

**ORDINANCE NO. 8723**

**AN ORDINANCE OF THE CITY OF LAWRENCE, KANSAS, REZONING APPROXIMATELY 45.352 ACRES FROM A (AGRICULTURAL) DISTRICT TO PCD-[MERCATO] (PLANNED COMMERCIAL DEVELOPMENT) DISTRICT AND AMENDING THE CITY'S "OFFICIAL ZONING DISTRICT MAP," INCORPORATED BY REFERENCE INTO THE CITY CODE AT CHAPTER 20, ARTICLE 1, SECTION 20-108 OF THE "CODE OF THE CITY OF LAWRENCE, KANSAS, 2011 EDITION," AND AMENDMENTS THERETO.**

**WHEREAS**, on March 1, 2006, the owners of record of the subject property, the legal description of which is set forth at Section 2, *infra*, filed with the City of Lawrence, Kansas, Rezoning Application, No. Z-03-05-06, seeking to rezone the base district of the subject property from A (Agricultural) District to PCD-2 (Planned Commercial Development) District;

**WHEREAS**, on April 17, 2006, after due and lawful notice was given in accordance with K.S.A. 12-757 and City of Lawrence, Kan., Code § 20-1303, and amendments thereto, the Lawrence-Douglas County Metropolitan Planning Commission conducted a public hearing on Rezoning Application, No. Z-03-05-06;

**WHEREAS**, at the April 17, 2006, public hearing, the Lawrence-Douglas County Metropolitan Planning Commission considered the report and recommendation of City staff, weighed the evidence adduced at the public hearing, reviewed the decision-making criteria set forth at City of Lawrence, Kan., § 20-1303, and amendments thereto, and voted to recommend to the City Commission that it approve Rezoning Application, No. Z-03-05-06;

**WHEREAS**, although the application for rezoning described a slightly different tract, based on changes that were made to the preliminary plat and approved by the Planning Commission, its recommendation for rezoning incorporated the 45.352 acres, more or less, the legal description of which is set forth at Section 2, *infra*;

**WHEREAS**, at its May 9, 2006, public meeting, the Governing Body considered Rezoning Application, No. Z-03-05-06, and the recommendation of the Lawrence-Douglas County Metropolitan Planning Commission and, after receiving the relevant evidence and hearing public comment, voted to approve the proposed rezoning subject, among other conditions, to the recording of a final plat;

**WHEREAS**, with the adoption of the "Land Development Code," codified as amended as Chapter 20 of Code of the City of Lawrence, Kansas, effective July 1, 2006, the PCD-2 (Planned Commercial Development) District was converted to the PCD-[MERCATO] (Planned Commercial Development) District;

**WHEREAS**, because it is no longer the policy of the City of Lawrence, Kansas, to condition rezoning upon the recording of a final plat, the Governing Body hereby withdraws that condition from its approval of Rezoning Application, No. Z-03-05-06, that a final plat be approved and recorded; and

**WHEREAS**, this ordinance now accurately reflects the actual land, encompassing 45.352 acres, more or less, that was rezoned from A (Agricultural) District to what is now PCD-[MERCATO] (Planned Commercial Development) District.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:**

**SECTION 1.** The above-stated recitals are incorporated herein by reference and shall be as effective as if repeated verbatim.

**SECTION 2.** Subject to the condition set forth in Section 3, *infra*, the base zoning district classification for the following legally described real property, situated in the City of Lawrence, Douglas County, Kansas, to-wit:

A TRACT IN SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 01° 59' 06" WEST, ALONG THE EAST LINE OF SAID QUARTER SECTION, 344.57 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 88° 00' 51" WEST TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF GEORGE WILLIAMS WAY, 50.01 FEET; THENCE SOUTH 02° 01' 53" EAST, ALONG THE WEST RIGHT-OF-WAY LINE OF GEORGE WILLIAMS WAY, 244.10 FEET TO THE NORTH RIGHT-OF-WAY LINE OF U.S. 40 / WEST SIXTH STREET; THENCE SOUTH 88° 27' 24" WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF U.S. 40 / WEST SIXTH STREET, 613.02 FEET; THENCE NORTH 86° 31' 32" WEST, ALONG SAID RIGHT-OF-WAY, 444.20 FEET; THENCE NORTH 01° 55' 48" WEST, 235.56 FEET; THENCE SOUTH 88° 27' 13" WEST, 322.68 FEET; THENCE NORTH 01° 32' 47" WEST, 30.00 FEET; THENCE NORTH 50° 36' 04" WEST, 311.96 FEET; THENCE NORTH 39° 23' 56" EAST, 30.00 FEET; THENCE NORTH 21° 13' 41" EAST, 512.10 FEET; THENCE NORTH 68° 46' 19" WEST, 41.23 FEET; THENCE NORTH 21° 13' 41" EAST, 126.29 FEET; THENCE NORTH 68° 46' 19" WEST, 35.00 FEET; THENCE NORTH 21° 13' 41" EAST, 656.16 FEET; THENCE NORTH 07° 42' 46" EAST, 40.00 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 750.00 FEET, WITH A 418.89 FOOT CHORD BEARING SOUTH 66° 04' 16" EAST, AN ARC LENGTH OF 424.54 FEET; THENCE SOUTH 49° 51' 18" EAST, 202.25 FEET; THENCE ON A CURVE TO THE LEFT WITH A RADIUS OF 400.00 FEET, WITH A 287.26 FOOT CHORD BEARING SOUTH 70° 53' 55" EAST, AN ARC LENGTH OF 293.83 FEET; THENCE NORTH 88° 03' 27" EAST, 29.69 FEET; THENCE SOUTH 01° 59' 09" EAST, 440.72 FEET; THENCE NORTH 88° 05' 04" EAST, 370.02 FEET TO A POINT ON THE EAST SECTION LINE; THENCE SOUTH 01° 59' 06" EAST, ALONG THE EAST LINE OF SAID QUARTER SECTION, 695.61 FEET TO POINT OF BEGINNING. CONTAINS 45.352 ACRES, MORE OR LESS.

is hereby changed from A (Agricultural) District to PCD-[MERCATO] (Planned Commercial Development) District, as such district is defined and prescribed in Chapter 20 of the "Code of the City of Lawrence, Kansas, 2011 Edition," and amendments thereto.

**SECTION 3.** The rezoning granted in Section 2, *supra*, in addition to being subject to the general conditions established in Chapter 20 of the Code of the City of Lawrence, Kansas, 2011 Edition, as amended, is also subject to the following special condition:

- (a) Development of the subject property shall be consistent with CC 400 Restrictions established in *Horizon 2020*, including the following:
  - (i) A maximum of 184,640 gross square feet of retail commercial shall be permitted on the subject property;
  - (ii) No one store on the subject property shall occupy more than 175,000 gross square feet;
  - (iii) The Preliminary Development Plan shall provide for at least one store that has at least 40,000 gross square feet of commercial space; and
  - (iv) The sum of the gross square footage for all stores that occupy areas between 100,000 and 175,000 gross square feet shall not exceed 70 percent of the gross commercial square footage for the corner of the intersection upon which the subject property is located.

**SECTION 4.** Failure of the applicant, owner, or any successor or assign to abide by the requirements of Chapter 20 of the Code of the City of Lawrence, Kansas, 2011 Edition, as amended, or the special condition established in Section 3, *supra*, shall be cause for the City to revoke approval of Rezoning Application, No. Z-03-05-06, in accordance with City of Lawrence, Kan., Code § 20-1605 (Jan. 1, 2011), as amended.

**SECTION 5.** The “Official Zoning District Map,” which is adopted and incorporated into the City Code by reference at City of Lawrence, Kan., Code § 20-108 (Jan. 1, 2011), is hereby amended by showing and reflecting thereon the new zoning district classification for the subject property as described in more detail in Section 2, *supra*.

**SECTION 6.** If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

**SECTION 7.** This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

**ADOPTED** by the Governing Body of the City of Lawrence, Kansas, this \_\_\_\_ day of May, 2012.

**APPROVED:**

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Robert J. Schumm  
Mayor

**ATTEST:**

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Jonathan M. Douglass  
City Clerk

**APPROVED AS TO FORM AND LEGALITY:**

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Toni R. Wheeler  
City Attorney

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**NOTICE TO PUBLISHER**

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.