1. Introduction

The applicant is requesting a rezoning from the CTY RUR (County Rural) District to the R-3 (Low Density Multi-Family) District, C-1 (Neighborhood Center) District and C-2 (Community Center) District for Woodland Forest. The property is located along the east side of Woodland Road, between its intersection with Highway K-10 and 105th Street.
Staff reviewed the rezoning application and is recommending denial as the request fails to meet the goals of PlanOlathe, is incompatible with the objectives, uses, and density established in the Woodland Road Corridor Plan (Woodland Plan) and fails to meet five of the rezoning criteria identified in UDO 18.40.090.

While plan sets have been provided by the applicant, the zoning district changes are not being recommended for approval. With a zoning recommendation of denial, the plans cannot be considered on their own because the zoning is what allows the uses shown on the plans. Therefore, without zoning approval, the plan automatically fails. For this reason, only an overview of the plan is provided and the report focuses primarily on the zoning and land use analysis.

2. Plan Summary

The proposal includes 357 multi-family residential apartment units within 14 buildings ranging from 2 to 3 stories in height, a clubhouse/office, pool amenity and a common open space area in the center of the property. A 75-foot landscape buffer extends along the southern property boundary adjacent to the 25 attached villa units. Additionally, a walking trail is shown extending through the northern portion of the property and along the east property boundary to the Meadowlane Greenway area owned by the City.

Three commercial lots are shown adjacent to Woodland Road including a convenience store, drive-thru pharmacy and a medical office building. Proposed access points to the development include the existing stub streets in the Eagle Crest subdivision of S Emerald Street and Millstone Drive. Finally, a right-in/right-out is proposed along Woodland Road which is currently being expanded in this area to a divided 4-lane roadway.

Staff had multiple meetings and discussions with the applicant beginning in August 2019 advising of the issues and noncompliance with the established Plans and UDO criteria. Staff requested changes to the plans including the land uses and proposed density. Despite these recommendations, the applicant chose to proceed knowing the issues and noncompliance. At the applicant’s request a preliminary site development plan, landscape plan and architecture concepts to support their position are included in the meeting packet.

3. History

The subject property was annexed into the City in 1999 as part of an approximately 1,300-acre area in the Woodland corridor. The property has been used for agricultural purposes and a single-family home was constructed within the west portion along Woodland Road in the 1970s. In 1996, the detached single-family land use designation was established for the property through the adoption of the Woodland Plan. An alternative land use proposal was considered for the property as part of the 2004 Woodland Plan update which included a low-rise assisted care facility or office complex with a residential architectural character. The proposal was considered by the City Council during the November 9, 2004 meeting and after discussion, did not accept it. Therefore, the property retained the single-family designation as the preferred land use in the Woodland Plan. The City Council chose not to change the land use designation for this property; however, conveyed that property owners can submit proposals for their consideration.
4. **Existing Conditions**

The property contains an area of dense trees primarily within the northwest and along the eastern boundary of the property. A stream corridor runs mostly parallel to the northern property boundary and intersects with Mill Creek which is located to the east adjacent to the BNSF Railroad tracks. An area over 40 feet in width contains significant overhead utility lines that run north and south through the center of the property.

Highway K-10 sits approximately 30 feet higher than the north boundary of the property. As you move further south from the stream corridor that runs through the northern portion of the site, the land generally slopes upward until it reaches a similar elevation to the properties along the northern boundary of the Eagle Crest Subdivision.

The properties within one-half mile of Woodland Road between Highway K-10 and Harold Street all have a low-density residential or agricultural zoning designation as shown on the map provided on page 4 of this report.

![Aerial View of Property (outlined in white) and Nearby Subdivisions](image-url)
5. Woodland Road Corridor Plan Analysis

The property is located in the northeast portion of the Woodland Road Corridor area. The Woodland Plan establishes the expected development patterns and is used in determining appropriateness of zoning requests for such items as future land uses, residential densities and transitions between lots. The dominant land use called for in the Woodland Plan is single family residential of various densities. There was an abundance of public participation from residents and several task force meetings throughout the creation of and subsequent updates to the plan. The plan has been utilized for the review of new development in the Woodland Corridor since its adoption in 1996.

All developments along Woodland Road have followed the Woodland Plan since the plan was adopted.

Woodland Corridor Future Land Use Map

A. Land Uses

The multi-family residential and commercial land uses requested by the applicant are inconsistent with the uses allowed by the Woodland Plan. For this property, the identified land uses are Parks/Recreation/Open Space and Detached Single-Family Residential at a maximum net density of 3 dwelling units per acre. The map above is from page 20 of the Woodland Plan showing the future land uses.

i. Northern Portion

This portion of the property is identified as a Park, Recreation Area or Open Space and has retained this designation since the plan was adopted in 1996. The open spaces and areas of dense trees are a defining characteristic of the corridor. This portion of the property should be retained as natural open space with the preservation of existing trees and protection of the stream corridor as envisioned in the Plan. The commercial land use in Lot 1 and the apartment buildings shown north of the loop road would
both result in significant tree canopy loss and placement of buildings in this natural open space area.

ii. Southern Portion

The single-family residential use has been upheld since the plan was adopted in 1996 as the preferred use for the southern portion of the property. The Woodland Plan provides that subdivisions should be laid out to maximize the spacing between houses in areas with this land use designation.

The Woodland Plan states (on page 16) that there should be no commercial uses on this property or any property in the Woodland Road Corridor; therefore, commercial zoning would also be contrary to the Plan. While the plans shown by the applicant include 3 commercial uses, the commercial districts the applicant is requesting would allow a multitude of other uses not shown. The C-1 District permits approximately 75 land uses and there are 95 land uses permitted in the C-2 District. Permitted uses such as automotive repair shops, conference centers and bar/nightclubs would be incompatible with the nearby single-family residential uses.

The permitted land uses for a property are authorized by the zoning district classification. If the requested zoning districts are approved, the applicant would be entitled to develop any of the other land uses permitted in the district.

B. Density

The density permitted under the Woodland Plan (page 16) is a maximum of 3 dwelling units per acre for this property. However, the applicant is requesting a density of 8.66 dwelling units per acre which is almost 3 times greater than the Woodland Plan density as a result of the number of residential units shown.

C. Traffic and Access

One of the main goals provided in the Woodland Plan (page 16) is for safe streets for vehicular and pedestrian traffic. A Traffic Impact Study (TIS) was prepared by the applicant and is included in the Planning Commission packet. The volume of anticipated traffic is directly related to the proposed land uses and density of the development. Staff recommends a traffic signal for 105th and Woodland as a result of the increased traffic volume if the high intensity land uses are permitted.

The proposed north entrance would allow right-turns and a southbound left-turn into the development from Woodland Road. The entrance to the Eagle Crest Subdivision that includes the neighborhood pool shared by 144 houses in the Eagle Crest and Raven Crest Subdivisions would also serve as an access to the development. Based on staff research, no other developments have been approved in Olathe that route commercial and multi-family vehicular traffic through an existing single-family residential neighborhood.

D. Tree Preservation

The preservation of trees and protection of open space are important components of the Woodland Plan (page 17). This site contains a significant area of mature trees in the northwestern and eastern portions of the property. The trees provide a natural ecosystem and protection of the stream corridor along with a critical natural buffer to the highway and railroad properties. The landscape plan illustrates that a significant number of trees would be removed for the convenience store and several
apartment buildings. Staff is not supportive of removal of this existing mature tree canopy. Staff is also concerned with the close proximity of buildings and necessary grading to the existing stream corridor. Additionally, it should be noted that the landscape plan depicts areas of existing trees within the northeast portion of the site that are not existing on the property today.

![Aerial of Existing Trees on the Property](image)

E. Transitional Lot Policy

The applicant is showing a 75-foot buffer along the south property boundary with new shade and evergreen trees to meet the requirement to provide a transition between the proposed villas and the single-family homes in the Eagle Crest subdivision.

<table>
<thead>
<tr>
<th>Woodland Plan Compliance Summary</th>
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<td><strong>Plan Compliance</strong></td>
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<td>Maximum Density</td>
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<td>Transitional Lot Policy</td>
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<td>Tree Preservation</td>
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6. Public Notification

The applicant mailed the required certified public notification letters to surrounding properties within 200 feet and posted public notice signs on the property per UDO requirements.
The neighborhood meeting invitation was mailed to properties within 500 feet of the subject property, 56 households on the Woodland Corridor Contact List and provided to the adjacent Homeowners Associations. The applicant held 2 neighborhood meeting sessions on September 3, 2020 with an approximate total of 90 residents in attendance. The meeting minutes provided by the applicant are included in the Planning Commission packet. According to the minutes, the residents expressed concerns with the deviation from the Woodland Plan which included the land uses and density. Additionally, feedback was received regarding traffic volume, access and circulation patterns.

7. **Neighborhood Feedback**

Staff received a significant amount of feedback from residents opposed to this application. As of the date of this report, the Planning Division received 387 opposition letters and emails. All correspondence has been included in the Planning Commission packet for consideration. The primary topics of concern and reasons for opposition include the following:

- Deviation from the single-family land use identified in the Woodland Plan.
- Increased density from the 3-dwelling unit per acre maximum according to the Woodland Plan.
- Increased traffic volumes especially during peak hours and safety concerns from increased traffic traveling through the nearby subdivisions

8. **Comprehensive Plan (Plan Olathe) Analysis**

The future land use map of the PlanOlathe Comprehensive Plan identifies the property as a Conventional Neighborhood. Conventional Neighborhoods consist of single-family housing on individual building lots and often integrate with an extensive open space network. The requested multi-family residential and commercial districts are not compatible with the Conventional Neighborhood future land use category.

PlanOlathe also includes policies to maintain and promote the distinct character and identity of Olathe’s neighborhoods. The application is not consistent with the following policies of the PlanOlathe Comprehensive Plan:

**LUCC-8.2: Compatibility of Adjacent Land Uses.** Where a mixture of uses is not appropriate or uses are not complementary, use zoning as a tool to avoid or minimize conflicts between land uses that vary widely in use, intensity, or other characteristics. This may include buffering, landscaping, transitional uses and densities, and other measures. Protect industry from encroachment by residential development and ensure that the character and livability of established residential neighborhoods will not be undermined by impacts from adjacent non-residential areas or by incremental expansion of business activities into residential areas.

**HN-1.4: Minimize Spill-over Impacts to Residents.** Protect the character and livability of established residential neighborhoods by minimizing spill-over impacts from adjacent commercial areas and incremental expansion of business activities into residential areas.
9. UDO Rezoning Criteria Analysis

The application was reviewed against the UDO criteria for considering all rezoning applications listed in UDO Section 18.40.090.G and the request fails to meet several of the criteria as detailed below.

A. The conformance of the proposed use to the Comprehensive Plan and other adopted plans, studies or policies.

The proposed uses do not align with the PlanOlathe Comprehensive Plan Conventional Neighborhood future land use designation. Additionally, the request fails to meet several policies of PlanOlathe that protect the neighborhood character of existing residential areas. The proposed uses also do not conform with the land use designation of detached single-family residential prescribed for the property in the Woodland Plan.

B. The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).

The Woodland Road Corridor is characterized by low-density residential neighborhoods including many well-established large lot subdivisions that were annexed over 20 years ago. Residential structures within the immediate vicinity are lower in height and smaller in scale and bulk than the proposed buildings. The majority of lots in the Mill Creek Farms subdivision are 2.5 acres or greater and the Eagle Crest subdivision has a density of 2.92 net dwelling units per acre which are significantly less than the proposed 8.6 dwelling units per acre. All subdivisions adjacent to Woodland Road have been developed at a density of 3 dwelling units per acre or less since the Woodland Road Corridor Plan was adopted in 1996. Additionally, there are no retail commercial uses operating within the plan boundary area.

C. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning districts and uses.

Surrounding properties are zoned R-1 (Residential Single-Family), RP-1 (Planned Single-Family Residential) District and CTY RN-1 (Residential Neighborhood 1) District. The rezoning as proposed is not compatible or harmonious with these surrounding districts and existing land uses due to the variation of scale and intensity proposed with the development. The proposed R-3, C-1 and C-2 Districts permit a variety of uses that generate increased activity that is not commonly associated with areas intended for single-family residential development and do not currently exist in the area. Introducing high density and commercial uses in this area would disrupt the existing character and consistency of the area.

D. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.

The property currently permits single-family residential and agricultural uses through a county zoning designation. The property would need to be rezoned to a city zoning designation to accommodate development. The existing zoning is compatible and consistent with all area plans and the UDO.
E. The length of time the property has been vacant as zoned.

The property has retained the same uses and activities since it was annexed into the City in 1999. Alternative concepts have been explored, but the property has retained the same single-family residential land use designation as a result of the direction of the City Council in 2004.

F. The extent to which approval of the application would detrimentally affect nearby properties.

The proposed rezoning will have significant impacts to nearby properties through the incompatibility of the requested land uses along with the increased traffic generated by the development. The character and low-scale development patterns of the nearby residential subdivisions would be negatively impacted by the significant change in the scale of buildings and increased activity generated by the commercial land uses permitted in the C-1 and C-2 Districts.

G. The extent to which development under the proposed district would substantially harm the value of nearby properties.

Staff has not received information indicating that the development as proposed would lead to a substantial impact on the value of surrounding properties.

H. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

The proposed uses would have an impact on the surrounding road network which creates the need for improvements such as a traffic signal at 105th and Woodland Road. Any adverse impacts would be lessened by a reduction in the density of the proposed development along with a change in land use to single family that generates fewer vehicular trips.

I. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

Future development is not anticipated to create air pollution, water pollution, noise pollution, or other environmental harm. Developments within the Woodland Road Corridor are expected to promote the protection of natural resources through an emphasis on tree preservation and the preservation of natural open space. The stream corridor would also remain undisturbed based on the information provided.

J. The economic impact of the proposed use on the community.

Future development would provide increased property tax revenue and additional jobs to benefit the Olathe community.

K. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

The proposed rezoning does not negatively impact the public health, safety or welfare of the community as presented. If the application were denied, the
landowner would still retain the opportunity for the land to be developed in accordance with the character of the surrounding area and in greater alignment with the adopted plans including PlanOlathe and the Woodland Plan.

10. Development Process

All property owners are entitled to file an application requesting a zoning change to the City. While we share concerns and identified issues to the applicant during pre-application and development meetings, the applicant can have their request reviewed for consideration if they choose to do so. If the Planning Commission recommends denial of the rezoning, the application still proceeds to the City Council. If the rezoning is denied, the associated preliminary development plan would automatically fail as the requirements and standards for the plan review and land uses shown are based upon the requested zoning district.

11. Staff Recommendation

In summary, the application as presented does not meet several policies, plans, and criteria used to review zoning cases. A summary table identifying the issues with UDO Section 18.40.090, the Woodland Plan and PlanOlathe is provided below:

<table>
<thead>
<tr>
<th>Areas of Non-Compliance with Adopted Plans and UDO Criteria</th>
<th>UDO (Golden) Criteria (18.40.090)</th>
<th>Woodland Plan</th>
<th>PlanOlathe</th>
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<tr>
<td>Conformance to Adopted Plans</td>
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<td>Effect on Nearby Properties</td>
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<tr>
<td>Affect to the Capacity/Safety of Road Network Influenced by the Use</td>
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Staff recommends denial of RZ20-0007 for the following reasons:

1. The proposed rezoning to R-3, C-1 and C-2 Districts is not consistent with the policies and goals of the Comprehensive Plan (PlanOlathe) which supports a single-family residential development in this area.

2. The proposed land uses, and density are inconsistent with the Woodland Road Corridor Plan.

3. This application fails to meet five of the rezoning criteria identified in UDO 18.40.090.
   
i. “The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies”.

   ii. “The character of the neighborhood including but not limited to: land use, zoning, density (residential), floor area (nonresidential and mixed use), architectural style, building materials, height, siting, and open space”.

   iii. “The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning districts and uses”.

   iv. “The extent to which approval of the application would detrimentally affect nearby properties”.

   v. “The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property”.