



MINUTES

Planning Commission Meeting: August 26, 2024

Application:	<u>RZ24-0011:</u> Request for approval of a rezoning from the RP-3 (Planned Low-Density Multifamily), RP-4 (Planned Medium-Density Multifamily), and C-2 (Community Center) Districts to the R-3 (Low-Density Multifamily) District and a revised preliminary site development plan for Olathe Commons on approximately 23.15 acres; located southwest of W. 119th Street and S. Greenwood Street.
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Mr. Nathan Jurey, Senior Planner, presented RZ24-0011, a request to rezone a property located southwest of W. 119th Street and S. Greenwood Street to the R-3 (Low-Density Multifamily) District with a revised preliminary site development plan for Olathe Commons.

Mr. Jurey explained the site's location and zoning history. The site is generally southeast of 119th and Black Bob Road and directly east of Olathe Pointe shopping center. The site currently includes C-2 commercial zoning and RP-3 and RP-4 multi-family residential zoning. Abutting properties are zoned for single-family to the east and south, an existing church to the northeast, and existing undeveloped C-2 property to the northwest. Mr. Jurey explained the northwest corner of the site was rezoned from residential to C-2 District in 2019, so this request would return the zoning to its previous residential status.

Mr. Jurey continued that the PlanOlathe Future Land Use map designates most of the subject property as a mixed density residential neighborhood, with which the proposed R-3 District would align. The Future Land Use map designates the northwest corner as a neighborhood commercial center.

Mr. Jurey continued that the applicant's proposal would meet goals of PlanOlathe by providing housing near commercial services (LUCC-3.1) and creating a compatible transition between the more intense abutting commercial uses and the single family uses (LUCC-8.2). Specifically, Mr. Jurey noted the applicant had agreed to a stipulation regarding density and building height to ensure compatibility. Lastly, Mr. Jurey stated the project fills a gap in housing choice (HN-2.1), often referred to as the "missing middle." Mr. Jurey referenced the Olathe 2040 Strategic Plan's goal to diversify housing choices. The Plan identified the "missing middle housing" and then further defined middle housing options to include "Cottage Court" and "Townhouse." The applicant's proposal provides those identified missing housing types.

Mr. Jurey reviewed the site plan, which includes 214 dwelling units. The proposed density (9.2 units/acre) is below the cap of 12 units/acre allowed by the R-3 District. Mr. Jurey presented the 10 single family homes, 50 cottage court single-family units, and 27 two-story townhome buildings. Every unit would have its own private backyard area which will be maintained by the management company. Mr. Jurey presented storm detention, clubhouse with pool, and proposed amenities. Amenity spaces will be further refined at final site development plan review.

Mr. Jurey continued to present the recommended stipulated traffic improvements. The applicant will be required to connect 120th Street to Alcan Road, with two access driveways to the development. All interior streets to the development must be built to City standards but will be privately-owned. The applicant is required to add an extended left-turn lane from westbound 119th Street into the development and to add an additional right-turn lane out from the development to eastbound 119th Street. No left turns will be allowed from Alcan Road to westbound 119th Street. The applicant will be required to add an additional dual northbound turn lane from Shannan Lane and to extend the left-bound lane on westbound 119th Street at Shannan Lane.

Mr. Jurey presented the tree preservation plan along the east and south perimeter and the overall landscape plans both of which meet or exceed UDO standards. Mr. Jurey presented the architectural elevations.

Mr. Jurey stated the applicant requested two waivers. The first waiver would allow a setback of 22 feet and 28 feet for each of two townhomes along 120th Street. UDO 18.20.090 requires 30 feet setbacks. Staff supports this waiver which will maintain a greater buffer and tree preservation area along the southern part of the development. The second waiver would allow 30-54% of Class A (single-family) and 50-70% of Class 1 (townhome) materials on primary facades instead of the minimum of 70% that the UDO requires. Staff supports the waiver as the applicant is exceeding material requirements on side facades and providing extra architectural elements to create a greater overall aesthetic.

Mr. Jurey noted the applicant met all public notice requirements. A neighborhood meeting was held; 19 residents attended with questions about tree preservation, buffers and setbacks, and stormwater. Staff received correspondence from four (4) residents with feedback regarding density and housing quality. Mr. Jurey noted the applicant worked with staff through the review process by removing a row of homes from their original plan in order to reduce density, meet stormwater requirements, and increase buffering and tree preservation.

Mr. Jurey concluded the rezoning request meets the Golden Criteria and thus, staff recommends approval of RZ24-0011 with stipulations and the revised preliminary site development plan with stipulations. The applicant has agreed to the proposed stipulations.

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

Commissioner Corcoran asked for more information about the streets to the south being terminated and whether that was a concern for accessibility and connectivity with the broader road network.

Mr. Jurey answered that none of the last three versions of approved plans (2003 through 2019) had those connections made, and this plan follows suit.

Commissioner Corcoran asked whether the property will be platted into separate developable pieces or as one lot.

Mr. Jurey answered it is multiple pieces with the private street as a tract. All the lots outside the private street are separate.

Commissioner Corcoran asked if they would be rentals, and **Mr. Jurey** confirmed. Commissioner Corcoran noted it is a large development not to have public streets and asked whether there were any stipulations to ensure the streets would be kept up to standards.

Mr. Jurey answered they are required, as is any other commercial shopping center or apartment complex, to maintain their private streets.

Commissioner Corcoran asked whether the units would be able to be sold off to other parties, and **Mr. Jurey** confirmed they would not.

Commissioner Chapman asked to view the traffic improvement map and asked to confirm that 120th Street to the west will exit out Shannan Lane and an additional lane will be added to Shannan Lane. **Mr. Jurey** confirmed. **Commissioner Chapman** noted the Starbucks at the corner and that he personally observed there is not much additional space for a second turn lane with the current sidewalks as is. Commissioner Chapman asked what the plan was to accommodate the additional turn lane.

Mr. Jurey stated there was a plan that showed an additional lane with sidewalks on either side and a reduced median, though the applicant is still working through a final layout.

Commissioner Chapman expressed concern for additional traffic from this development backing up, especially since current Starbucks traffic backs up on 120th Street during morning hours. In addition, Commissioner Chapman echoed Commissioner Corcoran's question about the traffic stubs of Shannan, Alcan, and Greenwood. Commissioner Chapman noted the staff report's statement that no traffic connections would be made based on Council's prior decisions and asked whether that was an assumption.

Mr. Jurey answered that based on the traffic study, no additional connections were required for this development beyond the improvements to 119th, Alcan, and Shannan which would be made.

Commissioner Chapman noted answers into the Q-and-A section about the development not being affordable housing but being between “luxury apartments” and “for sale homes.” He asked for clarification.

Mr. Jurey deferred to the applicant for market questions, as that is not part of staff’s review. Staff reviews the plan against the UDO requirements.

Commissioner Chapman asked whether Olathe has any restrictions against Airbnb’s or VRBO’s.

Mr. Jurey answered Olathe does not currently.

Commissioner Bergida asked to clarify why the applicant is requesting to rezone to R-3 with stipulations instead of leaving it as RP-3 zoning.

Mr. Jurey answered the commercially-zoned property is now included in the site which requires rezoning for residential uses. Further, Mr. Jurey clarified that RP-3 zoning was a vestige left from 2011 UDO. The “P” [Planned] Districts were repealed in 2014, which is why staff recommended to rezone away from RP-3.

Commissioner Bergida asked how many units per acre were allowed under RP-4, versus the proposed stipulation to 12 units/acre.

Mr. Jurey answered he believed the site’s RP-4 approved plan had a max of 17 units/acre, and RP-4 zoning in general allowed 18 units/acre. Mr. Jurey stated this plan’s density is a reduction from the previously approved plan.

Commissioner Bergida asked that the applicant later answer whether or not any units would be sold, as there have been conflicting statements.

Commissioner Brown noted 120th Street on the map and asked whether that was a City street.

Mr. Jurey answered it was a shopping center street.

Commissioner Brown asked whether there was an issue with the City street dumping into the shopping center street.

Mr. Charlie Love, Chief Development Engineer, clarified that 120th Street west of Shannon Lane is a private commercial street and 120th Street between Shannon and Alcan is a public street.

Commissioner Brown asked to confirm the private street starts at Shannon, going west.

Mr. Love confirmed that was correct.

Commissioner Creighton asked for clarification regarding the staff report, page 2, paragraph 2, which describes “60 clustered one- and two-story single-family homes.” He asked what “clustered” meant. He also asked based on the number of units what impact is expected on the local schools.

Mr. Jurey answered “clustered” is a term, alluded to in the UDO, to describe a cottage court where multiple homes share one walk-up sidewalk. Regarding his second question, the school district reviewed the development proposal and asked for additional sidewalk connections to the south to provide safe pedestrian access to Heather Stone Elementary.

Commissioner Creighton asked regarding tree preservation, how City staff ensures the trees are protected beyond the stipulations.

Mr. Jurey answered before shovels go in the ground, the orange protective fence is installed and inspected along with any required silt erosion control fencing.

Chair Janner called for any additional questions.

Commissioner Bergida asked for the applicant to answer whether they will sell the single family homes or all will be rented.

Stephen Furr, Vice President, PeakMade Real Estate, Atlanta, Georgia answered they are a national property management company also. He answered this would not be an Airbnb situation. The property would be fully staffed six days a week. Subleases would generally not be allowed. He clarified they do intend to single-plot, so there will be one common ownership of the entire 23 acres. If the property were ever to be sold, it would be to one entity to be managed with the same expectation that any multi-family community would have. Mr. Furr stated attainable housing was the goal with this development, to fill the void of the “missing middle.” Due to home prices, interest rates, property taxes, and home maintenance costs, this proposal is designed to provide an attainable option that is more private than regular apartments but where maintenance is provided including mowing the yards. It is not their intention to sell off the units individually as condos. It could happen, but that is not their intention.

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

Tom Kearney, 11918 S. Greenwood Street, stated he resides north and east of the end of the property. He stated he has questions about this proposal. There have been several iterations of this plan. A past version had 588 apartments that were going to be built, but COVID prevented it. This plan is a little better with lower density. Regarding streets, every time the neighbors came before the Planning Commission in the past, it was stated strongly that the streets Alcan, Shannan and 120th be closed off. There was an agreement with the previous developer going back 20 years, and a stipulation in order for the neighbors to approve prior plans, that Alcan, Shannan and 120th need to stay closed. He feels strongly about this, and he hopes that will remain in the plans. Mr. Kearney stated he had asked whether this was affordable housing and was told it was attainable housing,

but he doesn't understand what that means. Mr. Kearney continued there is a tree line on the west side of the property with power lines through that he is concerned would need to be relocated. He would also like clarification on where the sidewalks on the east and south sides would connect. Further, he has heard different densities (9 units/acre, 12 units/acre) and would like clarification on the density. Additionally, he asked whether the detention ponds were included in the "open space." He would also like to know where the buffer is 40 feet versus 60 feet (south end or on the east). Regarding the approximately six (6) acres referred to as "Community Center," the neighborhood would be very concerned about what that might be. For example, a strip mall with 24-hour restaurants would negatively impact their neighborhood. The development of this property has been a long, strange journey. This property was previously owned by Hugh Speer, one of the attorneys who argued *Brown v. Board of Education*. The neighbors want a quality development out of this. Originally, the east side of the property was R-1, and it was only because of concessions that the neighbors "surrendered" to the developer.

Ed Tomicich, 12030 S. Greenwood Street, stated he resides in a cul-de-sac on the east side. He stated one concern is having so many neighbors; nine (9) houses would abut his house. He stated there is not much parking for the walk-up cottages with 2 spots each. He also expressed concern about how children will get to school (placement and type of walkways, whether there will be a park area). He stated his biggest concern is the density of housing next door as his property value has gone up significantly. This proposal looks like Section 8 or military base housing. He also shared confusion about what the property may look like in the future regarding private ownership versus rental properties. His neighbor was unable to attend tonight but is worried about fire truck access to some of the units. He said it looks like tree preservation buffer of 40 feet will be by his house and 60 feet buffer will be elsewhere. He appreciates the tree preservation but would also like a big wall there also.

With no further comments, **Chair Janner** entertained a motion to close the public hearing. A motion was made by **Commissioner Breen** 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 confirm whether it's accurate that though the UDO would allow up to 12 units/acre, this plan would be capped at 9.2 units/acre.

Mr. Jurey answered the stipulation is for 12 units/acre, though the UDO does generally allow concessions for higher density and building height in R-3 Districts with additional open space, etc. However, if approved, the stipulation would not allow any concessions; the density must be below 12 units/acre and two and a half stories tall.

Commissioner Creighton asked to confirm this plan is 9.2 units/acre, which Mr. Jurey confirmed.

Commissioner Creighton asked staff to address the questions about the Community Center on the northwest corner of the site.

Mr. Jurey answered the northwest corner is a C-2 commercial Community Center zoning, and there is an approved plan for that site for three buildings.

Commissioner Creighton asked regarding the stub streets, since the fire department and traffic reviewed it, whether a stipulation should be added that, consistent with Council's prior decisions no connection streets will be constructed through the development.

Mr. Jurey stated a stipulation wasn't necessary since the plan was not proposing to make that connection. Mr. Jurey added sidewalks will be added on the southeast corner and south west corner, but no vehicle connections are proposed.

Commissioner Creighton noted concerns about fire truck access. He asked to confirm that the Fire Department has reviewed and approved the private streets for fire truck access. Mr. Jurey confirmed.

Commissioner Breen stated he believes this is a good plan that meets a housing need in Olathe. Even with the waivers, the overall design is nice and high quality that will fit the area.

Chair Janner stated he sees this plan as an improvement to what was planned before. However, as a real estate professional and with all due respect, he stated attainable housing is about entering into home ownership. Though this plan addresses housing that Olathe doesn't have, it is nonetheless for rentals. Chair Janner stated he certainly was not going to vote against the plan. The community still needs to address housing ownership in a win-win-win manner for all involved. Chair Janner stated this was a site where the property could have gone that way.

With no further comments, **Chair Janner** called for a motion.

The motion to approve RZ24-0011 as stipulated by staff was made by **Commissioner Breen** and seconded by **Commissioner Corcoran**. The motion passed with a vote of 8 to 0 with the following stipulations:

- A. Staff recommends approval of RZ24-0011, Olathe Commons, 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 R-3 District with the following stipulations:

1. The density is limited to a maximum of 12 dwelling units per acre and building heights are limited to a maximum of 2 ½ stories and 35 feet.
2. The following traffic improvements are required as identified on the preliminary siteplan and as required by the Traffic Engineer:
 - i. An eastbound right-turn lane with storage length of 150 feet plus appropriate taper on 119th Street and revised median at Alcan Street.
 - ii. Modification of the median on 119th Street to restrict northbound left-turns from Alcan Street and convert the intersection to three-quarters access (i.e. left-in, rightin, right-out).
 - iii. Extension of the existing westbound left-turn lane on 119th Street at Alcan Street as close as feasible to the 200-foot length.
 - iv. An additional northbound left-turn lane with 200 feet of storage must be provided on Shannan Street. Additional details for the turn lane and landscape median shall be submitted and approved with the final site development plan.
 - v. Extension of the existing westbound left-turn lane to provide 200' of storage plus appropriate taper on 119th Street at Shannan Lane.
 - vi. Striping of two-way left-turn lanes on 120th Street.

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 to reduce the required Class A and Class 1 materials on primary façades from a minimum of 70% to a range of 30% to 54% for the single-family homes and 50% to 70% for the townhomes as depicted in the building elevations included in this agenda packet.
2. A waiver is granted from UDO 18.20.090.B to reduce the minimum front setback along 120th Street from 30 feet to 28 and 22 feet for the two (2) northwestern townhomes as depicted in the site plans included in this agenda packet.

3. The following items must be provided at time of final site development plan:
 - i. The active open space amenity must meet the definition of “Open Space, Active” as provided by UDO 18.90.020.
 - ii. Residential building color palettes, variation, and architectural trim will be further refined.
 - iii. The clubhouse elevations must be revised to comply with the building design standards of UDO 18.15.020.
 - iv. A tree survey must be submitted to ensure the tree preservation areas provide perimeter buffer landscaping as required by UDO 18.30.130.J.
4. 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.