



# **INFORMATION MEMORANDUM**

TO: Mayor and City Council

FROM: Charles S. Cox  
City Manager

DATE: August 29, 2018

SUBJECT: Ordinance No. 3512 – Amend Planned Development No. 100 regarding administrative processes provided for in the zoning district for the south side of Valley View Lane, on the north side of Wittington Place, west of the future extension of Hutton Drive, and approximately 450 feet east of Chartwell Crest.

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*This zoning case was originally scheduled for consideration by the City Council on August 7, 2018. However, as a result of the August 7, 2018 meeting being canceled, this zoning case was rescheduled to the City Council's September 11, 2018 meeting date and the required public hearing notice republished.*

*Additionally, subsequent to the Planning and Zoning Commission's action related to this zoning case, the applicant successfully received the resolution of support for the Municipal Settings Designation (MSD) from the City of Dallas on August 23, 2018. This report has been updated accordingly.*

## **Proposed Request:**

The City has received a request from MM Kensington, LLC, applicant, to amend Planned Development No. 100 (PD-100) as it relates to administrative processes specified within the zoning district, in order to allow them to submit a detailed site plan and construction plans prior to obtaining the required Certificate of Completion from the Texas Commission on Environmental Quality (TCEQ). PD-100 allows for the development of single-family homes, and is also known more recently as the future Kensington neighborhood that will be part of the Mercer Crossing master planned community presently being developed by Centurion American.

The subject property is approximately 54.5 acres located on the south side of Valley View Lane, on the north side of Wittington Place, west of the future extension of Hutton Drive, and approximately 450 feet east of Chartwell Crest. This subject property is also the site of a former lead battery manufacturing facility.

Adjacent land uses include: offices and undeveloped land to the west; office, data systems and undeveloped land to the north; retail and commercial uses to the northeast; future single-family attached residences (townhomes) to the east; and single-family detached residences to the south across Wittington Place.

**Existing Zoning:**

PD-100 was initially established on December 12, 2017 with the adoption of Ordinance 3480, allowing for single-family (both detached and attached) residences. A conceptual site plan was approved as part of the adopting Ordinance. The maximum number of single-family attached lots shall be 150, with the remaining property being developed as single-family detached lots (maximum 60 lots at minimum 40-foot width; remaining lots will be minimum 50-foot width).

Due the environmental remediation that was required in order for the property to be developed as single-family residences, PD-100 stipulates that prior to any development plans (i.e. detailed site plans, plats, civil construction plans) being submitted and any permits or other consents authorizing the development of the property, a Certificate of Completion from TCEQ shall be obtained. Below is the language from the PD-100 ordinance:

Section VIII. Administration, F. Condition of Development

Unless and until the TCEQ has issued, and the City has received a copy of a Certificate of Completion pursuant to the TCEQ's Voluntary Cleanup Program ("VCP") relating to the cleanup and remediation of soil and other environmental contamination of the PROPERTY occurring during the PROPERTY's prior use and development as a lead battery manufacturing facility:

- a. No application for any Detailed Site Plan, subdivision plat (including replat), or for any permit related to the subdivision, use, or development of the PROPERTY shall be accepted by the City;
- b. No permits or other consents authorizing any development of the PROPERTY of any kind relating to the development and use of the PROPERTY shall be issued by the City; and
- c. No activity constituting development of the PROPERTY for the uses permitted under this Ordinance shall be permitted.

### **Proposed Amendment:**

Due to the time that is needed in order for the applicant to obtain the Certificate of Completion from TCEQ, they are requesting that the PD-100 ordinance be amended to allow them to submit their detailed site plan for review and consideration by the Planning and Zoning Commission and City Council, as well as submit their civil construction plans for review only, prior to obtaining the Certificate of Completion from TCEQ.

The applicant submitted an application to enter the Voluntary Cleanup Program (VCP) administered by TCEQ. The agency determined the site is eligible to participate in the program. TCEQ provides technical and regulatory oversight of cleanup activities of possible contamination at the property. The applicant selected to excavate and dispose of soil with concentrations of contaminants above background levels. In addition, the applicant selected to apply for a Municipal Settings Designation (MSD) to address the groundwater contamination at the site. The soil excavation and disposal is completed. Due to the proximity to the city limit line between Farmers Branch and Dallas, the applicant needed a resolution of support for the MSD application from the City of Dallas, which was successfully obtained by the applicant on August 23, 2018 (subsequent to the Planning and Zoning Commission's consideration of this zoning case). Once both remedies are completed, TCEQ should issue a Certificate of Completion for the voluntary cleanup.

Given the uncertainty as to how long it will take for TCEQ to issue the Certificate of Completion letter, the applicant would like to utilize this time period for submitting and processing the detailed site plan and civil construction plans to the City of Farmers Branch for the subject property.

Staff understands the applicant's concern related to the timing and issuance of the Certificate of Completion; therefore, the proposed amendment to PD-100 is reasonable to consider. The following amended language is proposed to replace existing Section VIII. Administration, F. Condition of Development:

#### **Section VIII. Administration, F. Condition of Development**

Unless and until the TCEQ has issued, and the City has received a copy of, a Certificate of Completion pursuant to the TCEQ's Voluntary Cleanup Program ("VCP") relating to the cleanup and remediation of soil and other environmental contamination of the PROPERTY occurring during the PROPERTY's prior use and development as a lead battery manufacturing facility:

- a. No application for any subdivision plat (including replat), or for any permit related to the subdivision, use, or development of the PROPERTY shall be accepted by the City;

- b. No permits or other consents authorizing any development of the PROPERTY of any kind relating to the development and use of the PROPERTY shall be issued by the City, including, but not limited to, any grading permits, permits authorizing commencement of construction of any public improvements, and approval by the Director of Public Works or designee of any plans and specifications relating to the design and construction of any public improvements; and
- c. No activity constituting development of the PROPERTY for the uses permitted under this Ordinance shall be permitted.

Notwithstanding the foregoing to the contrary, one or more applications for Detailed Site Plan(s) may be accepted, considered, and approved in accordance with this Ordinance with respect to the development of all or a portion of the Property; provided, however, the approval of any such Detailed Site Plan(s) shall not entitle the owner or developer of said portion(s) of the Property to proceed with any activity relating to development of the Property or portion thereof until the above-described Certificate of Completion has been issued by the TCEQ.

The applicant is in agreement with the proposed ordinance language.

**Comprehensive Plan Recommendation:**

Although the West Side Plan recommends Employment District for the subject property, the subject property was rezoned in December 2017 to allow single-family uses due to other nearby residential development occurring within the area.

**Public Response:**

Staff mailed 21 public notification letters on June 29, 2018. Two zoning notification signs were posted on the property on that same day. A public notice ad was placed in the Dallas Morning News on July 20, 2018 for the August 7, 2018 City Council meeting which was subsequently canceled. A second public hearing notice ad was published on August 10, 2018 for the September 11, 2018 City Council meeting. Staff has received no letters related to this zoning request.

**Recommendation:**

On July 16, 2018, the Planning and Zoning Commission voted unanimously to recommend approval of the PD-100 amendment as presented in Ordinance No. 3512.

Possible Council Action:

1. Motion to adopt Ordinance No. 3512.
2. Motion to adopt Ordinance No. 3512 with the following modifications ...
3. Motion to deny Ordinance No. 3512.
4. Motion to continue discussion at the next meeting.