



City of Olathe

City Planning Division

STAFF REPORT

Planning Commission Meeting: January 28, 2019

Application:	<u>SU18-0008</u> A special use permit for more than 4 animals (dogs)
Location:	813 E. Wabash Street
Owner/Applicant:	David and Cynthia Czernik
Staff Contact:	Dan Fernandez, Planner II

Site Area: 0.18± acres **Proposed Use:** More than 4 animals (dogs)
Plat: Coulter's Addition, Lot 20

	Land Use	Zoning	Comprehensive Plan Designation
Site	<u>Single-family home</u>	<u>R-1</u>	<u>Mixed Density Residential</u>
North	<u>Single-family home</u>	<u>R-1</u>	<u>Mixed Density Residential</u>
East	<u>Single-family home</u>	<u>R-1</u>	<u>Mixed Density Residential</u>
South	<u>Undeveloped</u>	<u>R-4</u>	<u>Mixed Density Residential</u>
West	<u>Single-family home</u>	<u>R-1</u>	<u>Mixed Density Residential</u>

1. Comments

This is a request for a renewal of a Special Use Permit to allow the property at 813 E. Wabash Street to have more than 4 animals on the property. Per *Section 18.50.030* of the *Unified Development Ordinance (UDO)*, up to 4 domestic pets may be kept on properties less than 3 acres subject to *Title 8 (Animals)* of the *Municipal Code*. A Special Use Permit is required to have more than 4 domestic animals per property.

2. Details of Proposal:

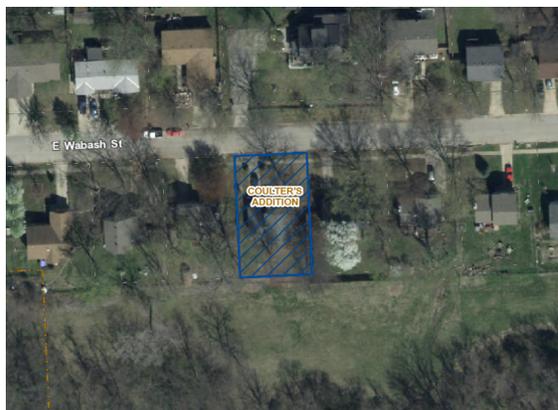
The applicants have 8 dogs and would like to foster up to 2 additional dogs at the property. Currently, 6 of the dogs are licensed.

The applicants have volunteered over 1000 hours each at local and national animal rescue agencies per the submitted statement of purpose. They have completed training programs through agencies such as the American Society for the Prevention of Cruelty to Animals and

would like to foster dogs so they have a place to stay while they can be taken to the appropriate rescue organization. The foster dogs generally stay a couple days while a shelter can be found to house them.

The rear yard of the subject property is enclosed with a 4-foot high chain-link fence and there are 2 kennels within the backyard to contain the dogs. The applicants have submitted a summary of how the dogs are taken care of including how the dogs are fed, picked up after and how they get their exercise. This includes bringing the dogs in if they start barking and not letting the dogs out after 9 pm. The summary has been included in the Planning Commission packet.

As part of this application, the applicants have agreed to building a 6-foot privacy fence around the back yard which should better contain the dogs and offer screening to neighboring property owners. A stipulation has been added stating that the fence shall be built by April 1, 2019 which the applicants have agreed to.



Site Aerial



View from Wabash Street

3. Public Notification/Neighborhood Meeting:

The applicant notified neighbors within 200 feet of the subject property by certified letter, return receipt as required by the *UDO*. The property owner notification affidavit and receipts have been submitted to staff showing that this requirement has been fulfilled. The applicant also posted a sign on the property and a notice was published in the paper.

A neighborhood meeting was not required for this application as no new development is proposed on the site.

Staff did receive a call from a resident in the neighborhood with complaints about the applicant's dogs getting out, the noise from the barking and the same resident had concerns with there being more than 4 animals at the property. Staff also contacted Animal Control and there have been no violations against the applicant. Also, one officer stated that the property and dogs are well maintained.

4. Number of Dogs/Time Limit

Staff is recommending that the number of permanent dogs be limited to 6 which is the number of dogs that are currently licensed. An additional 4 dogs shall be allowed as foster dogs since these dogs are only at the property a few days at a time.

Staff is also recommending a 2-year time limit which will give the applicants time to meet all permit stipulations and Municipal Code requirements but also bring back the permit in front of the Planning Commission and City Council to allow us to touch base and ensure no further complaints occur.

Per *Section 18.40.100.F.4* of the *UDO*, the Planning Commission may recommend, and the Governing Body shall grant or extend a permit for any period as is warranted under the circumstances.

Should the special use permit be approved and there be any issues or complaints, then the permit can be recommended for revocation by the Planning Official.

5. UDO Analysis

The following are the criteria for considering applications as listed in *Unified Development Ordinance (UDO) Section 18.40.090.G* and staff findings for each item:

A. *The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.*

The *Comprehensive Plan* encourages individuals to invest their time and resources for causes that benefit the community.

B. *The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).*

The use will be located on a single-family home and is located in a single-family neighborhood. The rear yard of the property is enclosed by a 4-foot chain-link fence that will be replaced with a 6-foot privacy fence.

C. *The zoning and uses of nearby properties and the extent to which the proposed use would be in harmony with such zoning and uses.*

The site is surrounded by other single-family homes and vacant property. Dogs are permitted in single-family homes and regardless of the number, are subject to *Title 8 (Animals)* of the *Municipal Code* which covers items such as care, nuisances and penalties.

D. *The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.*

Properties located in areas zoned R-1 are permitted up to 4 dogs by right subject to licensing through Animal Control. Additional dogs may be permitted with a special use permit.

E. *The length of time the property has remained vacant as zoned.*

The property is not vacant with the existing house being built in 1985.

F. *The extent to which approval of the application would detrimentally affect nearby properties.*

The dogs are subject to the approved stipulations and *Title 8 (Animals)* of the *Municipal Code* and would not detrimentally affect nearby properties if the stipulations and Code

are followed. The applicant has also agreed to build a 6-foot privacy fence which will help with containment and screening of the dogs.

G. *The economic impact of the proposed use on the community.*

There is no economic impact on the community.

H. *The gain, if any, to the public health, safety, and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.*

Staff does not believe that there is any threat to the public health, safety and welfare with the Special Use if all stipulations and *Title 8 (Animals)* of the *Municipal Code* are followed.

6. Staff Recommendation:

- a. Staff recommends approval of SU18-0008, for the following reasons:
 - (1) The proposal conforms to the Goals, Objectives and Policies of the *Comprehensive Plan*.
 - (2) The proposal complies with the *Unified Development Ordinance (UDO)* criteria for considering special use permit requests.
- b. Staff recommends approval of SU18-0008 subject to the following stipulations:
 - (1) The Special Use Permit is valid for a period of 2 years following Governing Body approval, with an expiration date of February 19, 2020.
 - (2) The property shall be subject to all requirements of *Title 8 (Animals)* of the *Olathe Municipal Code*.
 - (3) A maximum of 10 dogs, 4 of which may be foster dogs, may be kept on the property at one time.
 - (4) A 6-foot privacy fence shall be constructed around the backyard prior to April 1, 2019. Failure to do so may result in revocation of this SUP