

ORDINANCE NO. 11122002 Z

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF NIEDERWALD, TEXAS, BY AMENDING SECTION 2 TO ADD A PLANNED DEVELOPMENT AREA USE; BY ADDING SECTION 29.5 "PLANNED DEVELOPMENT AREA"; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Niederwald and the City Council of the City of Niederwald, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally, and the City Council of the City of Niederwald is of the opinion that the Zoning Ordinance should be amended; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NIEDERWALD, TEXAS:**

**SECTION 1.** That the Zoning Ordinance of the City of Niederwald, Texas, as heretofore amended, be, and the same is hereby, amended by adding the following use category to "Section 2. Zoning District Established":

**"Planned Development – PD.** This area consists of contiguous tracts of property in excess of 1000 acres that are subject to a master development plan and development regulations as approved by the City Council on a case-by-case basis."

**SECTION 2.** That the Zoning Ordinance of the City of Niederwald, Texas, as heretofore amended, be, and the same is hereby, amended by adding Section 29.5 as follows:

**"PD - PLANNED DEVELOPMENT AREA**

**Section 29.5**

- (1) **Purpose.** The purpose of the Planned Development [PD] area is to permit flexibility and encourage a more creative, efficient and aesthetically desirable design and placement of structures, open spaces and circulation patterns, and to best utilize special site features such as topography, size and shape. It is intended that the flexibility permitted by this zoning category extends to discretionary approval, in conjunction with development plan review not limited to, but including, such requirements as those relating to use, density, parking, access, building line setbacks, square footage of buildings and structures, landscaping, protective screening, streets, utilities, lighting, or signage, and other specifications as the City Council may deem appropriate. This PD area is provided to accommodate planned associations of uses developed as integral land use units, including mixed uses, which may

be planned, developed and operated either by a single owner or a combination of owners.

- (2) **Criteria for planned development areas.** For purposes of a PD area one or more of the following circumstances shall be existing or proposed when determining the appropriateness of a planned development area:
  - a. **Cluster developments.** Dwelling units grouped into clusters, allowing an appreciable amount of land for open space. Commercial or industrial uses grouped into clusters, allowing an appreciable amount of the land for open space or joint use such as parking and storage.
  - b. **Mixed Uses.** Part of the land in a predominantly residential PD used for nonresidential purposes, such as shopping or employment centers. Part of the land in a predominantly commercial or industrial PD used for residential purposes.
  - c. **Preservation of natural areas.** For areas exhibiting environmentally sensitive or natural features which should be considered for preservation and/or enhancement.
  - d. **Innovative land utilization.** Single purpose residential, commercial, or industrial uses which demonstrate innovative land utilization.
  - e. **Provision of amenities.** The provision of amenities such as common open space, green belts, parks, recreational areas, schools sites and other amenities not required by this zoning ordinance.
- (3) **Development plan and development regulations required.** An application for a planned development district shall include and be accompanied by a development plan and development regulations setting forth the specific development regulations and requirements applicable to the PD area and which shall become a part of the amending ordinance and shall be referenced on the zoning map.
  - a. **Items on a development plan.** Any or all of the required features may be incorporated on a single drawing if such drawing is clear and capable of evaluation and interpretation by the zoning administrator. The development plan shall be based on an accurate survey of the boundary of {the} tract, and include general depiction of the proposed development, uses, open space and public streets. Where multiple types of land use are proposed, a land use plan generally identifying the specific areas to be devoted to various uses shall be required.
  - b. **Changes to the development plan or development regulations.** Changes to the development plan or development regulations shall be considered the same as changes in the zoning map and shall require city council approval following a recommendation of the planning and zoning commission.
- (4) **Area, Building and Height requirements.** Area, building and height regulations shall be approved by the city council on a case-by-case basis for each application for a PD area and specified in the PD development regulations. The city council may establish specific lot, yard and area requirements after consideration of density, building coverage, relationship of proposed buildings and relationship to surrounding and adjacent property. The City

Council may also provide specifications for subdivision design, landscaping, signage or other regulations for the PD area.

- (5) **Infrastructure Design.** To the extent that proposed infrastructure design differs from existing regulations, the development plan and development regulations shall identify the infrastructure design and requirements for the PD area.
- (6) **Common area in planned developments.** The permanent character of common space lands shall be ensured by private reservation for the use and benefit of residents, by dedication to public use, or by a combination thereof. Common open spaces not dedicated to public use shall be maintained by the owner thereof. Land required for common open space shall not include the following:
  - a. Areas reserved for the exclusive use and benefit of an individual tenant or owner.
  - b. Dedicated streets, alleys, or other public rights-of-way.
  - c. Vehicular driveways, private street or parking, loading or storage areas.
- (7) **Application process.** An application for a planned development area shall be made to the planning and zoning commission in the same manner that an application for a zoning change is made. Application fees and any other special conditions shall be set forth in the development regulations.
  - a. Application for approval of a planned development area shall be processed according to the procedure specified herein, and a development plan and related data shall be submitted for approval in accordance with the requirements set out below.
  - b. An application for a planned development district shall be accompanied by a development plan and development regulations applicable to development in the PD area.
  - c. Upon receipt of an application, the zoning administrator shall make notification of a public hearing as set forth in the zoning ordinance.
  - d. The zoning administrator shall prepare a written report analyzing the development plan, and such report shall be given to the planning and zoning commission and applicant at least three working days prior to the public hearing.
  - e. The planning and zoning commission shall hold a public hearing and make a recommendation to the city council to approve the application as is, approve with conditions, or deny the application. The city council shall hold a public hearing, and approve the application as is, approve with conditions, or deny the application.
- (8) **Final Plat requirement.** Prior to issuance of a building permit for any construction a final plat will be required. The final plat shall be approved by the city council upon recommendation by the planning and zoning commission if it complies with the development plan, development regulations, and other ordinances not in conflict with the development plan and development regulations.”

**SECTION 3.** That all ordinances of the City of Niederwald in conflict with the provisions of this ordinance or the Zoning Ordinance, as amended hereby, be, and the same are hereby, repealed and all other provisions of the ordinances of the City of Niederwald not in conflict with the provisions of this ordinance or the Zoning Ordinance, as amended hereby, shall remain in full force and effect.

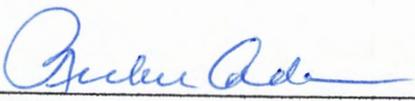
**SECTION 4.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part of provision thereof other than the part decided to be invalid, illegal or unconstitutional, and the same shall not effect the validity of the Zoning Ordinance as a whole.

**SECTION 5.** That any person, firm or corporation violating any of the provisions or terms of this ordinance or the Zoning Ordinance, as amended hereby, shall be subject to the same penalty as provided for in the Zoning Ordinance of the City of Niederwald, Texas, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Five Hundred (\$500.00) dollars for each offense, and each and every day such a violation is continued shall be deemed to constitute a separate offense.

**SECTION 6.** That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provide.

**DULY PASSED** by the City Council of the City of Niederwald, Texas, on the 12th day of NOVEMBER, 2002.

**APPROVED:**

  
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**MAYOR**

ATTEST:

Angie Schube  
CITY SECRETARY

APPROVED AS TO FORM:

Anthony G. Brey  
CITY ATTORNEY

