

**ORDINANCE NO. 1038**

**AN ORDINANCE ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE REZONING REQUESTS TO AMEND ZONING FROM R-1 SINGLE-FAMILY RESIDENTIAL TO PD PLANNED DEVELOPMENT AND THE ASSOCIATED PRELIMINARY DEVELOPMENT PLAN, AS PRESENTED IN APPLICATIONS RZ-2023-01, RZ-2023-02 AND PDP-2023-01, FOR PROPERTY GENERALLY LOCATED AT 50<sup>TH</sup> AND RAINBOW BOULEVARD BOUNDED BY RAINBOW ON THE EAST, 50<sup>TH</sup> STREET ON THE NORTH, 51<sup>ST</sup> STREET ON THE SOUTH AND U.S.D. 512 PROPERTY ON THE WEST, ALL IN THE CITY OF WESTWOOD, JOHNSON COUNTY, KANSAS.**

WHEREAS, Karbank Holdings, LLC, on behalf of the owner City of Westwood, made application to rezone property at 5000 and 5050 Rainbow Blvd. from R-1 single family to PD planned development, and requesting approval of the associated preliminary development plan (RZ-2023-01, PDP-2023-01);

WHEREAS, Karbank Holdings, LLC, on behalf of the owner Unified School District No. 512, made application to rezone a portion of the property at 2511 W. 50<sup>th</sup> St. from R-1 single family to PD planned development and requesting approval of the associated preliminary development plan (RZ-2023-02, PDP-2023-01);

WHEREAS, all newspaper and mailed notifications were performed and a public hearing was properly held before the City Planning Commission on August 7 and September 11, 2023, and,

WHEREAS, the Planning Commission, by a vote of seven in favor and two opposed, recommended that the City Council approve the rezoning requests as detailed in RZ-2023-01 and RZ-2023-02 and to approve the associated preliminary development plan PDP-2023-01 subject to conditions for the properties which are the subject of the respective applications.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS THAT:**

**SECTION 1.** The Governing Body, in making its decision on the rezoning request, considered the evidence forwarded to it by the city's Planning Commission including minutes from the meetings, staff reports, and preliminary development plan, as well as, the criteria contained in the Westwood Zoning Code and as required by Kansas Law.

**SECTION 2.** The Governing Body hereby approves the rezonings set forth in applications RZ-2023-01 and RZ-2023-02 rezoning the real properties which are the subject of such applications from R-1 single family to PD planned development and further approves the associated preliminary development plan application PDP-2023-01, all such applications relating to real property legally described as follows:

See Ex. A attached hereto.

Such approval is granted subject to the conditions recommended by the Planning Commission and hereby adopted by the Governing Body:

- 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 development; however, exact location will be determined at a later date following the conclusion of the study defined above;
- c. 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
- d. 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.

The Governing Body attaches the following further conditions to its approval:

- a. Execution of a Development Agreement relating to the redevelopment of the real property generally located at 50<sup>th</sup> and Rainbow;
- b. Execution of a Donation Agreement providing for the donation of funds for the acquisition of USD 512 property and for the demolition of the Rushton School;
- c. Execution of a Donation Agreement providing for the donation of real property located at 2322 W. 51<sup>st</sup> St.;
- d. Execution of a First Rights Agreement; and,
- e. Closing on the sale of the City property which is the subject of the present application.

**SECTION 3.** This ordinance shall be in full force and effect from and after its passage, approval, and publication in the official city newspaper, all as provided by law.

PASSED by the Governing Body this 12<sup>th</sup> day of October, 2023.

APPROVED AND SIGNED by the Mayor this 12<sup>th</sup> day of October, 2023.

(Seal)

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David E. Waters, Mayor

ATTEST:

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Abby Schneweis, City Clerk

APPROVED AS TO FORM:

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Ryan B. Denk, City Attorney