



**Issue:** **AN ORDINANCE OF THE NIXA CITY COUNCIL AMENDING THE BOONE PROPERTY PLANNED UNIT DEVELOPMENT BY ALLOWING A TWENTY-FIVE FEET FRONT-YARD SETBACK FOR LOT 16 OF THE KELBY CREEK PHASE 6 SUBDIVISION.**

**Date:** November 22, 2021

**Submitted By:** Garrett Tyson, Director of Planning and Development

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## **Background**

The Boone Property Planned Unit Development (PUD) was approved by the Nixa City Council in 2007 (Ordinance No. 1486). The PUD regulations provide for a variety of building setbacks that are specific to defined areas of the development site. These various setbacks are provided for within the document on Exhibit F "Setback Map". According to Exhibit F, front yard setbacks for residential dwellings vary between 25 and 35 feet.

The subdivision within the Boone Property PUD known as Kelby Creek Subdivision Phase 6 is located within the development site in an area designated by Exhibit F for 35 feet front-yard setbacks.

The applicant owns Lot 16 of the Kelby Creek Subdivision Phase 6 and has applied to amend the Boone Property PUD to allow for a 25 feet setback instead of the required 35 feet setback provided for in the aforementioned Exhibit F.

## **Analysis**

Planned Unit Developments (PUDs) provide a lawful means for zoning regulations that vary from the conventional zoning scheme of the City yet are still determined by the City Council to be in the public interest. In this way, PUDs can become a sort of unique zoning scheme that is particular to a single development. The regulations contained in an approved PUD thereafter carry the force of law when they are approved by ordinance.

In the case of the Boone Property PUD, the developer proposed varied setbacks that are larger/deeper than what would be required by the City's convention zoning regime in any case. The PUD itself provides no rationale for this increased setback requirement in these specific locations. The City's conventional single-family residential front-yard setback requirement is 25 feet from the property line.

An important question is whether and to what extent the public interest is served by having an increased setback requirement at this specific location and, further, whether and to what extent the public interest is affected by changing it to 25 feet. In the assessment of City staff, there is nothing particular about this location that warrants a larger/deeper setback that enhances the public good. This is not to say that there is anything wrong, per se, with having houses setback



further than 25 feet from a property line, only that there is nothing, at the same time, that is marginally better from a regulatory perspective.

Under the conventional zoning regime, such a change would only be possible as a variance. However, because this property is within a PUD, there is opportunity to amend the PUD without violating the overall zoning scheme or requiring a variance to be granted by the Board of Adjustment. Furthermore, in the view of City staff, such a request would not be a good candidate for a variance.

All things considered, the impact of this amendment is assessed to be negligible under consideration of the general purposes of planning and zoning regulations.

### **Recommendation**

Staff recommends the approval of this bill.

1           **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING THE**  
2           **PROVISIONS OF THE BOONE PROPERTY PLANNED UNIT DEVELOPMENT**  
3           **TO ALLOW A TWENTY-FIVE FOOT FRONT-YARD SETBACK FOR LOT 16**  
4           **OF THE KELBY CREEK PHASE 6 SUBDIVISION.**  
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7           **WHEREAS** the Boone Property Planned Unit Development (“PUD”) was approved  
8 and adopted by Ordinance No. 1486; and  
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10          **WHEREAS** said PUD establishes certain building setback requirements for  
11 property within the PUD; and  
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13          **WHEREAS** an application has been filed to amend the PUD’s setback  
14 requirements for a certain area within the PUD; and  
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16          **WHEREAS** the Planning and Zoning Commission held a public hearing on the  
17 Application at the Commission’s November 1, 2021, meeting; and  
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19          **WHEREAS** the Commission, after considering the Application, staff’s  
20 recommendation regarding the Application, and after holding a public hearing on the  
21 Application, issued a recommendation of approval of the Application; and  
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23          **WHEREAS** the City Council, now having considered the Application, staff’s  
24 recommendation regarding the Application, and after providing an opportunity for public  
25 comment on the Application, now desires to amend the PUD as provided herein and  
26 amend the City’s official zoning map accordingly.  
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28          **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
29 **NIXA, AS FOLLOWS, THAT:**  
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31          **SECTION 1:** The Boone Property Planned Unit Development, adopted by  
32 Ordinance No. 1486, is hereby amended by replacing “Exhibit F” of said PUD with the  
33 document which is attached hereto and incorporated herein by this reference as “Council  
34 Bill Exhibit A.”  
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36          **SECTION 2:** The Director of Planning and Development, pursuant to section 117-  
37 57 of the Nixa City Code, shall amend the City’s official zoning map, said map being  
38 established pursuant to section 117-56 of the Nixa City Code, to reflect the action taken  
39 by this Ordinance.  
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41          **SECTION 3:** This Ordinance shall be in full force and effect from and after its final  
42 passage by the City Council and after its approval by the Mayor, subject to the provisions  
43 of section 3.11(g) of the City Charter.  
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47 **ADOPTED BY THE CITY COUNCIL THIS 22<sup>ND</sup> DAY OF NOVEMBER 2021.**

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50 ATTEST:

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53 \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_   
PRESIDING OFFICER

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56 **APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.**

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59 ATTEST:

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62 \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_   
MAYOR

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65 APPROVED AS TO FORM:

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68 \_\_\_\_\_  
CITY ATTORNEY

-  - 35'
-  - 30'
-  - 25'
-  - 12'

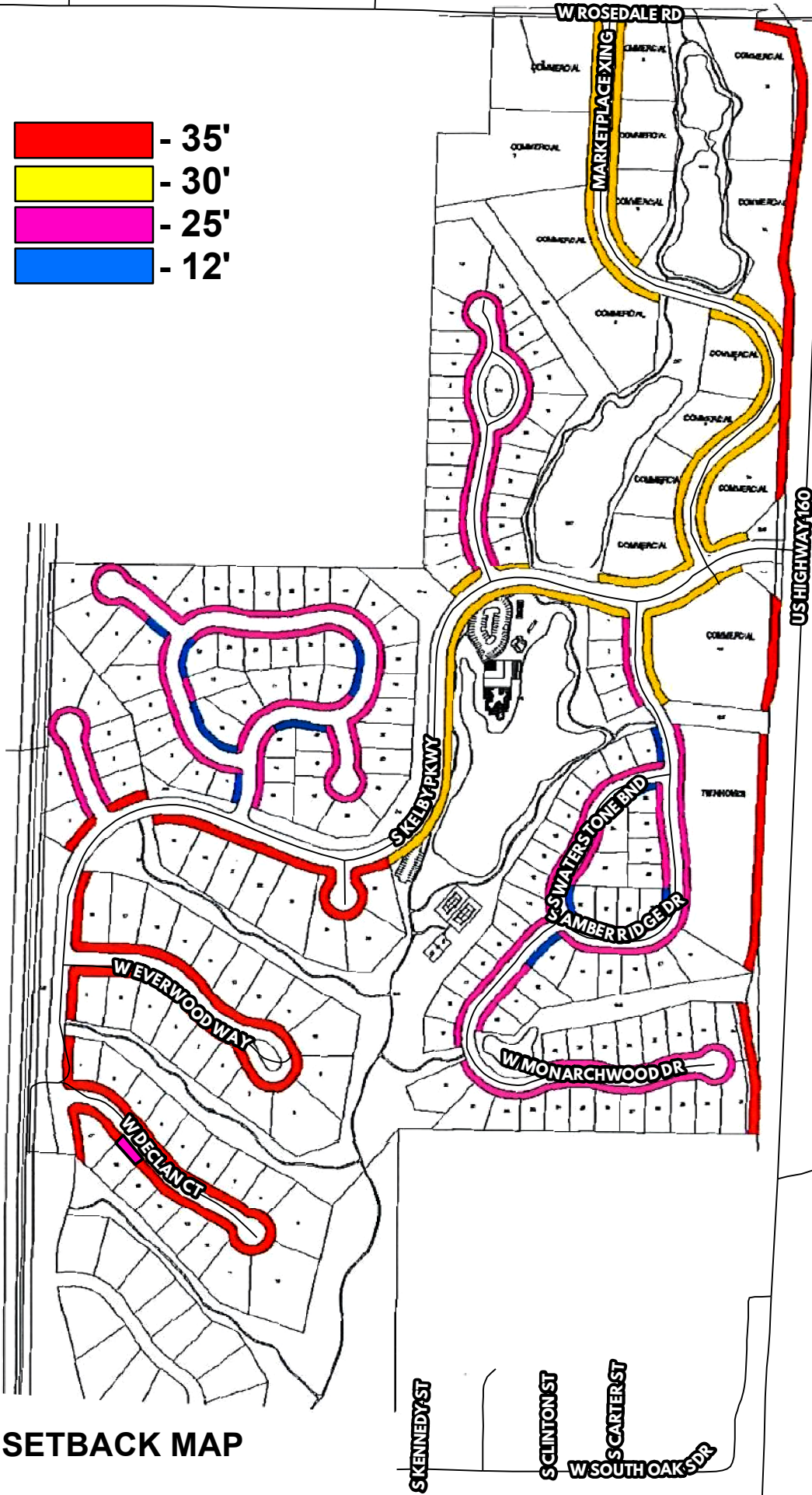


EXHIBIT  
**F**

SETBACK MAP