

# COUNCIL ACTION FORM

Meeting Date: October 12, 2023

Staff Contact: Leslie Herring, City Administrator

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**Agenda Item:** Consider Ordinance No. 1038 relating to the rezoning of property at 50<sup>th</sup> & Rainbow Blvd. and associated preliminary development plan

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## Background/Description of Item

The applicant is requesting approval to rezone property located at 50<sup>th</sup> & Rainbow Blvd. and for approval of a preliminary development plan to build a mixed-use office and retail development on property currently under contract at 5000 Rainbow Blvd., 5050 Rainbow Blvd., and 2511 W. 50th St. Specifically, these matters are known as:

**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)

**RZ-2023-02** – Consider 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)

**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

The rezoning and preliminary development plan are subject to public hearing before the Planning Commission, at the conclusion of which the Planning Commission is to make a recommendation to the Governing Body, which body then takes the ultimate action on the applications<sup>1</sup>. The Planning Commission opened the public hearing on these items on August 7, 2023 and closed the public hearing on September 11, 2023, on which later date it made a recommendation for conditional approval to the Governing Body by a vote of 7-2<sup>2</sup>.

The conditions recommended by the Planning Commission are:

- a. Karbank to perform at its sole expense a study of the existing trees on the site 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

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<sup>1</sup> Pursuant to Westwood Zoning Ordinance 1.6.13.

<sup>2</sup> Public comment received, staff reports, full submittals, and minutes of the meetings are all available in the Planning Commission meeting packets available at [westwoodks.org/meetings/recent](http://westwoodks.org/meetings/recent).

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.

### **Staff Comments/Recommendation**

Pursuant to Westwood Zoning Ordinance 1.6.13(c):

The Governing Body may (1) approve such recommendations by the adoption of the same by ordinance or resolution; (2) override the Planning Commission's recommendation by a two-thirds majority vote of the membership of the Governing Body; or (3) return the same to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

Rezoning in the State of Kansas are subject to protest petition procedures as set forth in both Westwood Zoning Ordinance 1.6.14 and K.S.A. 12-757. City staff has followed such procedures and acknowledges that a protest petition has been received and validated. As such, the ordinance or resolution adopting such amendment shall not be passed except by at least a 3/4 vote of all of the members of the governing body.

Staff recommends the Governing Body adopt Ordinance No. 1038 approving the rezoning of property at 50<sup>th</sup> & Rainbow Blvd. subject to the related proceedings including approval of the preliminary development plan, development agreement, donation agreement, and first rights agreement, all included on tonight's agenda for consideration.

Further, Staff recommends that the Governing Body review the conditions set forth by the Planning Commission and determine which, if any, have been satisfactorily resolved by the submittal included in the meeting packet and presentation by the applicant's team at the October 12<sup>th</sup> meeting. City staff considers condition c to be met with the September 12, 2023 Traffic Impact Study and recommends that the Governing Body consider approving the Ordinance without that condition.

### **Budget Impact**

All expenses to date and hereafter relating to these document drafts are reimbursed by Karbank pursuant to the Funding & Exclusivity Agreement dated March 9, 2023.

### *Suggested Motion*

*I move that the governing body accept the Planning Commission's recommendation to approve rezoning applications RZ-2023-01, RZ-2023-02 and the associated preliminary development plan PDP-2023-01, subject to the stipulations recommended by the Planning Commission, except condition C relating to traffic counts and modeling, relating to real property at 50<sup>th</sup> and Rainbow all as detailed in Ordinance 1038 subject to the subsequent approval of the development agreement, donation agreement, and first rights agreement and later approval of the donation agreement relating to real property at 2322 W. 51st St., Westwood, Kansas.*