

**CITY OF PAPILLION
PLANNING COMMISSION
STAFF REPORT**

JANUARY 30, 2019 AGENDA

**MIXED USE DISTRICT
ORDINANCE AMENDMENT
TC-19-0002**

I. GENERAL INFORMATION

A. APPLICANT:

City of Papillion

B. REQUESTED ACTION:

Approval of ORD #1831 to amend Chapter 205 (Zoning Ordinance), Article XXII having to do with MU Mixed Use District.

II. ANALYSIS

A. STAFF COMMENTS:

1. The intent of the ordinance amendment is to clarify the procedures for the creation of a Mixed Use District, the adoption of a Mixed Use Development Agreement, and the amendment of an existing Mixed Use Development Agreement.
2. The proposed ordinance amendment refines the procedures for the creation of a Mixed Use District and the adoption of a corresponding Mixed Use Development Agreement based on the two most common methods currently utilized in Papillion. Those two methods are:
 - a) Adoption of a Mixed Use Development Agreement in conjunction with adoption of the third reading of a Change of Zone ordinance.
 - i) Applicant submits a Change of Zone application and a Mixed Use Development Agreement application. The Mixed Use Development Agreement application must identify the permitted uses, site development regulators, and design criteria.
 - ii) Planning Commission holds a public hearing in which the body specifically considers the Change of Zone and the Mixed Use Development Agreement components (i.e. permitted uses, site development regulators, and design criteria).
 - iii) Planning Commission makes a recommendation to City Council on the Change of Zone application and the Mixed Use Development Agreement components (i.e. permitted uses, site development regulators, and design criteria).
 - iv) City Council hears the introduction of the Change of Zone ordinance.
 - v) City Council holds a public hearing in which the body specifically considers the Change of Zone ordinance and the

- Mixed Use Development Agreement components (i.e. permitted uses, site development regulators, and design criteria).
- vi) City Council votes on the Change of Zone ordinance in conjunction with the City Council vote on the resolution to adopt the Mixed Use Development Agreement.
- b)** Adoption of a Mixed Use Development Agreement at a later date such that the Mixed Use Development Agreement will not be considered with the third reading of a Change of Zone ordinance.
- i) Applicant submits a Change of Zone application. It is noted that the applicant intends to submit an application for the Mixed Use Development Agreement in the future after City Council approves the Change of Zone.
 - ii) Planning Commission holds a public hearing in which the body specifically considers the Change of Zone.
 - iii) Planning Commission makes a recommendation to City Council on the Change of Zone application.
 - iv) City Council hears the introduction of the Change of Zone ordinance. The Change of Zone ordinance indicates that the rezoning to MU does not go into effect until a Mixed Use Development Agreement is approved by City Council. (This effectively means that a Final Plat cannot be approved for an MU zoned lot until the Mixed Use Development Agreement is approved by City Council.)
 - v) City Council holds a public hearing in which the body specifically considers the Change of Zone ordinance.
 - vi) City Council votes on the Change of Zone ordinance.
 - vii) Applicant submits a Mixed Use Development Agreement application that identifies the permitted uses, site development regulators, and design criteria.
 - viii) Planning Commission holds a public hearing in which the body specifically considers the Mixed Use Development Agreement application and its components (i.e. permitted uses, site development regulators, and design criteria).
 - ix) Planning Commission makes a recommendation to City Council on the Mixed Use Development Agreement application and its components (i.e. permitted uses, site development regulators, and design criteria).
 - x) City Council holds a public hearing in which the body specifically considers the Mixed Use Development Agreement and votes on the adoption of said agreement.
- 3.** It should be noted that Article XXII currently contemplates a third method for allowing development of individual projects within a Mixed Use District without an adopted Mixed Use Development Agreement. This method allows for the approval of a special use permit in lieu of the adoption of a Mixed Use Development Agreement. To date, this option has not been exercised for any existing Mixed Use District. Staff is proposing to eliminate this method because it conflicts with the purpose of creating a Mixed Use District. Pursuant to § 205-121, a

Mixed Use District is intended to create integrated development. Allowing single lots within a Mixed Use District to develop through the issuance of a Special Use Permit defeats this intention. An encompassing Mixed Use Development Agreement that sets forth a cohesive vision for the site is a better tool to achieve integrated development.

4. As part of the update, the application submittal requirements for a Mixed Use Development Agreement are proposed to be revised to request the regulators that would typically appear within the site development regulations table for the typical base zoning districts that underlie Mixed Use zoning.
5. Currently, Article XXII identifies a detailed procedure for how minor amendments to a Mixed Use Development Agreement are to be adopted; however, a less detailed procedure is identified for a major amendment, which requires consideration at Planning Commission and City Council. Staff drafted a detailed procedure for major amendments that is consistent with current practice for how such amendments are processed by the Planning Department.
6. Pursuant to Neb Rev. Stat. § 19-904, public hearings at Planning Commission and City Council are required for the adoption of zoning regulations. Given that a Mixed Use Development Agreement is essentially zoning by contract in that it establishes the zoning regulation for a particular Mixed Use District, public hearings are required at Planning Commission and City Council prior to the adoption of said agreement. By practice, the City has endeavored to meet this requirement through the public hearings held as part of the consideration of a Change of Zone ordinance. Article XXII needs to be amended to acknowledge that a Mixed Use Development Agreement requires a public hearing process. Accordingly, the proposed ordinance amendment requires that public hearings be held at both Planning Commission and City Council for the consideration of a Mixed Use Development Agreement.
7. Presently, a separate application to request adoption of a Mixed Use Development Agreement is required if said agreement is not adopted in conjunction with a Change of Zone. As part of the update, a separate application will be required for all requests to adopt a Mixed Use Development Agreement including those agreements to be considered in conjunction with the third reading of the ordinance to create the Mixed Use District. The application form will include a checklist that identifies the submittal requirements identified within Article XXII. This will assist applicants with ensuring that they are making a complete submittal.
8. Strengthening the use of Mixed Use Districts as a tool will support the execution of the vision of the Comprehensive Plan in that it will further the City's promotion of integrated, quality mixed use development within areas identified as mixed use within the future land use plan.

9. A redlined version of the proposed changes is attached.

III. RECOMMENDATION

Staff recommends approval of ORD #1831 (TC-19-0002) based on:

1. Consistency with Neb Rev. Stat. § 19-904;
2. Consistency with current Planning Department practices; and
3. Consistency with the vision and goals of the Comprehensive Plan.

IV. COPIES OF REPORT TO:

Public upon request

V. ATTACHMENTS:

Legislative Tracked Version of Changes

Report prepared by:

Mark Stursma, Planning Director

ARTICLE XXII. MU Mixed Use District

§ 205-121. Purpose.

The MU Mixed Use District is intended to accommodate projects that combine several compatible land uses into an integrated development. The MU District may also be used to predesignate parts of the city that are appropriate for a mixture of residential, civic, office, commercial, ~~office~~ transportation, or industrial uses. The district permits mixing residential areas with workplaces and services. Development in the MU District must accommodate diverse transportation systems, including pedestrian and bicycle movement, and integrate them with surrounding environments. ~~All projects developed in an MU District are subject to a special use permit process.~~

Commented [MR1]: Revised to match Section 205-122(B).

§ 205-122. Permitted ~~Uses~~uses.

- A. ~~Ordinance to define use types permitted. An Change of Zone~~ ordinance establishing an MU District shall define the use types permitted within its boundaries; ~~provided, however, that~~ reference to a Mixed Use Development Agreement is acceptable to meet this requirement so long as ~~the Change of Zonesaid Ordinance ordinance provides that the establishment of such MU District shall not be effective until such time that the City Council approves a and the Mixed Use Development Agreement are approved contingent upon each other.~~
- B. Use categories. Each MU District should contain use types within at least two use categories. Use categories include residential, civic, office, commercial, transportation, and industrial uses. No single use category should account for more than 80% of the building area or net developable land area of an MU District. Net developable land area includes the land area of a development excluding dedicated public streets, private streets, or other dedicated public land.

§ 205-123. Site development regulations.

- A. ~~Ordinance to define site development regulators. An ordinance establishing an MU District shall define the site development regulations applicable within its boundaries; provided, however, that reference to a Mixed Use Development Agreement is acceptable to meet this requirement so long as the ordinance to establish the MU District restricts establishment of the MU District until such time that the City Council approves a corresponding Mixed Use Development Agreement. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Council through the adoption of a Mixed Use Development Agreement. At the discretion of the Planning Director, individual projects within an MU District may be approved through the issuance of Special Use Permit prior to the adoption of a Mixed Use Development Agreement. The adoption of a Mixed Use Development Agreement shall be by resolution.~~

Commented [MR2]: Moved to newly numbered Section 205-127.

Commented [MR3]: Moved to newly numbered Section 205-125.

§ 205-124. Applications for adoption of MU District and related applications.

~~B.A.~~ Application requirements. Applications for the adoption of a Mixed Use Development Agreement ~~or a Special Use Permit in an MU District must shall~~ contain at a minimum the following information:

- (1) A detailed site map, including:
 - (a) A boundary survey.
 - (b) Site dimensions.
 - (c) Contour lines at no greater than five-foot intervals.
 - (d) Adjacent public rights-of-way, transportation routes, and pedestrian or bicycle systems.
 - (e) Description of adjacent land uses.
 - (f) Utility service to the site and easements through the site.
 - (g) Description of other site features, including drainage, soils, or other considerations that may affect development.
- (2) A development plan, including:
 - (a) A site layout, including the location of proposed buildings, parking facilities, open space, and other facilities.
 - (b) Location, capacity, and conceptual design of parking facilities.
 - (c) Description of the use of individual buildings.
 - ~~(d) Description of all use types to be included in the project or area, and maximum floor area devoted to each general use.~~
 - ~~(e) Maximum height of buildings.~~
 - ~~(f)~~ Schematic location and design of open space on the site, including a landscaping plan.
 - ~~(g)~~ Vehicular and pedestrian circulation plan, including relationship to external transportation systems.
 - ~~(h) Schematic building elevations and sections if required to describe the project.~~
 - ~~(i)~~ Grading plans.

Commented [MR4]: These are duplicates of subsection (3)

Commented [MR5]: Moved to new subsection (4).

(jg) Proposed sewer and utility improvements.

(kh) ~~Location, size and type of all proposed signage; and a sign budget.~~

(3) Specific proposed site development regulations for the ~~project~~ MU District, including:

~~(a) The specific use types permitted within the proposed district.~~ (a) Site area for housing unit (square feet), if housing is proposed.

(b) Minimum lot area.

(c) Minimum lot width.

~~(b) Maximum floor area ratios.~~

(ed) Front, interior side, street side, and rear yard setbacks.

(d) Maximum height.

(e) Maximum building and impervious coverage.

(f) Maximum amount of total parking located in street yard.

(g) Minimum depth of open space adjacent to street right-of-way line.

~~(f) Design standards applicable to the project.~~

(4) Specific proposed design guidelines for the MU District, including:

(a) Schematic building elevations and sections if required to describe the project.

(b) Building materials and color palettes.

(d) Design standards applicable to the project.

(e) Size and type of all proposed signage; and a sign budget.

(5) The specific use types permitted for the MU District.

(6) The base zoning district for the MU District.

(7) A traffic impact analysis, if required by the city.

Commented [MR6]: Components that would typically be addressed within the narrative of the agreement were moved to new subsection (4).

Commented [MR7]: Project suggests that it is limited to a single use within the MU District. The site regulators need to apply to the MU District in its entirety.

Commented [MR8]: Updated to match the applicable site development regulations. Large Project SUP is not listed because it is not applicable if a lot is zoned MU.

Commented [MR9]: Moved to new subsection (5). This subsection is proposed to be dedicated only to site development regulations.

Commented [MR10]: Proposed to be eliminated by a pending ordinance. If this ordinance is to be approved before that one, then FAR needs to appear after impervious coverage to match the order of regulators on the site development regulations table.

Commented [MR11]: Moved to new subsection (4).

~~CB.~~ File format for applications. Any application for: (i) a Mixed Use Development Agreement or (ii) a major amendment to a Mixed Use Development Agreement shall include an editable draft agreement (in Microsoft Word format, unless otherwise approved by the Planning Director). Attachments, such as maps and illustrations, may be provided as separate files in any digitally reproducible format approved by the Planning Director.

§ 205-~~124~~125. Adoption of MU District and related applications.

A. Methods for approval. The methods for approval of the adoption an MU District and the construction of individual projects within said MU District shall include City Council approval of an ordinance to establish an MU District in conjunction with one of the following actions:

(1) City Council approval of Mixed Use Development Agreement in conjunction with City Council approval of an ordinance to establish an MU District.

(2) City Council approval of a Mixed Use Development Agreement at a separate date that is later than City Council approval of an ordinance to establish an MU District.

~~B.~~ Review by Planning Commission and City Council required. The Planning Commission and City Council shall review and evaluate each ~~proposal or~~ application for the adoption of: (i) an ordinance establishing an MU Mixed Use District, (ii) a Mixed Use Development Agreement, or (iii) a major amendment to a Mixed Use Development Agreement. The city may impose reasonable conditions as deemed necessary to ensure that projects within an MU District are compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety, and welfare of the community.

~~BC.~~ Public hearing at Planning Commission. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application for the adoption of: (i) an ordinance establishing an MU Mixed Use District, (ii) a Mixed Use Development Agreement, or (iii) a major amendment to a Mixed Use Development Agreement.

~~CD.~~ Planning Commission. The Planning Commission may recommend amendments ~~to MU District for each applications~~ for the adoption of: (i) an ordinance establishing an MU Mixed Use District, (ii) a Mixed Use Development Agreement, or (iii) a major amendment to a Mixed Use Development Agreement.

~~DE.~~ Recommendation of Planning Commission. The recommendation of the Planning Commission, after the requisite public hearing, shall be transmitted to the City Council for final action.

~~EF.~~ Public hearing at City Council. The City Council, after proper notice, shall hold a public hearing and act upon: (i) any ordinance establishing an MU Mixed Use District, (ii) any resolution to adopt a Mixed Use Development Agreement, or (iii) any resolution for a major amendment to a Mixed Use Development Agreement. Proper notice shall mean the same notice established for any other zoning amendment.

~~FG.~~ Adoption method for Mixed Use Development Agreements. The adoption of a Mixed Use Development Agreement shall be by resolution.

~~H.~~ Approval by majority of City Council. An ordinance adopting an MU District shall require a favorable simple majority of the those elected or appointed to City Council shall be required for approval of: (i) any ordinance establishing an MU Mixed Use District, (ii) any resolution to adopt a Mixed Use Development Agreement, or (iii) any resolution for a major amendment to a Mixed Use Development Agreement.

~~GI.~~ Mixed Use Development Agreement required. Any approval by City Council of an ordinance establishing an MU District shall be contingent upon the approval by City Council of a corresponding Mixed Use Development Agreement. In lieu of an approved Mixed Use Development Agreement, the City Council may consider the approval of a special use permit for individual projects within an MU District.

~~H.~~ Building permits. The city shall not issue a building permit, certificate of occupancy or other permit for a building, structure or use within an MU District unless it is in compliance with the approved Mixed Use Development Agreement, including any approved amendments or an approved Special Use Permit.

Commented [MR12]: Moved to new Section 205-127.

§ 205-~~125~~126. Amendment procedure.

A. Minor amendment. The Planning Director is authorized at his/her discretion to approve minor amendments to an approved ~~development plan within a~~ Mixed Use Development Agreement, provided that:

- (1) A written request, amendment application, and fee are filed with the Planning Director, along with information specifying the exact nature of the proposed minor amendment.
- (2) The Planning Director determines that the minor amendment is consistent with the provisions of this article.
- (3) The Planning Director determines that the minor amendment does not alter the approved use types permitted within the MU District or the site development regulations of the ~~development plan~~ MU District.
- (4) The Planning Director determines that the minor and amendment does not materially alter ~~other any~~ aspects of the development plan, including traffic circulation, mixture of use types, and physical design.

B. Major amendment. ~~(4)~~—Any amendment to an approved Mixed Use Development Agreement not conforming to these provisions of § 205-126(A) shall constitute a major amendment that be submitted to the Planning Commission and City Council for action, is authorized to approve, provided that:

- (1) A written request, application amendment, and fee are filed with the Planning Director along with information specifying the exact nature of the major amendment.
- (2) The Planning Commission and City Council shall review and evaluate each application for a major amendment to an approved Mixed Use Development Agreement.
- (3) The Planning Commission, after proper notice, shall hold a public hearing and act upon each application for the adoption of a major amendment to an approved Mixed Use Development Agreement.
- (4) The Planning Commission may recommend amendments for each application for the adoption of a major amendment to an approved Mixed Use Development Agreement.
- (5) The recommendation of the Planning Commission, after the requisite public hearing, shall be transmitted to the City Council for final action.
- (6) The City Council, after proper notice, shall hold a public hearing and act upon any resolution to adopt a major amendment to an approved Mixed Use Development Agreement.
- (7) The adoption of a major amendment to an approved Mixed Use Development Agreement shall be by resolution.
- (8) A favorable simple majority of those elected or appointed to City Council shall be required for approval of any resolution to adopt a major amendment to an approved Mixed Use Development Agreement.

~~§ 205-126. (Reserved)~~

~~§ 205-127. (Reserved)~~ Building permits within MU District.

A. Approval required before building permit. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Council through the adoption of a Mixed Use Development Agreement.

A.B. Compliance required. The city shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within an MU District unless it is in compliance with the approved Mixed Use Development Agreement, including any approved minor or major amendments.