextual design compatible with the Plaza setting will be a subject for and monitoring by this group of individuals on behalf of the neighborhood in collaboration with the developer and its architect.
10. Unless delayed by compliance with governmental or municipal regulations, if a final development plan is not approved within two years from the date of this ordinance, or the building permit is not applied for within one year of the approval of the final development plan, or the commencement of any work on the site has not started within one year from the issuance of a building permit, then the Midtown Plaza Area Plan shall be deemed the area plan of record of the area legally described in Section A, and specifically recommended heights not to exceed 90 feet, and the step down to follow the grade of the property shall be adhered to on any development.
11. The development proposed by the current developer is deemed a continuation of the project that began in 2015. On October 2, 2015, the former developer filed with the City certain application regarding the project. The City then passed certain resolutions and ordinances regarding the project, namely Committee Substitute for Resolution No. 150899 adopted February 11, 2016, Committee Substitute for Ordinance No. 160359 adopted May 12, 2016, and Committee Substitute for Ordinance No. 180993 adopted January 10, 2019. The Midtown Plaza Area Plan was adopted on January 7, 2016, such date being after the date that the former developer had already filed the first application with the City regarding the project. All amendments to the Midtown Plaza Area Plan for a variance from the recommended heights are being approved because of the continuation aspect of the project. No amendments for this project to the Midtown Plaza Area Plan will have any precedential effect on the other properties in the Midtown Plaza Areas Plan in this immediate vicinity. The developer will work with and testify in support of the entities represented on the Sounding Board to cause adherence to the Midtown Plaza Area Plan by any other applicant for rezoning or development in the immediate vicinity of the hotel project.
12. The developer will collaborate with the Plaza Westport Neighborhood Association to identify, plan, and at least partially fund a newly created green space that could potentially be identified in the future, so long as it is continuous to the developer's site.

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13. The developer will incorporate the revisions from the massing drawings dated May 1, 2019, provided to the Sounding Board into the final development plan submitted to the City, and in consultations with the Sounding Board.

Section C. That the Council finds and declares that before taking any action on the proposed amendment hereinabove, all public notices and hearings required by law have been given and had.

I hereby certify that as required by Chapter 88, Code of Ordinances, the foregoing ordinance was duly advertised and public hearings were held.



Secretary, City Plan Commission

Approved as to form and legality:



Sarah Baxter
Assistant City Attorney



Authenticated as Passed



Sly James, Mayor



Marilyn Sanders, City Clerk

MAY 23 2019

Date Passed