



STAFF REPORT

Planning Commission Meeting: December 11, 2023

Application	<u>RZ23-0010</u>: Request for a zoning amendment to Ordinance 20-44, for a Planned District (PD) and revised preliminary site development plan for Bach Homes Montage Apartments
Location	Southwest of W. 127 th Street and S. Mur-Len Road
Owner	Brandon Ames, Bach Homes
Applicant	Shaun Athey, Bach Land and Development
Engineer	Ben Ellis, Olsson
Staff Contact	Kim Hollingsworth, AICP, Planning & Development Manager

Site Area:	<u>17.31 acres</u>	Plat:	<u>Bach Homes First Plat</u>
Commercial Building Area:	<u>27,897 sq. ft.</u>	Proposed Use:	<u>Multifamily Residences & General Commercial</u>
Dwelling Units:	<u>404 units</u>	Density:	<u>27.98 units/acre</u>

	Plan Olathe Land Use Category	Existing Use	Existing Zoning
Site	Community Commercial Center	Undeveloped	PD (Planned District)
North	Mixed Density Residential	Multifamily Residences	RP-5 (Planned High Density Multifamily)
South	Community Commercial Center	Office / Vacant	C-2 (Community Center)
East	Community Commercial Center	Commercial / Personal Services / Gas Station	C-2 (Community Center)
West	Community Commercial Center	Motor Vehicle Sales	C-3 (Regional Center)

1. Introduction

The applicant is requesting a zoning amendment to Ordinance 20-44 for the Bach Homes Montage Apartments Planned District and a revised preliminary site development plan. The revised preliminary plan includes 404 dwelling units within five apartment buildings, 12 townhome buildings and a clubhouse with upper-story apartment units. Additionally, the

proposal contains 27,897 square feet of commercial space along Mur-Len Road within the two mixed-use buildings, a general commercial building, and a convenience store with a gas station.

The applicant is requesting a zoning amendment to accommodate the following primary revisions from the requirements of the established Planned District that was last revised in 2020. All other elements from the plan approved in 2020 will be retained, including the layout of the internal street network and the phasing of the development.

- Increase in the residential density of 5.5%, from 26.5 units per acre (383 units) to 28 units per acre (404 units).
- Conversion of the 3 larger apartment buildings to 5 smaller buildings and a reduction of the number of townhome buildings from 15 to 12 buildings.
- Revised architectural design of the mixed-use, apartment and townhome buildings.
- Conversion of the underground detention basin to an aboveground dry detention basin.

The proposed revisions to the Planned District requires Planning Commission consideration and City Council approval as the approved zoning ordinance for the property (Ordinance 20-44) stipulated that the development would be built in accordance with the attached preliminary site development plan approved in 2020. Staff is recommending approval of the proposed development plan revisions along with amendments to the approved zoning stipulations for this development that provide greater flexibility for any minor revisions should they be requested by the applicant in the future. All stipulations from the 2020 approval remain the same with the exception of zoning stipulations No. 2 and 5 which have been amended as provided in staff's recommendation.

2. History

The subject property was annexed in 1968. In 2018, the undeveloped site was rezoned to the Planned District (PD) in 2018 by Ordinance 18-39 (RZ18-0012) with a preliminary development plan for 27,897 sq. ft. of commercial building area and 294 dwelling units (20.1 units per acre). This included 8 apartment buildings, a clubhouse, 8 townhome buildings, 12 single-family homes, 2 mixed-use buildings, and 2 commercial buildings intended for a pharmacy and a convenience store with a gas station.

In 2020, a zoning amendment was approved by Ordinance 20-44 (RZ20-0001) with a revised preliminary development plan. The revised plan added 89 dwelling units for a total of 383 units (26.5 units per acre). In addition, the revisions also increased the quality of architectural design and building materials, consolidated multiple apartment buildings as one, removed the single-family homes, added townhomes, and reoriented a commercial building closer to the 127th Street and Mur-Len Road intersection.

In 2021, the final plat of Bach Homes First Plat (FP20-0025) was recorded and the final site development plan (PAR21-0015) was approved. However, the applicant never initiated construction of this development.



Aerial photo with subject site outlined in yellow.

3. Existing Conditions

The subject property has formerly been used for agricultural purposes and remains undeveloped. The land slopes toward the southwest portion of the site with limited coverage of significant trees throughout. The site abuts two major arterial roads to the north and east, 127th Street and Mur-Len Road, and 129th Street and Moore Avenue to the south and west. Overhead power lines exist along 127th Street and Mur-Len Road, a public sanitary sewer main is located southwest of the site, and public water lines bound all four sides of the property.

4. District Requirements

Planned Districts are intended to encourage innovative land planning and design in a way that is not possible under the conventional zoning districts. It allows the applicant the ability to *promote quality and environmentally sensitive development by allowing property owners to take advantage of special site characteristics, locations and land uses, and allowing deviations from certain zoning standards that would otherwise apply in conventional districts.*

The Bach Homes Montage Apartments Planned District was established as a cohesive development with harmonious theming throughout the property. The following standards are established at the time of zoning for a Planned District and modifications to a few of these items have prompted the need for this zoning amendment request.

- a. **Land Use** – A use list was established for the development by the zoning action taken in 2018 and the applicant is not requesting any changes to the approved use list. The already approved use list has been retained as Exhibit A in the meeting packet for reference.
- b. **Density** – In comparison to the revisions approved in 2020, the applicant is requesting to increase the residential density of the overall development by 5.5%, from 26.5 to 28 units per acre. Staff is recommending establishing a minimum density of 22 units per acre and a maximum density 29 units per acre for the overall development to provide greater flexibility. These recommended densities correspond with the density permitted for 4-story buildings within the R-4 (Residential Medium-Density Multifamily) District.
- c. **Building Height** – The applicant is not requesting to alter the maximum building height established in 2020, which is 65-feet for the apartment buildings, 35-feet for the townhouses, and 55-feet for the commercial and mixed-use buildings.
- d. **Setbacks** – In 2020, a 20-foot minimum building setback from existing street right-of-way was established by Ordinance 20-44. The applicant is proposing to reduce this setback to 15 feet exclusively for the townhome buildings along Moore Avenue and 129th Street, while maintaining a 20-foot setback along the 127th Street excluding the right-turn lane dedicated by this development. All other buildings will maintain the approved 20-foot minimum building setback from existing right-of-way. This modification to the setback for the townhome buildings accommodates the structural supports and architectural elements needed to ground the buildings from the upper-story overhangs.

There are no changes proposed for the parking and paving setbacks previously established in 2020, which requires a 15-foot minimum setback from all street right-of-way with the allowance for a 10-foot paving setback along Mur-Len Road for the gas station property.

- e. **Street Frontage Buildout** – The proposal maintains the street frontage buildout approved in 2020 by retaining buildings fronting the street, the majority of which are within 30-feet of a public street. Staff is recommending a stipulation to more clearly capture that a minimum street frontage buildout requirement will be maintained within the development. The proposal will maintain a minimum street frontage buildout of 30% along Mur-Len Road for Lots 1, 4 and 5 and 50% buildout along all other streets for Lot 2.
- f. **Open Space** – The proposal increases the overall amount of open space provided from 21% (3.1 acres) to 26% (4.5 acres) and maintains active open space areas internal to the development. The proposal includes a centralized active outdoor amenity with an outdoor pool, hot tub, fire pit, barbecue grill, and picnic areas, as well as a dog park in the southern portion of the development.

5. Development Standards

- a. **Phasing** – The proposed phasing plan matches the approved plan from 2020. Phase 1A includes all residential and mixed-use buildings and Phase 1B includes the gas station. The developer intends to move forward with Phases 1A and 1B in 2024, which includes the construction of all public and internal street improvements. Phase 2 will be developed at a future date when an end user is identified.

- b. **Access/Streets** – The access points have not changed from the 2020 plan approval. The development will have seven (7) access points from adjacent city streets including the primary entrance from Mur-Len Road and additional entrances from 127th Street, 129th Street and Moore Avenue. A revised Traffic Impact Study (TIS) was prepared by Olsson to account for the additional residential uses. Additional traffic improvements or alterations to access points are not required based on the revised TIS.

In 2020, City staff recommended traffic signals at the intersections of 129th Street and Mur-Len, and at 127th Street and Moore Avenue and this recommendation remains. This stipulation will be retained as part of the ordinance amendment and preliminary site development plan recommendation.

- c. **Parking** – A total of 780 parking spaces are provided for the overall development including 471 surface parking spaces and 159 garage spaces within the residential portion of the development. The plan reduces the amount of residential parking from the 686 stalls approved in 2020 to the proposed 630 stalls. Staff is supportive of this reduction as the proposal still provides 1.6 stalls per unit, exceeding the minimum requirement of 1.5 stalls per dwelling unit. The amount of commercial parking approved in 2020 is retained by this proposal. Additionally, the integrated development provides for shared parking between uses including the opportunity for offset parking demands between the residential and commercial uses.
- d. **Landscaping/Screening** – The landscape plan identifies perimeter landscaping, parking lot island landscaping, interior landscaping and foundation landscaping. Parking/paving screening will be provided along paved areas that abut exterior roadways to provide screening of any parking areas from adjacent properties. This development is not subject to tree preservation requirements as all trees found on site are either not significant or a prohibited type of tree, such as Ash trees.
- e. **Stormwater/Detention** – This proposal reduces the amount of underground basin capacity approved in 2020 and adds an aboveground dry detention basin in replacement. Stormwater runoff created by the entire development will be captured and diverted into these basins in accordance with the stormwater quality and quantity requirements of Title 17.
- f. **Public Utilities** – This property is in the City of Olathe water and sanitary sewer service areas. An existing sanitary sewer main is located in the southwest corner of the site and existing water mains are located along all four boundaries of this property. The applicant will install all water and sewer extensions needed to serve the development.
- g. **Signs** – Sign standards will be established with final site development plans and are expected to have cohesive and harmonious theming throughout the development.

6. Site Design Standards

The proposal maintains the Site Design standards applicable to this Planned District (PD) as established by Ordinance 20-44. The apartments, townhouses, and mixed-use buildings are subject to the Site Design Standard 3 (UDO 18.15.115) and the commercial buildings are subject to the Site Design Standard 4 (UDO 18.15.120). The following is a summary of the applicable site design requirements.

- a. **Outdoor Amenity** – The plan retains the outdoor pool area with amenities as originally approved in 2020. In addition, staff supports the proposal to add a dog park on the south portion of this development along with common green areas as they will provide an additional amenity for the residents.

- b. **Parking Pod Size** – All parking area comply with the maximum of 40 and 80 stalls per pod for the Site Design Standards 3 and 4 areas respectively. Additional landscape islands will be added to comply with the parking pod requirement between Apartments D and E with the final site development plan.
- c. **Pedestrian Connectivity** – Pedestrian connections are provided between buildings and across the development at the same level as previously approved in 2020. Additionally, all crosswalks and landscaped pedestrian gateways were retained.
- d. **Drainage Feature** – The new dry detention basin proposed by this application will be extensively landscaped with native tallgrasses with some additional landscaping provided around the basin as required.
- e. **Street Frontage & Frontage Area (Site Design 3)** – The mixed-use buildings are setback and occupy the same frontage area along Mur-Len Road as originally approved in 2020. In addition, the commercial building in the northeast corner of the site maintains these same standards.
- f. **Landscape Options (Site Design 3)** – Similar to the plans approved in 2020, landscaped buffer areas are proposed along Mur-Len Road and 127th Street where the street frontage area is not occupied by building area.

7. Building Design Standards

The building design requirements are also established as part of the rezoning process. The buildings will have a cohesive design and architectural features to create a harmonious look throughout the development.

The buildings will consist of primarily masonry materials including genuine stucco, glass and stone veneer. Fiber cement board is used as an accent material to provide varied textures and color tones throughout each building. Cohesive color tones, rooflines, awnings and similar architectural features will be carried throughout the development. A variety of articulation tools are utilized to add variety to the apartment, mixed-use and townhome buildings. Ground floor pedestrian interest features will be utilized including clear glass, landscape planters and changes in materials.

A design for the commercial building on Lot 1 has not been developed as a tenant for the building has not been identified. Staff has advised the applicant that a revised preliminary site development plan reviewed by the Planning Commission will be required prior to submitting for a final site development plan for this lot.

8. Public Notification and Neighborhood Meeting

The applicant mailed the required public notification letters to surrounding property owners within 200 feet and posted a sign on the subject property per UDO requirements. Staff has not received any correspondence regarding this application.

The applicant held a neighborhood meeting on October 16, 2023 in accordance with the UDO and the minutes of this meeting are included in the agenda packet. Eight residents attended this meeting and asked several questions including questions about stormwater, traffic, and the business operations of the development.

9. UDO Rezoning Criteria

The future land use map of the PlanOlathe Comprehensive Plan identifies the subject property as Community Commercial along with the majority of surrounding properties. Community Commercial Centers are located at prominent intersections and have a mixture of tenants. They are pedestrian-scaled and multi-story buildings are encouraged.

The application was reviewed against the UDO criteria for considering rezoning applications listed in UDO Section 18.40.090.G as detailed below.

A. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.

The proposed uses still align with the Community Commercial land use designation as a mixture of residential uses are permitted that work congruently with the commercial uses through appropriate pedestrian and street connections. The development meets several policies of PlanOlathe including Land Use and Community Character goals of providing mixed-use neighborhoods and targeting infill development (LUCC 4.1 and 6.7). Also Housing and Neighborhoods goals stress mixed-use neighborhoods and high-quality development (HN 3.1 and 5.1). The Olathe 2040 Strategic Plan identifies strategies that align with the proposal to promote and encourage a mix of housing types and opportunities throughout the community, and encourage new residential and development of existing residential real estate to attract people to work and live in Olathe

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 surrounding neighborhood has a variety of land uses including multi-family residential, commercial retail, restaurant and personal service uses. The buildings in the vicinity are typically one to two stories in height; however, the planned development places the taller buildings towards the center to provide opportunities for transitions between buildings of different massing, scale and height. The architectural style will be cohesive throughout the development and provide modern design elements to enhance the existing distinct streetscape elements along 127th Street.

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.

The zoning and uses of the surrounding properties consist of commercial and multi-family residential zoning. This mixture of uses is included in the proposed development and continues to be appropriate for this property. The highly traveled intersection of 127th Street and Mur-Len Road supports the proposed uses and amendments for increased residential density.

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

The property is still suitable for the uses it is restricted to under the existing Planned District zoning designation. The combination of multi-family and commercial uses are appropriate for the property due to the proximity of similar uses in the surrounding vicinity and the efforts to provide a mixture of uses that complement each other.

E. The length of time the property has remained vacant as zoned.

The property has only been vacant for five years under the current PD District zoning designation. However, the property has remained vacant since it was used for agricultural purposes in approximately the 1980s, while other properties have developed in the surrounding vicinity.

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

The proposed zoning amendment will not detrimentally affect nearby properties as the general allocation of land uses are the same as 2020 and are similar to uses on nearby properties. The proposed increase in residential units has been evaluated through a revised traffic study and the revised residential buildings are located primarily near the interior of the property.

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

The district as proposed provides uses and design standards that are not anticipated to have any detrimental impact on 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 have been evaluated through a revised Traffic Impact Study to account for the increase in residential units. With the recommended improvements from the study and additional recommendations by staff, the road network will support the proposed development. The proposed amount of parking complies with the City's minimum standards and the mixture of uses also creates opportunity for shared parking among uses that have differing hours of operation and varying peak travel times.

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

The development is not anticipated to create pollution or other environmental harm. The development will follow all regulations and requirements pertaining to stormwater, air quality, noise, and other related items.

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

The proposed development is expected to have a significant impact on Olathe's economy by adding 404 residential units and several commercial uses. The added residents will frequent existing commercial developments and the new commercial businesses will generate additional sales tax revenue for the City.

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.

There is no gain or detriment to the public health, safety, or welfare if the application were denied. If the application were denied, the existing zoning district would remain, and the landowner would be permitted to develop the property as previously approved in 2020.

10. Staff Recommendation

- A. Staff recommends approval of the zoning amendment and revised preliminary site development plan (RZ23-0010) for the following reasons:
1. The proposed development complies with the policies and goals of the Comprehensive Plan.
 2. The requested zoning amendment meets the Unified Development Ordinance (UDO) criteria for considering zoning applications.
- B. Staff recommends approval of the zoning amendment with the following stipulations:
1. The prohibited uses are established within the attached Use List (Exhibit A). Any modifications to the uses must be requested through the zoning amendment process.
 2. The development must provide the general allocation of land uses established on the preliminary site development plan (Exhibit B) dated November 27, 2023 and comply with the following standards:
 - a. The residential density must maintain a minimum of 20 dwelling units per acre and a maximum of 29 dwelling units per acre.
 - b. A minimum commercial floor area of 27,000 square feet must be provided.
 - c. A minimum of 20% open space must be maintained and high-quality outdoor residential amenities provided.
 - d. All setbacks are as established on the preliminary site development plan dated November 27, 2023.
 - e. A minimum street frontage buildout of 30% is required along S. Mur-Len Road for Lots 1, 4 and 5 and a minimum 50% buildout along all other streets for Lot 2.
 - f. The development is subject to the development standards of UDO 18.30 and the supplemental standards of UDO 18.50.
 3. The maximum building height is established as follows: 65' multi-family residential, 35' townhouses and 55' commercial/mixed use.
 4. The multi-family residential, townhouses and mixed-use buildings are subject to Site Design Category 3, and the commercial buildings are subject to Site Design Category 4 per UDO 18.15.
 5. The building design is subject to UDO 18.15.020 for the commercial and mixed-use buildings. All other buildings must be comprised of primarily masonry materials with fiber cement siding as an accent only. The architectural design will be cohesive and harmonious throughout the development.

6. Sign standards will be determined with final site development plans or through a comprehensive sign package.
 7. All street improvements shall be in accordance with the traffic impact study and as required by the City Engineer. A revised traffic study or report shall be submitted if there is a change in land use, as required by the City Engineer.
 8. All access drives and internal streets will be constructed with the first phase of development.
- C. Staff recommends approval of the revised preliminary site development plan with the following stipulations:
1. Final site development plans must be approved prior to issuance of building permits for respective buildings.
 2. A replat must be approved and recorded prior to the submittal of building permits.
 3. Prior to certificate of occupancy for the apartments and townhomes, traffic signals must be constructed at the intersections of 129th Street and Mur-Len, and at 127th Street and Moore Avenue.
 4. This site is subject to all City of Olathe Title 17 requirements for stormwater detention and stormwater quality. Stormwater management facilities must be adequate for each phase.
 5. The following site details will be reviewed during the final site development plan review and adhere to the following sections of the UDO:
 - a. Parking lot screening details per UDO 18.30.130.
 - b. Details for trash enclosures or compactors will comply with UDO 18.30.130.
 - c. Photometric plans for parking lot lighting will comply with UDO 18.30.135.
 - d. All rooftop mechanical equipment shall be screened from public view. All exterior ground or building mounted equipment, including but not limited to mechanical equipment and utility meter banks shall be screened from public view with landscaping or an architectural treatment compatible with the building architecture in compliance with UDO 18.30.130.