

## **SUBSTITUTE BILL NO. 18-214**

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AN ORDINANCE APPROVING A REZONING FROM DISTRICT R-1 TO DISTRICT PMIX AND PRELIMINARY DEVELOPMENT PLAN LOCATED AT THE NORTHWEST CORNER OF NW PRYOR ROAD AND NW LOWENSTEIN DRIVE, PROPOSED THE STREETS OF WEST PRYOR IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 33, THE UNIFIED DEVELOPMENT ORDINANCE OF LEE'S SUMMIT CODE OF ORDINANCES, FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, Application #PL2018-098 submitted by Drake Development, LLC requesting approval of a rezoning from District R-1 (Single-Family Residential) to PMIX (Planned Mixed Use) and preliminary development plan on land located at the northwest corner of NW Pryor Road and NW Lowenstein Drive was referred to the Planning Commission to hold a public hearing; and,

WHEREAS, the Unified Development Ordinance provides for the approval of a rezoning and preliminary development plan by the City following public hearings by the Planning Commission and City Council, and,

WHEREAS, after due public notice in the manner prescribed by law, the Planning Commission held a public hearing for the consideration of the rezoning and preliminary development plan on November 8, 2018, and rendered a report to the City Council recommending that the rezoning and preliminary development plan be approved; and,

WHEREAS, after due public notice in the manner prescribed by law, the City Council held a public hearing on December 4, 2018, and rendered a decision to approve the rezoning and preliminary development plan for said property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, as follows:

SECTION 1. That the following property is hereby rezoned to District PMIX.

THAT PORTION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 48, RANGE 32, CITY OF LEE'S SUMMIT, COUNTY OF JACKSON, STATE OF MISSOURI, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 35; THENCE ON THE WEST LINE OF SAID SOUTHEAST QUARTER, ON AN ASSUMED BEARING OF S 02°27'18" W 332.72 FEET; THENCE N 31°23'08" E 362.27 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 470; THENCE ON SAID SOUTH RIGHT-OF-WAY LINE, S 85°14'51" E 359.55 FEET TO THE NORTHWEST CORNER OF GERBER HEIGHTS RECORDED IN BOOK I51, PAGE 74; THENCE ON THE WESTERLY LINE OF SAID GERBER HEIGHTS, S 24°49'45" E 579.75 FEET TO THE SOUTHWEST CORNER OF SAID GERBER HEIGHTS; THENCE ON THE SOUTH LINE OF SAID GERBER HEIGHTS, S 85°07'20" E 135.79 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ON SAID SOUTH LINE, S 85°07'20" E 373.16 FEET TO THE SOUTHEAST CORNER OF SAID GERBER HEIGHTS; THENCE ON SAID EAST LINE, N 02°27'18" E 417.60 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 470; THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE,

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S 77°50'38" E 28.29 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF SECTION 35; THENCE ON SAID EAST LINE, S 02°48'56" W 1719.66 FEET; THENCE N 46°56'08" W 669.02 FEET; THENCE N 44°16'27" E 144.73 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE NORTHEASTERLY AND NORTHERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 225.00 FEET, AN ARC LENGTH OF 188.21 FEET, AND WHOSE CHORD BEARS N 20°18'39" E 182.73 FEET; THENCE N 03°39'09" W 167.38 FEET TO THE BEGINNING OF A CURVE TO THE LEFT; THENCE NORTHERLY AND NORTHWESTERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 425.00 FEET, AN ARC LENGTH OF 273.27 FEET, AND WHOSE CHORD BEARS N 22° 04'21" W 268.59 FEET; THENCE N 50°51'20" E 200.00 FEET; THENCE N 39°08'40" W 82.53 FEET TO THE POINT OF BEGINNING.

CONTAINS 475,984.56 SQUARE FEET, 10.93 ACRES MORE OR LESS.

SECTION 2. That a preliminary development plan which is referenced in Section 3 is hereby approved in District PMIX on the following described property:

ALL OF LOT 1, PRYOR ACRES RECORDED IN BOOK I47 PAGE 36, ALL OF CORLEW'S ESTATES RECORDED IN BOOK 35, PAGE 54, ALL OF ERICKSON ACRES, 1ST PLAT, RECORDED AS DOCUMENT 2001I0086408, ALL OF LOT 17, TRACT C AND TRACT D, AND A PORTION OF LOT 18 CHIPMAN-HWY 50 RECORDED IN BOOK I68, PAGE 62, A PORTION OF LOWENSTEIN DRIVE RIGHT-OF-WAY, AND UN-PLATTED LAND IN THE SOUTH HALF OF SECTION 35, TOWNSHIP 48, RANGE 32, CITY OF LEE'S SUMMIT, COUNTY OF JACKSON, STATE OF MISSOURI, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 35; THENCE ON THE WEST LINE OF SAID SOUTHEAST QUARTER, ON AN ASSUMED BEARING OF S 02°27'18" W 332.72 FEET TO THE POINT OF BEGINNING; THENCE N 31°23'08" E 362.27 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE 470; THENCE ON SAID SOUTH RIGHT-OF-WAY LINE, S 85°14'51" E 359.55 FEET TO THE NORTHWEST CORNER OF GERBER HEIGHTS RECORDED IN BOOK I51, PAGE 74; THENCE ON THE WESTERLY LINE OF SAID GERBER HEIGHTS, S 24°49'45" E 579.75 FEET TO THE SOUTHWEST CORNER OF SAID GERBER HEIGHTS; THENCE ON THE SOUTH LINE OF SAID GERBER HEIGHTS, S 85°07'20" E 508.94 FEET TO THE SOUTHEAST CORNER OF SAID GERBER HEIGHTS; THENCE ON SAID EAST LINE, N 02°27'18" E 417.60 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 470; THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE, S 77°50'38" E 151.00 FEET; THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE, S 46°58'04" E 317.20 FEET; THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE, S 74°45'44" E 322.94 FEET; THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE, S 87°42'21" E 182.05 FEET; THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE, S 64°40'25" E 144.66 FEET TO THE INTERSECTION OF SAID SOUTHERLY RIGHT-OF-WAY LINE WITH THE WESTERLY RIGHT-OF-WAY LINE OF PRYOR ROAD BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT; THENCE ON SAID WESTERLY RIGHT-OF-WAY LINE, SOUTHWESTERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 1140.00 FEET, AN ARC LENGTH OF 444.52 FEET, AND WHOSE CHORD BEARS

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S 14°41'33" W 441.71 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT; THENCE CONTINUING ON SAID WESTERLY RIGHT-OF-WAY LINE, SOUTHERLY AND SOUTHEASTERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 1260.00 FEET, AN ARC LENGTH OF 1040.64 FEET, AND WHOSE CHORD BEARS S 02°12'10" W 1011.31 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT; THENCE ON SAID WESTERLY RIGHT-OF-WAY LINE, SOUTHERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 1140.00 FEET, AN ARC LENGTH OF 485.50 FEET, AND WHOSE CHORD BEARS S 09°15'26" E 481.84 FEET; THENCE CONTINUING ON SAID WESTERLY RIGHT-OF-WAY LINE, S 02°56'36" W 154.04 FEET TO THE INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF LOWENSTEIN DRIVE; THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE, N 63°21'08" W 614.37 FEET; THENCE CONTINUING ON SAID SOUTHERLY RIGHT-OF-WAY LINE, N 46°56'08" W 1305.54 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF BLACK TWIG LANE; THENCE N 44°16'27" E 25.01 FEET TO THE CENTERLINE OF LOWENSTEIN DRIVE; THENCE ON SAID CENTERLINE, N 46°56'08" W 30.01 FEET; THENCE CONTINUING ON SAID CENTERLINE, N 45°11'41" W 1115.12 FEET; THENCE CONTINUING ON SAID CENTERLINE, N 73°35'29" W 135.58 FEET; THENCE N 31°23'08" E 366.35 FEET TO THE POINT OF BEGINNING.

CONTAINS 3,168,062.70 SQUARE FEET, 72.73 ACRES MORE OR LESS.

### BASIS OF BEARINGS:

ASSUMED N 86°35'09" W ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 35. TOWNSHIP 48, RANGE 32, CITY OF LEE'S SUMMIT, COUNTY OF JACKSON, STATE OF MISSOURI.

SECTION 3. Development on the property referenced in Section 2 shall be in accordance with the preliminary development plan that is date stamped October 19, 2018 and which is attached to this ordinance and incorporated herein by reference.

SECTION 4. That the following conditions of approval apply:

1. A modification shall be granted to the 20' parking lot setback from right-of-way, to allow a 4' parking lot setback along the northwest property lines of Lots 1 & 2, adjacent to NW Lowenstein Dr.
2. The development shall be subject to the recommended road improvements outlined in the Transportation Impact Analysis prepared by Michael Park, dated October 30, 2018.
3. The developer shall execute a mutually satisfactory development agreement with the City, which addresses, at a minimum, the road improvements recommended in the Transportation Impact Analysis form dated October 30, 2018. No building permits shall be issued for any structure in the development until written proof is provided to the City that the development agreement has been recorded in the Jackson County Recorder' Office.
4. The proposed monument and shopping center/character identification signs shall be approved as shown as part of the preliminary development plan, dated October 19, 2018.

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5. The development shall be in accordance with the preliminary development plan, dated October 19, 2018. Development standards (e.g. setbacks, lot area, etc.) shall be as shown on the plan. The proposed lots, corresponding uses, and design standards shall be developed as listed in the following table:

<b>Lot #</b>	<b>Proposed District/Use</b>	<b>Proposed Square Footage</b>	<b>Proposed Density or FAR</b>	<b>Proposed Setbacks</b>	<b>Height</b>
1	Restaurant (Sit-Down)	6,500	0.15	Front:15 Side:10/0 Rear: 20	40' (4 stories)
2	Restaurant (Sit-Down)	6,500	0.09	"	"
3	Restaurant Drive-Thru or Retail	5,500	0.07	"	"
4	Medical Office	6,500	0.20	"	"
4A	Restaurant Drive-Thru Only	707	0.02	"	"
5	Grocery	63,119	0.20	"	"
6	Senior Living Apartments and Pickle Ball Courts	274,716	24.2	Front (adjacent to NW Lowenstein Dr. – 20", Front (adjacent to NW Black Twig Ln., 15' Rear: 20	60' (4 stories)
7	Apartments/Retail/Restaurant	264,600 apartment 10,000 retail 5,000 restaurant	36.2 unit/acre	Front:20' Side:10' Rear: 20'	"
8	Restaurant (Two-Tenants) or Retail	7,500	0.06 units/acre	Front:15 Side:10/0 Rear: 20	Height
9	Restaurant (Two-Tenants) or Retail	9,500	0.07	"	40' (3 stories)
10	Restaurant	7,500	0.07	"	"
10A	Restaurant (Sit-Down)	7,500	0.07	"	"
11	Restaurant (Sit-Down)	7,500	0.09	"	"

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12	Hotel (105 rooms)	53,864	0.06	"	60' (4 stories)
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6. The architectural character of the commercial buildings, including, but not limited to: retail, medical office, sit-down restaurant, and drive-thru restaurant, shall incorporate a variety of distinct building designs such as:
- A. A variation in length;
  - B. A variation in the footprint of the building;
  - C. A distinct variation in color and use of materials; or
  - D. A distinct variation in building height and roof form.
7. Additional architectural elements shall be added to the proposed commercial buildings, to include, but not limited to:
- A. variations in roof form and parapet heights;
  - B. pronounced recesses and projections;
  - C. distinct changers in texture and color of wall surfaces; and
  - D. vertical accents or focal points

SECTION 5. Nonseverability. All provisions of this ordinance are so essentially and inseparably connected with, and so dependent upon, each other that no such provision would be enacted without all others. If a court of competent jurisdiction enters a final judgment on the merits that is not subject to appeal and that declares any provision or part of this ordinance void, unconstitutional, or unenforceable, then this ordinance, in its collective entirety, is invalid and shall have no legal effect as of the date of such judgment.

SECTION 6. That failure to comply with all of the provisions contained in this ordinance shall constitute violations of both this ordinance and Chapter 33, the City's Unified Development Ordinance, of the Code of Ordinances for the City of Lee's Summit.

SECTION 7. That this ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

PASSED by the City Council of the City of Lee's Summit, Missouri, this \_\_\_\_\_day of \_\_\_\_\_, 2019.

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Mayor *William A. Baird*

ATTEST:

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City Clerk *Trisha Fowler Arcuri*

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APPROVED by the Mayor of said city this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Mayor *William A. Baird*

ATTEST:

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City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

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City Attorney *Brian W. Head*