

6. REZONING NO. 2009-5 - Vicinity of the southwest corner of 179th Street and Quivira Road

GENERAL COMMENT: Following the consideration of this application at the Planning Commission meeting on February 22, 2010, Greg Ruether, Acting Director of Parks Services, met with the applicant, along with Planning Department staff, to discuss the issue of the stream corridor dedication for a public trail. Mr. Ruether and Dan Foster, representing the applicant through Schlagel & Associates, P.A., walked the proposed trail location, and Mr. Ruether agreed that if the city were to require dedication of land for a public trail, that the trail would be located on the east side of the stream corridor, as requested. Since a private path for the senior living facility is proposed on the west side of the stream corridor, the Parks Department would only accept dedication of the east side of the stream corridor for the public trail. The applicant revised the proposed site plan following the Planning Commission meeting to show both the public trail and private path. At the time of platting, Mr. Ruether and Planning Department staff will review how the potential future public property is described.

To address the concerns of the applicant regarding stipulation “e” below for parkland dedication, staff and the applicant have agreed on a revised stipulation “e,” which is included in bold for approval with the rezoning.

1. **APPLICANT:** Inez Harkins is the applicant for this request.
2. **REQUESTED ACTION:** The applicant is requesting a rezoning from RUR-J, Rural District, Johnson County, to PRN, Planned Residential Neighborhood District, to allow a senior living facility.
3. **LOCATION:** The 3.87-acre tract is located in the vicinity of the southwest corner of 179th Street and Quivira Road.
4. **CHARACTER OF THE NEIGHBORHOOD:** The character of the neighborhood is undeveloped property that is used for agricultural purposes, residential properties that are on multiple acre tracts, and single-family homes that are on parcels approximately one to two acres in size. A middle and high school campus is being developed to the north of the subject property.
5. **LAND USE AND ZONING PATTERNS:** The subject property is bordered by Quivira Road on the east, and 179th Street is located approximately 200 feet to the north. The property immediately to the north, south, and west is a vacant tract of land that has been approved for a PRN project known as Trousdale Estates. The property to the north across 179th Street is zoned R-1, Single-Family Residential District, and is in the

construction stages for a school campus. The property to the northeast is a single-family residential subdivision that is zoned RN-1J, Residential Neighborhood One District, Johnson County. The property to the east is zoned RUR-J for agricultural uses and home sites on multiple acre tracts.

6. CONFORMANCE WITH THE COMPREHENSIVE PLAN:

- a. FUTURE DEVELOPMENT PLAN MAP: The subject property was annexed into the city in 2008 as part of the 8.35 square-mile West Aubry Study Area. The 2009 Comprehensive Plan update identified the property for Medium-Density Residential development on the Future Development Plan map, which allows residential densities of greater than five and less than or equal to 12.5 units per acre. The proposed 90-unit senior condominium development on 3.87 gross acres yields a density of 23.26 dwelling units per gross acre, which exceeds what would be allowed by the Medium-Density Comprehensive Plan designation.

Even though the proposed density does not comply with the Future Development Plan designation, staff would consider this application to comply with the intent of the Comprehensive Plan. For properties to be rezoned to the PRN district, they must be at least 40 acres in size, but this requirement can be waived if the proposed tract abuts an existing development zoned PRN, which is the case with the subject property. When a 40-acre tract is zoned PRN, a mix of housing types is required, and the densities are allowed to be averaged across the site. With the subject property, however, the tract is not large enough to take advantage of the density averaging, and the portion of the Trousdale Estates adjacent to the subject property is the highest density area of that development. The senior condominium building proposed with the subject application is in character with the adjacent apartment buildings in Trousdale Estates, so staff would consider this proposal to comply with the intent of the Comprehensive Plan for this small, leftover tract.

Also, with the proposed use on the site, the development may not appear from the street to be as intense as what the density indicates. With the proposed underground parking, the number of parked cars visible from the street and adjacent properties is greatly reduced. And since the majority of the units are proposed to be assisted living, the parking demand will be much lower than that of a standard apartment complex.

- b. GOALS AND POLICIES: The staff is of the opinion that the PRN zoning request generally meets the goals and policies of the Comprehensive Plan. Policy 1.3 for Planned Residential Neighborhoods discusses the importance of providing open space. The proposed plans allow for connection of a recreation trail in the stream corridor, as well as other outdoor recreation areas. Policy 2.1 indicates that PRN developments are appropriate in any area designated for residential purposes, except those identified for Very-Low Density Residential, and that access should be from a thoroughfare or collector street, which the proposal meets.

While typically used for special use permit approval, the Comprehensive Plan also includes goals specific to elder care facilities. These goals indicate that this type of development is appropriate on properties designated for Medium-, Medium-High- and High-Density Residential uses with access to a thoroughfare or collector street, which the subject property meets. The goals for elder care facilities also specify that the architectural design, building materials, and building size should be consistent with adjacent development. Staff would consider the proposal to be in character with the proposed Trousdale Estates apartment buildings, which are directly adjacent to the subject property. Providing a continuous pedestrian network is another elder care facility goal, and the proposed site plan indicates a sidewalk network around the building and a trail connection in the stream corridor to the proposed trail in Trousdale Estates and the public sidewalk/trail on the west side of Quivira Road.

7. ANALYSIS OF APPLICATION:

- a. DEVELOPMENT PLAN: The applicant is requesting approval of PRN zoning for the purpose of constructing a 90-unit senior condominium development. With the size of the proposed site, the density of the development would be 23.26 dwelling units per gross acre. Of the 90 units, 23 would be designated as independent living units, and the remaining 67 units would be assisted living units. The building is proposed to be up to three stories in height in certain areas, with another portion being two stories in height. The applicant has provided a conceptual floor plan for the first level of the building which provides areas for an activity room, a central gathering room, a dining room, a medical facility, and a large

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outdoor patio and covered porch. Other outdoor amenities include landscaped areas connected by a sidewalk network, an outdoor eating area, and an outdoor activity area.

Access to the site is provided by a drive off Quivira Road and a street that is internal to the Trousdale Estates development. At some point in the future, the drive off Quivira Road will be limited to right-in, right-out movements. Because the second point of access into the site is from a street in a development that is not built yet, Fire Department access will be reviewed in greater detail at the time of final development plan approval. Should this property be developed before Trousdale Estates, a second access point will be required to be constructed for the Fire Department to have access to the rear of the building. Once Trousdale Estates is constructed, Fire Department access to the rear of the building will be from a drive in Trousdale Estates at the northwest corner of the subject site, provided the grades between the two projects allow said access. With the preliminary grading shown, a two-foot tall retaining wall will be located between the two developments, which the Fire Department has indicated will not impede their access.

Parking for the proposed senior condominium development is provided with 26 surface parking spaces and a parking garage under the building with 43 parking spaces. As provided by the applicant, 68 spaces would be required for the proposed development, and 69 spaces are provided. The applicant has analyzed the required parking by separating the types of units being proposed. Parking for the 23 independent living units is provided at a rate of 1.5 spaces per unit, which is the parking requirement for one-bedroom dwelling units in the PRN district. Parking for the 67 assisted living units is provided at a rate of one space for every three beds, which is the ratio required for nursing homes. Ten employee parking spaces are also included in the required parking amount. In addition to the 69 spaces provided, 21 future surface parking spaces are shown off the drives into the site, and those would be provided at a time when additional employee and visitor parking is necessary. Parking will be reviewed in greater detail at the time of final development plan approval. The amount of adequate parking will be dependent on the use and ultimate unit type counts. The unit counts or parking plan may have to change depending on these specifics.

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The Greenway Linkages Plan for southern Overland Park shows a Type 1-Greenway connection in the stream corridor at the southeast corner of the site. The applicant is providing a trail connection on the east side of the stream corridor to the trail provided in the Trousdale Estates development plan that runs along this stream corridor. At the time of platting, the Parks Department will determine whether they will accept dedication of the east side of the stream corridor for purposes of installing a public recreation trail, as they are still analyzing what the public park system will include in the most southerly parts of the city. If the Parks Department does not request this property for public parkland, the developer and ultimately the property management company or land owner will be responsible for the maintenance of the stream corridor.

Conceptual building elevations have been provided for the proposed senior condominiums. Because there is not an end user at this time, building design will be reviewed in greater detail at the time of final development plan approval. The applicant has indicated that the building materials are intended to match the building materials used for the adjacent apartment buildings in the Trousdale Estates development.

- b. TRAFFIC IMPACTS: The site design is acceptable to the transportation staff. It should be noted that the Quivira Road driveway will be limited to right-turn-only movements in the future when the driveway is connected to the public street along the south side of the property and a barrier median is constructed in Quivira Road. A stipulation to that effect is included at the end of these comments.
- c. ENVIRONMENTAL IMPACTS: A Preliminary Stormwater Management Study was submitted, reviewed and approved for the proposed project.

Stream Corridors: The entire 3.5-acre site drains to a small tributary to Wolf Creek located on the southeast side of the site. The receiving stream has a tributary drainage area of about 80 acres, requiring a 60-foot stream buffer on each side of the stream. A portion of the stream has been improved with a concrete ditch liner and is not subject to stream corridor setback requirements. The remainder of the site has provided the required stream buffer and is therefore compliant with the stream corridor ordinance.

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Stormwater Detention: Stormwater detention is required for the site due to downstream roadway flooding. Flooding occurs on a private driveway along the future extension of Quivira Road, south of 183rd Street. According to the Blue River Watershed Study, and more detailed analysis completed with the adjacent Trousdale Estates development, during the 100-year design storm, this driveway overtops by about 1.1 feet under existing conditions and 1.2 feet during build-out conditions. Additionally, the driveway is projected to overtop frequently during small to moderate storm events.

The city's capital improvements program includes the extension of Quivira Road, south of 183rd Street in 2013, as part of a previous commitment by the county to construct this road. Although the roadway design has not been completed, the future improvements will likely reduce or eliminate the flooding concern. Since there are no other known flooding concerns that would trigger the need for stormwater detention in this watershed, detention will not be required if the future downstream improvement is constructed prior to development of this site. In the event that the downstream improvement has not been constructed prior to development of this site, stormwater detention will be required. The plan shows construction of an underground detention vault below the proposed parking lot which would meet the detention requirement.

Stormwater Treatment: The development plan is subject to the city's stormwater treatment ordinance. To meet the requirements, the plan includes preserved or established native vegetation areas and a bioretention basin. Additional details will need to be provided at the time of final development plan approval, but staff is comfortable with the proposed concept plan.

8. STAFF RECOMMENDATION: Staff recommended approval of Rezoning No. 2009-5, subject to stipulations a through s below.

Following the Planning Commission meeting on February 22, 2010, Greg Ruether, Acting Director of Parks Services, met with the applicant, along with Planning Department staff, to discuss the issue of the stream corridor dedication for a public trail. Mr. Ruether and Dan Foster, representing the applicant through Schlagel & Associates, P.A., walked the proposed trail location, and Mr. Ruether agreed that if the city were to require dedication of land for a public trail, that the trail would be located on the east side of the stream corridor, as requested. Since a private path for the senior

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living facility is proposed on the west side of the stream corridor, the Parks Department would only accept dedication of the east side of the stream corridor for the public trail. At the time of platting, Mr. Ruether and Planning Department staff will review how the potential future public property is described.

To address the concerns of the applicant regarding stipulation "e" below for parkland dedication, staff and the applicant have agreed on a revised stipulation "e," which is included in bold below for approval with the rezoning.

9. PLANNING COMMISSION RECOMMENDATION: The Planning Commission considered this application at a public hearing on February 22, 2010. No one spoke at the public hearing. One of the Planning Commissioners requested that stipulation "t" be added, which is a standard stipulation for delineating the edge of the stream corridor which is to remain free of grading and construction activity.

The applicant raised an issue with stipulation "e" regarding the dedication of the stream corridor for a potential trail in a tract to the Parks and Recreation Department. The applicant indicated that if a public trail were to be constructed in the stream corridor at this location that it should be placed on the east side of the stream to be located furthest away from the proposed building. The applicant also expressed a concern about the requirement of the landowner to prepare the deed and furnish a Title Report and environmental assessment if the city requires the dedication. An alternate stipulation "e" was proposed, but since a representative of the Parks and Recreation Department was not at the meeting to review the stipulation, the Planning Commission recommended stipulation "e" as provided by the staff.

The Planning Commission voted 9 to 0 to recommend approval of Rezoning No. 2009-5, subject to the following stipulations:

- a. The development shall be in accordance with Exhibit "A" (Site Plan), and Exhibit "B" (Building Elevations), which are filed in the office of the Planning Commission Secretary at City Hall and which are incorporated by reference as if set out in full herein. In addition, the development shall follow and comply with all regulations and standards of the City of Overland Park, unless specifically exempted by the Governing Body.
- b. Development of the site shall be limited to 90 units.

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- c. Prior to the issuance of a Building Permit, the property shall be preliminary and final platted.
- d. Prior to the issuance of a Building Permit, the Planning Commission shall approve final development plans.
- e. At the time of platting, if determined to be appropriate by the Director of Parks and Recreation, the land owner shall agree to dedicate the proposed trail in a parkland tract(s) in fee simple absolute, by Kansas Warranty Deed, to the City of Overland Park for public open space and natural preservation areas at a time acceptable to and/or requested by the Director of Parks and Recreation. In addition to the Warranty Deed, the applicant shall furnish a Title Report and a commitment for title insurance. The Title Report shall indicate that the property is free and clear of any street assessments, property taxes, and liens.

The final boundaries of the parkland property are subject to review and approval by the Parks and Recreation Department.

Acceptance of the parkland is contingent upon an acceptable environmental assessment, which shall indicate that the proposed parkland is free of any hazardous waste, dumpsites, or any other harmful material. Where the initial environmental assessment is unsatisfactory, it shall be the landowner's responsibility to remediate the site to the satisfaction of the city prior to the city accepting the dedication.

Written approval of construction easements shall be obtained from the city prior to any grading, tree removal, or installation of sewers and utilities within the parkland tract.

- f. At the time of final development plan approval, Fire Department access to the site will be evaluated. Depending on the development status of Trousdale Estates, a second point of access to the rear of the building may be required.
- g. The location of the proposed street trees along Quivira Road will be reviewed in greater detail at the time of final development plan approval. To be counted as street trees, the trees are to be located in the required setback area adjacent to the street.
- h. Building elevations submitted for final development plan approval shall incorporate compatible building materials as that of the

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proposed adjacent apartment buildings in Trousdale Estates. The building design must meet the requirements of the applicable design standards.

- i. The location and geometrics of all driveways and parking areas are subject to review and approval by the Planning and Development Services Department. The Quivira Road driveway shall be limited to right-turn-only movements in the future when the site driveway is connected to the public street along the south side of the property and a barrier median is constructed in Quivira Road.
- j. One or more weeks prior to submitting an application for final development plan approval, the applicant's engineer shall submit a Revised Preliminary Stormwater Management Study that includes all design changes associated with the updated preliminary plan. The study shall be approved by the Engineering Services Division staff prior to the Planning Commission consideration of the final development plan.
- k. Concurrent with the submittal of construction plans for a Site Development or Building Permit, whichever comes first, the developer shall provide a Final Stormwater Management Study that addresses any outstanding items from the Preliminary Stormwater Management Study, and includes any design changes.
- l. Prior to, or concurrent with, issuance of a Site Development or Building Permit, whichever comes first, obtain a separate Site Development Permit for construction of stormwater detention facilities that serve that portion of the site.
- m. Prior to the issuance of a Certificate of Occupancy, the detention facility serving the development must be certified by a professional engineer, licensed in the State of Kansas, in accordance with Section 15.10.500 of the O.P.M.C.
- n. Prior to the issuance of a Site Development or Building Permit, whichever comes first, a Stormwater Treatment Maintenance Agreement shall be submitted, reviewed and approved by the engineering staff with the associated recording fees paid by the owner/developer.

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- o. Prior to the issuance of a Certificate of Occupancy, the owner shall have a Certification of Completion and Compliance submitted for all constructed stormwater treatment facilities. Subsequently, the owner shall have a maintenance certification submitted one year after construction is completed, and every two years thereafter. The certification shall be on a form as approved by the city and shall be performed by a registered professional engineer in the State of Kansas, unless the Director approves other qualified individuals to perform the certification.
- p. At the time of final development plan submittal, a planting plan for the applicable stormwater treatment facilities shall be provided along with the landscape plan for the development.
- q. Grading must match the proposed future grading of Quivira Road at the property line. Additional grading in the right-of-way shall be accomplished to move the existing ditches away from the unimproved thoroughfare and provide shoulder room on the frontage abutting this subdivision. The shoulder and ditch improvements shall include extending existing culvert(s) under Quivira Road as necessary to meet clear zone requirements.
- r. Concurrent with the construction of public improvements, Quivira Road along the frontage abutting the plat of this development must conform to the street overlay and widening requirements of Section 18.460.260 of the Unified Development Ordinance. If improvements are necessary, the plans for the improvements shall be approved concurrently with the other public improvements within the subdivision and shall be completed prior to issuance of a Certificate of Occupancy for any buildings in the adjacent plat.
- s. All private sidewalks shall comply with the city's standard details for public sidewalks and sidewalk ramps, unless waived by the Director of Planning and Development Services. Accessible routes leading to accessible structures and amenities within the public way shall be clearly identified on the plans and comply with the building code.
- t. Concurrent with the issuance of a Land Disturbance or Site Development or Public Improvement Permit for work within 50 feet of the designated stream corridors, the owner/contractor shall erect a visible temporary fence to remain in place throughout construction that delineates the outer edge of the stream corridor

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boundary that is to remain free of grading, retaining walls or other alterations except those areas that have been approved on the plans.

- REVISED e. At the time of platting, if determined to be appropriate by the Director of Parks and Recreation, the land owner shall agree to dedicate the proposed trail in a parkland tract(s) in fee simple absolute, by Kansas Warranty Deed, to the City of Overland Park for public open space and natural preservation areas at a time acceptable to and/or requested by the Director of Parks and Recreation. In addition to the Warranty Deed, the land owner/developer shall furnish a Title Report which indicates that the property is free and clear of any street assessments, property taxes, and liens.**

The final boundaries of the parkland property are subject to review and approval by the Parks and Recreation Department. Acceptance of the parkland is contingent upon an acceptable visual environmental assessment by the Director of Parks and Recreation, which shall indicate that the proposed parkland is free of any visible dumpsites or harmful material.

Written approval of construction easements shall be obtained from the city prior to any grading, tree removal, or installation of sewers and utilities within the parkland tract.