

## **RESOLUTION NO. 16-05**

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A RESOLUTION DIRECTING STAFF TO SUSPEND AND DELAY THE ACCEPTANCE AND PROCESSING OF DEVELOPMENT APPLICATIONS AND APPLICATIONS FOR BUILDING PERMITS IN AN AREA GENERALLY BOUNDED BY PINE TREE PLAZA, 50 HIGHWAY, ADESA PROPERTY, JEFFERSON STREET, PERSELS (WEST OF M-291), 16<sup>TH</sup> STREET (EAST OF M-291) THE UNION PACIFIC RAILROAD RIGHT-OF-WAY AND SOUTH M-291 HIGHWAY.

WHEREAS, the City of Lee's Summit, Missouri (City) is a community of approximately 93,000 residents located within 65 square miles in Jackson and Cass Counties which has seen greater than a 150% population increase in the last two decades; and,

WHEREAS, a new interchange at 50 Highway and South M-291 will begin construction Fall of 2016 bringing new development growth opportunities to major redevelopment areas north and south of the new interchange; and,

WHEREAS, the City is presently in the process of preparing a revised land use and master development plan for the properties located within the respective administrative delay area that will provide a refined development vision taking advantage of the opportunities provided by the newly constructed interchange; and

WHEREAS, the rate of commercial and industrial growth has created redevelopment pressures that threaten to erode the potential development vision being prepared for this area; and,

WHEREAS, the geographic area included in this Administrative Delay is an area generally bounded by Pine Tree Plaza, 50 Highway, Adesa Property, Jefferson Street, Persels (west of M-291), Bailey (east of M-291), 16<sup>th</sup> Street (east of M-291), Union Pacific Railroad Right-of-Way and South M-291 Highway; and,

WHEREAS, March 31, 2016, the City Council directed staff to prepare a resolution for an administrative delay to prepare a land use and master redevelopment plan; and,

WHEREAS, the City Council is elected and is duty-bound to promote the community's health, safety, morals and the general welfare, which duty includes the preparation of plans and ordinances designed to effectuate the coordinated development of the City, and that, in accordance with existing and future needs, will best promote the general welfare, as well as conserve property values and encourage the most appropriate use of land throughout the City; and,

WHEREAS, generally, when it becomes apparent that there is a need to amend existing plans or ordinances to promote the health, safety and general welfare, a "race of diligence" sometimes ensues between landowners seeking to establish vested rights under existing law and the City Council seeking to enact an amended plan or ordinance before such vested rights are established, thereby creating additional safety and general welfare problems; and,

WHEREAS, this "race of diligence" is counterproductive to both individual landowners and the City as a whole, because landowners rush to submit applications that may not have received adequate consideration and to gain approval of such applications, and the City rushes to adopt plan or ordinance amendments that may not have received thorough analysis or been subject to full public debate with respect to the issues, goals, and policies of the proposed development controls,

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and therefore, may not be as responsive to either the City's or the applicant's goals and needs or received the degree of community input and debate as would otherwise be possible and appropriate; and,

WHEREAS, Section 1.070 of the Unified Development Ordinance ("UDO") provides for the administrative delay of development applications and building permit applications within a defined geographic location of the City by resolution of the City Council, based upon the likelihood that proposed amendments to the UDO or planning policies may impact the nature of development applications, if the Council determines that development applications related to property within the defined geographic area covered by the resolution will be impacted by the proposed Chapter text amendment or planning policy; and,

WHEREAS, this resolution is adopted pursuant to the authority granted to the Council by section 1.070 of the UDO because the Council has determined that development applications and building permit applications will be impacted by the pending land use and master development plan being prepared and considered by the City; and,

WHEREAS, the City Council also recognizes that administrative delay is an extraordinary remedy that should be used judiciously and only after serious evaluation and analysis by staff and the City Council, and based upon staff's carefully considered recommendation; and,

WHEREAS, to ensure that the City Council successfully, fairly and rationally fulfills this duty it is necessary to delay all development applications and building permit applications for the construction of new buildings or expansion of existing buildings in the administrative area herein defined to preserve the development vision currently under consideration until the completion of the revised land use and master development plan amendments that establish such goals, objectives and recommendations which may result therefrom; and,

WHEREAS, the City Council also recognizes that it has an equally important duty to fully consider applications for the issuance of building permits whenever such applications are consistent with the City's Comprehensive Plan and the City's Code of Ordinances, and that it is necessary that the status quo be preserved in the City for the shortest amount of time that will allow the City to complete the land use and master development plan and establish policies necessary for the preservation of the redevelopment vision; and,

WHEREAS, the City Council has determined that it is appropriate and necessary to provide an appeal process to individuals or entities affected by this administrative delay.

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

### SECTION 1. Authorization of Administrative Delay.

A. Initiation of Delay, Geographic Area and Duration of Delay. The City Council finds that development applications and building permit applications which authorize construction of new buildings or expansion of existing buildings within the geographic area defined as an area generally bounded by Pine Tree Plaza, 50 Highway, Adesa Property, Jefferson Street, Persels (west

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of M-291), Bailey (east of M-291), 16<sup>th</sup> Street (east of M-291), Union Pacific Railroad Right-of-Way and South M-291 Highway, as depicted in Exhibit A attached hereto and incorporated by reference as if fully set forth herein, will be impacted by the pending land use and master development plan policy deliberations, and approval of such applications may adversely affect the character of this newly refined redevelopment area while the appropriate land uses and development plans are prepared and considered by the City. The City Council hereby directs that no development application or building permit application which authorize construction of new buildings or expansion of existing buildings (the "Affected Permits") shall be processed, while the City undergoes deliberations and until the adoption of the land use and master development plan implementing such policies and establish such goals, objectives and recommendations which may result therefrom. Provided that, in no event shall this direction extend beyond October 1, 2016, unless the City Council, by motion approved by a majority vote of the Councilmembers present at a duly noticed meeting, extends the date of this administrative delay.

B. Determination for Delayed Permits. Any application for an Affected Permit in the area geographically defined in section 1.A of this resolution received during the effective period of this resolution shall be held in suspension and delayed by the Planning and Codes Administration Department.

### SECTION 2. Appeal.

A. Filing with City Clerk. If an applicant believes that the City's determination not to accept or to process an Affected Permit is unreasonable, the applicant may file a written appeal of the determination with the City Clerk within ten (10) business days after receiving written notice of the determination.

B. City Council Hearing. If an appeal is timely and properly filed, the City Clerk shall schedule a hearing before the City Council at its next regularly scheduled meeting, or as soon thereafter as practicable in the normal course of managing Council agendas, at which the applicant shall bear the burden of establishing by a preponderance of the evidence that processing the Affected Permit will not undermine the spirit and intent of the pending study including pending policies, goals or objectives. If the City Council determines that such action will not undermine the spirit and intent, it shall direct that the application be processed. !

C. Standards for Determining Spirit and Intent. The City Council shall consider the following in determining whether applications, with respect to which an appeal has properly been filed, if approved, will undermine the spirit and intent of the pending land use and master development plan:

- (a) the City's interest in protecting the public's health, safety, and general welfare;
- (b) the adverse effect upon the future vision of the redevelopment area being considered;
- (c) the City's interest in avoiding the creation of conflicts with the future redevelopment plan;
- (d) the extent to which the proposed use, if applicable, will negatively affect the continuity of the redevelopment plan;
- (e) the economic impact and hardship of the delay upon the owner.

SECTION 3. No Amendment of Code. This Resolution is not intended as, and should not be interpreted as, an amendment to the City's Comprehensive Plan, the Code of Ordinances or the

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Unified Development Ordinance, but is merely direction to staff with respect to the acceptance of and processing of applications for Affected Permits within the geographic area as defined herein and as depicted in Exhibit A.

PASSED and ADOPTED by the City Council for the City of Lee's Summit, Missouri this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Mayor *Randall L. Rhoads*

ATTEST:

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City Clerk *Denise R. Chisum*

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney *Brian W. Head*



EXHIBIT A  
ADMINISTRATIVE DELAY AREA

