



STAFF REPORT

Planning Commission Meeting: September 23, 2024

<p>Application:</p> <p>Location:</p> <p>Owners:</p> <p>Applicant:</p> <p>Engineer/Architect:</p> <p>Staff Contact:</p>	<p>RZ24-0015: Request for a rezoning from the CP-O (Planned Office Building), CTY RUR (County Rural) & RLD (County Residential Low Density) Districts to the C-2 (Community Center) and R-3 (Residential Low Density Multifamily) Districts with a preliminary site development plan for HōM Flats</p> <p>West of W. 161st St and S. Mur-Len Road</p> <p>Kim & Cheryree Eldred; Aaron Bowman, Brotherhood Bank & Trust</p> <p>Vishal Arora, Magnus Capital Partners, LLC</p> <p>Doug E. Ubben, Jr., P.E.; Phelps Engineering, Inc.</p> <p>Emily Carrillo; Senior Planner</p>
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Site Area:	<u>14.28 acres</u>	Existing Zoning:	<u>CP-O (Planned Office Building), CTY RUR & RLD (County Rural and Residential Low Density)</u>
Commercial Floor Area:	<u>29,366 sq. ft.</u>	Proposed Zoning:	<u>C-2 (Community Center) District and R-3 (Residential Low Density Multifamily)</u>
Dwelling Units:	<u>202 units</u>	Proposed Uses:	<u>Mixed-Use, Vertical (Includes Residences Located over Storefronts) and Residence, Multifamily</u>
Density:	<u>14 units/acre</u>	Plat:	<u>Unplatted</u>

	Plan Olathe Land Use Category	Existing Use	Existing Zoning
Site	Community Commercial Center & Mixed Density Residential Neighborhood	Vacant	CP-O, CTY RUR & RLD
North	Community Commercial Center	Commercial	CP-2
South	Mixed Density Residential Neighborhood	Single Family Residential & Public Safety Services	R-1

East	Community Commercial Center & Mixed Density Residential Neighborhood	Commercial, Office and Single Family Residential	NC, CP-2 & R-1
West	Mixed Density Residential Neighborhood	Single Family Residential, Large Lots	CTY RUR

1. Introduction

The applicant requests a rezoning and preliminary site development plan for approximately 14.28 acres located south and west of 159th Street and S. Mur-Len Road. The development consists of two (2) zoning districts with the C-2 (Community Center) District located along the east portion of the site adjacent to Mur-Len Road, transitioning to the R-3 (Residential Low-Density Multifamily) District proposed on the west portion of the site.

The C-2 District includes a 3-story mixed-use building with ground-floor commercial uses and a total of 53 upper-story residential units, located on approximately 4 acres. The mixed-use building totals approximately 25,000 square feet and includes an 8,000 square foot daycare tenant within the northern portion of the ground floor. The R-3 District encompasses 10.63 acres and consists of twelve (12) 2- and 3-story multifamily apartment buildings totaling 149 units ranging in size from 8,000 to 36,000 square feet. The 3-story, 37-unit multifamily building is located central to the site in the R-3 District.

The development is planned to be constructed in a single phase with the exception of one (1) conceptual 4,000 square foot commercial building proposed at the southeast corner of the development, adjacent to Mur-Len Road. This building is located in the proposed C-2 District on Lot 2 and will be developed as a future phase, once a user has been identified.



Diagram of Proposed Zoning Designations.

2. History

The subject property was recently annexed into the City in August 2024 (ANX24-0004). A portion of the property retains CTY RUR and CTY RLD rural zoning and has primarily been utilized for agricultural purposes. Approximately 3 acres located at the northeast portion of the subject property was previously zoned to the RUR District and utilized as a single-family residence. The property was later rezoned to the CP-O (Planned Office Building) District in September 2005 (RZ05-0031) for Mur-Len Meadows, utilized for a temporary Fire Station No. 7 under a Special Use Permit (SU05-0014).

3. Existing Conditions

The existing site contains two parcels and is primarily agricultural land that drains into the streamways and associated wooded areas that bisect the central portion of the site. Historically, both parcels each contained a single-family residence. Today, two (2) existing accessory structures remain on the subject property.

The area adjacent to the site has been developed since around the early 2000's including a large grocery store and commercial out parcels located to the north. Arbor Creek is a neighborhood center development located to the east, across Mur-Len Road, providing commercial and retail services at the intersection of Mur-Len Road and W. 159th Street, and transitioning into single-family residential homes by blending a variety of housing options that include row homes, detached townhomes and small-lot single-family homes. The Arbor Landing residential subdivision is located just to the south of the proposed site, constructed between 2003 and 2005. Also located directly to the south, on approximately 3.5 acres, is Olathe Fire Station No. 7 which was constructed in 2007.



Aerial map of subject site outlined in yellow. Unincorporated (county) area outlined in purple.



View of subject site looking west from the intersection of S. Mur-Len Road and 161st Terrace.

Approximately 30± acres of unincorporated land is located west of the site comprising (9) large-lot single-family homes constructed in the late 1970's through the mid-1990's. These lots retain CTY RUR zoning.

The residential homes and commercial buildings located in the vicinity of the subject property incorporate traditional architecture styles that include pitched roofs, high quality materials, and architectural details in warm, earth-tone colors.

4. Zoning Standards

- a. **Land Use** – The applicant is seeking a change of zoning to allow for mixed-use development within the C-2 District, and multifamily housing within the R-3 District. The site is identified as Community Commercial Center and Mixed Density Residential Neighborhood on the PlanOlathe Future Land Use Map. The proposed C-2 and R-3 Districts both align with these future land use designations which generally support a mix of commercial and residential uses, and mixed-use buildings

Permitted uses in the R-3 District include multifamily residential, single-family residential and senior housing. The C-2 District includes a variety of neighborhood-focused commercial uses, including a number of service and vehicular related uses.

Staff recommends the restriction of a few retail and restaurant land uses on the subject property due to the surrounding residences, and the potential intensity of these primarily vehicular-oriented uses including typical hours of operation, noise, and lighting. Staff worked with the applicant on these use restrictions and the applicant is amenable to the following use restrictions:

- a) *Auto Supply Store*
- b) *Convenience Stores, with Gas Sales*
- c) *Gas Station*
- d) *Drive-Through Services*
- e) *Vehicle Services*
- f) *Any Distance Restricted Businesses as listed in Olathe Municipal Code Chapter 5.43.*

- b. **Density** – On the west portion of the site, the applicant is proposing vertically attached multifamily units in the R-3 District with a density of 14.01 dwelling units per acre. The R-3 District allows for up to 15 dwelling units per acre. Staff recommends the maximum density for both the R-3 and C-2 Districts be limited to 15 dwelling units per acre, as stipulated.
- c. **Building Height** – Building height within the proposed zoning districts are limited to the following requirements:
 - i. **C-2 District**: 5-stories and 60 feet maximum
 - ii. **R-3 District**: 3 -stories and 40 feet maximum

The proposed buildings within each District align with these UDO height restrictions, with the C-2 District, mixed-use building proposed at 45.5 feet; within the R-3 District, the tallest multifamily building is proposed at 39.6 feet as measured at the average height level between the eaves and ridge line of a gable or hip roof as defined per UDO 18.30.110.1.4.

- d. **Setbacks** – Setbacks within the proposed zoning districts are limited to the following requirements:
 - i. **C-2 District**: 10-foot front minimum, 44-foot front maximum, 5-foot side, and 15-foot parking and paving setback;
 - ii. **R-3 District**: 5-foot front, 20-foot corner side, and 15-foot rear yard setbacks;

The proposed buildings within each District align with the setback requirements of the UDO.

- e. **Frontage Buildout** – Buildings within the C-2 District follow the requirements of Column 2. The minimum frontage buildout required is 80%. The applicant is providing 63.9% building frontage along Mur-Len and is seeking a waiver for this requirement as detailed in Section 9 of this report.
- f. **Open Space** – The C-2 District requires a minimum 25% open space. The proposed development provides 30% open space, exceeding this requirement.

The R-3 District requires 15% (1.6 acres) to be utilized as common open space, with 50% (0.8 acres) of that open space being required as active space. The proposed development includes 6.7 acres of open space, and 1.6 acres of active open space, exceeding this requirement.

5. Development Standards

- a. **Access/Streets** – A traffic impact study (TIS) has been provided by the applicant and reviewed by staff. Access to the site will be provided from Mur-Len Road. Turn lanes will be installed on Mur-Len Road at the site entrance per recommendations from the (TIS) following City of Olathe Access Management Plan requirements.
- b. **Sidewalks** – The applicant is providing a sidewalk network throughout the development that meets UDO requirements for pedestrian connections. This includes a new 5-foot-wide sidewalk provided at the southern portion of the site that connects pedestrians to the existing Arbor Landing subdivision sidewalk network and providing pedestrian connectivity

to Sunnyside Elementary School. Sidewalk connections are provided from all buildings to the existing public sidewalk along Mur-Len Road.

- c. **Parking** – Minimum parking requirements per UDO 18.30.160 for the proposed uses, and the proposed parking counts, are as follows:
- i. **Mixed-Use, Vertical** – Requires 1 parking stall per 500 square feet of building area; the future commercial building use located on Lot 2 requires 1 stall per 300 square feet. Parking requirements are being met with a total of 164 parking stalls required and 164 parking stalls provided.
 - ii. **Residence, Multifamily** – Requires 1.5 stalls per dwelling unit. Parking requirements are being met with a total of 234 parking stalls provided as proposed.
- d. **Landscaping/Screening** – The applicant provided a landscape plan meeting all UDO requirements. Landscaping will be provided along Mur-Len Road through a mixture of shade, ornamental trees and required foundation landscaping. Additionally, significant tree lines located along the northern and southern portions of the property will be preserved.

A 20-foot (Type 3) landscape buffer will extend along the western property line and wrap around to portions of the north and south property lines where the proposed multifamily development abuts residential single-family homes. This buffer will include a 6-foot berm with a mix of shade, ornamental and evergreen trees, and a mixture of required grasses and shrubs, meeting UDO requirements. In addition to the required landscape buffer, the applicant is providing a continuous row of evergreen trees for additional screening to the adjacent single-family homes to the west and portions of the north and south.

A 75-foot-wide (Type 5B) landscape buffer is required where the R-3 District abuts the C-2 commercial property to the north; a portion of this buffer is already provided by the adjacent development as permitted by the UDO. This area includes an existing mature tree line along a portion of the north property line.

A stipulation is included in staff's recommendation requiring a tree survey to be provided with the Final Development Plan to confirm that the required number of significant trees are preserved in the natural wooded areas along the north and south property lines. Infill trees and landscaping will be provided as needed to meet landscape buffer requirements.

- e. **Tree Preservation** – The site includes 7.33 acres of existing tree canopy. A minimum of 20% tree canopy is required to be preserved per UDO 18.30.240. The developer is preserving 20% (1.47 acres) of tree canopy along the north and south boundaries and adjacent to the wet detention amenity area interior to the site to meet this requirement.
- f. **Stormwater/Detention** – A (0.77-acre) wet detention basin will be constructed on site to comply with Title 17 stormwater requirements of the Municipal Code and will include fountain features, serving as an outdoor amenity within the development.
- g. **Public Utilities** – This property is located within the WaterOne and Johnson County Wastewater service areas. Coordination with both entities will be needed for service. The developer will install all water and sewer extensions as needed to serve the development.

6. Site Design Standards

The entire property is subject to Site Design Category 3 based on the Mixed-Use Residential Neighborhood designation of the PlanOlathe Future Land Use Map. The following is a summary of the applicable site design requirements:

- a. **Landscape Options** – Landscaping along sidewalks where building façades are not located is required to enhance community image and support pedestrian activity. A landscaped outdoor plaza and courtyard patio area is proposed at the southern end of the mixed-use building where the building facade is not located within the frontage area to meet this requirement.
- b. **Outdoor Amenity** – Developments greater than 4-acres in size must designate a minimum of 10% of the site toward outdoor amenity spaces that enhance the public realm and promote pedestrian activity. The applicant is providing a large water feature with fountains surrounded by a walking trails, a dog park, multiple playground areas, pickleball courts, natural wooded areas, outdoor seating and shared common areas throughout the development, all of which covers over 15% of the site, exceeding this requirement.
- c. **Street Frontage Area** – Street frontage area for commercial and mixed-use buildings must include a maximum building setback of 15-feet as measured from the property line. The applicant is proposing to increase the setback to 20-feet and is requesting a waiver for this requirement as detailed in Section 9 of this report.
- d. **Parking Pod Size** – The proposal includes 38 parking stalls in the largest parking pod, which complies with the maximum of 40 stalls per parking pod.
- e. **Pedestrian Connectivity** – At least two (2) prescribed pedestrian connections options must be provided on site. The site provides decorative crosswalks within the development and direct pedestrian connections between buildings. A new sidewalk will be constructed that connects pedestrians to Arbor Landing, and ultimately Sunnyside Elementary, and connections are provided to the existing sidewalk along and Mur-Len Road. The pedestrian gateway option is also met by the well-landscaped outdoor patio with a limestone wall feature at the pedestrian entrances off Mur-Len and 161st Terrace.
- f. **Drainage Feature** – A (0.77-acre) wet detention basin is provided internal to the site and enhanced with decorative fountains and landscaping, meeting this requirement.

7. Building Design Standards

The developer is pursuing a blended architectural style which incorporates modern design elements with a traditional architectural style matching the surrounding neighborhoods. The buildings include pitched roofs, red and tan brick, stone and stucco. The buildings have divided light windows and cast stone lintels accenting window frames. Fiber cement board is used as an accent material throughout.

- a. **Mixed-Use Buildings** – Building 1 is subject to the Mixed-Use Building design standards of Chapter 18.15.020 of the UDO. Color building elevations were provided with the preliminary site development plan that indicate the proposed building materials and architectural style of the building. The proposed building meets the minimum design standards of the UDO through the building materials and façade articulation. The following table lists the applicable design requirements and proposed design elements.

Table 1: Building Design Standards	Design Requirements for Mixed-Use Buildings (Building #1) Proposed Design
<i>Deck, Patio, or Rooftop Area</i>	<p><i>Each dwelling unit must have its own deck or patio, or access to a rooftop amenity located in the same building.</i></p> <p>Residents in Building 1 have access to a (833 SF) rooftop patio terrace with permanent shade structures located on the third floor, as shown on the south and east elevations provided in the packet.</p> <p>Additionally, Juliet balconies are incorporated to upper floors, allowing for increased natural light and fresh air, and providing architectural detail.</p>
<i>Building Entryway</i>	<p><i>First-floor primary facades must be pedestrian-oriented with a combination of street-facing entries, clear glass storefront windows, awnings, or overhangs. The main entrance is defined with a projection or a recessed area.</i></p> <p>All ground floor elevations are pedestrian-oriented and include a combination of street-facing entries, clear glass storefront windows, awnings, or overhangs. Common entries are defined by covered projections or awnings.</p>
<i>Windows</i>	<p><i>First-floor primary facades must incorporate a minimum 35% clear glass; Upper-floor primary facades require a 25% minimum clear glass.</i></p> <p>All facades comply with the clear glass requirements. The design provides a range of 36-41% clear glass on the ground floor facades; and a range of 26-28% on upper stories of Building 1.</p>
<i>Horizontal Articulation</i>	<p><i>A horizontal articulation tool must be used every 50-feet on primary facades.</i></p> <p>Wall projections and offsets are provided at least every 50-feet, also distinguished by material and color changes, fulfilling this articulation requirement.</p>
<i>Vertical Articulation</i>	<p><i>A vertical articulation tool must be used every 50- feet on primary facades.</i></p> <p>The roof height on all facades changes at least every 20 to 35 feet across the façade, exceeding this requirement.</p>
<i>Façade Expression</i>	<p><i>At least one expression element must be incorporated on the primary facade.</i></p> <p>The façades contain multiple changes in materials between the lower and upper floors of the buildings. The commercial storefronts are distinguished from the residential units through the use of storefront glass, larger scale stone materials, accent lighting, tenant signage, and awnings above the entrances.</p>

The mixed-use building is clad with Class 1 brick and stone veneer, genuine stucco and glass. Burnished CMU and fiber cement siding and trim, Class 2 and Class 3 materials, will accent the 3-story building. This mixed-use building incorporates 80%-88% Class 1 materials on all primary and secondary facades and are exceeding glass requirements on all facades as proposed.

- b. **Vertically Attached Residential Buildings** – Multifamily buildings located in the R-3 District are subject to building design standards for Vertically Attached Residential (UDO 18.15.020.G.5). Color elevations were provided with the preliminary site development plan showing the proposed building materials and architectural style. The following table lists the applicable design requirements of the UDO for vertically attached residential buildings and proposed design elements:

Table 2: Building Design Standards	Design Requirements for Vertically Attached Residential (Multifamily Buildings) Proposed Design
<i>Deck, Patio, or Rooftop Area</i>	<p><i>Each unit must have its own deck, balcony or patio, or access to a rooftop amenity.</i></p> <p>Building 2 is also providing access to a (833 SF) rooftop patio terrace with shade structures located on the third floor, as shown on the south and east elevations provided in the packet. Juliet balconies are incorporated to upper floors, allowing for increased natural light and fresh air, and providing architectural detail.</p> <p>Buildings 3-13 are designed with individual balconies greater than 24 square feet, exceeding UDO requirements.</p>
<i>Garage Doors & Carports</i>	<p><i>Street facing garage doors must be recessed and architecturally treated and freestanding carports must comply with primary structure standards.</i></p> <p>No garages are proposed in the apartment buildings within the R-3 District. No carports are proposed within the development.</p>
<i>Horizontal Articulation</i>	<p><i>Articulation provided for each 50' of façade in the form of a wall offset, wall notch or wall projection.</i></p> <p>Wall offsets and projections are provided across all facades at less than 50-foot intervals, exceeding the requirements of the UDO.</p>
<i>Vertical Articulation</i>	<p><i>Variation in building or parapet height of at least 2 feet, or 4 feet for buildings greater than 2 stories in height.</i></p> <p>A combination of variation in roof height of at least 4 feet and roof form are used across the facades, meeting the requirements of the UDO. Roofs are flat with parapets that rise at different heights across the façade. Angled roofs serve as accents at building endcaps.</p>

All multifamily buildings will be clad with Class 1 brick and stone veneer, genuine stucco and glass, with fiber cement siding and trim accents. All buildings incorporate 70%-80%

Class 1 materials on all primary and secondary facades and are exceeding glass requirements on all facades as proposed.

Building 2 provides a variety of ground floor amenities available to residents throughout the development, including (but not limited to) coffee bar, coworking lounge, fitness center/studio, game room, community gathering space with kitchen, pet grooming station, and bike storage/repair area.

8. Public Notification and Neighborhood Meeting

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 notification was extended to 1000-feet in the unincorporated area located west of the subject property.

The neighborhood meeting invitation was mailed to properties within 500-feet of the subject property and to adjacent Homeowners Associations. The neighborhood meeting was held on Monday, July 29th, 2024, and was attended by approximately 50 residents, and the meeting minutes are included in this agenda packet.

Staff received a significant amount of correspondence and feedback from residents opposed to this application. As of the date of this report, the Planning Division received 30± letters and emails. All correspondence received by the Planning Division as of September 18th is included in this September 23rd Planning Commission meeting packet. Any additional correspondence received after September 18th will be provided to the Planning Commission prior to the meeting. The primary topics from this feedback along with the neighborhood meeting include:

- a. The height, density and scale of the mixed-use and multifamily buildings.
- b. Compatibility with character of the neighborhood.
- c. Traffic congestion and impacts due to increased development in the area.
- d. Impact on existing natural wooded areas located on site.

Staff also received a number of phone correspondences to which staff responded. Staff provided clarification regarding the development review process and timeline, the development standards of both the C-2 and R-3 Districts, and alignment with the PlanOlathe Comprehensive Plan.

9. Waivers

Section 18.40.240 of the UDO provides a mechanism for waivers to be considered when unnecessary hardships can be demonstrated or where the exception would result in superior design. The applicant submitted a justification statement for the two (2) waivers being requested which is included in the meeting packet.

- a. **Frontage Buildout** – The applicant is requesting a waiver from UDO 18.20.140 which requires a minimum 80% frontage buildout within the C-2 District. *'Frontage buildout'* is defined as the length of a front building façade compared to the length of the front lot line, expressed as a percentage. As proposed, the applicant is currently providing 63.9% frontage buildout along Mur-Len Road.

- b. **Street Frontage Area** – The applicant is requesting a waiver from UDO 18.15.115.C which requires commercial and mixed-use buildings to be located within 15-feet of the front property line to meet the requirements of Site Design Category 3. The applicant proposes for the building to be set back 20-feet from the front property line.

Staff is supportive of the requested waivers which are similar requirements for commercial and mixed-use buildings to be placed closer to the street near the front property line, adjacent to Mur-Len Road which promotes a walkable environment and activates the street frontage. Because of existing public utilities in the area, the building cannot be placed at the 15-foot build line and additionally accommodate the proposed outdoor patios that are intended to be used for outdoor dining. As stipulated, the applicant is agreeable to providing an alternative high-quality decorative masonry wall around the proposed patio areas adjacent to Mur-Len Road and surrounding the south patio of Building 1 in addition to a covered trellis feature that will help set the street edge with structural features located at the 15-foot build line. Additionally, outdoor dining areas the access driveway and entry features occupy the frontage area.

10. UDO Rezoning Criteria

The Future Land Use Map of the PlanOlathe Comprehensive Plan identifies the subject property as Community Commercial Center and Mixed Density Residential Neighborhood. Mixed-use commercial with ground floor retail, and residential multifamily uses, align with these future land use designations.

Community Commercial Centers typically incorporate a large full-service supermarket such as the Price Chopper located at the intersection of 159th Street and Mur-Len Road. Adjacent land uses should include denser residential and mixed-use buildings that serve as a transition to adjoining residential neighborhoods. Mixed Density Residential Neighborhoods include a carefully integrated mixture of housing styles, sizes and densities and are oriented more towards attached multifamily units. True mixed-use development is encouraged in this land use designation, and complementary retail and service uses are permitted in conjunction with residential development.

The proposed mixed-use development is in proximity to existing commercial uses to the north and northeast, and residential uses to the south, east and west. The proposed zoning request meets the following policy elements of the Comprehensive Plan:

LUCC-1.1: Consistency with the Comprehensive Plan. *Land use proposals should be consistent with the vision of the Comprehensive Plan, as well as applicable local ordinances and resolutions.*

LUCC-3.1: Encourage Housing Near Services. *Encourage higher density housing development near transit services and commercial centers to create activity areas that add to the community's quality of life.*

LUCC-4.1: Mixed-Use Neighborhoods. *Support viable mixed-use and mixed-density neighborhoods.*

ES-2.1: Balance of Jobs and Housing. *Use the Future Land Use Map, zoning and other tools to ensure that there is an adequate supply of residential, employment and commercial lands, in order to provide a sustainable balance of jobs and housing in the community.*

HN-2.1: Full Range of Housing Choices. *Encourage residential development that supports the full range of housing needs in the community by ensuring that a variety of housing types, prices and styles are created and maintained in the community.*

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 mixed-use development meets several policies of PlanOlathe by encouraging a mix of complimentary land uses, including a variety of housing options near services, and integrating an appropriate transition to nearby residential. The Olathe 2040 Future Ready 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 to attract people to work and live in Olathe. The majority of the development aligns with the PlanOlathe Future Land Use Map, which designates the property as both Community Commercial Center and Mixed Density Residential.

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 to the west is located in the unincorporated area of Johnson County and consists of large one and two-story single-family residential homes within the CTY-RUR and CTY-RLD Districts. These homes are of traditional design with pitched roofs and increased setbacks on large lots. Traditional single-family residential homes are located to the south within the R-1 District, and adjacent to the Olathe Fire Station #7. The Arbor Creek development is located to the east across Mur-Len Road and includes a mix of NC (Neighborhood Center), CP-2 (Planned General Commercial) and R-1 Districts. The adjacent commercial center to the north is characterized by large parking areas and large inline retail and pad-site buildings with high-quality architecture.

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.*

While there is currently no other multifamily housing located in the immediate vicinity, the proposed mixed-use development and multifamily units serve as an appropriate transitional element between the existing C-2 and R-1 Districts. The proposed development will provide a balanced blend between the existing commercial properties and traditional single-family homes nearby. This mix of uses helps to create a more gradual and harmonious transition, mitigating potential impacts between the commercial and residential areas while fostering a diverse and integrated neighborhood environment. Further, the proposed zoning and land uses directly align with PlanOlathe and the Future Land Use Map for this area and provide an appropriate transition between existing land uses that vary in intensity and scale.

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

The site was recently annexed into the city in 2024 and currently retains County zoning designation. Prior to any development, zoning to a City zoning district under the Olathe UDO is necessary.

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

The property is zoned CP-O (Planned Office Building), CTY RUR (County Rural) and CTY RDL (County Residential Low Density) and has previously been utilized primarily for agriculture and at one time, included two (2) single family homes on the subject property.

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

The zoning districts proposed provide use and design standards that are not anticipated to have any detrimental effect on nearby properties. The proposed C-2 District provides for the same uses permitted on existing commercial properties to the north, and existing residential neighborhoods are buffered from the proposed development by existing and proposed landscape buffers and berms. The project is following all UDO requirements for building and site design.

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

Staff has not received any information indicating that the proposal would lead to a detrimental impact on the value of surrounding properties. Although the development introduces a new type of residential home product to this area, it does not impact the appraised value of existing single-family homes which are not valued against multifamily residential.

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.

This zoning request will not cause any adverse effect on traffic and safety of the road network with the required roadway improvements. A Traffic Impact Study (TIS) was provided and evaluated by staff, which identifies necessary improvements and accounts for the increase in vehicle and truck traffic. The proposal meets the City's Access Management Plan and provides improved access management by combining the properties to eliminate multiple access drives along Mur-Len Road.

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. The development is maintaining existing tree stands and planting new vegetation in accordance with the UDO.

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

Development of the subject property as mixed-use, including a blend of commercial and residential, will generate property taxes and sales taxes to be collected by the City as well as create new jobs.

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. The proposed rezoning does not negatively impact public health, safety, or welfare as presented. If the application were denied, development of the property would be limited to low density rural residential uses and office uses.

11. Staff Recommendation

- A. Staff recommends approval of the rezoning to the C-2 and R-3 Districts with the following stipulations:
1. The following uses are prohibited in the C-2 District:
 - a. *Auto Supply Store*
 - b. *Convenience Store with Gas Sales*
 - c. *Gas Station*
 - d. *Drive-Through Services*
 - e. *Vehicle Services*
 - f. *Any Distance Restricted Businesses as listed in Olathe Municipal Code Chapter 5.43.*
 2. Building heights within the C-2 District are limited to a maximum of 3-stories and 46-feet as measured at the average height level between the eaves and ridge line of a gable or hip roof as defined per UDO 18.30.110.1.4. and as illustrated on elevations included in the September 23, 2024, agenda packet.
 3. Density within the R-3 and C-2 Districts is limited to a maximum of 15 dwelling units per acre as shown on the site development plan included in the September 23, 2024, agenda packet.
 4. The vertically mixed-use building must maintain a minimum of 25,000 square feet of ground floor commercial space that is open to the general public as shown on in the site plans included in the September 23, 2024, agenda packet.
- B. Staff recommends approval of the preliminary site development plan with the following stipulations:
1. A waiver is granted from UDO 18.20.140 to reduce the minimum frontage buildout required in the C-2 District from 80% to 63.9% as depicted in the site plans included in this agenda packet.
 2. A waiver is granted UDO 18.15.115.C to increase the maximum street frontage area setback required in Site Design Category 3 from 15-feet to 20-feet as depicted in the site plans included in this agenda packet.

3. A tree survey is required at the time of Final Site Development Plan to ensure the tree preservation areas located along the north and south property lines provide perimeter buffer landscaping as required by UDO 18.30.130.J.
4. Durable 36-inch-tall barriers will be provided around ground-floor patio areas proposed along Mur-Len Road with Final Site Development Plans.
5. Active open space amenities for the R-3 District will be defined at the time of final site development plan, and must meet the definition of "Open Space, Active" as provided by UDO 18.90.020.
6. A revised preliminary site development plan is required for Lot 2 (Building 14) prior to submittal of a Final Site Development Plan.
7. Exterior ground-mounted or building mounted equipment including but not limited to, mechanical equipment, utilities' meter banks and coolers must be screened from public view with three (3) sided landscaping or an architectural treatment compatible with the building architecture.