



MINUTES

Planning Commission Meeting: July 22, 2024

Application:	<u>RZ24-0005:</u> Request for approval of a rezoning from the CTY PEC-3 (County Light Industrial) District to the R-1 (Single Family), R-2 (Two-Family), R-3 (Low-Density Multifamily) and M-2 (General Industrial) Districts and a preliminary site development plan for Park 169 on approximately 247.15 acres; located northeast of W. 167th Street and S. US-169 Highway.
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Ms. Jessica Schuller, Senior Planner, presented RZ24-0005, a request to the R-1, R-2, R-3, and M-2 Districts with a preliminary site development plan for Park 169, on 247 acres of undeveloped property located northeast of W. 167th Street and S. US-169 Highway.

Ms. Schuller presented that the subject property is bordered on the north and west by industrial and light industrial development, directly abuts the Burlington Northern Railroad and US-169 Highway on the west, and is bordered by single- and multi-family development on the south and east.

Ms. Schuller explained the site's location and zoning history. The property has retained County Light Industrial zoning since annexation in 2012. The site is a transitional area, moving from general industrial land uses on the west to residential uses on the east. The proposal supports that transition by proposing M-2 zoning on the western-most portion of the property, then stepping down through R-3, R-2, and R-1 Districts, as one moves eastward across the subject property. The planned collector road, Barker Road, will divide the industrial uses from the residential districts.

Ms. Schuller stated staff analyzed the approximately 80 land uses that are permitted by right in the M-2 industrial district. Staff recommends that nine (9) of the higher-intensity land uses be prohibited due to adjacency to high-traffic roadways and residential properties. The applicant is amenable to the list of prohibited uses.

Ms. Schuller continued that the Future Land Use Map of PlanOlathe identifies the subject property as Employment Area. The proposed M-2 District aligns with these PlanOlathe future land use designation and aligns with several policies from PlanOlathe, including LUCC-6.1 (Targeted Development), LUCC-8.1 (Mixture of Complementary Land Uses), and ES-1.3 (Targeted Industries).

Ms. Schuller presented the four-phase project progression, beginning with industrial and multifamily. Staff recommends an adjustment to the phasing plan, by stipulating 167th Street improvements be made during Phase 3 instead of Phase 4.

Ms. Schuller presented the preliminary site development plan. She began with thirteen speculative general industrial buildings, traffic access, and landscape plan on the western-most portion of the site. Landscaping berms will help separate the industrial area from the residential area. Ms. Schuller presented the R-3 District to the north of the site, which consists of 33 four-plex buildings around the perimeter with five 30-unit apartment buildings in the center of the site. The R-3 District meets UDO requirements for setbacks, parking, and open space as well as tree preservation. Ms. Schuller then presented the R-3 District on the south end of the site, which consists of thirteen townhomes with eight or ten units each. Ms. Schuller presented the R-2 portion in the center, which includes 94 lots (118 units) and then the R-1 portion which has 113 single-family lots. The R-1 and R-2 portions have separate amenity areas. The R-1 portions will also include tracts for future City construction of regional trails, in accordance with the City's Trails and Greenways Master Plan. Tree preservation meets UDO requirements. Landscape plans will be reviewed again at the time of final site development plans. Ms. Schuller presented traffic and roadway improvements. Staff recommends stipulating that an updated traffic impact study be required at the time of each phase's construction.

Ms. Schuller presented architectural elevations of the industrial buildings. The applicant requests one waiver to the minimum glass requirements (15%) of first floor primary facades of industrial buildings. The applicant requests a reduction from 15% glass to 11-13% glazing on the side elevations of industrial Buildings 1-8 and 10-12. Staff supports the waiver because the applicant increased the amount of glass on the Barker Road-facing facades and exceeded articulation requirements on several buildings. Ms. Schuller continued presenting elevations for the apartment buildings, four-plexes and townhomes, which all meet all UDO requirements.

Ms. Schuller stated a neighborhood meeting was held; twenty-two (22) people attended with questions about truck traffic, stormwater, phasing and timing and noise mitigation. Staff also received nine (9) letters with comments about truck traffic, road improvements/traffic, noise, property values, density, and quality.

Ms. Schuller concluded that staff recommends approval of RZ24-0005 with stipulations and the preliminary plan with stipulations. Ms. Schuller stated the applicant wishes to speak and introduce themselves this evening.

Chair Janner asked if the commissioners had any questions for staff first.

Commissioner Creighton asked staff to further demonstrate what landscape buffering/berms are planned, specifically the height of the berms and the tree preservation. There is a notch where the property would go from M-2 to the open space

of Madison Place. Commissioner Creighton stated it was a hard site to drive and see the site well because of the lack of roadways. He asked how the tree line would be preserved.

Ms. Schuller answered the tree line is on the adjacent property (not the applicant's property). The applicant will be installing a road with landscaping adjacent to the road. The trees will be preserved as part of the subdivision's property. That buffer will exist as well as additional plantings provided by the applicant. The berms will be a minimum of 3 feet, but where possible, will increase with the final site development plan.

Commissioner Creighton asked if landscaping will be required on top of the berms or not.

Ms. Schuller confirmed it would, following master landscape requirements adjacent to residential and industrial screening requirements. The berms would enhance the landscaping.

Commissioner Creighton asked development engineering staff what would happen with the traffic connection to the south to 167th Street. He expressed strong concern about large truck traffic moving east on 167th Street, especially considering there is an elementary school, a roundabout going in and residential to the east along Ridgeview Road. Commissioner Creighton asked if stipulations could be added or other requirements that no truck traffic could go eastbound, but only westbound - assuming 167th Street is built through to Ridgeview Road. If 167th Street isn't constructed all the way through, then he asked whether a stipulation be added that all truck traffic must go north to keep it off of 167th Street.

Charlie Love, Chief Development Engineer, answered he will address a few scenarios and general traffic guidelines first. Staff is not allowed to restrict truck traffic within a mile of the KDOT highway. Also, as a general rule, trucks want to access the highways [which are mostly to the west] though it could happen that some trucks may travel eastbound. Staff anticipates that trucks will primarily choose to select routes westbound out of the site to access the highways. Mr. Love provided specific routes that trucks may take to access the highways and Interstate 35. Mr. Love then asked if Commissioner Creighton had further follow-up questions.

Commissioner Creighton answered and asked to confirm that stipulations are not allowed to restrict or prohibit truck traffic from turning eastbound.

Mr. Love confirmed truck traffic cannot be restricted. Mr. Love added, as previously provided by Ms. Schuller, that an updated traffic study would be required at each phase of the development. Those phases may occur over the course of some extended period, so updated studies will reflect the current conditions at that time.

Commissioner Lynn asked, referencing Barker Road, whether we have other examples in Olathe of industrial sites and residential sites sharing the same collector road or whether that has been studied.

Mr. Love stated the study did not look for other similar locations in the city.

Ms. Schuller stated though some may not involve a collector roadway specifically, she can provide examples where industrial uses are directly next to residential uses successfully. At the intersection of 119th Street and Ridgeview, D.H. Pace directly abuts Lennox Apartments. North of 159th Street, M-2 zoning abuts Asbury Center. I-35 Logistics Center is bordered to the north by 151st and single-family residences. At the intersection of College and Ridgeview Road, there are single family homes directly adjacent to Lenexa Logistics Park with no roadway separation, only a landscape buffer.

Commissioner Lynn asked whether Barker Road will be narrow or wider, for example whether it will be similar to Lindenwood Road.

Mr. Love answered it would be a collector road with likely three-lane sections there.

With no further questions for staff, **Chair Janner** allowed the applicant to speak.

Bryan Rahn, 1120 Eagle Ridge Boulevard, Grain Valley, Missouri, 64029 introduced himself on behalf of the applicant team. Mr. Rahn stated that since staff provided such a comprehensive presentation, he simply wanted to make a few comments to address items that have arisen. They have been working on plans for this site for over two years and have heard a lot about “transitions” – between different neighborhood types, land uses, and landscaping. They have worked with different plans and layouts. In Phase 1 and Phase 2, there are different types of buildings than those in Phase 4. The earlier buildings are Flex-Tech, which will be used for lower-intensity industrial, not the large logistics users. The applicant team has also taken into consideration how traffic will progress over time. There are some major improvement projects associated with this – the flyover and the intersection which will come in time with the future phases. Up front, the applicant team asked what they can do to minimize that impact.

With no further questions for the applicant, **Chair Janner** opened the public hearing. Four people had signed up to speak.

Speaker #1, Tom Stalnaker, 19085 W. 164th Terrace, stated he has lived in Heather Ridge for 24 years, and he opposes the rezoning for multiple reasons. He cited Ms. Schuller’s staff report, saying the proposed zoning of M-2 General Industrial does not fit with what was designated by Plan Olathe to be “an Employment Area [with] Primary and Secondary Greenway...[a] mixture of freestanding office buildings, office parks, medical facilities, and multi-tenant professional offices...[with] [c]omplementary retail and service uses [that] should be limited in scale and carefully integrated.” Even with the restrictions that staff is recommending, those prohibitions would not prevent 24-hour-a-day semi-truck traffic for industries like plastic manufacturing, fabricated metal product, fats and oil manufacturing, and others that are permitted to operate 24 hours a day. Mr. Stalnaker stated he works in M-2 and sees first-hand what is permitted. Once a property is rezoned, there is no control over what specific business goes there. Mr. Stalnaker referenced the “flex tech zoning” mentioned by Mr. Rahn and that there is no such zoning in Olathe

zoning. Further, Mr. Stalnaker stated he could not find another example in Olathe where 1.5 million square feet of M-2 General Industrial zoning is directly across the collector street from over 700 residential units with 2,100 men, women and children. Mr. Stalnaker stated the current zoning of CTY PEC- 3 (County Light Industrial) existed well before it was surrounded by residential.

Mr. Stalnaker continued that his second reason for opposing the plan is access: the only access would be one proposed new feeder street that would initially connect 159th Street. Mr. Stalnaker stated that current conditions at Highway 169 and 159th Street are “a nightmare” during morning and evening rush hours with cars, trucks, trains (which create delays) and school buses. Even with the proposed improvements, that intersection cannot handle the additional truck traffic. There will be nothing to prevent 24-hour-a-day truck traffic from driving past the existing residential, parks, and schools along 159th Street and eventually 167th Street. Even with the proposed 167th Street overpass, trucks will take the shortest route possible, which is 159th Street to Highway 169. Mr. Stalnaker compared to the existing conditions outside of Tyson and noted the trucks take the shortest route possible, which is what trucks will do for this proposed site.

Mr. Stalnaker stated regarding the 700 residential units, all will be rental properties, not ownership properties. Mr. Stalnaker acknowledged that while there is a place for rental units and for M-2 zoning, unfortunately, this tract of land, with its limited access surrounded by residential and the existing railroad, is not the place for this plan. He restated that once the property is rezoned, there is no control over what exact businesses go in. He concluded this rezoning should be denied.

Speaker #2, Leo Brewer, 19074 W. 164th Terrace, stated he has concerns related to drainage coming off the South Hampton and Ridgeview communities. He asked, with the tree line mostly disappearing under this plan and during construction, how the drainage and runoff will be handled. He continued there have not been studies to show a drainage plan. He also had concerns about additional construction traffic coming in on 167th or 159th Streets, citing current traffic as “horrible” with trucks daily driving down 159th to Highway 69. There are schools with crossings on 159th and 167th Street. He stated it is not a good route to run trucks. He heard the fly-over won’t be scheduled until 2030, but there will be no access to 169 off that - everything will have to go all the way to 135th. If they are going to 169, most trucks will go up to 159th and come through that intersection. The main concern is the amount of traffic that will be dumped onto 159th Street, potential traffic going east on 167th, and noise.

Speaker #3, Vanessa Harrington, 19034 W. 166th Terrace stated she has lived in Heather Ridge for almost 8 years and her yard backs to a field which is a nice view. Her property is steps from Madison Place Elementary, a small park, a few walking paths, and two neighborhood pools. The community is quiet, safe and made for families. It was planned and built around a school with streets that are insulated from industrial traffic and was thoughtfully designed and scaled for the existing homes and lot sizes that are there now. The community is not equipped to handle the traffic congestion and population density that these new 13 industrial buildings and over 700 dwellings will create. She

continued her concerns with the Park 169 proposal are congestion, safety and quality of life.

Ms. Harrington expanded that the proposal contains 13 buildings zoned for light fabrication and assembly, industrial manufacturing and warehousing, with room for tractor trailer parking, all within feet of homes, a school, and a park, which will significantly increase traffic and noise for residents. The industrial traffic will pose a threat to the kids who play in the parks and streets and walk and ride their bikes and scooters to the elementary school that is less than a mile from these proposed facilities. Ms. Harrington stated the proposal would more than double the population there, going from 154 homes currently to over 700 dwellings. Ms. Harrington expressed concern about school capacity and concern where children will play since she noted no meaningful parks, green spaces or improvements in the Park 169 plan. She also questioned whether the City had sufficiently considered additional infrastructure that would be required and the resulting implications on taxpayers. Further, she stated the plan to build a fly over ramp connecting US169 and 167th Street within immediate proximity (0.3 miles) to a neighborhood and school was shocking. There is already considerable traffic and congestion around that area during school pickup and drop off times, not to mention increased traffic with buses and students driving to Olathe South High School. Ms. Harrington stated introducing industrial traffic to that area would be disastrous, even with road improvements. Finally, she stated current property values would plummet as a result of the proposed plan. Although Ms. Harrington noted thoughtful, considerate expansion was necessary and welcomed new people and businesses to help the City grow; however, she believes this particular plan was a Johnson County land grab by a developer outside of the community, prioritizing profits over people. She noted it would impact the quality of life and the safety of the current and future residents in that neighborhood. She urged the City Council to reject this proposal.

Speaker #4, Nathan Jones, 19065 W. 161st Street, 66062 stated he was the representative of Madison Place Homeowners Association, which is 180 homes adjacent to the proposed development site. He acknowledged this is a very difficult space, but the current plan is not a great one. He noted the plan did not take into account the concerns of the citizens. He stated the summary from the neighborhood meeting did not accurately reflect the neighborhood community concerns. Further, he tried to reach out to the developers as directed to discuss the proposal, and he received no response. He stated the plan is not community driven, and it does not seem like it is "Olathe-esque." He thanked Commissioner Creighton for representing some of the concerns that were raised in an e-mail, but Mr. Jones found the answers to be lacking.

Mr. Jones continued to share other concerns with the proposed plan, including environmental, noise, and traffic concerns. First, others have noted the waterways. Mr. Jones stated there is a walking trail that goes in the green space behind Madison Place that the HOA has spent over \$130,000 trying to fix. Mr. Jones secured a \$33,000 federal grant last year to repair that trail and to keep that space beautiful for the community. His concern is the developer is talking about installing a berm right there. There is a big water runoff spot that has caused residents problems with that trail, and the plan didn't seem to

capture that which is concerning. The displacement of nature is also concerning. Neighbors are already dealing with wildlife displacement (coyotes, foxes, snakes, etc.) from the other developments going on in the area. Mr. Jones noted biodiversity is essential when to preserve the natural beauty in the state of Kansas. Mr. Jones continued he was concerned about pollution. When he raised this concern with the developers, he was told there would be no pollution, which seemed out of touch with the reality of industrial manufacturing. Mr. Jones noted by his personal knowledge of his father working in manufacturing and living next to manufacturing, there will be significant noise. Mr. Jones raised concern about traffic, considering that current residential traffic is over 1000 vehicles which doesn't include industrial traffic or commuter traffic and a railroad in close proximity to the stoplight. Although there are recommendations to add turn lanes, dedicated straight lanes and a dedicated right hand turn lane, those changes will be inadequate. He noted as an example, that on Saturday, a teenager was hit by a truck at the intersection of 159th and Mahaffie. The current traffic infrastructure is not adequate to handle current residents, extra traffic due to high school activities, Tyson's truck traffic, nor the considerations when a train passes through. Mr. Jones concluded that the traffic improvements would not be adequate.

Mr. Jones added he wholeheartedly seconds the concerns of the previous speakers. However, for the sake of time, the other item that has not been addressed is that this proposal does not enhance a sense of community. He stated he loves his neighborhood – people are outside walking frequently, and he loves the park. He would love to see more green spaces or another park or something more integrated than industrial parking lots with semis going in and out. He would love to see either mixed space like what was originally intended or perhaps offices. He surveyed neighbors, asking what they would want developed for this place, and they said a Costco would be great. However, what is being planned is something that would take away their control over that space, and it would not do anything to enhance the sense of community that already exists.

With no further comments, he entertained a motion to close the public hearing. A motion was made by **Commissioner Chapman** to close the public hearing, seconded by **Commissioner Bergida**. The motion passed by a vote of 8 to 0.

Chair Janner opened the floor for Commissioner discussion or questions.

Commissioner Creighton asked staff to address whether drainage plans meet the federal requirements and whether environmental studies are required by the State or otherwise.

Mr. Love answered that generally, he believed drainage on the site is in a westerly direction, from east to west. He stated there will be a designated stream corridor on the site that will be protected (he demonstrated the area on a map) and three detentions. Mr. Love confirmed the applicant's plan meets Title 17 detention and water quality requirements. Mr. Love continued that, like any other development, there are environmental requirements, but those steps usually occur at a later stage than rezoning. As the plan progresses forward, they will have to work with KDHE and other agencies to

evaluate environmental concerns on the site. All of those must be done before any shovels can go on the ground, which is consistent with any other development in Olathe.

Commissioner Creighton stated he is aware the City communicates with the school district regarding developments and asked Ms. Schuller to answer what was learned from those conversations.

Ms. Schuller confirmed staff maintains communication with the school district, and the district is aware of the projects that are coming through. She noted the north half of the site (Phases I and II) is in the Olathe School District, and the south half of the project is in the Spring Hill School District. Staff reached out to the school districts. The school districts did not have any concerns related to capacity.

Commissioner Terrones thanked the residents who spoke during the public hearing for making their concerns known. Commissioner Terrones stated the public hearing and Planning Commission are steps in the process, but it is ultimately the Olathe City Council that will make that final decision. He again thanked them for making time to share their thoughts.

Commissioner Chapman asked staff to answer what, if any, practical implications there are of rezoning from light industrial to general industrial.

Ms. Schuller stated she stated that generally, "Light Industrial" is for warehouse distribution, flex spaces, etc. "General Industrial" zoning adds a few more very light manufacturing uses. She addressed that manufacturing was mentioned earlier. Staff vetted the list of M-2 uses for those that could be considered more nuisance-creating, noise-creating, pollutant-creating. Most of those types of manufacturing are only allowed in Olathe's M-3 (Heavy Industrial). There is a little more manufacturing in M-2, which is why staff provided a list of recommended prohibited uses. Staff recommends prohibiting more uses than would be typical, because of the proximity to residential. Staff wanted to prohibit uses with outdoor storage or those that could not be contained fully inside the building as well as working to get everything oriented so the 'back of house' is truly to the west and not going to affect any residents.

Chair Janner added that several speakers talked about the Flex Tech zoning and terminology, and he asked Ms. Schuller for clarification.

Ms. Schuller answered it was correct that Olathe does not have the "Flex Tech" terminology in its code. However, it was Ms. Schuller's understanding that the statement was a flex warehouse space use - not pertaining to the actual zoning. Flex warehouse use would be a less intense industrial use which would be allowed in the M-2 zoning.

Commissioner Bergida asked whether the flex tech use would be permitted in M-1 zoning.

Ms. Schuller answered she believe it is allowed, for a flex warehouse use.

Commissioner Bergida asked staff to show the map of the current zoning and then the proposed zoning, which Ms. Schuller did.

Commissioner Bergida stated the residents raised the question of whether any of the units would be sold off versus rented. He asked staff to confirm.

Ms. Schuller deferred to the applicant.

Mr. Bryan Rahn acknowledged this question was raised during the neighborhood meeting. Mr. Rahn answered the project includes several different product types. The apartments and fourplexes in the R-3 District will be targeted as rentals. The applicant has considered R-2's both ways – ownership versus rentals. For the R-1 area, while the applicant does do some R-1 rentals, historically the majority have always been for sale. Because of the current market and Olathe's need for housing under \$400,000, Mr. Rahn didn't want to definitively state the R-1s would be for sale or rentals during the neighborhood meeting. The value of the products is estimated around \$400,000. The applicant team will need to make decisions when they get to that point, depending on the market. Considering this project will be several years in the making with different improvements, things can come up so he does not want to say absolutely. But as of right now, he would say it would be a for sale product.

Commissioner Bergida stated he loved the transition from R-1 to R- 2 to R-3. With the district to the left [north section] that is proposed as R-3, he asked whether there was discussion about additional transitions. Commissioner Bergida asked for the rationale for utilizing transitions on the southern portion of the site but not on the northern portion.

Mr. Brian Rahn answered that regarding the transition to the M-2, there's two smaller buildings and an entry with wet detention and significant landscaping. The R-3 District is essentially a corridor district. He explained the townhomes are around the outside, the apartments are in the middle, and there is existing multifamily just past that R-3 District. There is a lot of buffering and the backs [of the buildings] face Barker. The site lends itself to work well with the way they tried to do the transition.

Commissioner Bergida summarized, there will be a transition, but it won't be with zoning. Instead, there will be townhouses and then the apartments.

Mr. Rahn confirmed that was correct. He added there is quite a bit of room. To the south, is the other neighborhood's green space and to the other side, there is existing multifamily.

Commissioner Bergida stated, there was discussion regarding trucks being able to come and go 24/7 in M-2. Commissioner Bergida asked whether that was also the case in M-1 Districts.

Ms. Schuller answered yes, because in any of the industrial zoning districts, the zoning doesn't necessarily stipulate hours of operation for business.

Commissioner Bergida stated there was concern that there were no green spaces in the proposal. He asked staff to review proposed green spaces.

Ms. Schuller stated there were some statements about tree preservation. However, regarding open space areas in general and park areas, she stated the proposed R-3 area has in excess of 40% open space. She demonstrated where there is a large amount in the center of their project, so that would serve as a park for them. Code requires that to be activated with active space amenities (for example, playground, pickleball court or sport court). Ms. Schuller stated while the plan does not yet identify what that park looks like specifically, the open space is absolutely provided in every residential portion of the property. She referenced within the M-2 area, they are providing walking trail amenities around the detention basins, which are all going to have fountain features in them as well.

Commissioner Bergida asked whether the purple color on the map was where the berm was, that those discussed regarding a creek.

Ms. Schuller stated the berms are in the color orange on the map (and she demonstrated on the map their location). She continued that berms would be added on both sides of the road; anywhere that they can fit them and not interrupt trees, they're adding them. Ms. Schuller navigated to another map to show the other R-3, and she marked open space pockets to be activated throughout the development as she explained: An R-2 pool amenity backs to a green space. R-1 also has an amenity with trail connections. Ms. Schuller summarized that open space was considered and planned for in this development, and that the applicant is exceeding UDO requirements for open space.

Commissioner Bergida referenced the gentleman who spoke on behalf of the HOA and asked if Ms. Schuller knew where he was talking about with the creek and the berm.

Ms. Schuller stated there's a stream corridor central to the site and asked if that was what Commissioner Bergida was referencing.

Commissioner Bergida answered, no, but that he was just curious.

Chair Janner asked if there were any additional questions from Commissioners.

Chair Janner added he wished to note for the record and for City Council, that when City leaders talk about the major issues that need to be addressed in the City, one of the top three is always attainable housing and the ability to get people into home ownership. As a real estate professional, he noted he has personal insight. As Mr. Ron provided earlier as an example that only 35 homes were available for sale under \$400,000, Chair Janner responded that number is low, because they sell in a week. He continued that when he looks at opportunity to create attainable housing, he sees in this proposal a big section of duplex/ four-plex/ eight-plex units that are going to be rentals. Whatever the R-1 turns out to be, it could be rentals or ownership. For the City Council, here's an opportunity. If it's not plausible for the applicant, then what can the City be doing to make it happen? Chair Janner stated, if this is a serious problem that we always want to talk about, then we have to have creative ideas on how to make it happen. He sees this as an opportunity to be

creative and make it a “win” for everyone - for the City, for the community and the potential homeowner. The Council can consider that as they look at other projects as well.

Chair Janner stated if there are no additional comments or questions from Commissioners, he would entertain a motion.

Commissioner Terrones moved to adopt RZ24-0005 as stipulated by staff, and **Commissioner Breen** seconded the motion.

Commissioner Bergida asked if he may offer a friendly amendment.

Chair Janner stated there was a motion on the floor but asked what Commissioner Bergida had.

Commissioner Bergida stated the friendly amendment would be to change the M-2 zoning to M-1, so as to keep the light industrial in the area.

Chair Janner asked Commissioner Terrones whether he wished to withdraw his motion for the discussion.

Commissioner Terrones stated he wasn't sure he understood.

Chair Janner further stated he would have to modify the motion. Chair Janner indicated the amendment would be something that's relevant for discussion before moving forward on a motion to vote.

Commissioner Bergida answered with the following rationale: As Chair Janner stated, there is this need in the City. While Commissioner Bergida expressed he was empathetic to the concerns that the residents have brought up regarding traffic, he understands the proper studies are in place. He further considered that the intended use for this project is flex warehouses, which Commissioner Bergida understands would also be allowed within M-1 zoning. He concluded M-1 zoning would allow the residents a little more protection from development that they believe will impact their quality of life.

Chair Janner restated there was a motion on the floor, and **Commissioner Breen** confirmed he had seconded Commissioner Terrones' original motion.

There was further discussion regarding procedural options. **Commissioner Bergida** asked whether his friendly amendment was not going through, and whether the vote was on the original motion.

Chair Janner stated it would be up to Commissioners Terrones and Breen whether they were willing to withdraw their motion and second, because there was a motion moved and seconded on the floor.

Commissioner Terrones stated he was not willing to withdraw his motion.

Chair Janner stated the Commission would need to vote on that motion and if it were to fail, then the Commission could go back and do a second vote. Chair Janner asked for confirmation on procedure from City Attorney Ron Shaver.

Mr. Ron Shaver, City Attorney, answered that Chair Janner could handle it either way: He could take up Commissioner Bergida's motion independent of the prior motion that was seconded and see if there's a second for Commissioner Bergida's motion. Alternatively, Mr. Shaver stated he was leaving it up to the Chair's discretion if he was requesting withdrawal.

Chair Janner acknowledged and restated that Commissioner Bergida was making a motion to add the friendly amendment in. Chair Janner stated he would need a second on that motion.

Chair Janner called for a second on Commissioner Bergida's motion. With no second, the motion failed.

Chair Janner then called for a roll call vote on the original motion as presented by **Commissioner Terrones**.

Commissioner Lynn asked whether there would be time for more discussion. She added she would like to further discuss the intersection of 159th and 169 Highway as well as the impact on the railroad crossing.

Chair Janner stated there was a motion on the floor and didn't have a call for further discussion. He directed Commissioner Lynn to proceed and make her comments.

Commissioner Lynn stated she would like to hear from the City more about the impact on the railroad crossing to have the additional semi traffic. Specifically, she asked whether the City is responsible for the maintenance of those tracks, as that crossing is not a very good crossing as it is. She stated that would be her concern. She asked whether that intersection will be expanded.

Mr. Chet Belcher, Chief Community Development Officer, answered the railroads resurface all those crossings at their cost. As far as the intersection improvements, the traffic study did recommend some traffic improvements, off site intersection improvements. As Mr. Love mentioned, the applicant will have to update that traffic study with each phase.

Commissioner Lynn asked whether the railroad companies had been consulted.

Mr. Belcher stated City staff have not talked to the railroad and continued that he did not know what the applicants' interactions have been.

Commissioner Lynn stated she has serious concerns about the railroad crossing and the impact with the additional residents and semis.

Chair Janner stated he would now move forward on a roll call vote.

The motion to approve RZ24-0005 as stipulated by staff (made by **Commissioner Terrones** and seconded by **Commissioner Breen**) passed with a vote of 7 to 1 with the following stipulations:

- A. Staff recommends approval of RZ24-0005, Park 169, for the following reasons:
 1. The proposed development complies with the policies and goals of the PlanOlathe Comprehensive Plan.
 2. The requested zoning meets the Unified Development Ordinance criteria for considering zoning applications.
- B. Staff recommends approval of the rezoning to the M-2, R-3, R-2 and R-1 Districts with the following stipulations:
 1. The following uses are prohibited in the M-2 District:
 - a. Power generation plant
 - b. Parking Lots, Surface, as Principal Use
 - c. Public Utility Storage and Service Yards
 - d. Automobile Storage or Towing
 - e. Paper Manufacturing
 - f. Recycling Centers, Drop-Off
 - g. Rendering and Meat Byproduct Processing
 - h. Petroleum Bulk Stations and Terminals
 - i. Storage Area or Lot, except when as an accessory use to a building, and not visible from arterial and collector roadways
 2. The R-3 District is limited to a maximum density of 12 dwelling units per acre.
- C. Staff recommends approval of the preliminary site development plan with the following stipulations:
 1. A waiver is granted from UDO 18.15.020,G.10, applicable to side elevations of Industrial Buildings 1-8 and 10-12, to permit between 11-13% glass as shown on the architectural elevations.
 2. Active open space amenities for residential zoning districts 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.

3. Landscaping will be provided in accordance with all UDO requirements at the time of Final Site Development Plan.
4. Residential building color schemes and variations will be further refined at the time of final site development plan.
5. In the M-2 District, any fence which extends beyond the front line of the building must be decorative in nature and will not consist of chain-link material.
6. Barbed wire fencing is not permitted in the development.
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.
8. Security gates installed for any of the industrial buildings must be installed such that adequate staging is provided onsite for trucks entering the development. No trucks are permitted to be staged on public streets in accordance with 18.30.160.L.
9. Traffic improvements, and associated timing, will be made in accordance with the Traffic Impact Study dated February 1, 2024 and approval of the City Engineer. The Traffic Impact Study is required to be updated with each development phase and shall adhere to Access Management Plan and City Engineer requirements.
10. Barker Road improvements are required to be extended to 167th Street with Phase 3 of this development and 167th Street improvements are required to be extended from Keeler Street to Barker Road with Phase 3 of this development.
11. Improvements to 167th Street are required to be consistent with the "167th Street & 169 Highway Overpass Preliminary Engineering Study", Access Management Plan and City Engineer requirements.