

**City of Westwood, Kansas
Planning Commission Meeting
4700 Rainbow Boulevard
September 11, 2023 – 7:00 PM**

Commissioners Present: Kevin Breer, Vice Chair
Clay Fulghum
Ann Holliday
Samantha Kaiser
David Kelman
Mark Neibling
Sarah Page, Chair
Matt Prout
M. Scott Weaver

Commissioners Absent: None

Staff Present: Leslie Herring, City Administrator
John Sullivan, Public Works Director
Spencer Low, City Attorney Co-Counsel

Call to Order

Chair Page called the meeting to order at 7:05 PM on September 11, 2023.

Approval of Agenda and Meeting Minutes

Chair Page called for modifications or discussion of the August 7, 2023 meeting minutes. Commissioner Neibling noted a correction to the description of the building material, as “glazed” and not “stained” terra cotta. Chair Page also noted that public commenter Chamberlin’s name is Teri and not Tara. Commissioner Breer moved to approve the minutes as modified. Commissioner Weaver seconded. Motion passed unanimously.

Chair Page called for modifications or discussion of the September 11, 2023 agenda. Commissioner Breer moved to approve the agenda as presented. Commissioner Neibling seconded. Motion passed unanimously.

Public Hearings

[Continued from August 7, 2023] RZ-2023-01 Consider application of Karbank Holdings, LLC, on behalf of owner City of Westwood, KS to rezone property at 5000 and 5050 Rainbow Blvd., Westwood, KS 66205 from R-1 (Single-Family Residential) to PD (Planned Development); and

[Continued from August 7, 2023] RZ-2023-02 Consider application of Karbank Holdings, LLC, on behalf of owner Shawnee Mission School District to rezone property at 2511 W. 50th Street, et al., Westwood, KS 66205 from R-1 (Single-Family Residential) to PD (Planned Development); and

[Continued from August 7, 2023] PDP-2023-01 Consider application of Karbank Holdings, LLC on behalf of owners Shawnee Mission School District and City of Westwood, KS, jointly, for approval of a preliminary development plan at 2511 W. 50th St., 5000 Rainbow Blvd., and 5050 Rainbow Blvd, Westwood, KS 66205.

Chair Page provided an overview of the items before the Planning Commission on the agenda and the process to-date and moving forward. Page also shared additional future steps in the consideration of these applications.

Chair Page invited the applicant to address the Planning Commission. Mike Paxton, Architect w/ Perspective Architecture + Design, addressed the Planning Commission and presented a slide deck (included as Exhibit A to these minutes).

Chair Page invited questions of the applicant from the Planning Commissioners.

Commissioner Breer asked whether the trees to be removed would be replaced with the same type of tree. Paxton responded that trees would be replaced in kind based on arborist's recommendations for what varieties are successful in this area. Breer also asked who would be responsible for maintenance of the fountain planned for the corner of 50th & Rainbow Blvd. Paxton responded that the responsibility would be Karbank's.

Commissioner Kelman asked about balance and placement of conifer versus deciduous trees. Paxton responded that conifers would likely be concentrated on 50th and 51st Streets since those are the most sensitive areas to buffer but that they will work to create a balance. Kelman also asked for more information on the reduced leasable area. Paxton responded that the overall scale has been reduced and the structures have been pulled in from the edges of the property. A smaller scale is compatible with more boutique tenants who do not have the larger area needs that national brands have. Kelman also asked whether right turning movements could be considered on 51st St. to funnel traffic to Rainbow and away from residential streets. Paxton responded that a left turn lane would be added to 51st St. within the subject property (not impacting the existing curb placement at the residential properties on the south side of the road) so that a right and left turn lane are created and only one westbound lane from Rainbow Blvd. to help to encourage trips onto and off Rainbow Blvd.

Commissioner Weaver asked for clarification on the developer's intent and vision for this project as a unique space. Paxton responded that placemaking and synergy are ideal, which lead people in other areas of the city to know Westwood by this project. Weaver also asked what the site lighting will look like. Paxton showed and described the lighting on the east side of the structures and described the fixtures in the parking lot on the interior of the site in the parking lot. Weaver also asked about the berming and buffer. Paxton responded that the natural grade of the site creates a buffer and landscape hedges and graded buffers are being added in the lower areas of the site, at the southeast corner of the site.

Commissioner Kelman asked whether prospective tenants are known. Paxton responded that it's too early to begin recruiting tenants because final approvals haven't yet been received, which dictate when leasable spaces are available and how large they are.

Chair Page asked for context about why the level of LEED isn't being committed to. Paxton responded that Karbank is seeking LEED Certified level but that any level higher than that cannot yet be committed to due to the process of rating and certification.

Commissioner Weaver asked for the applicant to demonstrate how this proposal conforms to the 2017 Comprehensive Plan. Paxton responded that this application provides a mixed-use place for the community and combines walkable retail, office, and park offering for the community.

Commissioner Prout asked why the park restrooms cannot be included in the pavilion building(s). Paxton responded that the pavilion tenants will likely desire separate restrooms for their patrons.

Commissioner Kaiser asked whether and how the structures could be reused if the currently-proposed use is no longer viable or desired. Paxton responded that the structure and materials and stairwells and ingress and egress could allow the main building(s) to be reused for something other than retail and office but that change would require Planning Commission and/or City Council review and approval.

Commissioner Kelman asked what assurance there is that the materials or other details won't change again since they have been changing up to this point. Paxton responded that some small details could change (e.g. balcony railing or building envelope details for energy efficiency). The materials are now set and the applicant has spent a lot of time debating and deciding on the final materials.

Commissioner Fulghum and Commissioner Neibling asked questions about the traffic study and traffic counts (attached as Exhibit B to these minutes). Mark Sherfy, Engineer for BHC, addressed the Planning Commission. Sherfy responded that moving the Rainbow Blvd. access further to the south of the site does not impact the traffic counts provided in the report and improves sight distances from where it was originally proposed at 50th Ter. Neibling asked about resolution of onsite queuing issues spotted in the last version of the plan. Sherfy responded that 95% of the time, there shouldn't be any queuing issues but that 5% of the time there could be an internal backup into the site.

Commissioner Holliday asked whether an additional traffic signal is warranted due to this development. Sherfy responded that there aren't enough trips forecast to be generated from the site to warrant an additional signal at 51st St.

Commissioner Prout asked whether pass-by trips were intentionally excluded from the forecasts. Sherfy responded that they were excluded so that the most conservative forecasts could be used. Prout further asked what traffic controls were considered on 50th & 51st Streets to reduce the impact on development traffic on residential streets. Sherfy responded that signage restricting turning movements is certainly something the City could consider but that law enforcement would need stay vigilant for the signage to be most impactful. Sherfy further noted that the trips generated by this site in the afternoon are about 30% less than the traffic on 50th St. currently created by Rushton Elementary being located on this site.

Commissioner Weaver asked Sherfy what intensity level he would consider this development. Sherfy said due to the mix of uses and size of the development, he would classify the project as mid to low intensity. Weaver asked, for comparison, what level of intensity Walmart Neighborhood Market would be considered. Sherfy responded mid-intensity.

Chair Page invited City Staff to address the Planning Commission. City Administrator Herring provided a review of the various application processes related to this project and how they relate to one another and how both the Planning Commission and City Council are involved in the process. Herring also read from the staff report included in the meeting packet.

Commissioner Weaver asked how staff considers this plan to be in compliance with the 2017 Comprehensive Plan and the 2021 ULI TAP recommendations. Herring responded that mixed-use is called out as an acceptable and contemplated use for 5050 Rainbow and that this project is that. Herring further shared that the ULI TAP was specifically focused on diversifying housing, enhancing the City's revenue portfolio, and enhanced civic spaces and that, even though this plan does not include housing

on the site, it's not entirely counter to the recommendations. Herring also pointed out that the ULI TAP was commissioned and performed in the absence of specific proposals and so this project was not considered nor contemplated by the ULI TAP panel.

Chair Page called for public comment on the application and shared ground rules for the public comment period.

Lou Wetzel, 4832 Adams St., Westwood, addressed the Planning Commission. Wetzel noted that difference of the proposed building height to the City Hall building height. Wetzel stated that the park area isn't just one acre, that children and families effectively use five to six acres for recreational space and not just the one acre park. Wetzel implored the Planning Commission to do something more special than the current proposal and offered to lead an effort to raise private money to be an alternative to the current proposal.

Dennis Dupont, 1930 W. 50th Ter., Westwood Hills, addressed the Planning Commission. Dupont asked a series of questions related to the development's impact to neighboring property values, the details of the business terms, the possibility that City Hall could be relocated to the site. Dupont stated that the conversations he's having indicated clearly that the community doesn't want this project.

Nicki Dupont, 1930 W. 50th Ter., Westwood Hills, addressed the Planning Commission. Dupont expressed concern that Karbank would redevelop single family homes, questioned why Karbank isn't seeking to redevelop existing commercial buildings where they already exist, and that Karbank's relationship with the City of Mission Woods should be instructive to Westwood.

Jan Kyle, 4946 Belinder Ave., Westwood, addressed the Planning Commission (via Zoom). Kyle expressed a desire that the subject property be used only for single family residential housing. Further stating that this development would be more appropriate at 47th & Rainbow. Kyle asked whether an open bid process was conducted and also asked whether any officials have a prior relationship with Karbank.

Mike Coffman, 2217 W. 50th St., Westwood Hills, addressed the Planning Commission. Coffman stated that the proposed project does not comply with the 2015 ULI TAP, 2017 Comprehensive Plan, nor 2021 ULI TAP. Coffman further stated that, living at 50th & Rainbow Blvd., he has seen several accidents and that the intersection is unsafe and that the development will make it less safe. Coffman further stated that the project is not in line with the character of the neighborhood.

Adam Troutwine, 2019 W. 49th St., Westwood Hills, addressed the Planning Commission (via Zoom). Troutwine stated that he supports this project and that this is a net positive for the community, and is additive. He believes this will make the Westwood (and Westwood Hills) community more attractive for current and future residents and that the expanded park is an enhancement and is not concerned about the traffic forecasts.

Steven Platt, 4910 Glendale Rd., Westwood Hills, addressed the Planning Commission. Platt expressed a preference for single family residential homes on the school property and that Karbank focus on redeveloping existing commercial buildings and not this site.

Spencer Day, 3003 W. 49th Ter., Westwood, addressed the Planning Commission (via Zoom). Day discussed the feasibility of alternatives he has heard suggested, including developing the entire area as a park or for the site(s) to be developed with single family homes and he believes both options to be

financially unfeasible. Day expressed support for the proposal and believes the applicant has done a good job addressing community concerns, he finds the traffic study believable, and does not believe the project will lead to an increase in crime.

Tara Laird Hensley, 4944 Norwood St., Westwood, addressed the Planning Commission. Laird Hensley expressed concern about the environmental impact of the proposed development. Laird Hensley further expressed concern about Karbank as a development partner for the City.

Malisa Monyakula, 2821 W. 51st Ter., Westwood, addressed the Planning Commission. Monyakula expressed dissatisfaction with the size of the proposed park. Further, she requested disclosures of City Officials prior interactions and involvement with Karbank and expressed concern that there wasn't an open bid process for this site.

Beth Ciperson, 4535 Cambridge, Kansas City, Kansas, addressed the Planning Commission. Ciperson expressed an interest in the developer exploring specific environmentally-sustainable design elements she suggests.

Dave Buck, 2332 W. 51st St., Westwood, addressed the Planning Commission. Buck asked at what cost to the community is the City getting a new park? Buck expressed concerns about the non-local vehicular traffic to the site and requested a smaller development. He requests that the Planning Commission delay a decision but should the Planning Commission approve the applications, the conditions he suggests be considered. (Attached as Exhibit C to these minutes.)

Andrew Becker, 2914 W. 48th Ter., Westwood, addressed the Planning Commission. Becker expressed support for the proposal. He stated that changes in land use are inevitable in Westwood and that this is the City's opportunity to control the former Westwood View School and that private development of the site should Karbank's proposal not be approved would result in future rounds of redevelopment requests for different projects. He further stated that the counter to more vehicular traffic is more mixed-use, higher intensity, walkable (re)developments.

Cydney Millstein, 1537 Bellview Ave., Kansas City, Missouri, addressed the Planning Commission. Millstein cited the 2021 ULI TAP and stated her position that the current proposal does not conform to those recommendations. She further stated concern that approval of this proposal would create a precedent for future takings and that the historic district of Westwood Hills would be harmed by the approval of this project.

Ben Hobert, 2208 W. 49th St., Westwood Hills, addressed the Planning Commission. Hobert expressed concern about the impact of this development on immediately surrounding residents on 50th & 51st Streets. Hobert further requests that the Donation Agreement be made public as he has concerns related to the legal and tax implications of the related transactions.

Brandon Joiner, 2016 W. 47th Ter., Westwood, addressed the Planning Commission. Joiner stated support for the project and the additional amenities and park enhancements resulting from this proposal. He expressed favor and support for Karbank as a partner and requests the Planning Commission make specific instruction to Karbank if there are elements keeping this from approval and asks that the project not be indefinitely delayed.

Bernard Brown, 2805 W. 51st Ter., Westwood, addressed the Planning Commission. Brown expressed concern about the scale of the proposed development, specifically the building height and the high number of parking spaces. Brown stated that he doesn't feel this is the right project in this place. Further, he expressed concern about how this proposal came to Westwood to begin with and whether there were previous ties between City Officials and Karbank.

Karen Johnson, 4950 Adams St., Westwood, addressed the Planning Commission. Johnson provided the Planning Commissioners with a copy of correspondence she previously provided to the Planning Commissioners ahead of the meeting and which was included in the September 11, 2023 Planning Commission meeting packet. Johnson does not feel that the proposal conforms to the 2017 Master Plan and that single-family residential homes are the only appropriate use for the site. She requests that the Planning Commission recommend denial of this application.

Ellen Marsee, 4957 Adams St., Westwood, addressed the Planning Commission. Marsee expressed concern that not all City Officials and Staff are elected and that she is concerned that the City Officials are not advocating for her as a resident.

Jamie Harkar, 2212 W. 50th Ter., Westwood Hills, addressed the Planning Commission. Harkar expressed concern that the City will lose control over the use of the site once the rezoning is approved and also expressed a position that the amount of green space currently accessible to residents is sufficient. Harkar also expressed concern that a private developer could engage the City in costly litigation if they don't get everything they want.

Carrol Thomas, 2100 W. 51st St., Mission Woods, addressed the Planning Commission. Thomas expressed concern that a study hasn't been conducted as to the impact of the development on the values of surrounding properties. Thomas further expressed concern about the levels of vehicular traffic and the loss of mature trees along Rainbow due to the development and that the mature trees shown in the renderings is a farce and that the development will not fit in with the community.

Sara Keehn, 4957 Booth St., Westwood, addressed the Planning Commission. Keehn expressed her opposition to this and other commercial developments in Westwood and stated a desire to maintain the zoning on the site as single-family residential. Keehn further expressed concern about traffic and advocates for any use other than single-family residential to be for the full use of the site as a park. She cited that the 2017 Comprehensive Plan calls for commercial development to be kept at 47th & Rainbow Blvd. and states that the City shouldn't be concerned with increasing revenues but that costs should be reduced.

Richard Ralls, 5311 Mission Woods Rd., Mission Woods, addressed the Planning Commission. Ralls shared that he does not believe the Planning Commission needs to consider a Planned Development District and that the underlying zoning district of C-1 has regulations in place that would be appropriate for this project.

John Ye, 4836 Belinder Ct., Westwood, addressed the Planning Commission. Ye cited multiple historical examples in Westwood where public commenters and community members expressed concerns loudly about the proposals before the community and City Officials in those instances. Ye stated that there are lines in the 2017 Comprehensive Plan that people could use to reinforce positions both for and against this project. He asks the Planning Commission to follow true north and allow calmer heads to prevail in the decision making process.

Chair Page asked for any additional commenters to come forward; seeing none, Page closed the public comment portion of the meeting.

Chair Page invited the applicant to address the Planning Commission again to share responses to any questions posed during the public comment portion of the hearing. The applicant declined to provide responses.

Chair Page invited City Administrator Herring to address the Planning Commission again to share responses to any questions posed during the public comment portion of the hearing. Herring declined to provide responses.

Chair Page invited discussion amongst the Planning Commissioners. Commissioner Breer acknowledged how much Karbank and its architects had been responsive to the community and input and thanked everyone for hard work on the project and for the community to invest so much time following the project. Breer further stated that he researched during the meeting the history of litigation Karbank is involved in and found nothing but invited members of the public to send him headlines or legal case numbers for litigation not immediately available online. Breer further stated that the City Officials, including Planning Commission, City Council, the Mayor, and City staff undergo legalities training and would disclose any conflicts of interest if there were any and that he, himself, has recused himself before from participating in discussions and voting when he has a conflict or client involved in Planning Commission proceedings. Breer further shared appreciation for City Staff's work in making so much information and readily available as this project has evolved over the past several months.

Commissioner Weaver asked for clarification from the City Attorney about what, legally, the Planning Commission is responsible for and how the Planning Commission acts as a quasi-judicial arm of the City government. City Attorney Spencer Low stated that the Planning Commission's authority is clearly set out in the staff report included in the meeting packet.

Commissioner Kelman stated that he is an architect by trade and is very familiar with the process this project has taken in its review and consideration to get from idea to built and he feels he needs to address some comments he has heard that City Officials have already decided this is happening despite the public process and that the decision has been pre-conceived. He further shared that he feels Karbank has genuinely responded in its revised submittals to community concerns and that he is still struggling with how he will ultimately vote on the project and lost sleep over the decision.

Chair Page stated that some of the concerns she has heard are about Rainbow Blvd. and its safety and comfort for road users and that the road corridor is being evaluated for improvements outside of this proposal. Further, she shared that she has had lots of conversations with community members about the project and that what she is hearing is pretty evenly divided between people who are for and against the development, despite most people who spoke at the public hearing sharing comments in opposition to or concerns about the project.

Commissioner Holliday stated concerns about the accident prevalence at 50th & Rainbow Blvd. cited during public comment and was directed by fellow Planning Commissioners to the page in the traffic study that states those numbers.

Herring asked for the Planning Commission to provide clear or specific direction or changes to staff or to the applicant so that the process can come to some resolution/conclusion, whether that conclusion is denial, conditional approval, or denial. Herring also noted that the Planning Commission Bylaws require that meetings end at 11 PM unless extended by majority vote of the Planning Commission.

Chair Page noted that she would like to see the City's traffic engineer's review and opinion on the applicant's traffic study, which was just received today and hasn't yet undergone review. Page asked for fellow Planning Commissioners to state whether they have clear, specific direction for additional items to come to a decision on the applications. Page further noted that she would also entertain a motion from the Planning Commission. Commissioner Breer stated that he is ready to make a motion but invited additional conversation from the Planning Commission before making a motion.

Commissioner Neibling noted that he is interested in looking further into the applicant incorporating the park restroom facility into the pavilion structure(s) and asked what others thought. Commissioner Breer stated that he would be comfortable adding that as a condition but that he also understands that a separate park restroom may also have value to park users.

There was some discussion about the process for making a motion with conditions.

Motion made at 10:55 PM by Breer to extend the meeting to 11:15 PM. Seconded by Kelman. Motion passed unanimously.

Motion made by Commissioner Breer to approve **RZ-2023-01** – *Application of Karbank Holdings, LLC, on behalf of owner City of Westwood, KS to rezone property at 5000 and 5050 Rainbow Blvd., Westwood, KS 66205 from R-1 (Single-Family Residential) to PD (Planned Development);*

RZ-2023-02 – *Application of Karbank Holdings, LLC, on behalf of owner Shawnee Mission School District to rezone property at 2511 W. 50th St., et al., Westwood, KS 66205 from R-1 (Single-Family Residential) to PD (Planned Development); and*

PDP-2023-01 – *Application of Karbank Holdings, LLC on behalf of owners Shawnee Mission School District and City of Westwood, KS, jointly, for approval of a preliminary development plan at 2511 W. 50th St., 5000 Rainbow Blvd., and 5050 Rainbow Blvd, Westwood, KS 66205; with the following conditions:*

- a. Karbank to perform at its sole expense a study prior to any demolition permits being issued, such study to include the following scope of work:
 1. provide an inventory of all existing trees, identifying by location each tree's:
 - i. specie type;
 - ii. estimated age;
 - iii. condition (and to the extent possible an estimate on remaining lifespan);
 - iv. ability to be relocated elsewhere on the development site or at the City Park (with emphasis on relocating as many as possible on the development site); and
 - v. if proposed to be kept, a tree preservation and protection plan for use during the demolition and construction period;

- b. Karbank to mitigate the removal of mature trees from 5000 and 5050 Rainbow Blvd. by providing one (1) new tree for every tree less than 12" caliper removed and for trees over 12" caliper, replace at 2:1. Preference for new tree plantings is for them to be located in the north and south side yard of the of the development; however, exact location will be determined at a later date following the conclusion of the study defined above;
- c. Karbank to provide as part of the final development plan consideration sufficient and acceptable in-school traffic counts and traffic modeling and any necessary resulting modifications to the site access to ensure levels of service do not worsen as a result of the development;
- d. Karbank, prior to final development plan approval, conclude with KDOT its review of the site access as applicable to KDOT and its jurisdiction on Rainbow Blvd. conditioned upon the approval of the City traffic engineer following review of the traffic study and per her recommendations to the applicant and City Staff; and
- e. Karbank and the City in good faith study whether the park restroom should be part of the Karbank development or be a separate structure serviced by the City.

Second by Commissioner Holliday.

Commissioner Neibling moved to amend the motion to change the last condition to direct the City and Karbank to evaluate incorporating the park restroom within the Karbank property and seeking an agreement for public use of the restroom. Second of the amendment by Commissioner Breer. Motion passed unanimously.

Discussion on the amended motion. Commissioner Fulghum asked whether the motion should be changed to acknowledge that traffic counts are now available. Commissioner Breer stated he prefers the language stay as stated tonight. Herring acknowledged City Staff does not have a problem leaving the language as-is even though condition c. is already resolving itself.

Herring called the role. Motion passed 7-2 with Kaiser and Kelman voting against.

Adjournment

Motion by Commissioner Breer to adjourn the meeting. Second by Commissioner Kelman. Motion passed unanimously. The meeting adjourned at 11:06 PM.

Upcoming Items

- A. FDP-2023-01 Consider application of Karbank Holdings, LLC on behalf of owners Shawnee Mission School District and City of Westwood, KS, jointly, for approval of a final development plan at 2511 W. 50th St., 5000 Rainbow Blvd., and 5050 Rainbow Blvd, Westwood, KS 66205

- B. FP-2023-01 - Consider application of Karbank Holdings, LLC on behalf of owner City of Westwood to replat property at 5000 and 5050 Rainbow Blvd.
- C. FP-2023-02 - Consider application of Karbank Holdings, LLC on behalf of owner Shawnee Mission School District to replat property at 2511 W. 50th St., et. al.

APPROVED: _____
Sarah Page, Chair

ATTEST: _____
Leslie Herring, Secretary

DRAFT