



Planning Division

## MINUTES

### Planning Commission Meeting: February 22, 2021

<b>Application:</b>	<b><u>RZ20-0013:</u></b> Request approval for a rezoning from AG (Agricultural) District to R-3 (Residential Low-Density Multifamily) and R-4 (Residential Medium-Density Multifamily) Districts and preliminary site development plan for 133rd Street and Black Bob Multifamily on approximately 69.8 acres; located at the northeast corner of 133rd Street and Black Bob Road.
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Commissioner Breen recused himself from consideration and voting on RZ20-0013 and left the chamber.

**Jessica Schuller, AICP Senior Planner** presented RZ20-0013, a request to rezone and a preliminary site development plan for 133rd Street and Black Bob Road Multifamily, located at the northeast corner of Black Bob Road and 133rd Street. The subject property is currently zoned for Agricultural (AG) uses. The applicant is requesting to rezone this property to the R-4 (Medium-Density Residential) District on the western half of the property, and the R-3 (Low-Density Residential) District on the eastern half of the property.

**Ms. Schuller** explained that the applicant proposes to construct 19 apartment buildings in the R-4 District for a total of 591 units on site. She gave an overview of the proposed construction and building designs which consists of four different building types ranging from two- and three-story splits to four stories in height. Ms. Schuller also reviewed the proposed amenities planned throughout the site, which include a pool, clubhouse, two dog parks, open play field and walking trails.

**Ms. Schuller** added that a traffic signal will be installed at the intersection of 133rd Street and Black Bob Road. Alden Street will be constructed central to the site and eventually connect to the north past the church into Crestwood Village. She explained that the traffic impact study submitted with the application factored in the effects of COVID-19 on the traffic counts that were provided. The volumes were adjusted to reflect accurate results and a worst-case scenario to arrive at the appropriate recommendation for this study.

**Ms. Schuller** provided an overview of the landscape plan which includes street trees and also master landscaping along arterial and collector roadways. She informed the

Commission that the applicant is requesting a waiver to reduce the required landscaped area along a portion of 133rd Street from 25 feet to 15 feet, which is supported by staff. The applicant is still able to accommodate the amount of required landscaping in between the buildings located in the highlighted area on the map. The applicant also proposes native grass and wildfire plantings throughout the interior of the site and is preserving 53 percent of the existing trees located to the east near the Eastbrook Trail, which exceeds UDO requirements for tree preservation. Other areas of trees on site are intended to be preserved by the developer as the site grading will allow.

**Ms. Schuller** informed the Commission that the applicant is requesting a waiver to reduce the corner lot side yard setback in the R-3 District from 20 feet to 12 feet. Staff supports this request which will aid in maintaining a compact, walkable residential neighborhood. Building elevations in the R-3 District are one- and two-story townhomes. The buildings meet UDO requirements for building materials; however, the applicant is requesting a waiver to the requirement to recess the garage doors two feet from the primary façade. Staff supports the waiver for building types VI and VII, because these buildings provide additional architectural detailing and interest through wide front porches, different materials and colors and features such as dormers and shutters. Staff also supports the waiver on Building Type IV, provided the applicant revise the garage doors to provide additional architectural detailing in the form of windows, decorative trim and molding or a combination of these features. These features are recommended because the garages are still very prominent features on this building, and staff wants to see them incorporated in a way that accents the front facade.

**Ms. Schuller** informed the Commission that staff does not support the waiver to the Type V building elevations. Staff is not recommending approval of the waiver to the Type V building, as the garages not only extend beyond the front façade, but they comprise nearly the entire façade and there are no additional architectural features that add interest or offset the appearance of the garages to create a more welcoming frontage. Staff recommends that revised elevations be submitted at the time of final plan that are more conducive and compatible with the other buildings on site.

**Ms. Schuller** noted the Future Land Use Map of the Plan Olathe Comprehensive Plan designates the subject area as Mixed Density Residential Neighborhood. This designation consists of a mix of housing types, styles and densities, which the proposed project aligns with. The project also meets the standards of the Golden Criteria for considering rezoning applications and aligns with policies of the Comprehensive Plan, including the need for residential densities that support and are in proximity to commercial centers, as well as supporting developments that provide a range of housing types and styles to accommodate a variety of lifestyles and economic levels.

Staff recommends approval of the rezoning to the R-3 and R-4 Districts without stipulations and the preliminary development plan as stipulated. Ms. Schuller offered to answer questions, as well as the applicant who was also present to answer questions.

**Chair Vakas** opened the public hearing.

**Ms. Aimee Nassif, Chief Planning and Development Officer** encouraged those listening to the meeting in Zoom to use the raised-hand feature to make comments.

**Mr. John Kimmi**, 15126 West 132nd Place, Olathe, Yorkshire Subdivision, explained that he did not fully understand why a multi-purpose development was going into the site, as everything in the area includes conventional housing, except for the church. He expressed his concerns with increased traffic and felt that the two and four-story buildings did fit the area. He mentioned development of housing units where the old library was previously located.

**Chair Vakas** asked staff to discuss the traffic study in more detail.

**Ms. Schuller** stated the applicant submitted a traffic impact study with the proposed development, as was required. The City's traffic engineers evaluated the traffic and agreed with the recommendations of the traffic impact study, which was to put a stoplight at 133rd Street and Black Bob Road and not at 132nd Street. The traffic engineers and staff will continue to monitor the 132nd Street intersection as the development comes in to assess whether a traffic signal will be warranted in the future.

**Chair Vakas** said he understood traffic would continue to grow on Black Bob Road as the City develops and busier streets were expected due to the increased population in Olathe. He asked who conducted the traffic study for the project.

**Ms. Schuller** said that TransSystems conducted the traffic study. She added that there are some additional roadway connections being planned with the development and 133rd Street and Alden Street will also provide additional connections. Changes in traffic patterns were expected to occur with the development and would be monitored as the project moves forward.

**Chair Vakas** referred to Mr. Kimmi's reference of the development at the old Indian Creek Library site and he asked for further details on that development.

**Ms. Nassif** explained that development was not under review or on the agenda this evening, and there is nothing active on that development currently.

**Commissioner Nelson** stated although the City would like the developer to install a stoplight, he did not feel they could force the developer to do that if the traffic study does not demand that stoplight. From a public understanding of the development, if the traffic study merited adding that traffic signal on 132nd Street, he felt the City would be aggressive in saying that installation needs to happen. Until that is proven through the traffic studies that are done, they cannot force that upon the developer at this point. He also noted that was also a reference point for the City to ensure financial considerations are taken up with this project.

**Ms. Schuller** agreed with Commissioner Nelson and stated that information was reflected in the data before them.

**Commissioner Fry** asked staff to provide some history of the property. He understood the development that went to the north of the church, started and stopped due to some rock issues and topography of the site. He felt the site was interesting in that it has not yet been developed and asked if there may be some existing conditions on the property that caused developers to not want to build on the site in the past.

**Ms. Schuller** stated that other than the stream corridor that runs through the site, she was not aware of any other topographical conditions of the site that would prohibit the development. In researching the site, she did not find any other applications that had come forth on the site previously and is why the property remains zoned AG and has not seen any projects on it.

**Ms. Nassif** noted there were no members of the public requesting to speak on the development. She followed up on Commissioner Fry's question regarding the development to the north, Crestwood Village, which is still under construction stating it is for two-family attached development.

**Chair Vakas** recognized a member of the public who wanted to speak on the development.

**Mr. Wesley Bergeron**, 13206 South Foxridge Drive, Olathe, stated he has lived in Yorkshire Subdivision since 1993 and in Olathe since 1981. He was disappointed to see the direction the City was going with development. He felt when people drive through Olathe, there will be a clear demarcation between Olathe and other surrounding cities. He did not agree with installing a traffic light at 133rd Street and was also concerned with the increased traffic from the development.

**Chair Vakas** asked Mr. Bergeron to elaborate on his comments regarding where he felt the City was going.

**Mr. Bergeron** questioned why every square inch of the City needed to be developed with high-rise buildings. He was concerned about having sufficient parkland. He felt the main reason development has not occurred on the proposed site is because the City wants the road built by the developer and no one wants to build that road. Since they have a developer who is now willing to build the road, he felt that was why the project was coming forth.

**Chair Vakas** requested the applicant, representatives of TransSystems and the City traffic engineers to come forward and provide additional information about the traffic study and how it was conducted.

**Mr. Jeff Wilkey**, TransSystems, 2400 Pershing, Kansas City, Missouri, stated he had conducted the traffic impact study for the project and explained how the study was conducted and some considerations and adjustments that were made to arrive at a more accurate picture to include adjustments for lower traffic counts due to COVID and hybrid-learning for schools. Adjustments were made to increase those numbers. Additionally .. they applied development traffic, which would come from Anderson Pointe and from

Crestwood Village to ensure they had an entire picture of the traffic. They also conducted a future analysis. There has been a lot of discussion about 132nd Street traffic volumes, which were found to be below the warranting thresholds for a traffic signal, which was mostly due to the side-street traffic volumes. The traffic coming out of 132nd Street were below the national standard that has been adopted for when a traffic signal is installed, and 133rd Street met those levels and why a signal is warranted at that location.

**Chair Vakas** asked for further clarification regarding compensation for COVID as part of the traffic count.

**Mr. Wilkey** stated they adjusted the traffic volumes up to match more closely with what they had collected on Black Bob Road with the previous studies with Crestwood Village and at Anderson Pointe, which were done in the 2017 timeframe. There were also some adjustments to balance out and add a little more vehicles to peak hours to ensure they are bringing it to current levels. They are seeing traffic build back up, especially on the City street networks. He felt Olathe had some good examples of those current traffic counts compared to where they were last March.

**Commissioner Nelson** understood they were using the traffic study to look at major intersections, but asked how it was used in making decisions where vehicles would exit the proposed development. He inquired how that information would provide guidance with right-in and left-out turning movements.

**Mr. Wilkey** referred to current traffic patterns and where the turning movements exit into the counts they collected, as well as some of the traffic volumes on the roads, the gravity of where the drivers may be going and proximity to highways. Since the use is multifamily, they are assuming a fair amount of commuter traffic and traffic to where the service center is located. The components were factored into their decision-making process.

**Mr. Fry** asked about the differences between whether the subject property would be multifamily as proposed compared to single-family zoning, including traffic counts. He wanted to know what a general comparison would be for those two zonings.

**Mr. Wilkey** was not sure how many units they would be able to get on the property if it was zoned single-family, but typically, a single-family residence generates more daily trips than a multifamily unit since there are usually more individuals living in a single-family residence. The footprint of the single-family property is also larger. He felt there would be similar traffic patterns between multifamily and single-family zoning, such as driving patterns and where people are heading.

**Zack Baker, City Traffic Engineer** stated the current traffic studies are based on commonly used engineering practices, but it is not an exact science. After the development is complete, the City will continue to monitor traffic. Currently, the applicant is making assumptions as to trip distribution and things of that nature. Once the development is built, traffic staff will be able to observe the exact traffic patterns. At that

point, staff can further assess whether a future traffic signal is need at 132nd Street. He noted that was standard practice for these types of scenarios.

**Mr. Pete Heaven**, Spencer Fane, LLC, 6201 College Boulevard, Overland Park, appeared on behalf of the applicant. He offered to answer questions about the development.

**Chair Vakas** asked the applicant to further reflect on the nature of the proposed development, including the quality of the construction and perception of the development as a whole.

**Mr. Heaven** stated that he has represented the developer for many years and noted they use products of the highest quality and offer more to the typical resident than can be found in most multifamily dwellings. He emphasized that the developer was a family-owned and operated business. They also maintain their facilities and communities as well as anyone in the Kansas City area. He referred to the traffic, stating the streetlight proposed of 133rd Street will benefit the Yorkshire Subdivision, because it will create gaps in traffic. Northbound traffic will be stopped at 133rd Street for a series of minutes depending on the time of day, giving drivers the ability at 132nd Street to make the left-turn movement as they do not currently have that ability. They will also be building the rest of 133rd Street, which will have the only traffic light left between Olathe and the state line, which is one-quarter mile. That street will be built to arterial standards. He felt the reason that was important is because the people who will live in that community will have a choice to either go to 133rd Street and turn right over to Black Bob Road, left to Pflumm or to Greenwood, in which all will take them further south or north. He felt the street grid will be improved by the development and benefit the neighbors to the west.

**Mr. Fry** stated he has lived in the area nearly his entire life and he felt it was interesting that it has not developed yet. He asked if there were any specific reasons why development has not occurred.

**Mr. Heaven** explained that the area has been owned by single-family development for many years, and only six months ago they decided to sell the property. The land has been owned by a family for many generations, and they have held onto it all these years.

**Chair Vakas** entertained a motion to close the public hearing.

**Commissioner Corcoran** understood a phasing plan was provided for the development, but wanted to know about a general project schedule.

**Mr. Heaven** stated the development is scheduled to have a full buildout within 36 months, and Phase 1 will include 133rd Street and the traffic signal. They will then move in somewhat of a northwest direction through the phasing of the project.

**Commissioner Corcoran** referred to the length of time as to why the site has not developed and noted there was a significant utility impact through the area. He felt the developer had done a great job of using the ground that could not be used for any other

purpose and to add amenities to the project. They have developed a piece of property that has been divided by gas and power lines, as well as the stream corridor. He favored the plan and felt was designed well.

**Ms. Nassif** added that the phasing plan includes time phasing for the construction of the residences, as well as the necessary road improvements that are tied into the proposed plan.

**Chair Vakas** called for a motion to close the public hearing.

A motion to close the public hearing was made by Commissioner Fry and seconded by Commissioner Janner. The motion passed by a roll-call vote of 7 to 0.

**Commissioner Nelson** appreciated staff's observations on building style V and the expectation to rise a little higher. He felt while the development, as a whole, offers nice features, he felt the narrow entrances and lack of warmth is an important dynamic as well. He favored the entire design for the development.

**Commissioner Fry** stated he has heard a number of multifamily developments with somewhat controversial issues, including traffic concerns. He felt many of those types of projects have led to a continuance because the developer has not come forth with a strong enough project as the proposed developer. He understood the materials the developer will be using exceed the City's expectations and commended the developer on their design and how they put the project together, including traffic designs. He felt City Traffic staff will manage and monitor the traffic in the area once the project is built. For example, the project at 119th Street and Pflumm has much improved traffic since that project and appreciated staff's efforts in following up on the project. He favored the proposed project as presented.

**Chair Vakas** understood the level of frustration of residents who may feel they are losing the pastoral feeling surrounding their home with the coming of the proposed project. However, he pointed out that Olathe is a growing city and the fastest growing city in Kansas, which has grown by 2,000 residents every year for the last 20 years. He did not feel there was anything in the foreseeable future that suggest that growth will not continue at that pace. The continual infill of land will likely happen on a routine basis, which he felt was good for the City collectively. Although there maybe residents who did not expect to see such development in their neighborhoods, it is still part of the natural growth and evolution of the City of Olathe. He commended the Planning staff and everyone involved in the planning process, as development improves the quality of life and property values as they reach these decisions on planning applications that must be in accordance with the Comprehensive Plan and Uniform Development Plan. He felt the proposed project meets all requirements and is a good project.

**Chair Vakas** called for a motion on the proposed project.

A motion to approve RZ20-0013, subject to staff stipulations, was made by Commissioner Fry and seconded by Commissioner Nelson. The motion passed with a roll-call vote of 7

to 0, with no stipulations for the rezoning and the following stipulations for the preliminary site development plan:

1. A final site development plan must be approved, and final plat recorded prior to building permit submittal.
2. A waiver is granted from UDO 18.20.090 to permit a reduced corner lot side yard setback in the R-3 District from 20' to 12'.
3. A waiver is granted from UDO 18.30.130.H. to permit at 15' landscape buffer along portions of 133rd Street as shown on the preliminary development plan dated February 10, 2021.
4. A waiver is granted from UDO 18.15.020.G.4 to permit garage doors to extend beyond the front line of the street facing façade for building Types IV, VI and VII; however, Type IV elevations must include decorative garage doors which must include windows and decorative hardware, trim and molding or a combination of other features that enhance the design of the structure at the time of Final Development Plan.
5. Architectural elevations for building Type V will be revised and resubmitted during Final Development Plan review to align with UDO 18.15.010 to ensure cohesiveness and compatibility among the other building types in the development.
6. Per UDO 18.30.130.H, landscape areas adjacent to arterial and collector roadways must be sodded.
7. Tree protection fencing per UDO 18.30.240.E must be installed around all areas of tree preservation on site, including the north property line prior to final plat recording. Tree protection fencing is required to be maintained throughout construction activities. Grading is not permitted within areas designated for tree protection.
8. A note will be added to the Final Development Plans and Final Plat stating that trees along the northern property line within the dedicated tree protection area, and those trees located off-site at 13145 S. Black Bob Road will be preserved. If any trees are damaged or removed, mitigation will occur by planting of replacement trees within this area of the plan. IF damage or removal occurs to trees located at 13145 S. Black Bob Road, then a mitigation plan will be determined in cooperation with the City and adjacent property owner.



9. All stormwater detention and stormwater quality BMP's must be in a permanent water quality/quantity drainage easement, including native vegetation.
10. A Stream Corridor and a Stormwater Treatment Facility Maintenance Agreement must be submitted and approved prior to recoding a final plat for this development.
11. A detailed preliminary stormwater management report must be submitted with the final development plan submittal.
12. Detention and stormwater quality BMP's must be provided for each phase of development when constructed.
13. Fire hydrants must be included along Alden Street and 133rd Street.
14. In conjunction with the Phasing Plan, the following traffic improvements must be made in Phase 1:
  - i. Install a traffic signal at the intersection of Black Bob Road and 133rd Street.
  - ii. Construct 133rd Street from Black Bob Road east to Greenwood Street as a 3-lane roadway with a center two-way left turn lane.
  - iii. Construct a northbound right turn lane on Black Bob Road at 133rd Street with a minimum 250-foot storage length plus taper length.
  - iv. Construct a westbound right turn lane at 133rd Street and Black Bob Road with a minimum 250-foot storage length plus taper length.
15. In conjunction with the Phasing plan, the following traffic improvements must be made in Phase 2:
  - i. Construct Alden Street from the north parcel line south to 133<sup>rd</sup> Street.
16. In conjunction with the Phasing Plan, the following traffic improvements must be made in Phase 5:
  - i. Construct a northbound right turn lane on black Bob Road at 132nd Street with a minimum 150-foot storage length plus taper length.