



STAFF REPORT

Planning Commission Meeting: May 13, 2024

Application:	<u>RZ24-0007</u>: Request for approval of a rezoning and preliminary site development plan for Primrose School of Olathe.
Location:	Southwest of W. 158 th Street and S. Hunter Street
Owner:	Timothy Anschutz, Spark Properties Group, LLC
Engineer/Applicant:	Luke Moore; Olsson
Staff Contact:	Andrea Fair, AICP; Planner II

Site Area:	<u>3.74± acres</u>	Proposed Use:	<u>Day-Care and Child-Care Center</u>
Building Area:	<u>13,545 sq.ft.</u>	Plat:	<u>Asbury Centre</u>
Existing Zoning:	<u>RP-1, CP-1, CP-O</u>	Proposed Zoning:	<u>C-1 (Neighborhood Center)</u>
Lots:	<u>2</u>	Tracts:	<u>0</u>

	Plan Olathe Land Use Category	Existing Use	Existing Zoning
Site	Conventional Neighborhood	Undeveloped	RP-1, CP-1, CP-O
North	Secondary Greenway/Conventional Neighborhood	Single-Family Residential	R-1
South	Conventional Neighborhood	Undeveloped	RP-1
East	Conventional Neighborhood	Day-Care and Child-Care Center	CP-O/C-1
West	Mixed Density Residential Neighborhood	Multi-Family Residential	RP-3

1. Introduction

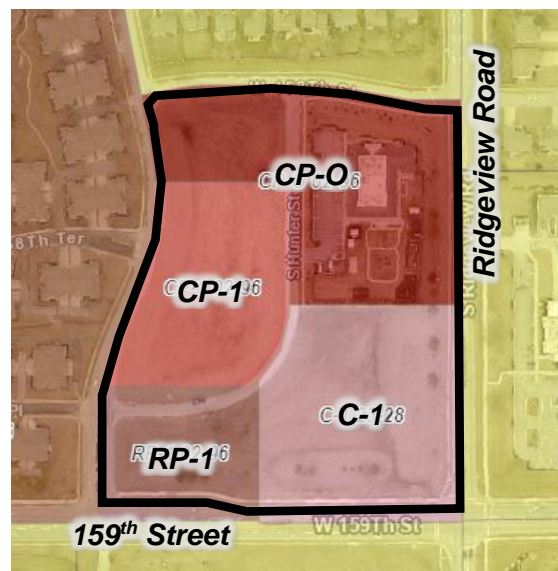
The applicant is requesting to rezone from the RP-1 (Planned Single-Family), CP-1 (Planned Retail Business), and CP-O (Planned Office Building) Districts to the C-1 (Neighborhood Center) District with a preliminary site development plan for two (2) lots on a 3.74± acre property located southwest of W. 158th Street and S. Hunter Street. A 13,545 square foot building for Primrose School of Olathe will be located on Lot 1. Primrose School will accommodate approximately 200 students and 28 staff members. A future phase for Lot 2 includes a 10,800 square foot 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 Day-Care and Child-Care Center use is permitted in the CP-1 District, but the applicant is requesting to rezone this property to allow for a variety of neighborhood-focused commercial uses on both lots and to align the zoning with the larger Asbury Centre development.

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, CP-1, and CP-O Districts in 2002 as part of the Asbury Centre commercial development. The subject property was originally approved for a commercial retail and office building. The final plat (FP-24-03) for Asbury Centre was recorded in 2003. Public improvements, including S. Hunter Street, were constructed shortly after platting, but Asbury Centre's commercial area remained undeveloped until 2018, when Country Kids Day Care was constructed just east of the subject property.

In 2023, Asbury Centre, Lot 4 (RZ23-0006) located to the east was rezoned from the CP-O District to the C-1 District and a preliminary site development plan for a bank and multi-tenant building were approved. On April 29, 2024, an application for Asbury Centre, Tract A (RZ23-0013) was recommended for rezoning from the RP-1 to the C-1 District by the Planning Commission and the application proceeds to City Council on May 21, 2024.



Zoning map

3. Existing Conditions

The subject property is undeveloped, and the land gently slopes to the northwest. W. 159th Street and S. Ridgeview Road are existing arterial roads with sidewalks along both streets. S. Hunter Street is a private street with public water and sanitary sewer connections to the north and east.



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



View of subject property looking northeast.

4. Zoning Standards

- a. **Land Use** – The applicant is requesting to rezone from the RP-1 (Planned Single-Family), CP-1 (Planned Retail Business), and CP-O (Planned Office Building) Districts 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, including office, restaurant and retail uses. This rezoning is compatible with the adjacent commercial/office districts already found in the Asbury Centre. However, some use restrictions are recommended to maintain compatibility with the nearby residences and these uses have been restricted on adjacent properties in Asbury Centre. Staff has worked with the applicant and they are amenable to prohibiting the following uses:

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.

- b. **Building Height** – The daycare building is one-story and no taller than 29 feet at its peak, complying with the maximum building height within the C-1 District of two-stories and 30 feet tall.

- c. **Setbacks** – The C-1 District requires developments to maintain a front yard building setback between 20 and 150 feet. The proposed day care building is setback 60 feet from S. Hunter Street, complying with the 20 foot minimum and 150 foot maximum requirement.

The day care building complies with the minimum street corner side yard setback of 20 feet along S. Hunter Street and the minimum side and rear yard setback of 7.5 to the north and west. 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 requires a minimum frontage buildout of 50% within the required front setback area. Frontage buildout is calculated as the front building façade width as a percentage of the overall lot width. The frontage buildout is 55% of the proposed Lot 1, meeting this requirement.

- e. **Building Footprint** – The daycare building has a footprint of 13,545 square feet, complying with the maximum building footprint of 15,000 square feet.

- f. **Open Space** – The development includes 28% open space, exceeding the minimum requirement of 20% open space within the C-1 District.

5. Development Standards

- a. **Access/Streets** – The proposed development will be accessed from S. Hunter Street and align with the southernmost access point into Country Kids Daycare to the east. S. Hunter Street connects to S. Brentwood Street, which is a collector street, and W. 158th Street, which has direct access to W. 159th Street and S. Ridgeview Road.

A new sidewalk will be installed along S. Hunter Street and S. Brentwood Street.

- b. **Parking** – Per UDO 18.30.160, minimum parking required for a day care facility is one (1) parking stall per 800 square feet. A minimum of 17 parking stalls are required and 41 parking stalls are proposed.

The C-1 District also requires that parking areas should not exceed 125% of the minimum required off-street parking requirements of the UDO, for a maximum of 21 stalls. The applicant is requesting a waiver to the maximum parking requirement, which is detailed in Waiver Request, Section 9.

- c. **Landscaping/Screening** – The proposed development exceeds all landscape requirements of UDO 18.30.130. Along the perimeter of the site, the required plantings are proposed along all street frontages and 10-foot and 15-foot buffer requirements are being met. Internally, the proposed parking lot and building foundation landscaping exceeds UDO requirements.

All rooftop utilities will be screened by the proposed parapet walls and all ground and wall mounted utilities will be adequately screened.

- d. **Stormwater/Detention** – Improvements to the property will increase impervious surface area. Stormwater runoff created by this development will be captured and diverted into a Stormwater Treatment Facility, a native vegetation swale, in accordance with stormwater quality and quantity requirements of Title 17 before continuing to the City's public stormwater system.
- e. **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 S. Hunter Street.

6. Site Design Standards

The property is designated as a Conventional Neighborhood on the PlanOlathe 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** – Developments must provide one landscape option where the building façades are not located within the minimum frontage area. The development exceeds the option for a 20-foot planted buffer without a wall along S. Hunter Street and exceeds the option for a 10-foot planted area with fence along S. Brentwood Street. Additional landscaping along the perimeter of the fenced playground area is also being provided to soften fence row and provide signature landscaping at the hard corner of W. 158th and Brentwood Streets.

- b. **Street Frontage Area** – Street frontage area for commercial and mixed-use buildings in Site Design Category 3 must be setback a maximum of fifteen (15) feet as measured from the property line. The day care building is setback 60 feet from S. Hunter Street and therefore does not comply with this requirement.

The applicant is requesting a waiver to street frontage requirement, which is detailed in Waiver Request, Section 9.

- c. **Parking Pod Size** – The maximum parking pod side is 40 stalls. The proposed development includes 36 stalls in the largest parking pod, which is in compliance with the UDO requirements.
- d. **Pedestrian Connectivity** – Developments must provide enhanced pedestrian connections to encourage pedestrian use. The site provides a pedestrian gateway at the southwest corner of the property consisting of signature landscaping comprised of ornamental trees, evergreen and decorative grasses. Additionally benches with landscaping in decorative planters are provided at the building entrance to create a more defined pedestrian entry feature.
- e. **Drainage Features** – Open drainage and detention areas visible to the public must be incorporated as an attractive amenity feature or focal point. There is a proposed native vegetation swale along the south side of the property. Additional details regarding exact location and landscape requirements will be reviewed at the time of final site development plan.

7. Building Design Standards

The proposed daycare building is subject to building design standards for Commercial and Retail Buildings (UDO 18.15.020.G.7). The following table lists the applicable design requirements and proposed design elements. All elevations are considered primary façades.

Building Design Standard	UDO Design Requirements
	Proposed Design
<i>Building Entryway</i>	<p><i>Each building entry along primary facades must be defined with a covered projection or a recessed area.</i></p> <p>The main building entry, located on the east elevation, includes a canopy that projects out six feet from the façade.</p>
<i>Horizontal Articulation</i>	<p><i>Each primary façade must provide horizontal articulation every 50 linear feet of the façade.</i></p> <p>All primary façades provide horizontal articulation using either wall offsets or wall projections every 40 feet, exceeding UDO requirements for horizontal articulation.</p>
<i>Vertical Articulation</i>	<p><i>Each primary façade must provide vertical articulation every 50 linear feet of the façade.</i></p> <p>All primary façades include a minimum variation of two feet in parapet height at least once every 40 feet, exceeding UDO requirements for horizontal articulation.</p>

<i>Façade Expression</i>	<i>One-story buildings must be a minimum of 17 feet tall and include a tower element or special vertical articulation to anchor the main entry or building corner.</i> The one-story building is 29 feet tall at the peak of the stone tower element on the northeast corner of the building, which anchors the building corner.
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The proposed building is predominately comprised on all four façades with brick veneer, stone veneer, and a base of stone wainscotting. The building is required to include a combination of three (3) materials from Class 1 or Class 2 on 80% of the primary facades. The building uses a minimum of 84% Class 1 and 2 materials on all primary facades, exceeding this minimum requirement. The building also utilizes a standing seam metal awning (Class 1) on all façades.

The building is required to have 25% clear glass on all primary façades. Clear glass windows are used on 7% of the north façade, 10% of the south façade, 11% of the east façade and 12% of the west façade. Opaque glass windows are also incorporated on 12% of the north façade, 12% of the south façade, 12% of the east façade and 13% of the west façade. The applicant is requesting a waiver to the minimum clear glass requirements. See Section 9 below for an analysis of this waiver request.

8. 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 UDO requirements and the minutes of this meeting are included in the agenda packet. Seven (7) residents attended this meeting and asked several questions regarding traffic, and building and site design, which were responded to. Neither staff nor the applicant has received additional correspondence regarding the project.

9. 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 submitted a justification statement for the requested waivers, which is attached to this report. The applicant is requesting waivers from:

1. UDO 18.15.115, which requires street frontage area for commercial buildings be a maximum of 15 feet as measured from the property line and the façade width within the frontage area must be a minimum of 30% of the lot width. The applicant is requesting a setback of 60 feet from the front (east) property line.
2. UDO 18.15.020.G.8.b, which requires that clear glass comprise a minimum of 25% of any primary façade. The applicant is requesting to reduce the clear glass from 25% on all primary façades to 7% on the north façade, 10% on the south façade, 11% on the east façade and 12% on the west façade.

3. UDO 18.20.130.C.1, which requires that no more than 125% of the required parking for a use may be provided on site. The applicant is requesting to increase the parking from the required 17 spaces to 43 spaces.

Staff is supportive of the three (3) requested waivers and worked with the applicant to understand the reason for each request. The first waiver is concerning the requirement for the building to set the street edge by placing buildings closer to the street and requiring buildings to occupy a certain percentage of the lot width at that street edge. The applicant is not meeting the intent of this requirement which is challenging on this property due to the shape of the lot and nature of the proposed business and need for outdoor playground and child drop-off areas. In lieu, the developer is proposing to add additional landscaping around the entire perimeter of the site and an outdoor amenity area. The proposed building placement also allows for the parking to be located interior, furthest from the residential properties to the west.

The second waiver is concerning the 25% clear glass requirement on each primary façade. Each façade of the building is classified as a primary façade, which means all four façades are required to meet the 25% clear glass requirement. Staff worked with the applicant to increase the amount of clear glass on each façade where possible, and the applicant has also provided at least 12% of opaque glass on each façade near the parapet wall to provide the appearance of clear glass, which brings the total amount of glazing to 20% - 25% for each façade. The building also utilizes over 84% Class 1 and 2 building materials on all façades, exceeding the minimum requirement of 80% Class 1 and 2 building materials. The vertical and horizontal articulation of the building also exceeds UDO requirements, and additional façade expression techniques and architectural details were incorporated, including tower elements and awning cornices. The applicant also worked with staff to provide additional high quality building materials and color variations.

The third waiver is concerning the maximum parking requirement. The applicant is requesting to increase the number of parking stalls from 17 to 43. The Primrose School has a staff of 28 including teachers and administration, which exceeds both the number of required stalls and the allowed increase of 125%. The 15 remaining stalls will be utilized for drop off and pick up. The applicant estimates that each drop off and pick up takes approximately six (6) minutes, which allows for each stall to accommodate 10 drop off and/or pick up trips per hour. Staff is supportive of the increase because it allows for the daycare to be adequately staffed and provides adequate parking for parents.

10. UDO Rezoning Criteria

The future land use map of the Plan Olathe 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 planning policies.

The requested 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 the pattern of commercial centers at other major intersections in southern Olathe.

The proposed zoning request meets the following policy elements of the Comprehensive Plan:

LUC-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.

LUC-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).

This area is a developing commercial node and is surrounded by an existing residential neighborhood to the west. The adjacent non-residential use is Country Kids Day Care. Plans have been approved for a bank and multi-tenant retail building to the southeast. The existing and future buildings are primarily one-story tall and are a mix of residential and modern design.

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 proposal is in harmony with the surrounding zoning and uses of nearby properties. The adjacent CP-O and C-1 Districts to the south and east are commercial districts, similar to the proposed C-1 District. The property directly to the south is in the RP-1 District but an application was presented to the Planning Commission on April 29, 2024 to rezone the property to the C-1 District. There is an existing daycare to the east, which is a compatible use. The proposed daycare will complement the adjacent commercially zoned properties and serve as a commercial node for nearby residential developments.

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

The property is suitable for the land uses allowed in the existing CP-1 and CP-O Districts; however, the requested C-1 District will allow for a more consistent zoning throughout the entire Asbury Centre and aligning with the existing zoning districts and established businesses. Use restrictions are proposed that are consistent with adjacent C-1 District zoning.

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

The property was zoned to the RP-1, CP-O and CP-1 Districts in 2002 and has remained undeveloped since that time.

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

Approval of this application is not anticipated to detrimentally affect nearby properties. The property is within an existing commercial node (Asbury Centre) and adjacent to an existing daycare facility that has been operation since 2018 date.

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

Approval of this development will not substantially harm the value of the nearby properties, which are zoned for residential and nonresidential uses. The property already has commercial zoning designation, only a small portion of the property retains residential zoning.

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.

The proposed use will not adversely affect the capacity or safety of the road network influenced by the use, or present parking problems. The proposed use will not substantially increase traffic and the site is adequately parked for the needs of the daycare use. The development will have access from S. Hunter Street from to W. 159th Street and S. Ridgeview Road, which are arterial streets.

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.

The proposed development will create new jobs and generate additional property taxes to be collected by the City.

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 and welfare due to the denial of the application. The rezoning does not negatively affect public health, safety or welfare as presented. If the application were denied, the applicant would not be able to develop the requested daycare use within the existing zoning district.

11. Staff Recommendation

Staff recommends approval of the rezoning and preliminary site development plan (RZ24-0007) with the following stipulations:

- A. Staff recommends approval of RZ24-0007 for the following reasons:
 - 1. The proposed development complies with the policies and goals of the Comprehensive Plan.
 - 2. The requested rezoning to the C-1 District meets the Unified Development (UDO) criteria for considering zoning applications.
- B. Staff recommends approval of the rezoning to the C-1 District with the following stipulations:
 - 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.
- C. Staff recommends approval of the preliminary development plan with the following stipulations:
 - 1. A revised preliminary site development plan is required for Lot 2 prior to submittal of a final site development plan.
 - 2. A waiver is granted from UDO 18.15.115.C to reduce the street frontage setback and buildout requirement from 15 feet and 30% to a setback of 60 feet with the elimination of the façade width requirement, as shown on the preliminary site development dated April 22, 2024.
 - 3. A waiver is granted from UDO 18.15.020.G.8.b to decrease the minimum glass requirement from 25% on all primary façades to 7% on the north façade, 10% on the south façade, 11% on the east façade and 12% west façade as shown on the elevations dated April 22, 2023.
 - 4. A waiver is granted from UDO 18.020.130.C.1 to exceed the 125% maximum parking requirement and permit a maximum of 43 parking stalls, as shown on the preliminary site development plan dated April 1, 2024.

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.