



STAFF REPORT

Planning Commission Meeting: April 29, 2024

Application:	RZ23-0013: Rezoning from the RP-1 (Planned Single-Family Residential) District to the C-1 (Neighborhood Center) District and a Preliminary Site Development Plan for Caribou Coffee
Location:	Northeast of W. 159 th Street and S. Brentwood Street
Owner:	Joe Campbell; Jacobson-Campbell Excavation, Inc.
Applicant:	Rob Barse; Mint Development Company, LLC
Engineer/Architect:	Corey Englund; Reprise Design
Staff Contact:	Emily Carrillo; Senior Planner

Site Area:	<u>1.10± acres</u>	Proposed Use:	<u>Restaurant, Carryout, or Fast Food and General Commercial</u>
Building Area:	<u>605 and 4,500 square feet</u>	Plat:	<u>Asbury Centre</u>
Existing Zoning:	<u>RP-1 (Planned Single-Family Residential)</u>	Proposed Zoning:	<u>C-1 (Neighborhood Center)</u>

	Plan Olathe Land Use Category	Existing Use	Current Zoning
Site	Conventional Neighborhood	Vacant	RP-1 (Planned Single-Family Residential)
North	Conventional Neighborhood	Vacant	CP-1 (Planned Neighborhood Center)
South	Conventional Neighborhood	Religious Institution	R-1 (Single-Family Residential)
East	Conventional Neighborhood	Vacant	C-1 (Neighborhood Center)
West	Conventional Neighborhood	Multifamily Residential	RP-3 (Planned Low Density Multifamily)

1. Introduction

The applicant is requesting to rezone from the RP-1 (Planned Single-Family Residential) District to the C-1 (Neighborhood Center) District with a preliminary site development plan which includes two (2) commercial lots, located on 1.10± acres northeast of W. 159th Street and S. Brentwood Street. Lot 1 consists of a 605 sq. ft. fast food building for Caribou Coffee. A future phase for Lot 2 includes a 4,500 sq. ft. general commercial building. The details provided for this lot are still conceptual in nature and do not include the level of detail typically provided with a preliminary site development plan. A revised preliminary site development plan will be required prior to submittal of a final site development plan for Lot 2.

The proposed coffee shop with drive-thru is categorized as '*Restaurant, Carryout, or Fast Food*' in UDO Chapter 18.20.500 and is not permitted within the existing RP-1 District. The applicant is requesting to rezone to the C-1 (Neighborhood Center) District to allow for the proposed use.

Staff reviewed the rezoning application and is recommending approval of the C-1 District which is consistent with the zoning for the remainder of Asbury Centre to the north and east. However, staff is not supportive of the proposed fast-food use, which is a prohibited use within the surrounding Asbury Centre development as further detailed in the Land Use section of this report (see Section 4). With a recommendation to prohibit the requested land use, the plan automatically fails as it is contingent upon approval of the fast-food use.

Staff had multiple meetings with the applicant advising of the incompatibility of the requested land use with the overall Asbury Centre and surrounding neighborhood. Staff requested changes to the proposed land use, layout of the property and design elements. The applicant did provide significant changes to the placement of the building along with the site and architectural design and desires to proceed with the land use request.

2. History

The subject property was annexed (ANX-01-93) into the City of Olathe in 1993 and rezoned (RZ-19-02) to the RP-1 District in 2002 as part of the Asbury Centre commercial development. At that time, this small tract of land was designated to remain as open space with amenities such as a gazebo and seating area for the adjacent Villas of Asbury on W. 158th Place. Those amenities were never installed by the property owner, and the land has remained vacant since that time. The proposed outdoor seating and pedestrian connections create a public facing outdoors amenity space within this development.

A final plat (FP-24-03) for Asbury Centre was recorded in 2003, platting the land outlined in black in the aerial photo provided below. Public improvements, such as Hunter Street, were constructed shortly after platting, but Asbury Centre's commercial area remained undeveloped until 2018, when Country Kids Day Care built just north of the subject property.

3. Existing Conditions

The subject property is undeveloped, and the land gently slopes down to the north towards the private internal street. 159th Street and Ridgeview Road are existing major arterial roads with sidewalk along both streets. Hunter Street is a private street with public water and sanitary

sewer connections located to the east and north. A few existing, mature evergreen trees are located along W. 159th that are proposed to remain on site.



Aerial photo with subject site outlined in yellow; Asbury Centre commercial development in black.



View of subject property looking NE from the intersection of W. 159th and Brentwood.

A rezoning application with preliminary plans (RZ23-0006) was recently approved for Lot 4 of the Asbury Centre to allow for the development of a 3,325 sq. ft. building for Central Bank and an 8,000 sq. ft. multi-tenant general commercial building. Additionally, a rezoning application with associated preliminary site development plans for Lots 1 & 2 of Asbury, located directly to the north, has been received and is currently under review with staff. The C-1 District aligns with both applications adjacent to the subject property.

4. Zoning Standards

- a. **Land Use** – The applicant is requesting to rezone from the RP-1 District to the C-1 (Neighborhood Center) District. The PlanOlathe Future Land Use Map designates this site as a Conventional Neighborhood, which typically consists of single-family housing. However, as provided in PlanOlathe, *neighborhood centers are distributed throughout Olathe neighborhoods to provide local access to convenience goods and services, reduce the need for lengthy drives, and promote walkability.* The Asbury Centre is an existing neighborhood center commercial node located at a major intersection, which is consistent with other major intersections in southern Olathe.

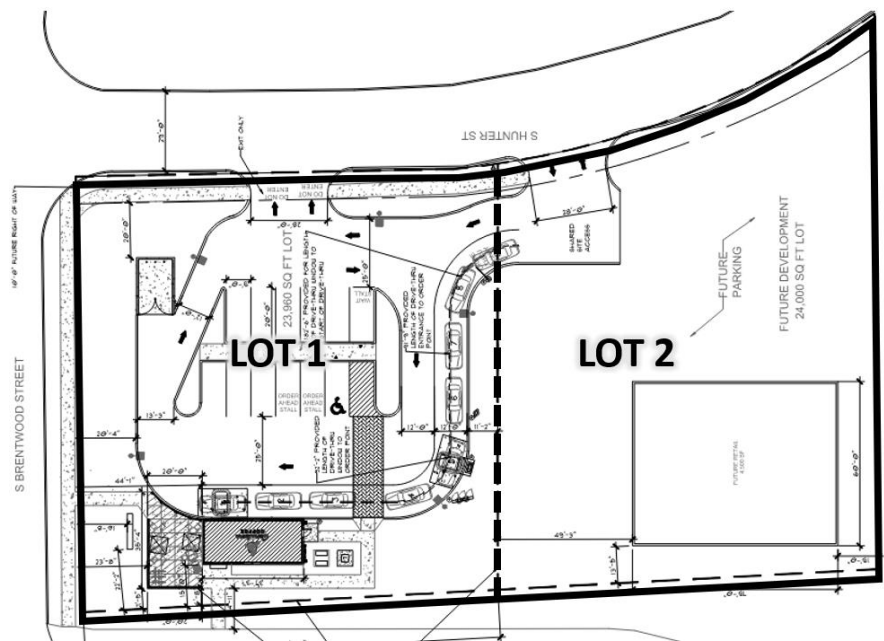
The C-1 District permits over 70+ land uses that provide the convenience goods and services called for by PlanOlathe. This rezoning is compatible with the adjacent commercial/office districts already found in the Asbury Centre. However, some use restrictions are recommended which is consistent within the larger Asbury Centre development, and to maintain compatibility with the nearby residences.

1. Fast-Food or Carryout Restaurants
2. Animal Care Facilities with Outdoor Kennels.
3. Any Distance Restricted Businesses as listed in Olathe Municipal Code Chapter 5.43.

The fast-food restaurant use typically attracts a higher volume of traffic, increased exterior lighting, can contribute to additional noise associated with these types of business and increased hours of operation.

For these reasons, staff is recommending restricting this use at this location directly across from residential neighborhoods to the west and southwest. The applicant is amenable to the proposed land use restrictions with the exception of the fast-food use.

The following analysis on dimensional, development and design standards are provided for the fast-food use proposed for Lot 1. Also, Lot 2 of this application is conceptual as the use has not been identified at this time. A revised preliminary site development plan will be required with full details including site and architectural drawings.



- b. **Building Height** –The coffee shop building is one-story and 17.8 feet at its peak, complying with the maximum building height of two-stories and 30 feet tall.
- c. **Setbacks** – The C-1 District requires this development to maintain a front yard building setback between 20 and 150 feet from 159th Street. The applicant is requesting a waiver, which is detailed in Section 10 of this report, to allow the building to be setback 15 feet from W. 159th Street right-of-way in lieu of the 20-foot minimum requirement. This setback distance allows the building to comply with the requirement of Site Design Category 3 to build within the 15-foot street frontage area.

The fast-food building complies with the minimum street corner side yard setback of 20 feet along the other street frontages and the minimum side and rear yard setback of 7.5 feet to the west and north respectively. All paved areas comply with the minimum paving setback of 15 feet from street right-of-way and 10 feet from property lines.
- d. **Frontage Buildout** – The C-1 District also requires a minimum frontage buildout of 50% within the required front setback area described above. Frontage buildout is calculated as the front building façade width as a percentage of the overall lot width. The developer is requesting a waiver to this requirement to allow a frontage buildout of 30% along 159th Street. See Section 10 below for an analysis of this waiver request.
- e. **Open Space** – The development includes 32% open space, exceeding the minimum requirement of 20% open space required within the C-1 District.

5. Development Standards

- a. **Access/Streets** – The proposal takes full access from Hunter Street, and a new sidewalk will be installed along Hunter Street connecting to Brentwood to the west and extending to the approved development to the east. Access for the conceptual commercial lot will be reviewed with a revised preliminary site development plan when a future use and tenant has been identified. Revised access and traffic circulation for Lot 1 will be forthcoming with the final site development plan if recommended for approval as stipulated.
- b. **Drive-Through** – A single lane drive-through for the coffee shop is proposed to the north and east of the coffee shop. The drive-through provides over 188 feet of stacking length from the drive-through entrance to the menu board, exceeding the minimum requirement of 80-feet. In addition, a future escape lane is shown and may be installed if desired by a future tenant.
- c. **Parking** – A parking analysis is required for the proposed drive-thru use as no indoor seating is provided for customers. The development includes 12 on-site parking spaces to provide parking for up to five (5) employees during peak shifts. A wait stall for drive thru orders has been included and six (6) stalls for general customer use to accommodate the outdoor seating area and walk-up order window that is a separate pedestrian-oriented feature from the drive-thru. Caribou’s prototype for the smaller cabin coffee shop concept, typically requires 15 total stalls, so the proposed parking represents a reduction in parking relative to current prototypical corporate standards. Further, the proposal does not exceed 125% of the minimum parking as required by the C-1 District.
- d. **Landscaping/Screening** – The proposed development exceeds all landscape requirements. Along the perimeter of the site, the required plantings are proposed along all street frontages and buffer requirements are met along the abutting properties.

Internally, the proposed parking lot and building foundation landscaping exceeds UDO requirements.

All building mounted utilities, and all ground- and wall-mounted utilities will be adequately screened by the proposed landscaping. A brick trash enclosure is proposed along the west side of the development that will be adequately screened.

- e. **Stormwater/Detention** – Stormwater detention and quality standards per Title 17 are required and will be reviewed with final site development plans.
- f. **Public Utilities** – The property is in City of Olathe sewer and WaterOne service areas. Existing sanitary sewer and water mains are in the northeast corner of the site and this development will connect to and extend these main lines along Hunter Drive. If approved, additional review is required with final site development plans.
- g. **Signs** – There is an existing monument sign located at the southwest corner of the property that will need to be relocated due to the development as proposed and should be included on final site development plans. All signage is reviewed administratively by separate application and is subject to the requirements of 18.50.190.

6. Site Design Standards

The property is designated as a Conventional Neighborhood in the PlanOlathe Comprehensive Plan Future Land Use Map; however, with the proposed C-1 District zoning designation, the site is subject to Site Design Category 3 (UDO 18.15.115). The following is a summary of the applicable site design requirements.

- a. **Landscape Options** – One of the prescribed landscape options must be provided where building façades are not located in the minimum frontage. The development provides the planted buffer with a two- to three-foot-tall limestone wall along 159th Street.
- b. **Street Frontage Area** – The proposed buildings are setback 15-feet from W. 159th Street and occupies over 30% of the street frontage length, which complies with the street frontage area requirement along W. 159th Street.
- c. **Parking Pod Size** – The proposal includes 12 stalls in the largest parking pod, which complies with the maximum of 40 stalls per parking pod.
- d. **Pedestrian Connectivity** – At least two prescribed pedestrian connections options must be provided on site. The site provides decorative crosswalks within the development, a new sidewalk will be constructed along Hunter and Brentwood streets, and connections are provided to Brentwood and to the existing sidewalk along W. 159th. The pedestrian gateway option is also met by the well-landscaped outdoor patio with a limestone wall feature at the pedestrian entrances off Brentwood and W. 159th streets.

7. Building Design Standards

The proposed coffee shop with drive-thru and conceptual commercial building are subject to the Commercial and Retail Building Design Standards per UDO 18.15.020.7. The west, north and south elevations of the coffee shop are considered primary façades. Due to the minimal size and function of the proposed coffee shop, design standards such as entry features, vertical and horizontal articulation and façade expression are not applicable.

8. Building Material Standards

The coffee shop is clad with Class 1 white brick, cream colored stone veneer, clear glass and a Class 3 fiber cement trim accent material in bronze tones. Decorative trusses with siding transitions support a traditional sloped metal roof. Dark bronze window trim and craftsman-style wall sconces accent the rustic cabin-style architecture.

9. Public Notification and Neighborhood Meeting

The applicant mailed the required public notification letters to surrounding property owners within 200-feet and posted a sign on the subject property per UDO requirements.

The applicant held a neighborhood meeting on April 8, 2024, in accordance with the UDO and the minutes of this meeting are included in the agenda packet. Eight (8) residents attended this meeting and asked several questions regarding the access, anticipated traffic, compatibility with adjacent uses, and clarification regarding staff recommendation. During the meeting, no one spoke in opposition of the proposal. The applicant addressed all questions and overall, residents expressed their support of the proposed coffee shop. Staff has not received any correspondence regarding the project.

10. Waiver Request

Section 18.40.240 of the UDO provides a mechanism for waivers to be considered when unnecessary hardships can be demonstrated or where the exception would result in superior design. The applicant has submitted a justification statement for the requested waivers, which is attached to this report. The applicant is requesting waivers from:

1. UDO 18.20.130.B, which requires buildings to be constructed a minimum of 20 feet from street right-of-way and the buildings to occupy a minimum of 50% of the lot width within this street frontage setback area. The applicant is requesting a waiver to reduce the minimum front yard setback from 20 to 15 feet along 159th Street and to reduce the street frontage buildout from 50% to 30% along 159th Street.
2. UDO 18.15.020.G.8.b, which requires that clear glass comprises a minimum of 25% of any primary façade. The applicant is requesting a waiver to reduce the glass percentage from 25% to 20% on all (3) primary facades of the coffee shop.

The applicant's justification statements provide that given the building's compact footprint, three (3) foot tall decorative landscape walls have been proposed along the Brentwood Street and 159th Street rights-of-way to assist in setting the frontage edge. As proposed, the building setback and frontage buildout does meet the requirements established in Site Design Category 3. Additionally, the small building footprint creates a hardship for meeting higher glazing percentages. This prototypical building floor plan has a significant amount of kitchen equipment and interior wall furring, so additional windows to meet the minimum standard would need to be non-functional spandrel glass. In addition to being non-functional, additional window area to meet the minimum percentages would be disruptive to the proportions of the façade.

11. UDO Rezoning Criteria Analysis

The future land use map of the PlanOlathe Comprehensive Plan identifies the subject property as a Conventional Neighborhood. Conventional Neighborhoods typically consist of single-family housing, but *neighborhood centers are distributed throughout Olathe neighborhoods to provide local access to convenience goods and services, reduce the need for lengthy drives, and promote walkability.*

The application was reviewed against the UDO criteria for considering rezoning applications listed in UDO Section 18.40.090.G as detailed below.

A. *The conformance of the proposed use to the Comprehensive Plan and other adopted plans, studies, or policies.*

The requested C-1 District does not directly align with the Conventional Neighborhood designation of the Comprehensive Plan. However, the Comprehensive Plan calls for neighborhood centers to be *distributed throughout Olathe neighborhoods to provide local access to convenience goods and services, reduce the need for lengthy drives, and promote walkability*. This is an existing neighborhood center located at a major intersection, which is consistent with other major intersections in southern Olathe. In addition, the proposed rezoning meets the following policies of the Comprehensive Plan:

LUCC-7.1: High Quality Design. Encourage economically reasonable efforts toward high quality architecture, urban design, and site design. Use design guidelines as a tool for new development and redevelopment. Consider the desired context and character of existing neighborhoods and commercial centers.

LUCC-8.1: Mixture of Complementary Land Uses. Encourage and enable a mixture of complementary land uses in major new developments. In existing neighborhoods, a mixture of land use types, housing sizes and lot sizes may be possible if properly planned and respectful of neighborhood character. Whenever land uses are mixed, careful design will be required in order to ensure compatibility, accessibility and appropriate transitions between land uses that vary in intensity and scale.

HN-2.2: Complete Neighborhoods. Encourage a “complete” neighborhood concept for new development, which includes a variety of residential densities on appropriately sized parcels, opportunities for shopping, nearby support services and conveniently sited public facilities, including roads, transit, and pedestrian connections, parks, libraries, and schools

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).*

Asbury Center is a developing commercial node with C-1 (Neighborhood Center) and CP-O (Office) zoning surrounded by existing low-density residential neighborhoods. The adjacent nonresidential uses are low intensity uses which serve surrounding neighborhoods, including Country Kids Day Care, Ascend Church, and the New Life Community Church. Nearby buildings are primarily one- or two-stories tall and more residential in design with sloped roofs, except for the Ascend Church and the recently approved Central Bank, which is more modern in design using primarily brick, stone, and glass materials.

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

The proposed C-1 District is in harmony with the surrounding zoning and uses of nearby properties. The adjacent CP-O and CP-1 Districts to the north and west are commercial districts, similar to the proposed C-1 District. The existing churches, undeveloped land,

and residential development to the south and east are in the R-1 District and separated from this property by arterial street right-of-way. However, the proposed fast-food restaurant use proposed with this application is of higher intensity than adjacent uses, generating more traffic, and typically having longer hours of operation. As such, the *Restaurant, Carryout or Fast Food* use is recommended to be restricted within the proposed C-1 District.

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

The existing property is zoned to the RP-1 District and contains a land use restriction requiring the provision of private open space with amenities, such as a gazebo and seating area, for the adjacent Villas of Asbury. This site is less suitable for this existing land use restriction than for the neighborhood commercial center uses allowed within the C-1 District, which benefit the greater public. Private amenities should be integrated interior to residential neighborhoods, be easily accessible, and should not be located at the intersection of major roadways for safety and privacy reasons.

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

The property was zoned to the RP-1 District in 2002 and has remained undeveloped and vacant since that time.

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

The proposed commercial zoning is not anticipated to detrimentally affect nearby properties. The property is bordered by major arterial streets including 159th Street and Ridgeview Road to the south and east and the properties to the north and east are within the same commercial development (Asbury Centre). Staff is recommending a list of restricted uses that are less compatible with adjacent residential properties.

G. The extent to which development under the proposed district would substantially harm the value of nearby properties.

Staff has not received any information indicating that the development as proposed would lead to a substantial impact on the value of surrounding properties.

H. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

This proposed use will not cause any adverse effect on traffic and safety of the road network. The subject property is accessed from Brentwood Street, which is a 2-lane collector road designed to support future development of this area and will not reduce the existing level of service at the intersection of Brentwood Street and Hunter Street. The development will not present a parking problem as the proposal exceeds the minimum parking and drive-through stacking requirements of the UDO.

I. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

The development is not anticipated to create pollution or other environmental harm. The development will follow all regulations and requirements pertaining to stormwater, air quality, noise, and other related items.

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

Development of the property with neighborhood commercial uses will generate property and sales taxes to be collected by the City as well as create new jobs.

K. *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.*

There is no gain or detriment to the public health, safety, or welfare if the application were denied. The proposed rezoning does not negatively impact public health, safety, or welfare as presented. If the application were denied, development of the property would be limited to remain as open space.

12. Staff Recommendation

- A. Staff recommends approval of a rezoning to the C-1 District (RZ23-0013), with the following stipulation:
 - 1. The following uses are prohibited:
 - a. *Fast-Food or Carryout Restaurants*
 - b. *Animal Care Facilities with Outdoor Kennels*
 - c. *Any Distance Restricted Businesses as listed in Olathe Municipal Code Chapter 5.43.*
- B. Staff recommends denial of the preliminary site development plan due to the recommendation on the proposed fast-food land use associated with the development plan.

13. If the fast-food land use and preliminary site development plan are recommended for approval, staff recommends the following stipulations:

- A. Zoning District:
 - 1. The following uses are prohibited:
 - a. *Fast-Food or Carryout Restaurants (Prohibited on Lot 2 only)*
 - b. *Animal Care Facilities with Outdoor Kennels*
 - c. *Any Distance Restricted Businesses as listed in Olathe Municipal Code Chapter 5.43.*
 - 2. Hours of operation for the 'Restaurant, Carryout, or Fast Food' use on Lot 1 are limited to 5:00 am to 8:00 pm. daily.

B. Preliminary Site Development Plan:

1. A waiver is granted from UDO 18.20.130.B to decrease the minimum front yard setback from 20-feet to 15-feet and to reduce the minimum frontage buildout from 50% to 30% along 159th Street as shown on the preliminary site development plan dated April 1, 2024.
2. A waiver is granted from UDO 18.15.020.G.8.b to decrease the minimum glass requirement from 25% to 20% on the primary facades for Lot 1 as shown on the elevations dated April 1, 2024.
3. A revised preliminary site development plan is required for Lot 2 prior to submittal of a final site development plan.
4. Revised access and traffic circulation for Lot 1 will be provided with final site development plans as required by the City Engineer.
5. Exterior ground-mounted or building mounted equipment including but not limited to, mechanical equipment, utilities' meter banks and coolers must be screened from public view with three (3) sided landscaping or an architectural treatment compatible with the building architecture.