MINUTES – Opening Remarks
Planning Commission Meeting: September 28, 2020

The Planning Commission convened at 7:00 p.m. to meet in regular session with Acting Chairman Jeremy Fry presiding. Commissioners Ryan Nelson, Shirley Allenbrand, Marcia Youker and Taylor Breen were present. Commissioners Chip Corcoran, Barry Sutherland and Ryan Freeman and Chairman Dean Vakas were absent.

Recited Pledge of Allegiance.

The Acting Chair made introductory comments. Regarding ex parte communication, the Acting Chair requested that if a commissioner had something to report, they specify the nature of the ex parte communication when that item is reached in the agenda.

A motion to approve MN20-0914, the Planning Commission meeting minutes from September 14, 2020, and MN20-0917, the meeting minutes of the Planning Commission workshop held on September 17, 2020, was made by Comm. Nelson and seconded by Comm. Allenbrand and passed with a vote of 5 to 0.
Emily Carrillo, Senior Planner, presented an application to vacate an alley at 815 E. Park Street. This vacation is needed for redevelopment associated with Contractor’s Garage VII, and related applications are currently under review with the City.

The section of alley to be vacated extends from Park Street to the south, approximately 178 feet along the western lot lines of 815 S. Park and 111 S. Mahaffie. The existing structure located at 815 E. Park currently encroaches into the alley creating an existing legal non-conformity. The proposed alley vacation will provide an additional six (6) feet along the western portion of the property that will be transferred to the adjacent property owners, and therefore eliminating the existing encroachment. The Public Works Department reviewed the request and recommends approval.

Ms. Carrillo noted that all property owners within 200 feet received notice in accordance with the UDO. Staff recommends approval as presented. She added that the applicant was available via Zoom if the Commission had any questions.

There were no questions of staff.

Acting Chair Fry opened the public hearing.

There were no questions for the applicant and no members from the public came forward to speak.

Acting Chair Fry called for a motion to close the public hearing.

Motion by Commissioner Breen, seconded by Commissioner Youker, to close the public hearing. Motion passed unanimously.

There being no further discussion, Acting Chair Fry called for a motion.

Motion by Commissioner Nelson, seconded by Commissioner Allenbrand, that VAC20-0004 be approved as presented.

Aye: Allenbrand, Nelson, Youker, Breen, Fry (5)

No: (0)

Motion was approved 5-0.
Application: RZ20-0007: Rezoning from CTY RUR (County Rural) to R-3 (Low Density Multi-Family), C-1 (Neighborhood Center) and C-2 (Community Center) Districts for Woodland Forest

Aimee Nassif, Chief Planning and Development Officer, presented the request for rezoning to the R-3 District, the C-1 District, and the C-2 District. The site is located at the southeast corner of K-10 and Woodland, on the east side of Woodland Road between its intersection with Highway K-10 and 105th Street in the Woodland Road Corridor Plan area. The property is approximately 53 acres in size and currently zoned County Rural. The applicant is requesting R-3 multifamily zoning in order to develop approximately 357 units in 14 buildings and 25 villas and more than 670 parking stalls. In addition, the applicant is requesting rezoning to the C-2 District for a gas station, convenience store, medical clinic, and pharmacy/drugstore. Also, the applicant is requesting C-1 Commercial District for medical office, clinics, and pharmacy/drugstore. Ms. Nassif stated that the plan has been reviewed by staff and staff recommends denial because goals and requirements identified in Chapter 18.40.200 of the Unified Development Ordinance, known as the Golden criteria, the PlanOlathe Comprehensive Plan, and the Woodland Corridor Plan have not been met.

First, the PlanOlathe Comprehensive Plan supports primary greenway on the subject site, as well as conventional neighborhood with single-family development and tree preservation. The Woodland Road Corridor Plan (Woodland Plan), first adopted in 1996 and updated in 1998 and 2004, establishes specific areas for land uses, expected development patterns, density and transitions between lots, and preservation of trees and open space. Ms. Nassif presented a Future Land Use Map, noting the area identified for parks, recreation, open space and single family. Additionally, the Woodland Plan identifies density as not to exceed 3 dwelling units per acre. In reviewing the Woodland Plan, R-1 single-family and agricultural uses and districts are identified in this area. All current zoning districts in the area have aligned with the Woodland Plan for agriculture or R-1 District single family uses. In addition, all developments along Woodland have followed the density and land uses identified in the Plan.

C-1 and C-2 Districts both allow 75 or more land uses. The Woodland Plan nor the Comprehensive Plan identify the area for commercial uses. The applicant is amenable to reducing those land uses to five uses – gas station, convenience store, office, medical office, and pharmacy/drugstore.

Ms. Nassif advised that the applicant is requesting a density of approximately 8.6 dwelling units per acre, however the Woodland Plan identifies a maximum of 3 dwelling units per acre here.

Ms. Nassif addressed traffic and noted the access points being requested. She advised that an in depth look at the traffic study is not being presented because the traffic amounts are dependent
upon the land uses identified. Because staff is not supportive of those land uses, any traffic requirements become a moot point without zoning. Ms. Nassif noted proposed access points by the developer, which could change if the land uses change, such as with single family. Currently, two access points are proposed on the south side, which would go through the Eagle Crest subdivision. A traffic signal is proposed at the southwest corner, and another right-in/right-out and southbound left turn in only access point just north of there. She added that staff is not aware of any other development where multifamily or commercial development have been routed through a single-family neighborhood.

Another area of the Woodland Plan is tree preservation and greenway. Ms. Nassif noted there are lush and large areas of woodlands and tree canopies, and a streamway that runs east/west through the site. She notes that the developer provided a conceptual landscape drawing. Staff did not request any additional information about landscaping because they are not in support of the land use but noted there are concerns with the plan. In addition, based on the location of the proposed buildings and potential grading, staff has estimated that there would be a great amount of tree loss if this plan is approved and showed an image depicting this. Ms. Nassif explained this is contrary to the Comprehensive Plan and Woodland Plan. Large areas of tree groves and woodlands of have been protected for most areas along Woodland Road as seen in an aerial provided in the presentation.

Ms. Nassif noted that a neighborhood meeting was held on September 3, 2020, with approximately 90 residents in attendance. Afterward, staff received over 410 letters in opposition and one letter in support. Overwhelmingly, most of the concerns expressed focused on non-compliance with the Woodland Plan, deviation from land uses, increase in density, and increase in traffic.

Ms. Nassif provided some history of the development along Woodland, noting that existing properties that front along Woodland Road have consistently followed the Woodland Plan, as all properties are zoned as Single-Family Residential or Agricultural district. Density of properties along Woodland Road have also followed the Woodland Plan for development, and all existing land uses are within the R-1 or AG District uses for this specific area. Transitional lot policies have varied, but the policy itself has varied from time to time but were always subject to review. The Woodland Corridor Plan was last updated in 2004 after receiving around 2,400 surveys from residents. Concerns identified at that time brought to light that an update should be considered. Many concerns at that time are the same concerns heard today, including preservation of streamway, density, and commercial development in the area. The correspondence received on this case have been a message that these concerns and the policies of the Woodland Plan are still viable and valid for the area. Ms. Nassif stated that if the Woodland Plan were to be updated now, resident feedback is a large part of the process. She added that the correspondence received demonstrates that most of the residents and property owners believe the Woodland Plan is still valid.

In conclusion, Ms. Nassif stated that staff is recommending denial of RZ20-0007 because it fails to meet the Comprehensive Plan for the plan policy elements identified in the staff report, and due to proposed land uses, density and tree preservation plans that are all inconsistent with the Woodland Plan. Staff also recommends denial because of failure to meet the required rezoning criteria in UDO 18.40.090.

Ms. Nassif explained the development process. She added that the Planning Commission’s recommendation will proceed to City Council on October 20, 2020, regardless of the recommendation. Zoning establishes land uses and is the first step in what needs to happen in order to establish a plan. An approved zoning district provides and enables entitled land uses.
Also, the zoning district outlines the regulations to be followed, including setbacks, building height, and landscape buffers. Once zoning is established, a preliminary plan can be prepared, which further identifies areas such as a landscape plan, a tree preservation plan, architecture, traffic study, access points, road improvements, and site layout. All these items are contingent on use.

Ms. Nassif further explained that with a recommendation of denial on the zoning, any associated preliminary plan automatically fails. This is because the land uses, and districts shown on the preliminary plan are not supported and therefore would not exist so the plan cannot exist without zoning approval. This is also why a deep dive on architecture, lighting, landscaping and so forth was not performed. Ms. Nassif also thanked the applicant for their continued discussions with staff and the residents for their assistance with communicating the process to others.

Commissioner Nelson noted that many of the letters received express appreciation for the Woodland Plan and the Planning Division. He also noted that there have been frustrations expressed that this is even being heard by City Council.

Ms. Nassif explained that staff attempts to advise and encourage property owners throughout the process, but even when they don’t follow Plans or requirements, the applicant has the right to be heard by the Planning Commission.

Commissioner Nelson noted some letters talked about street connections in the future. He stressed that the issue is not connectivity from the property, but density and the connectivity. He asked if the northern and southern developments would eventually be connected.

Ms. Nassif said that is correct.

Curt Petersen, 900 West 48th Place, Kansas City, MO, appeared on behalf of the applicant. He noted that the three most significant issues are traffic, character of the neighborhood, and property value. There are major grade changes with this site from Woodland going east towards the creek, from the Eagle Crest neighborhood to the south. He said the grade change is not uniform across the site, and they will work had to adapt to the grade changes to the benefit of the neighbors.

Mr. Petersen added that these 52 acres have gone undeveloped through at least three major residential housing builds since 1996, when the corridor plan was first adopted. He stated that history has shown that aspects such as the highway to the north, railroad tracks to the east, an arterial street to the west, and power lines that run through the middle of the site have made the land undevelopable in some way.

Mr. Petersen presented a color site plan. The first is the southern horizontal row, which are 25 high-end twin villas priced at over $400,000 each. He stated the quality of the buildings match those in Eagle Crest to the south. The central part of the site will contain 357 luxury apartments and a clubhouse. Materials will include stone, brick, stucco, and high-end lap siding. The commercial piece along Woodland will include businesses such as a pharmacy and a health clinic. All businesses in their opinion will be neighborhood retail services.

Mr. Petersen then talked about green space, noting that there is an abundance of trees in the area. He noted what trees would be preserved and those that are part of the development area. He believes that a great deal of trees would be retained. He added that consideration should be given to what is appropriate for the land. He noted that previous developments have also removed trees.

Mr. Petersen addressed landscaping, noting evergreens and deciduous trees all around the project. He said their landscaping will exceed expectations and requirements. He said they are including opportunities for pedestrian access, as well as a hike/bike trail.
Mr. Petersen expressed the importance of the corridor plan and the PlanOlathe Comprehensive Plan. They agree that all the plans are important and should be consulted. They also focus on residential, and Mr. Petersen acknowledged that they do not follow the corridor plan exactly, particularly the requirement of 3 units per acre and single-family residential. However, the applicant does not believe that documents such as the corridor plan are not meant to be iron-clad, but rather a concept and guidelines. He noted that the Woodland Plan was first adopted in 1996 and last amended in 2004. Since that time, much has changed, including widening of both K-10 Highway and Woodland Road. Traffic has doubled in the area, and much new development has come to the area. He added that he is not implying that the Woodland Plan or Master Plan are now without value just because a lot has changed. However, they believe it should all be viewed as part of the process to analyze the proposed plan against those planning documents, considering what has changed over the last 16 years.

Mr. Petersen said they have read all comments from the neighbors. He referred to a traffic study done by TranSystems completed on May 14, 2020 and updated on September 1, 2020. The study has been reviewed by the City’s engineers. He addressed several areas. One is that traffic counts should not be taken now, in the middle of COVID. He noted that the City has data from 2015 and 2016 for this corridor, which the applicant used, adding 1% growth annually. He added that 105th Street at Woodland does not have a traffic signal. Mr. Petersen stated that the applicant has committed to include a traffic signal at that intersection in order to improve current conditions. He noted where the primary access to the proposed development is between the convenience store and the pharmacy, traveling east and meeting up with the circular road where the multifamily abuts. This primary access is three-quarter access – right out, enter making a left turn, and enter making a right turn, but no ability to make a left turn out of the development. The access at Emerald Street meets up with 105th Street. Millstone Drive is the existing stub that comes down from the apartments and meet 105th Street. Mr. Petersen stated that the first conclusion of the traffic study is that the main access and 105th Street access with Woodland, along with the signal, has an acceptable level of service.

Mr. Petersen presented a slide depicting all the trips in and out of the proposed development at peak times, noting that 79 percent of trips will exit via the main access and 18 percent will enter/exit via Emerald Street. He stated that in general, people will be heading toward the highway, which is what the data from the Olathe School District shows. He noted that the study’s distribution analysis projects that at Millstone Drive, there will be roughly 20 apartment vehicles per hour during peak. That means that because of the apartments, there will be one additional car per three minutes during peak. He notes that is a very small addition to traffic when it comes to multifamily cars that will go south during peak, down to 105th and traveling west to Woodland. By contrast, if this site built out at 3 single-family homes per acre, he believes there would be larger numbers of families with children, all trying to get to the schools. He believes that type of development would load much more traffic to the roads than this project would.

Mr. Petersen added they would be supportive of a bump out gate.

He then said they are excited to be able to solve an existing problem of not having a signal, letting people get out safely and make a left turn from 105th Street onto Woodland.

Mr. Petersen said he has seen a letter from one of the neighbors that says there’s going to be 271 percent increase in traffic throughout the neighborhood. In response, he says it is simply not true. People are going to have no reason to leave this development and drive down through Eagle Crest and Raven Crest to get to 107th Street. He believes that the idea that the whole neighborhood is going to be inundated with traffic just isn’t true.
Mr. Petersen stated that this project is designed to be a classic buffer from a major highway by taking commercial/multifamily, layering in a step-down residential product, and transitioning right into single-family. He gave a few development examples, including College and Pflumm, Falcon Valley in Lenexa, I-435 and 87th, Mission Farms in Leawood, and Prairie Fire in Overland Park. He also presented drawings that depicted sight lines, the grade changes within the project, as well as landscaping.

Mr. Petersen addressed property values. He compared other developments that have similar transitions, such as Mission Farms in Leawood, and Prairie Fire. He believes that the proposed $400,000+ villas with their construction materials, with all the landscaping and berming, facing a single-family, or distant multifamily, will not lower values.

In conclusion, Mr. Petersen stated that they are, in some ways, consistent with the Master Plan and the Woodland Plan; in other ways, they are not. He believes this project would avoid negative traffic impacts; they are protecting the neighborhood character with a responsible transition from the highway; and they question what else could work on this site.

Commissioner Nelson asked why Mr. Petersen thinks his plan is the right plan, as opposed to the Woodland Plan, and why the plan should be considered a guide and not dictate development.

Mr. Petersen responded that the plan is outdated and believes most policymakers would agree. He said he is not speaking for Council.

Commissioner Nelson said he heard Mr. Petersen say what he believed was the Council’s intention.

Mr. Petersen responded that Council is asking for high-end housing, young professionals, luxury multifamily and high-end twin villas. He does not know what Council’s position is on this project. He has heard City Council say that things such as diverse demographics and high-end housing and sales tax in appropriate areas are important to them.

Commissioner Nelson acknowledges that the traffic study shows the traffic level is acceptable but disagrees that it does not change the dynamic of a significant portion of the neighborhood. Commissioner Nelson said that to say the traffic study says it can handle the volume is different than acknowledging the volume and intent of the neighborhood. He asked Mr. Petersen if he agreed or disagreed.

Mr. Petersen responded that if he had stopped with that high-level statement, he would have the same opinion, but breaking it down to peak numbers, the increase is insignificant.

Commissioner Nelson believes it is a matter of wearing down the community to a point where they just give up. Mr. Petersen disagreed.

Acting Chair Fry opened the public hearing. Eric Neuer, 10505 S. Chesney Lane, Olathe, approached the podium to speak in opposition to the rezoning. He stated that the overwhelming number of letters in opposition should cause alarm and concern. The Woodland Corridor Plan should be followed. Residents can provide real-time information regarding traffic flow and driver behavior in this area, rather than relying on data from over half a decade ago.

Daryl Evers, 19715 W. 105th Street, Olathe, approached the podium. He is the president of Eagle Crest HOA. He believes the Woodland Corridor Plan should be followed. He was happy to hear that staff had multiple meetings with the applicant beginning in August 2019, advising them of issues of non-compliance with PlanOlathe, the UDO, and the Woodland Corridor Plan, but the applicant chose to proceed. He opposed the rezoning stating that this proposal is not right for this area.
William Cunningham, 20080 W. 105th Street, Olathe, approached the podium. He has worked as a city engineer for many cities in the metro area. In that capacity, he has reviewed traffic impact studies, and he believes the traffic study in this case is lacking. He believes there will be a much higher increase in traffic. He is not in favor of the plan as presented and asks that development along Woodland Road finish and the traffic normalize, then do another traffic study.

Sarah Bond, 20268 W. 108th Street, Olathe, approached the podium. She has lived in the corridor for the last seven years. She is concerned about how traffic will impact the safety of their children and pets. She also encouraged to Planning Commission to consider the lack of creation of parks that were called for in the Woodland Corridor Plan. She believes that high-end single-family would be successful next to the highway. She asked that the Planning Commission deny this rezoning request.

Mike Little, 19746 W. 105th Terrace, Olathe, approached the podium. He spoke to maintaining the commitment that was made to homeowners that live in the Woodland corridor because many of them purchased their homes based on the promise that the land would be used for assisted living, low-rise offices, or single-family homes. He believes the traffic study to be disingenuous and greatly understated. He believes potential buyers would find this area to be undesirable. He is opposed to the rezoning and requests that any development be required to follow the Woodland Corridor Plan, which is what they based their home-buying decisions on.

John Shipley, 21000 W. 105th Street, Olathe, approached the podium. He believes that high-dollar single-family homes would be successful on this property and along K-10 Highway. He is not in support of rezoning.

Jessica Calvert, 19655 W. 105th Street, Olathe, approached the podium. She bought her home two years ago. At that time, her realtor guaranteed that the wooded area would not turn into race car track through her neighborhood, with no speed bumps. She chose this neighborhood because she felt safe. She believes traffic will be a huge problem in her area and this would create a very unsafe environment. She asked that the Planning Commission consider whether they would want to raise their own children in an area such as this. She is not in support of this plan for rezoning.

Rebecca Shipley, 21000 W. 105th Street, Olathe, approached the podium. She has lived off Woodland since 1979. She says the Woodland Corridor Plan came about because Olathe wanted to annex the space above the railroad tracks on Woodland and Northgate all the way to the highway assuring property owners that they would not be consumed by apartment complexes and commercial to the north. She noted that development thus far has followed the plan. She is also concerned about traffic. She pointed to an application from 2017 from the same applicant, for Timberstone Ridge at 119th Street and K-7 Highway. She noted that the applicant at that time made statements contrary to those made this evening where in that case this same applicant stated that he did not want multi-family development sharing access with his single-family development. She requested denial of this application because it does not comply with the Woodland Corridor Plan.

Burton Gepford, 19769 W. 107th Street, Olathe, approached the podium. He has lived in Raven Crest for about a year. He agrees with all previous speakers. They were aware of the Woodland Road expansion when they moved in, and they were familiar with the Woodland Corridor Plan. He stated that turning their neighborhood into a busy traffic area is frightening as a father. He does not believe that another gas station or pharmacy is needed in his area. He requests that the Woodland Corridor Plan be followed and asks that the Planning Commission consider everyone’s comments when they vote on this application.
Paul Bliss, 11790 Cherry Lane, Olathe, approached the podium. He lives in Woodland Meadows at 119th and Woodland. He believes the Woodland Corridor Plan is a dictate, just like the Constitution, and it should be followed. He advocates for roads that move fast in all directions and traffic signals are not the solution. He is not in favor of this plan.

There being no one else to speak, Acting Chair Fry asked Mr. Petersen if he would like to respond.

Mr. Petersen responded that professionals on the City and developer side agree that there would be no serious impact to neighborhoods with respect to traffic. This is a fact, and not just neighbors’ opinions. He stressed again that additional traffic at peak times will be nominal. The signal will be at 105th, and people will not go to 107th Street. Also, in response to comments made about the Timberstone project, there are many facts and circumstances to consider, but he is focused on this project. He stated again his belief that single-family homes would not be successful along the highway. He disagrees that the Woodland Corridor Plan must be followed implicitly.

Ms. Nassif responded that the Woodland Corridor Plan was updated in 2004, and the City was aware at that time of road improvements that would occur on K-10 Highway. The area was analyzed and single-family residential was still supported and viable and the greenway provides a natural buffer from the highway. She offered several examples of where single-family is successful adjacent to a highway that are thriving and even closer to a highway such as Mill Creek Farms and two in the Cedar Creek area and even more as you travel east in the metro area. In terms of traffic and access, staff has not found any development where multifamily or commercial has been approved to have thoroughfare through a single-family development. If this area were developed as single family, required road improvements as shown may be different. Ms. Nassif also stated that with transitional zoning, if there is ever was an issue or concern for residents, we would not block other residences with other residential. Therefore, single family is not an issue or concern. Ms. Nassif advised that when we perform corridor studies, the biggest part is feedback from residents and property owners in the area. So, it has been reaffirmed that the Woodland Plan may be older, but it is not outdated and it’s not invalid. Staff has heard overwhelmingly the same concerns expressed from when the 2004 Plan update was completed.

Acting Chair Fry called for a motion to close the public hearing.

Motion by Commissioner Allenbrand, seconded by Commissioner Breen, to close the public hearing.

Motion passed 5-0.

There being no further discussion, Acting Chair Fry called for a motion.

Motion by Commissioner Nelson, seconded by Commissioner Allenbrand, that RZ20-0007 be denied 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”.

Aye: Allenbrand, Nelson, Youker, Breen, Fry (5)

No: (0)

Motion was approved 5-0.
MINUTES – Other Matters
Planning Commission Meeting: September 28, 2020

Aimee Nassif, Chief Planning and Development Officer, noted that the Board of Zoning Appeals will meet at 5:00 p.m. on October 15, 2020.

There were no other announcements.

Meeting adjourned.