

Note: Chairman Owens declared a brief recess at 3:37 p.m. The meeting reconvened at 3:45 p.m.

Note: The following item was continued from the December 19, 2013, Planning Commission public hearing.

2. **RK HOLDINGS, LLC, ZONING MAP AMENDMENT & WOODWARD COURT SUBDIVISION PRELIMINARY SUBDIVISION PLAN**

- a. **MAR 2013-18: RK HOLDINGS, LLC (2/2/14)\*** - petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 9.77 net (10.29 gross) acres; and from a Single Family Residential (R-1B) zone to a Planned Neighborhood Residential (R-3) zone, for 0.0 net (0.26 gross) acre, for property located at 690 Woodward Lane.

**LAND USE PLAN AND PROPOSED USE**

The 2007 Comprehensive Plan (Sector 8) recommends a mixture of Low Density (LD) and Medium Density (MD) Residential future land use for the property. The petitioner proposes developing 48 single-family residential units on the subject property, at an average density of 4.9 dwelling units per acre.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommends: **Approval**, for the following reason:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2007 Comprehensive Plan for the following reasons:
  - a. The Land Use Element of the Plan recommends Medium Density Residential (MD) future land use, defined as 5–10 dwelling units per net acre, for 6.84 acres of the subject property closest to Woodward Lane (front); and Low Density Residential (LD) future land use, defined as 0–5 dwelling units per net acre, for 2.93 acres of the subject property closest to the adjacent railroad (rear).
  - b. The Plan suggests a density range of between 34 and 83 dwelling units, in total, for the subject property.
  - c. The petitioner proposes to construct 48 single-family dwelling units on the site, with a residential density of 4.9 dwelling units per net acre, in agreement with the Plan's recommendation.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is appropriate for the property via conditional zoning:
  - a. The property is to be developed with no more than 83 single-family residential units.

This use restriction is necessary and appropriate in order to maintain a character consistent with surrounding residential properties and the 2007 Comprehensive Plan Land Use Element.

- b. **PLAN 2013-129P: WOODWARD COURT SUBDIVISION (2/2/14)\*** - located at 690 Woodward Lane.  
(Council District 6) **(Vision Engineering)**

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the access, the street pattern proposed, and potential easement conflicts.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection area(s) and required street tree information.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Denote acreage in proposed right-of-way.
10. Denote construction access.
11. Clearly delineate all easements.
12. Delete development plan notes from general notes.
13. Revise right-of-way connection to Wilderness Road right-of-way.
14. Discuss easement conflict with proposed right-of-way, detention and lots.
15. Discuss buildable area for Lots 19, 22 and 43.
16. Discuss access and possible connections to Woodward Lane and Wilderness Road.
17. Discuss gas transmission note on final record plat for adjacent property.
18. Discuss landscape buffer requirements per final record plat on adjacent property.

\* - Denotes date by which Commission must either approve or disapprove request.

Chairman Comments: Mr. Owens explained that this hearing was continued from the Commission's December 19, 2013, meeting. He said that any further discussion on this request should refer only to the new information that would be provided today.

Staff Presentation: Mr. Sallee stated that the staff would like to update the Commission members on the new information that had been provided since the Commission's December 19<sup>th</sup> meeting. He noted that the Commission members had been provided with copies of the minutes of that meeting, should they need to refer to them.

Mr. Sallee briefly oriented the Commission to the location of the subject property. He said that there were three new pieces of information that the staff believed would be germane to share with the Commission. Firstly, the staff received further information on the status of Woodward Lane after the December 19<sup>th</sup> meeting, wherein a great deal of discussion took place as to whether that roadway is public or private. At this time, the staff understands, based on research previously completed by the Department of Law, that the portion of Woodward Lane from Liberty Road to the median is public, and the portion on which the subject property has frontage is private. Mr. Sallee stated that the staff has another communication from the Law Department that indicates that LFUCG was maintaining the median area. He explained that, from Liberty Road to the corner of the subject property, Woodward Lane is very narrow. At that point, the road splits, with a median in the middle.

Mr. Sallee stated that the staff has also learned that the petitioner met with Woodward Lane residents on at least one occasion since the December 19<sup>th</sup> public hearing. As a result of that meeting, the petitioner submitted a revised zoning development plan for the subject property. Mr. Sallee noted that the staff had distributed a revised recommendation on the plan, as well as a corresponding revision to their zoning recommendation, prior to the start of this continued hearing. Referring to a rendered copy of the development plan that was considered by the Commission in December, he explained that it proposed 48 lots for the subject property in a two cul-de-sac design. The revised development plan eliminates one street connection and has only one street, with three fewer dwelling units.

Subdivision Plan Presentation: Mr. Martin stated that the key change to the revised development is a connection across the subject property to Checkerberry Drive, which eliminates the proposed access point to Woodward Lane. He said that the staff has been and continues to be concerned about access to the subject property, since its access is limited to a street system that connects to only one point on Liberty Road, which could create difficulties for emergency vehicles attempting to reach the property. The petitioner is now proposing emergency access via Wilderness Road, as well as a gated access to Woodward Lane. The revised plan also includes a turnaround for use by solid waste trucks, which are currently required to back up long distances to reach the properties along Woodward Lane.

Mr. Martin stated that the revised conditions for approval of this plan reveal the staff's concerns about conflicts with the many existing easements on the subject property, some of which are very large. He said that the petitioner will need to construct the infrastructure on the property, then recreate and/or delete easements as necessary on the Final Record Plat for the property. Mr. Martin stated that the staff is recommending approval of this plan, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection area(s) and required street tree information.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Denote acreage in proposed right-of-way Denote timing of proposed improvements to Woodward Lane, including fence relocation.
- ~~10. Denote construction access.~~
- ~~11. Clearly delineate all easements.~~
- ~~12. Delete development plan notes from general notes.~~
- ~~13. Revise right of way connection to Wilderness Road right of way.~~
- 10.14. Discuss Denote that existing easement conflicts with proposed right-of-way, detention and lots will be resolved at time of Final Record Plat.
- ~~15. Discuss buildable area for Lots 19, 22 and 43.~~
- ~~16. Discuss access and possible connections to Woodward Lane and Wilderness Road.~~
- ~~17. Discuss gas transmission note on final record plat for adjacent property.~~
- ~~18. Discuss landscape buffer requirements per final record plat on adjacent property.~~

Zoning Presentation: Ms. Wade stated that the changes to the petitioner's development plan necessitated a revision of the staff's findings for this request. She said that the staff is recommending approval, for the following reason:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2007 Comprehensive Plan for the following reasons:
  - a. The Land Use Element of the Plan recommends Medium Density Residential (MD) future land use, defined as 5–10 dwelling units per net acre, for 6.84 acres of the subject property closest to Woodward Lane (front); and Low Density Residential (LD) future land use, defined as 0–5 dwelling units per net acre, for 2.93 acres of the subject property closest to the adjacent railroad (rear).
  - b. The Plan suggests a density range of between 34 and 83 dwelling units, in total, for the subject property.
  - c. The petitioner proposes to construct **48 45** single-family dwelling units on the site, with a residential density of **4.9 4.6** dwelling units per net acre, in agreement with the Plan's recommendation.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is appropriate for the property via conditional zoning:
  - a. The property is to be developed with no more than 83 single-family residential units.

This use restriction is necessary and appropriate in order to maintain a character consistent with surrounding residential properties and the 2007 Comprehensive Plan Land Use Element.

Petitioner Representation: Jihad Hallany, Vision Engineering, stated that the petitioner had met with the Woodward Lane residents, which resulted in the new layout of the proposed development. He noted that the new layout resulted in the loss of three lots, and the addition to the petitioner's responsibilities of constructing 200 more linear feet of roadway.

Mr. Hallany stated that there were some questions raised at the December hearing about the possibility of mercury contamination on the subject property. He said that a study was done in August of 2004 by Applied Geology and Environmental Science, which determined that there were areas of contaminated soil on the property at one time; but that soil had been removed and hauled away to a hazardous waste facility, and replaced with new material. Soil tests of the new soils indicated that any remaining hazardous materials on the site were either below detectable levels, or below Federal regulation guidelines. Mr. Hallany submitted the report from that study into the record of this hearing.

Mr. Hallany said that many of the residents at the December hearing were also concerned about stormwater issues in the vicinity of the subject property. He said that the petitioner has agreed to oversize the two detention basins on the property, which should help to mitigate the existing flooding problems in the area.

Mr. Hallany stated that the petitioner has also agreed to install a landscape buffer and privacy fence along the property boundary. He said that, following that meeting, the petitioner received some support from residents in the area. However, the petitioner understands that there are still some residents who have concerns, particularly about the proposed emergency access to Wilderness Road.

Commission Questions: Mr. Berkley said that he did not have any concerns about the proposed rezoning, but he questioned the workability of the development plan, given the number of easements and utility transmission lines. He asked if those easements are still active, and whether this plan can be implemented. Mr. Hallany answered that the easements are still active. He said that the lotting pattern for the proposed development has been designed so that houses can be constructed on them. Mr. Berkley stated that he was referring to the staff's concerns about the easements encroaching on the proposed detention basin areas. Mr. Hallany responded that the basin can be constructed as proposed, since the largest easement in that area is for overhead electrical transmission.

Mr. Owens asked, with regard to Mr. Hallany's comments about the existing stormwater issues in the vicinity, where that stormwater originates. Mr. Hallany answered that, at this time, the subject property is entirely pervious; all of the stormwater in the area comes from the adjoining subdivision. The petitioner is proposing to construct an oversized basin and "choke it" so that the peak flow is reduced.

Citizen Comments: Jim Eades, Wilderness Road, stated that he was present representing his mother and brother, who own 730 and 733 Woodward Lane. He submitted a letter into the record, noting that his primary concern is the high pressure gas line that traverses the subject property.

Mr. Owens stated that it appeared that all of the issues mentioned in Mr. Eades' letter were discussed at the December hearing. Mr. Eades said that Checkerberry Drive does not appear to be very wide, and he is concerned about the addition of more traffic to the area. He added that he does not believe that Woodward Lane can accommodate the additional traffic from the proposed development. Mr. Owens explained that the revised development plan does not provide access to Woodward Lane, and the emergency access to Wilderness Road will be gated. Mr. Eades asked how that gate would be closed. Mr. Owens responded that he presumed it would be gated, and only accessible to emergency vehicles.

J.W. Bailey, 713 Woodward Lane, stated that most of the Woodward Lane residents had met with the petitioner and were now in agreement with this request, with one exception. They do not believe that any portion of Woodward Lane is public, and they intend to prove that it is private. Mr. Owens said that, to his knowledge, the status of Woodward Lane would not change. Mr. Martin agreed with that assessment.

Commission Comments: Ms. Beatty stated that she appreciated the additional research and work that was done on this request since the December public hearing. She asked for clarification as to which portion of Woodward Lane is public and which is private. Mr. Martin answered that it is the opinion of the Department of Law that the portion of Woodward Lane from Liberty Road to the median is public; they are reasonably confident that the rest of the roadway is private. The Department of Law has indicated that it might require a survey of the area to determine for sure if the roadway is public or private. Their staff does not believe that such a survey is warranted at this time, because the development plan has been revised to remove access to Woodward Lane and its status is no longer germane to the proposed development. Ms. Beatty asked if the petitioner should be required to make improvements to the private portion of Woodward Lane in order to enhance its ease of use by emergency vehicles. Mr. Martin responded that the petitioner has agreed to provide a turnaround in the median for solid waste vehicles, as well as two additional access points that will allow emergency vehicles to access the proposed development. He added that the staff did not consider the need for the petitioner to do additional improvements specifically for emergency access.

Ms. Plumlee asked if construction traffic will access the subject property via Woodward Lane. Mr. Martin answered that the petitioner has indicated the location of a construction access on Woodward Lane, but noted that the Planning Commission has the ability to restrict that. Mr. Hallany stated that the petitioner would be willing to agree to locate the construction entrance on Checkerberry Drive.

Mr. Brewer stated that he would abstain from voting on this request, since he was not present at the December hearing. Mr. Drake noted that he, too, would abstain, since he missed that hearing as well.

Zoning Action: A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 9-0 (Brewer and Drake abstained; Cravens and Penn absent) to approve MAR 2013-18, for the reason provided by staff in their revised recommendation.

Development Plan Action: A motion was made by Ms. Blanton, seconded by Mr. Wilson, and carried 9-0 (Brewer and Drake abstained; Cravens and Penn absent) to approve PLAN 2013-129P, subject to the nine revised conditions as listed, adding a new condition #10 to move the construction access point to Checkerberry Drive.