

Staff Presentation to Council

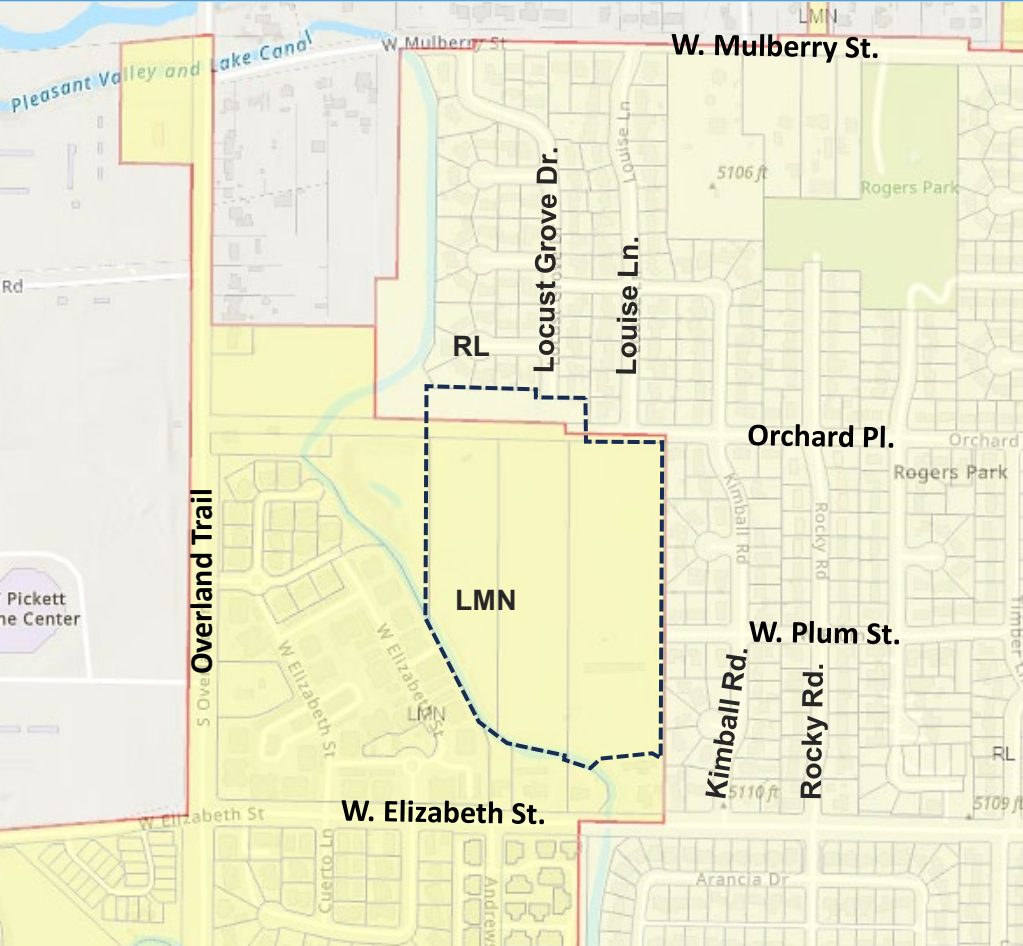
February 6, 2024



Polestar Village Project Development Plan Appeal

Paul Sizemore, CDNS Director

February 6, 2024



- 20.5 acre property
- Zoned Low Density Mixed Use Neighborhood (LMN) and Low Density Residential (RL)



Location and Neighborhood Context

Polestar Village Plan

- Mixed neighborhood on 20.5-acre infill property
- 144 dwelling units in a variety of housing types (9)
- Neighborhood center w/ community building, B&B rooms upstairs, mixed-use building w/ small commercial spaces, place of assembly, and agriculture support building for multiple community gardens and landscape maintenance
- Large stormwater detention pond as part of a larger regional City system
- Natural habitat buffer along irrigation canal



July 22, 2021	Conceptual Review Meeting and Posting Online
May 2, 2022	Signs Posted
May 12, 2022	Neighborhood Meeting
July 1, 2022	First Development Plan Submittal
Nov. 16, 2024	Planning and Zoning Commission Hearing
Dec. 1, 2024	Appeal Notice Received
Dec. 8, 2024	Appeal New Evidence Received
Feb. 6, 2024	City Council Appeal Hearing

Alleges that the Decision Maker committed the following errors:

- Failure to conduct a fair hearing in that the Commission considered evidence relevant to its findings, which was substantially false or grossly misleading
- Failure to conduct a fair hearing in that the Commission was biased against the appellant by reasons of a conflict of interest or other close business, personal or social relationship that interfered with a member's independence of judgement
- Failure to properly interpret and apply relevant provisions of the Land Use Code

First Issue on Appeal:

Did the Planning and Zoning Commission (P&Z) Fail to conduct a fair hearing in that the Commission considered evidence relevant to its findings, which was substantially false or grossly misleading?

The Appellants assert that (1) Polestar used persuasive language during the hearing and presented misleading information as well as non-confirmable statements; and (2) Hearing attendees and council members also did not get to hear all the details of the proposal. The Appellants offer seven points in support of their assertion.

1 - Traffic Data

Appellants state the Traffic Impact Study (TIS) was not conducted in a thorough manner, data was only collected for 24 hours and did not include all impacted streets nor actual traffic patterns; streets in the study were selected in order to support the development vs. understanding safety impacts to the neighborhood.

Traffic Data

- Prepared by a licensed professional engineer

- Scope of intersections to be studied determined with Traffic Operations staff based on intersections that provide the most direct connectivity from the major street network

Table 2: 2024 Opening Day Levels of Service











Intersection	Movement/ Approach	AM Peak Hour LOS		PM Peak Hour LOS	
		Background Traffic	Total Traffic	Background Traffic	Total Traffic
 E1 – Elizabeth & Kimball	EB Left	A	A	A	A
	SB Approach	B	B	B	B
 E2 – Plum & Kimball	EB Approach	A	A	A	A
	WB Approach	A	A	A	A
	NB Approach	A	A	A	A
	SB Approach	A	A	A	A
 E3 – Mulberry & Locust Grove	WB Approach	A	A	A	A
	NB Approach	A	A	A	A
 E4 – Mulberry & Louise	WB Approach	A	A	A	A
	NB Approach	A	A	A	A
 I1 – Orchard & Locust Grove	EB Approach	A	A	A	A
	SB Approach	A	A	A	A

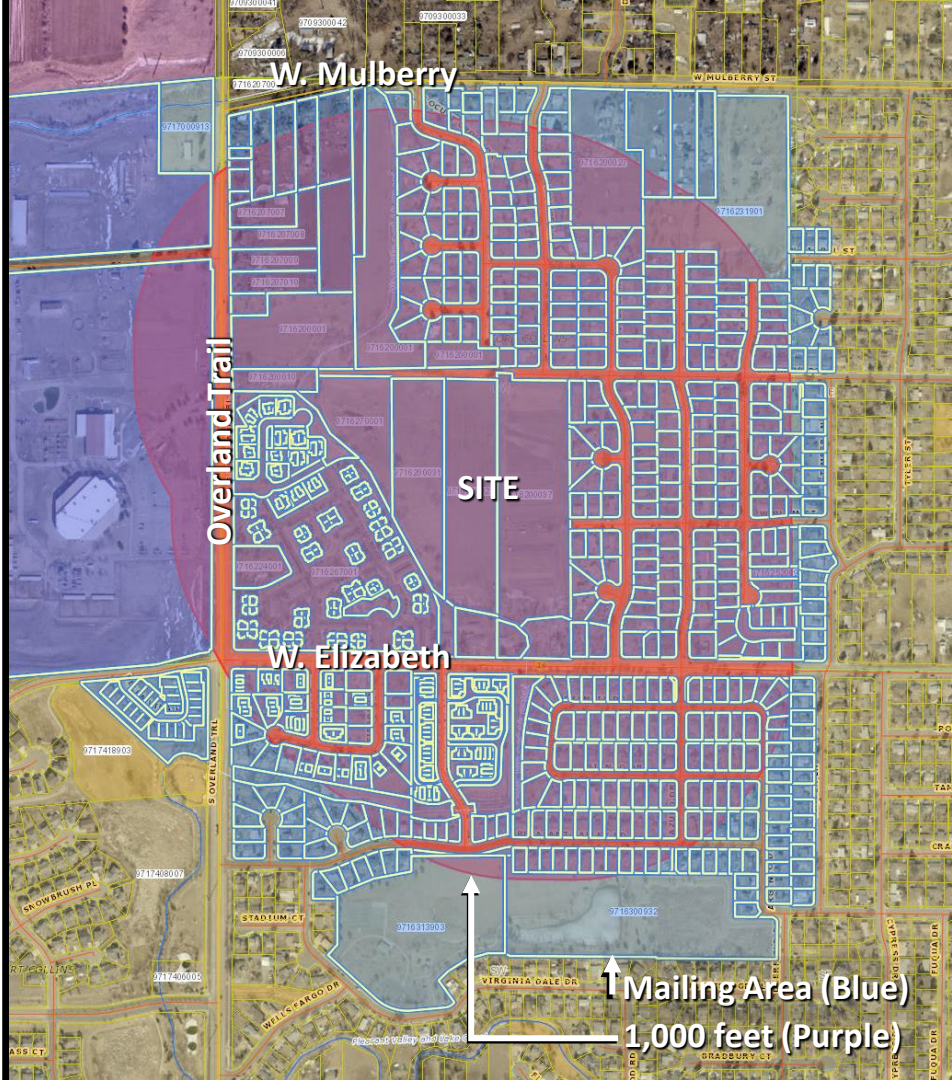
Table 3: 2045 Future Year Levels of Service

Intersection	Movement/ Approach	AM Peak Hour LOS		PM Peak Hour LOS	
		Background Traffic	Total Traffic	Background Traffic	Total Traffic
 E1 – Elizabeth & Kimball	EB Left	A	A	A	A
	SB Approach	B	B	B	C
 E2 – Plum & Kimball	EB Approach	A	A	A	A
	WB Approach	A	A	A	A
	NB Approach	A	A	A	A
	SB Approach	A	A	A	A
 E3 – Mulberry & Locust Grove	WB Approach	A	A	A	A
	NB Approach	A	A	A	A
 E4 – Mulberry & Louise	WB Approach	A	A	A	A
	NB Approach	A	A	A	A
 I1 – Orchard & Locust Grove	EB Approach	A	A	A	A
	SB Approach	A	A	A	A

2 - Notification of Neighbors

Appellants state that not all neighbors were aware of the hearing; a number were unaware of the development; and most were unaware of the neighborhood meeting held in 2022.

- Standard practice per Land Use Code
- 3 signs posted
- 797 letters mailed: all owners within about 1,000 feet, rounded up
- Same for neighborhood meetings and hearings



3 – Welcoming Integrated Community

Appellants' interpretation: common areas within Polestar only for Polestar residents

Welcoming Integrated Community

- Common areas are in public access easements accessible for anyone
- e.g., *walkway framework and outdoor spaces, community gardens*



4 – Key Details Missed or Passed Over

Appellants state that the applicants' presentation ran over the allotted time and was not allowed to finish, so that details of the buildings and amenities were not presented.

Key Details Missed or Passed Over

- The applicants presentation lasted over 40 minutes, 10 minutes beyond the 30-minute time requested by the Chair. At 10:40 the Chair ended the presentation to move on to the remaining portions of the meeting which continued until 12:46 AM on this project
- Applicants slides were a part of the packet and the record for the hearing

5 – Extending Orchard Place to Overland Trail Across Intervening Property

Appellants state that the discussion was convoluted and misleading regarding whether or not Orchard Place would be extended west to Overland Trail across intervening property, which misled P&Z to believe they will extend the street.

Extending Orchard Place to Overland Trail Across Intervening Property

- During the hearing staff stated that a potential future connection would be included in any future development plan if intervening property is developed, but is not required of Polestar.



6 – Commission Members Expressing Fatigue Due to Late Hour

The appeal cites a number of effects of fatigue, and states that P&Z members expressed feeling fatigue and therefore did not thoroughly request additional details that could be pertinent.

Fatigue Due to Late Hour

- The vote to approve the plan concluded at 12:46 a.m.
- Staff does not find specific comments about fatigue in the record

7 – Misleading Illusion of Support in Existing Neighborhood

Appellants state that the support expressed in the meeting did not come from residents of the existing neighborhood and not all residents were able to attend given the late hour. There would have been more opposition if the neighborhood was properly notified, and the hearing was held at a reasonable hour. The 19 people who spoke in support at the hearing are not residents of the existing neighborhood or are otherwise not impacted by the traffic.

Misleading Illusion of Support

- The transcript pages 12-20 contains all public comments by various people totaling 26 speakers

Second Issue on Appeal:

Did the Planning and Zoning Commission (P&Z) Fail to conduct a fair hearing in that the Commission was biased against the appellant by reasons of a conflict of interest or other close business, personal or social relationship that interfered with a member's independence of judgement?

Allegation – Two Commission Members Shared That They Had a Conflict of Interest

Appellants state that one member remained seemingly unbiased and one member remained openly biased; did not show empathy to the concerns of existing residents.

Conflict of Interest

Two members shared that that they know the former owners of the property.

One of these members also knows several neighbors in the area, but has not discussed this with them.

Both members stated that it would not impact their decision or impartiality.

Third Issue on Appeal:

Did the Planning and Zoning Commission **fail to properly interpret and apply relevant provisions of the Land Use Code** including:

- subsections 3.6.2 (A) and (I) regarding layout and design of streets and drives;
- 4.5(A), the Purpose statement of the Low Density Mixed Use Neighborhood (LMN) zone district; and
- 4.4(B) and (C), permitted and prohibited uses in the Low Density Residential (RL) zone district.

Code subsections 3.6.2 (A) and (I)

(A) Is the Purpose Statement for this Section which contains standards for layout and design of streets and drives.

(I) Indicates that an applicant cannot reserve a strip of land to prevent application of the Land Use Code. The applicant did not reserve land, however, the previous owner of the development property retained ownership of the house and yard fronting West Elizabeth Street.

Code subsection 4.5 (A)

This the Purpose Statement for this Section, which contains standards for the LMN zone district.

Code subsection 4.4 (B) and (C)

(B) lists permitted uses in the RL zone; (C) notes that uses not listed are prohibited.

The predominate permitted use in the zone is single-family residential. The small portion of the plan in the RL zone, along Orchard Place, comprises single-family residential as the only land use.



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