



City of Olathe  
Planning Division

## MINUTES

**Planning Commission Meeting: July 22, 2019**

<b>Application:</b>	<b><u>RZ19-0006:</u> Request for rezoning from CTY PEC-3 and M-2 to C-3 (Regional Commercial) and M-2 (Heavy Industrial) districts, and preliminary development plan for Builders Stone.</b>
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Prior to staff presentation, **Chair Vakas** reported an ex parte communication regarding this application, which was with the owner of the tract of land associated with the application. The meeting occurred about a month ago and involved a range of other topics, including this application. Chair Vakas said he heard nothing during that conversation that would influence his judgment and has no need to recuse himself. He stated he is able to make a decision based on the staff report and any other information that may be presented.

**Sean Pendley, Senior Planner**, presented the application, which is a request for rezoning from County PEC-3 and M-2 district to C-3 Regional Commercial and M-2 Heavy Industrial district. The subject property is located on the west side of Kansas City Road, north of the 119<sup>th</sup> Street ramp, which is an area considered a gateway into Olathe, with visibility from I-35. The surrounding area consists of existing industrial, undeveloped properties, commercial properties, and business park developments. Mr. Pendley said that in 2009, the subject property was annexed into Olathe, although PEC-3 zoning is still in place for the north half of the property. He noted that the far south corner is existing M-2 industrial zoning. There is Business Park zoning to the north, and the City of Lenexa recently approved a logistics park in that area, which is under construction. There is also Business Park zoning to the east of the property.

**Mr. Pendley** said the proposal is for two zoning districts. First, on the east half of the property there is 8.7 acres that is proposed for C-3 Regional Commercial and is planned for three commercial lots. The second part is to M-2 Industrial District on the west half consisting of 8.6 acres. The proposed zoning is industrial because one of the uses requested is not permitted in commercial districts. Staff does not support the proposed rezoning for this project due to conflicts with the goals and recommendations of the City's Comprehensive Plan, PlanOlathe and failure to meet zoning criteria analysis.

**Mr. Pendley** stated that the subject property is located in a highly visible area considered to be the Gateway District in PlanOlathe. The intended use would consist of high-quality retail, services, offices, and multifamily residential development. The intent is for a superior design per the Comprehensive Plan. Mr. Pendley presented a map of the Gateway District, noting that the recommended land use is for urban mixed use, intending to support a mixture of employment uses, shopping center, and multifamily residential. The focus of the Gateway is mixed-use development, regional commercial and employment uses. The proposed M-2 zoning is not consistent with the Plan and will negatively impact the ability for the area to develop in this manner. Mr. Pendley noted that the property is undeveloped except for a telecommunications tower on the north half of the property, which was permitted under a CUP issued by the County.

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**Mr. Pendley** provided an overview of the submitted preliminary development plan and stated that the intended use would be for the relocation of the existing Builders Stone development, but the use and zoning requested for M-2 is not supported by PlanOlathe.

**Mr. Pendley** presented a map of the subject property and surrounding area. He said that although there are existing industrial uses, the Gateway District is a larger area with existing development, including the 119<sup>th</sup> Street Tech Park. Olathe Gateway is a planned district for high-quality retail, services and restaurants. In addition, a planned mixed-use center for Olathe Gateway II was approved earlier this year which includes commercial uses, multifamily residential, high density multifamily residential, and mixed-use development. Mr. Pendley stated that these types of uses fit the recommended uses for the Urban Mixed-Use Center and is the intent of the area. Uses and amenities include street connections and amenities throughout the development.

**Mr. Pendley** presented a map of the area and explained the goals for connectivity through a well-connected street network in the area.

**Mr. Pendley** reported that the applicant held a neighborhood meeting on May 14<sup>th</sup> with one property owner attending. Staff also received a call from a representative of the adjacent property who indicated that he supported the proposed development. A letter from this representative was also received and forwarded to Commissioners, and it will be made part of the public record.

**Mr. Pendley** stated that staff met with the applicant on two occasions to discuss the application process and to review staff's reasons for why they did not support the rezoning. However, the applicant wished to continue moving forward and prepared a preliminary development plan. The preliminary development plan was not reviewed by staff because the zoning recommendation is for denial and reviews are dictated by development standards in the zoning district. Staff provided a summary of the process when a recommendation is for denial.

In summary, staff recommends denial of this application as described in the report because: The M-2 zoning is inconsistent with the goals and policies of PlanOlathe; warehouse and outdoor storage would have a negative impact on existing and proposed development in this area; it will detract from future development and use of the area as Olathe Gateway; the proposed zoning will have a detrimental impact on future development in this area; and, as proposed, the application fails to meet several aspects of the Golden criteria. The proposed zoning does not meet the following Golden criteria: Conformance with the Comprehensive Plan; the character of the neighborhood, including but not limited to land use and zoning; the suitability of the property for uses that are restricted; and, the extent to which the proposed use would adversely affect the capacity or safety of the road network.

There were no questions for staff. **Chair Vakas** opened the public hearing and asked the applicant to come forward. **Brandon Becker**, owner/applicant, approached the podium and introduced members of his team. He acknowledged that this is a complicated matter and prepared a presentation, which was previously shown to City Council. He said initially staff was in favor of the zoning, but a consultant was hired who came to a different conclusion.

**Mr. Becker** provided a history and background of Builders Stone stating they have been in Olathe since 2008 and employs approximately 450 people. They plan to use the proposed building as their company headquarters, including a showroom and office space for their corporate staff. Mr. Becker noted that another builder is building approximately 1.2 million square feet of heavy industrial flex use, which he does not consider to be a business park. He

believes redeveloping or master planning the entire area will be difficult, if not impossible. He said they will be an anchor tenant to spur activity in the front parcels, where he is asking for C-3 zoning. He said this project will maximize value to ground that is very difficult to develop in the rear of the parcel. He noted that there is a 60-70-foot elevation drop from 119<sup>th</sup> Street down to their site. He has engaged Schlagle Engineers to draw up a line of sight study and elevations. The line of sight study concluded that none of the loading area will be visible from -public streets in Olathe. Mr. Becker also noted about 300 feet of trees and drainage that will obscure the area to the east. He provided pictures of their current facilities, noting that all their products are neatly stacked on pallets and stored behind an eight-foot fence. He noted outdoor storage at other area home improvement stores that have no screening.

**Mr. Becker** noted again that their property is surrounded by industrial zoning, and he believes they will provide a nice transition from 1.2 million square feet of large industrial to a Class-A office/showroom environment with very little outdoor storage. He presented several proposed elevations of their building. He finds it interesting that Fry Wagner supports the plan when an urban mixed use would probably add more value than what Mr. Becker is proposing.

There were no questions of the applicant. **Clay Blair, 26795 West 103<sup>rd</sup>, Olathe**, approached the podium. He has owned this property since 1987. He said if you examine the pictures of the buildings that Mr. Becker put forth, they certainly meet and exceed the buildings on the south side of the street. He believes the proposed building is equal or superior to other buildings in the area, and notes that because Mr. Becker owns a stone company, the building will be finished very nicely. Mr. Blair notes a railroad track across the street that is active more than 25 times a day. He is also confronted with a four-story building that Block is building the length of the property on the border of the city of Olathe. Mr. Blair said they do not oppose the idea of a Gateway district and appreciate the quality that is being presented, but it will take engineering and financing, none of which have been submitted to the Planning Commission or City Council. Mr. Blair said the consultant's report does not mention how they're going to pay for it, how they will deal with the water tower, how they're going to deal with 17 diverse owners, and have no financing package. He believes what they have offered is a transitional zoning plan, and it is ideal for this location. Mr. Blair stated that Mr. Becker's company has had a very positive impact on Olathe, but Olathe risks Mr. Becker going somewhere else with his project.

There being no one else to be heard, **Chair Vakas** called for a motion to close the public hearing.

*Motion by Comm. Rinke, seconded by Comm. Fry, to close the public hearing.*

*Motion passed 7-0.*

**Comm. Fry's** concern is not with the renderings, but rather the zoning. He believes staff has done a good job of outlining how the Planning Commission needs to make their decision, which is the Golden criteria as it relates to what the City has decided is the plan for the gateway into Olathe. He does not believe the zoning requested works with the Comprehensive Plan.

**Chair Vakas** noted that the Comprehensive Plan has been well vetted over a number of years. While there are appealing aspects to this application, he agrees that it does not align to the Comprehensive Plan. He agrees with Comm. Fry's comments. **Comm. Nelson** agrees as well. ,

**Chair Vakas** added that the suggestion is that this is a transition from what is in Lenexa to what is anticipated for the Olathe Gateway project. However, the intent of Olathe Gateway is that it will be the entry into Olathe and adding something industrial on the north end will compromise

that. He congratulated Mr. Becker on a wonderful business and appreciates all that he has done in Olathe over the years. He called for a motion.

*Motion by Comm. Fry, seconded by Comm. Nelson, to recommend denial of RZ19-0006, for the following reasons:*

- A. As detailed in this report, the proposed rezoning to M-2 zoning district is not consistent with the policies and goals of the Comprehensive Plan for the Gateway District as identified in PlanOlathe which is intended to support a mixture of commercial, office, and residential uses.
- B. The proposed use for a warehouse building and outdoor storage will have a negative impact to the existing and planned office and retail development in the surrounding area and detract from 119th Street as a community gateway.
- C. The proposed zoning will have a detrimental impact to the future redevelopment of this area in accordance with PlanOlathe
- D. As proposed, this application fails several of the criteria for a rezoning under section 18.40.090 of the Unified Development Ordinance.
  - 1) *"The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies".*
  - 2) *"The character of the neighborhood including but not limited to: land use, zoning, density (residential), floor area (nonresidential and mixed use), architectural style, building materials, height, siting, and open space".*
  - 3) *"The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations".*
  - 4) *"The extent to which approval of the application would detrimentally affect nearby properties".*
  - 5) *"The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property".*

Aye: Freeman, Nelson, Rinke, Fry, Munoz, Corcoran, Vakas (7)

No: (0)

*Motion was approved 7-0.*

Before casting his vote, **Chair Vakas** added that the City hopes they find another site in the city that will work.