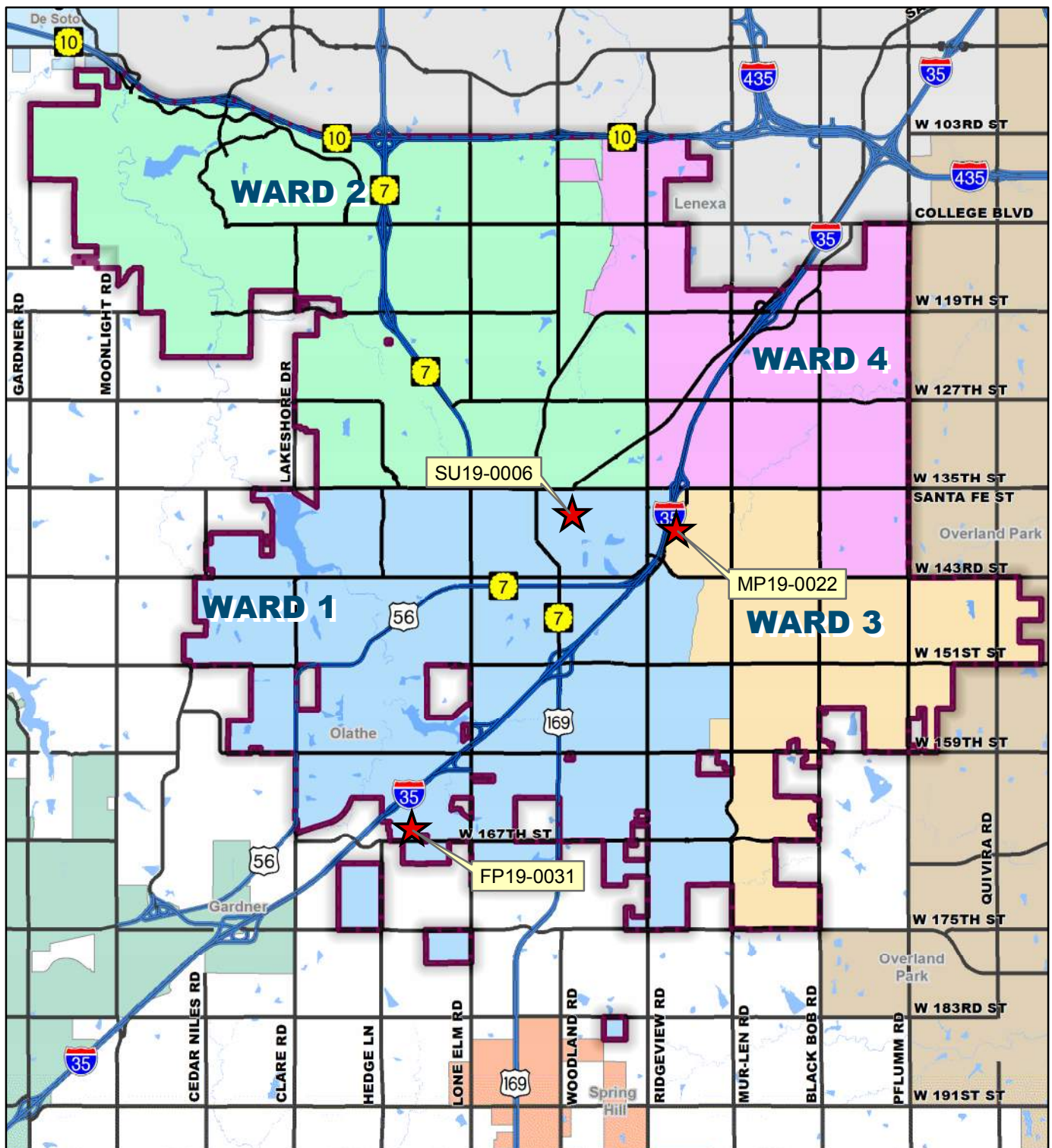


NOVEMBER 25, 2019

OLATHE PLANNING COMMISSION

CASE LOCATIONS



User: jaredmd
Date: 11/19/2019





CALL TO ORDER

PLEDGE OF ALLEGIANCE

QUORUM ACKNOWLEDGEMENT

CONSENT AGENDA

- A. **MN19-1028:** Standing approval of the minutes as written from the October 28, 2019 Planning Commission meeting.
- B. **MP19-0022:** Request approval for a minor plat for **TLC 3rd Plat** containing one (1) lot on 3.17± acres located at 480 S. Rogers Road.
Owner/Applicant: Chris Gralapp, Olathe Public School District
Engineer: David Rinne, Schlagel & Associates
- C. **FP19-0031:** Request approval for a final plat for **Lone Elm Commerce Center, Second Plat** containing one (1) common tract on 4.19± acres located in the vicinity of W. 167th Street and S. Lone Elm Road
Owner: Dale George
Applicant: Rob Heise, LC Commerce Center, LLC
Engineer: Judd Claussen, Phelps Engineering, Inc.
- D. Approval of the **2020 Olathe Planning Commission Meeting Dates.**

REGULAR AGENDA-NEW BUSINESS

A. PUBLIC HEARING

SU19-0006: Request approval for a special use permit for keeping chickens on a residential lot less than three (3) acres, 1.07± acres; located at 430 East Cedar Street.

Owner: Vickie Jestice

Applicant: Brent Jestice and Madison Scott

B. Election of Planning Commission Officers.

ANNOUNCEMENTS

ADJOURNMENT

The City of Olathe offers public meeting accommodations. Olathe City Hall is wheelchair accessible. Assistive listening devices as well as iPads with closed captioning are available at each meeting. To request an ASL interpreter, or other accommodations, please contact the City Clerk's office at 913-971-8521. Two (2) business days notice is required to ensure availability.



Planning Division

MINUTES – Opening Remarks

Planning Commission Meeting: October 28, 2019

The Planning Commission convened at 7:00 p.m. to meet in regular session with Chairman Dean Vakas presiding. Commissioners Shirley Allenbrand, Barry Sutherland, Ryan Freeman, Ryan Nelson, Jose Munoz, Chip Corcoran, Jeremy Fry and Marcia Youker were present.

Recited Pledge of Allegiance.

The Chair made introductory comments. Regarding *ex parte* communication, the Chair requested that if a commissioner had something to report, they specify the nature of the *ex parte* communication when item is reached in the agenda.

A motion to approve MN19-1014, the meeting minutes from October 14, 2019, was made by Comm. Allenbrand and seconded by Comm. Fry and passed with a vote of 9-0.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>PR19-0017:</u> Request approval for a revised preliminary site development plan for Business Garage Authority on 3.32± acres; located at 15571 S. Mahaffie Street.
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A motion to approve PR19-0017 on the Consent Agenda was made by Comm. Allenbrand and seconded by Comm. Fry, and passed with a vote of 9 to 0 with the following staff stipulations:

- a. A final site development plan must be approved prior to issuance of a building permit.
- b. A sidewalk must be provided along S. Mahaffie prior to final site development plan approval.
- c. A photometric plan and detailed cut sheets of all pole and building lighting must be submitted with the final site development plan per UDO Section 18.30.135.
- d. A note must be included on the final site plan and elevations "All ground or building mounted equipment, including but not limited to mechanical equipment, utility meter banks and coolers, must be screened from public view with three sided landscaping or an architectural treatment compatible with the building architecture."
- e. Automatic sprinklers are required for storage occupancies that exceed 12,000 square feet for fire areas. Fire walls are shown on the new plans to indicate the buildings will be subdivided. Where self-storage is proposed, building fire areas that exceed 2,500 square feet require automatic sprinklers. If building fire area limitations are used to address these requirements, high-piled combustible storage (12 feet for ordinary combustibles and 6 feet for plastics) would require automatic sprinklers.
- f. All portions of the building will be required to be within 600 feet of a hydrant (travel distance) for sprinklered buildings. (IFC Section 507.5.1.Ex. 2)
- g. A Fire Department Connection (FDC) is required within 100 feet of a hydrant for sprinklered buildings. The FDC is required to be accessible from a fire apparatus access road. The City of Olathe Fire Code Amendment 16.05.340 requires a 4-

inch Storz quick coupling connection. (IFC Section 507.5.1.1).

- h. Sign permits are required for all wall and monument signs in accordance with UDO Section 18.50.190.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	PR19-0023: Request approval for a preliminary site development plan for Ko Martial Arts Shops of Sunnybrook 0.94± acres; located at the southeast corner of Noble Drive and College Boulevard.
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A motion to approve PR19-0023 on the Consent Agenda was made by Comm. Allenbrand and seconded by Comm. Fry, and passed with a vote of 9 to 0 with the following staff stipulations:

- a. A final site development plan application must be submitted and approved prior to submitting for building permit.
- b. A waiver from 18.15.040.D is granted to permit 13% glass on the north elevation as shown on the submitted elevations.
- c. Additional architectural features including changes in material or color must be added to the north elevation on the final site development plan.
- d. Parking/paving landscaping on the east of the parking lot, landscaping around the dumpster enclosure and ornamental trees along the north property line are required with the final site development plan.
- e. The final site development plan must include notes for all exterior ground or building mounted equipment, including but not limited to mechanical equipment, utility meter banks and coolers, must be screened from public view with landscaping or an architectural treatment compatible with the building architecture in accordance with the UDO requirements.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>MP19-0018:</u> Request approval for a minor plat for The Landings at Stone Creek Sixth Plat containing 4 lots on 0.44± located 21664 West 123rd Terrace
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A motion to approve MP19-0018 on the Consent Agenda was made by Comm. Allenbrand and seconded by Comm. Fry, and passed with a vote of 9 to 0 with the following staff stipulations:

- a. Sidewalks must be constructed on both sides of all public and private streets.
- b. The developer is responsible for planting street trees, subject to *UDO 18.30.130 G* at the completion of each phase of development.
- c. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of way if cabinets are screened with landscape materials.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>MP19-0019:</u> Request approval for a minor plat for Townhomes at Fairfield Village, Fiftieth Plat containing 3 lots on 0.26± located 167th Terrace and Kimble Street.
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A motion to approve MP19-0019 on the Consent Agenda was made by Comm. Allenbrand and seconded by Comm. Fry, and passed with a vote of 9 to 0 with the following staff stipulations:

- a. Sidewalks must be constructed on both sides of all public and private streets.
- b. The developer is responsible for planting street trees, subject to *UDO 18.30.130 G* at the completion of each phase of development.
- c. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of way if cabinets are screened with landscape materials.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>FP19-0023:</u> Final Plat for Mahaffie Warehouse, Second Plat
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A motion to approve FP19-0023 on the Consent Agenda was made by Comm. Allenbrand and seconded by Comm. Fry, and passed with a vote of 9 to 0 with the following staff stipulations:

- a. Prior to recording the plat, a digital file of the final plat (pdf format) will be submitted to the Planning Division.
- b. b. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of-way if cabinets are screened with landscape materials. All utility boxes shall be screened per Section 18.30.130 of the UDO.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>RZ19-0020</u> Rezoning from C-2 to Downtown, Core District and preliminary site development plan for Chestnut North Mixed-Use Building
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Aimee Nassif, Chief Planning and Development Officer started by stating that the Downtown Library was not on the agenda tonight. Both the City's Library Master Plan and Envision Plan have identified that a future vision for a new and improved downtown library dating back to 2003. The City continues working in that effort and hope to have plans to share in the near future. Ms. Nassif stated that there is and will continue to be a library downtown

Comm. Nelson stated that he currently serves as chairman of the Downtown Olathe Business Association, and in that role, received public notices for the neighborhood meeting and the public hearing tonight. He attended the neighborhood meeting, and also reported communications with community members who expressed their thoughts and views regarding parking issues, building appearances, and access issues regarding this project. He further stated that no information that has been shared with him is beyond what has been shared at the neighborhood meeting or staff report, and his decision this evening will be based on the UDO and information presented and discussions held tonight.

Emily Carillo, Senior Planner, presented a proposal by Milhaus of two separate sites with separate rezoning applications, preliminary site plans, and associated plats. She will make one presentation but will address each rezoning separately.

RZ19-0020 – Ms. Carillo presented this request for a rezoning approximately 1.4 acres from C-2 to D Downtown Core, and a preliminary site development plan for Chestnut North mixed-use building, located at the southwest corner of Santa Fe Street and Chestnut Street. The property was zoned to C-2 in 1970 and is surrounded by D-Downtown to the north and C-2 to the south, west and east. The use requested is for a mixed-use multi-family building with retail commercial tenants included. She added that the City's Comprehensive Plan identifies the property as an urban center downtown. **Ms. Carillo** then presented a history of the area.

Ms. Carillo described the proposal for a four-story mixed-use use building at the corner of Santa Fe and Chestnut, comprised of 1,700-plus square feet of ground floor retail space and 70 multi-family units. 41 on-site parking stalls and eight on-street parking stalls are proposed along with onsite amenities.

Ms. Carillo presented the elevations and described the building material used which incorporates a high amount of glass, brick, and wood-look metal paneling on the ground level. She added that all facades provide consistent architectural design that meet or exceed standards and aligns with the City's vision for the area. She notes entrances facing Chestnut, which are consistent with traditional design principles and character. The west elevation is adjacent to commercial to the west that faces Cherry Street. She added that this elevation contains the gated courtyard space on site and a door to access the trash compacting system. Additionally, pronounced pedestrian

scale is established on the ground floor, and there are patios and balconies, landscaping, and a mixed-use retail component.

FP19-0018: Ms. Carillo presented the associated final plat, noting that a cross-access easement will be included for emergency vehicle access and adjacent property owners, as well as the dedicated trash enclosure. She added that the plat complies with all applicable UDO requirements.

RZ19-0021: Ms. Carillo presented a request for a rezoning from C-2 to the D-Downtown Core District and a preliminary site development plan for Chestnut South multi-family building. The subject property is located adjacent to East Park Street between Chestnut and Water streets, and is approximately 1.98 acres in size. The site is currently the downtown library branch and includes 121 parking stalls. It is surrounded by C-2 to the north, south and west, and R-5 multi-family residential to the east. The applicant proposes rezoning to the D-Downtown Core District for this development. The Comprehensive Plan identifies this property as Urban Downtown. The building is four stories with a total of 170 residential units and office and amenities on the ground level. There 67 parking stalls on site and 46 angled stalls on the street. There is a gated landscaped courtyard area an on-site amenities, including a pool.

Ms. Carillo presented a landscape plan for the site showing street trees and planter beds are on exterior elevations. Connectivity through improved and landscaped sidewalks and proposed pedestrian connection are noted, which align with the City's Downtown Transportation and Connectivity Plan and future alley improvement plans.

Ms. Carillo presented elevations, noting that the north elevation is a primary façade and provides a uniform level of quality. Architecture design and materials meet and exceed code requirements and comprise traditional design principles in the Downtown District and align with revitalization efforts. Courtyard elevations reflect on-site parking and includes a pool.

Ms. Carillo next discussed parking. Most land uses in the area are public, civic and office uses dominate downtown Olathe, and contribute to the 9-to-5 culture. The proposed plan proposes shared parking complementary to the existing land use mix and support shared parking during off-peak hours. Staff anticipates that 30-35 percent of cars remain on site during work hours. She mentioned that this is the first major development project in downtown Olathe and staff will continue to evaluate needs and appropriate land uses as a comprehensive approach as redevelopment projects come through.

Ms. Carillo discussed parking downtown and results of the parking study which indicates that Block 8 is the busiest parking area in all of downtown with levels of occupancy over 85 percent. Utilizing adjacent parking and parking in an adjacent garage, the applicant is proposing a total of 413 spaces associated with this proposal. The applicant is proposing 54 public parking spaces between Block 6 and 10, an increase of 33 on-street parking spaces. Staff has reviewed parking supply and demands and does not find there is lack of parking downtown.

PF19-0019, South Ms. Carillo noted that on this plat, additional right-of-way is dedicated along Chestnut, Park and Water Streets to accommodate additional on-street parking and adjacent sidewalks. The plats apply with applicable UDO requirements.

Ms. Carillo noted that a neighborhood meeting was held on September 16th for both sites and approximately 20 property/business owners attended. Issues discussed included parking, number and types of units, and projected timeline. She stated that the applicant revised plans as a result of that meeting and significantly reduced the number of units and increasing the amount of parking. Staff has received ongoing correspondence from adjacent property owners expressing the same concerns. Ms. Carillo stated that the applicant met with several owners to explain changes and discuss any further concerns. She said the plans submitted meet or exceed all UDO requirements.

Ms. Carillo said staff recommends approval of RZ19-0020 and RZ19-0021 for the reasons listed in the staff report including alignment with the Comprehensive Plan and Envision Olathe Downtown Plan, and recommends approval as stipulated.

Chair Vakas opened the public hearing and asked the applicant to come forward. **John McGurk, Vice President of Development for Milhaus Development, 210 West 19th Terrace, Kansas City, Missouri**, approached the podium. He provided background information about Milhaus, noting that they focus on second-tier cities in the Midwest and are working on other similar projects in the Kansas City area. He said staff presented the project thoroughly and was available for questions.

Comm. Fry questioned the timing and coordination of the project. **Aimee Nassif, Chief Planning and Development Officer**, responded that plans for a permanent downtown library location have been underway prior to Milhaus Development's plan submitted. She emphasized that the library will remain open and functioning in the downtown area.. Also, staff is in communication with Johnson County regarding timing and coordination of parking when the new courthouse opens and adjustments will be made as needed. **Mr. McGurk** said Milhaus is on track to start construction in Spring 2020. He anticipates that the project would take between 14 to 24 months to complete. **Chair Vakas** asked if construction would begin at both sites at the same time. Mr. McGurk said they would likely start on the library site first and sequence construction to the north.

Comm. Nelson asked the applicant to explain shared parking experiences on Milhaus's other projects. **Mr. McGurk** responded that many buildings in the Plaza/downtown area that have shared parking arrangements, so the concept is not new. He notes that about 30 percent of cars may be on site during the day. He believes the garage has plenty of capacity and does not believe downtown Olathe has a parking problem, but rather a convenience problem.

Comm. Nelson asked how many cars are typically owned per unit or household. **Mr. McGurk** said they generally build for one parking space per unit. It is rare to see more than two cars per apartment. Comm. Nelson is also concerned about the short distance between the trash access and Santa Fe and how that will look. Mr. McGurk responded that the roll-up doors are on the alley, and believes the materials used on the non-primary facades far exceed what is typical. There will also be landscaping to buffer the view.

Chair Vakas asked if the units between north and south are comparable. **Mr. McGurk** said they are. Chair Vakas asked what retail could be expected. Mr. McGurk said they do not know at this time. There were no other questions of the applicant. Chair Vakas opened the meeting to the public.

Joe Vader, 901 South Diane Drive, noted that his law office is located at 104 East Popular. He expressed his love for Johnson County and Olathe. He thanked Milhaus for recognizing the potential and viability of Olathe, which he believes will make the project successful, providing they build a high-quality development. He is in support of the project as long as more commercial spaces, better parking, and better design and aesthetics are provided.

John Hood, 1501 East Sunvale Drive, said his accounting office is located at 100 East Park Street. He is concerned about how this project will affect the library and the Old Settlers event, but especially parking. He believes this project will impact parking for his employees, his clients, and handicap parking, and he will consider leaving Olathe if the parking does not improve. Also, he has not received any communication about this project other than the posted sign for the rezoning and through conversations with other business owners.

Elizabeth Leek, 14325 West 143rd Street, is the manager and representative of the Park Cherry building at 100 East Park. She is primarily concerned about how this project will further impact parking needs, and also that her tenants will not renew their lease in the Park Cherry building if

this project moves forward. Also, she notes that business owners were not formally notified about this project, only property owners.

Barry Martin, 14335 South Kaw Drive, is an attorney in the Park Cherry Building. His firm has been in the Olathe area since the early 1950s. He is certain that parking is an inherent problem in downtown Olathe and believes that what is proposed is grossly insufficient and is surprised staff came to the conclusion that parking is adequate. He further noted that liability the City will take on when tenants of the new buildings park in the city-owned parking garage.

Willie Vader, 122 North Cherry, owns a bar/deli in downtown Olathe. He would like to see a development such as this downtown, but not at the proposed location, and not at this time. The project will affect his business and feels the City is being very short-sighted. His primary concern is for the long term success and viability of downtown revitalization. Parking has always been an issue, and further eliminating parking spaces is very detrimental and will discourage more businesses coming to downtown Olathe. He fears he will need to move his business out of downtown Olathe.

Zach Thomas works at a law firm at **142 North Cherry**, said that while Milhaus has a good project, there is a problem with parking. He speaks on behalf of the seven lawyers in law firm, who all believe that lack of parking will impact their clients. He does not believe shared parking will work.

Cindy Jones, 15844 West 137th Street, is concerned about parking, but also questions potential issues with increased sewage and stormwater run-off. Also, she believes a rezoning would significantly increase traffic to the area, which is already difficult to navigate. She does not believe there is a need for apartments in the subject area, noting that other newly-built complexes in the metro area are not at capacity. She noted construction of a new apartment complex at 199th and Ridgeview has ceased. She also questioned the impact of additional parking on issues such as snow removal.

Brett Hall, 1513 South Pawnee Circle, is the current president of Johnson County Old Settlers. He provided background and history for Old Settlers, noting that parking is always an issue. This organization does not believe an apartment complex is viable, but believes retail is needed downtown. Old Settlers brings people and tax revenue to the city of Olathe.

John Jensen, 430 South Indian Wells Drive, commented that the Downtown designation is wrong for Chestnut South and believes it should be multi-family, which would raise the standards for the quality of the buildings and increases parking and setback requirements. He questioned if there has been a survey showing government workers willing to move to downtown apartments.

Ed Rice, 1101 East Ridgeway Drive, stated that he is opposed to this project, primarily because of parking. Also, he believes developers have been given a lot of advantages and incentives. He is also concerned about consequences to the library.

Beth Nelson, 411 West Park, is sad to see the library building go and questions whether there will be regrets in the future by demolishing that structure. She notes that other historic structures have been destroyed to make room for apartments. She believes retail would be helpful, but is concerned about adding apartments. She teaches at Oregon Trail and stated that her students use the library frequently and rely on the ability to walk. She asks that if the library must be demolished, that a temporary location is in place prior to the library closing. She is also concerned about parking, as well as traffic on Santa Fe.

There were no further comments from the public, and no questions by commissioners. **Chair Vakas** called for a motion to close the public hearing.

Motion to close the public hearing was made by Comm. Corcoran and seconded by Comm. Fry.

Motion passed 9-0.

Comm. Fry asked staff to re-address parking. **Ms. Carillo** responded that they recognize and are familiar with the concerns expressed tonight because parking has been discussed previously. She added that there is not a Downtown parking requirement for this district, for the intent of increasing density and walkability and downtown utilizes shared parking.

Comm. Fry asked staff to specifically address library parking. **Ms. Nassif** again stated that no plans have been finalized that can be shared at this time. However, items such as parking, pedestrian connectivity, bicycle parking, and public transportation are being fully vetted for all of downtown. Additionally, the new Johnson County courthouse will be adding over 220 surface parking stalls that do not currently exist. Staff will continue to take a comprehensive look at parking. .

Chair Vakas He said there is no question that City leadership is committed to a quality downtown library. **Ms. Nassif** notes that all cities have a unique character and design and they have worked with the developer to ensure that the Envision Olathe plan and the Comprehensive Plan are in line with that. There are specific guidelines for downtown development and the developer meets all of those..

Comm. Nelson noted that a majority of offices downtown are not required to provide parking. **Ms. Nassif** said that is correct, and that parking for downtown is not handled like suburban areas. Downtown is currently utilizing shared parking for land uses and visitors..

Comm. Nelson commented that the statistics talked about tonight regarding parking requirements applies for a different zoning, not Downtown. Also, any decisions to grant incentives are not made by the Planning Commission, whose responsibility is to apply the UDO. **Comm. Vakas** agreed, adding that City Council makes the decision to award incentives, and anyone with those concerns should raise them at the time this issue comes before City Council.

Comm. Fry asked staff to address topics of stormwater and zoning this area as something other than Downtown. non-downtown zoning and zoning it as mixed-use. **Neil Meredith, Development Review Manager, Engineering**, stated that Milhaus submitted a stormwater analysis. For the Chestnut North site, the impervious area will be decreased, creating a better stormwater situation for that site. For Chestnut South, Milhaus is not decreasing it more than 5,000 square feet, so no further requirements are triggered. All stormwater is draining to existing systems.

Comm. Nelson asked about alley access and whether the north site goes all the way to the businesses to the west. He asked if there is two-way traffic between the site and existing buildings. **Ms. Carillo** said there is. The dedicated alley that Comm. Nelson is referring to is the access point on the western portion of the north property, where there are private parking spaces adjacent to the properties owned by AJ Lang and Mark 4 Investments. She added that there is still room to maintain currently-existing parking.

Comm. Vakas asked if maintenance of the garage will be paid for by the developer. **Ms. Nassif** said if the zoning is approved, further details such as long-term maintenance will be determined.

Comm. Vakas asked about lack of overnight parking in the existing parking garage. **Ms. Nassif** responded that currently, 90 percent of occupants downtown are daytime users. When they leave at the end of the day is typically when you see the return of residents. She noted that surface parking and private parking is also being provided by Milhaus.

Comm. Fry asked staff to address potential impacts on traffic. **Zach Baker, Public Works, Traffic Engineer**, responded that Milhaus submitted a Traffic Impact Study. They believe the level of traffic to the area will remain the same general range.

Comm. Vakas feels that there is a resurgence of interest about downtown Olathe, which started with the new courthouse. He sees room for different building styles as the City continues to develop that area. He stated there are more buildings planned for downtown Olathe in the future, and he believes the parking will be sorted out over time. He acknowledges that Old Settlers is very important to Olathe, and no one wants to jeopardize that celebration. However, there will be disturbances and disruptions will occur. He understands everyone's comments on parking. He asked if it would be possible to add additional handicap parking spaces on the street. **Ms. Carillo** said that will be vetted out in a final plan.

Comm. Freeman asked about retail space and if there is a percentage requirement on a mixed-use designation. **Ms. Carillo** responded that there is not a designated percentage, but rather just incorporated that concept, as well as to increase pedestrian walkability through downtown.

Comm. Nelson is excited to think about development coming to downtown Olathe, other than government. He believes it is important to see private dollars being leveraged downtown. He notes that there is a disparity between experiences people have with parking and the calculations that are done to say the numbers should work. He acknowledges this is a huge shift in how downtown Olathe operates and will require some adjustment. However, he believes there needs to be a new vision for the future of downtown Olathe. He is excited about new development such as this, and it is the responsibility of the Planning Commission to follow the UDO.

Comm. Vakas asked if the business tenants could receive notice of matters such as this. **Ms. Carillo** said the developer is responsible for notifying property owners, and in turn, it is the property owners' responsibility to notify their tenants. She said these two applications are scheduled for City Council on November 19th.

Comm. Vakas notes that downtown Olathe is changing and evolving and will be significantly different a decade from now. He anticipates increase in retail and specialty shopping in the future, as well. He called for a motion.

Motion to recommend RZ19-0020 for approval as stipulated was made by Comm. Nelson and seconded by Comm. Sutherland, for the following reasons:

- (1) The proposed development complies with the policies and goals of the *Comprehensive Plan* for Housing and Neighborhoods (Principle HN-1.8 HN-2.1 and LUCC-7.1).
- (2) The requested rezoning to Downtown Core District meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
- (3) The proposed development as stipulated meets site and building design standards for the D-Downtown Core District (*UDO 18.20.210*).
- (4) The proposed development aligns with the overall vision and recommendations of the *Envision Olathe Downtown Plan* for Housing Options in Downtown and redevelopment opportunities within the District.

Comm. Nelson's motion included recommending approval of RZ19-0020 with no stipulations.

Comm. Nelson's motion included recommending approval of the associated preliminary site development plan for Chestnut North, subject to the following stipulations:

- (1) A final site development plan shall be approved, and final plat approved and recorded, with all fees paid prior to issuance of a building permit.
- (2) Genuine stucco, or similar Class 1 material will be used in the areas identified as stucco or fiber cement panels on the architectural elevations.

- (3) Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities' meter banks and cooler shall be screened from public view with three-sided landscaping or an architectural treatment compatible with the building architecture.

Aye: Youker, Sutherland, Freeman, Nelson, Allenbrand, Fry, Munoz, Corcoran, Vakas (9)

No: (0)

Motion was approved 9-0.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	FP19-0018 Final Plat for Chestnut North
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Please refer to RZ19-0020 for further discussion of this item.

Motion to approve FP19-0018 as stipulated was made by Comm. Nelson and seconded by Comm. Munoz, with the following stipulations:

- a. Prior to recording the Final Plat, a digital file of the plat (pdf format) must be submitted to the Planning Division.
- b. Prior to recording, the Final Plat will be updated to expand on Access Easement definition to include language consistent with City's standard Access Easement.

Aye: Youker, Sutherland, Freeman, Nelson, Allenbrand, Fry, Munoz, Corcoran, Vakas (9)

No: (0)

Motion was approved 9-0.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>RZ19-0021</u> Rezoning from C-2 to Downtown (Core) District and preliminary site development plan for Chestnut South Residential Multi-Family Buildings
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Please refer to RZ19-0020 for further discussion of this item.

Motion to recommend RZ19-0021 be approved as stipulated was made by Comm. Sutherland and seconded by Comm. Nelson, for the following reasons:

- (1) The proposed development complies with the policies and goals of the *Comprehensive Plan* for Housing and Neighborhoods (Principle HN-1.8 HN-2.1 and LUCC-7.1).
- (2) The requested rezoning to Downtown Core District meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
- (3) The proposed development as stipulated meets site and building design standards for the D-Downtown Core District (*UDO 18.20.210*).
- (4) The proposed development aligns with the overall vision and recommendations of the *Envision Olathe Downtown Plan* for Housing Options in Downtown and redevelopment opportunities within the District.

Comm. Sutherland's motion included recommending approval of RZ19-0021 with no stipulations.

Comm. Sutherland's motion included recommending approval of the associated preliminary site development plan for Chestnut South, subject to the following stipulations:

- (1) A final site development plan shall be approved, and final plat approved and recorded, with all fees paid prior to issuance of a building permit.
- (2) Genuine stucco, or similar Class 1 material will be used in the areas identified as stucco or fiber cement panels on the architectural elevations.
- (3) Exterior ground-mounted or building-mounted equipment including, but not limited to, mechanical equipment, utilities' meter banks and cooler shall be screened from public view with three-sided landscaping or an architectural treatment compatible with the building architecture.

Aye: Youker, Sutherland, Freeman, Nelson, Allenbrand, Fry, Munoz, Corcoran, Vakas
(9)

No: (0)

Motion was approved 9-0.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	FP19-0019 Final Plat for Chestnut South
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Please refer to RZ19-0020 for further discussion of this item.

Motion to approve FP19-0019 as stipulated was made by Comm. Sutherland and, seconded by Comm. Munoz, with the following stipulations:

- a. Prior to recording the plat, a digital file of the final plat (pdf format) shall be submitted to the City Planning Division.

Aye: Youker, Sutherland, Freeman, Nelson, Allenbrand, Fry, Munoz, Corcoran, Vakas (9)

No: (0)

Motion was approved 9-0.

Before casting his vote, **Chair Vakas** encouraged the need for continuing dialog regarding the library. He also asks that concerns about parking be carried forward in the minutes so that City Council fully understands the number of constituents who are concerned.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>RZ19-0022:</u> Rezoning from R-1 and RP-1 to the R-1 District and preliminary plat for Stonebridge Village
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Zachary Moore, Planner II, presented a request to rezone approximately 57 acres in south Olathe from R-1 and RP-1 District to R-1 District, to allow for a single-family home subdivision. He presented an aerial of the property, noting schools nearby. He further noted right-of-way for the future Lindenwood Drive, and existing subdivisions to the east, and future subdivisions to the west. There is also a city park to the north of the subject property. He then provided a view of the existing zoning of the site and a Future Land Use Map of the subject property. Surrounding areas are identified as Conventional Neighborhood and secondary greenway. The proposed rezoning conforms with the land use map designation as set forth in the Comprehensive Plan.

Mr. Moore reported that a neighborhood meeting was held on October 7th, attended by eight residents. Topics of discussion included street connections, home values, drainage, and tree preservation on site. Staff has received correspondence from the Spring Hill School District, who expressed concern about missing sidewalk links along 165th Street, and concerns with stormwater drainage in the area. Staff has included recommended stipulations that address both concerns.

Mr. Moore presented the preliminary plat proposing 168 lots to be built out in five phases, resulting in a density of approximately three units per acre. The applicant is providing connectivity to future and existing streets in six locations. The preliminary plat complies with the City's Transitional Lot Policy Standards, and sidewalks are provided on one side of all local streets with increased connectivity provided with a west-to-east connection between two lots, to make it easier for students walking to school. The applicant is also providing a 15-foot tree preservation easement at the north of the property. Staff is recommending that the applicant provide a 430-foot long, five-foot wide concrete sidewalk at the time of construction of the Phase 1 to complete a missing sidewalk link. Mr. Moore stated the sidewalk connection is being provided because it further aligns with goals and policies of PlanOlathe, and because it provides safety for students attending nearby schools.

Mr. Moore stated that rezoning to the R-1 follows Comprehensive Plan goals for housing and land use, and staff recommends approval of the rezoning and preliminary plat.

Chair Vakas opened the public hearing and asked the applicant to come forward. **John Duggan, 9101 West 110th Street, Suite 200, Overland Park**, approached the podium, representing Stonebridge Land and Cattle Company, LLC. He said they agree with staff completely, except for one issue with the sidewalk. He stated that the sidewalk was required to be completed upon annexation, as mandated by the City's annexation policy. He said the City annexed the public right-of-way and the school site and did not finish the sidewalk as required. Now, the developer is being asked to fix this problem. The developer said they would install the sidewalk, although they are not financially responsible to do so. He said he contacted the City's attorney prior to tonight's meeting to work the problem out, but was unsuccessful. The applicant

proposes installing a temporary asphalt sidewalk for the next few years, at their expense, until such time as they are ready to build Phase 3. At that time, they will put in the berm, tear out the temporary sidewalk, and install a five-foot wide concrete sidewalk, all at their expense. He said City staff said no. Mr. Duggan is asking that the Planning Commission approve this project with a change in stipulation to reflect that the applicant will immediately install a temporary asphalt sidewalk in the public right-of-way, until such time as they are ready to begin Phase 3 in the adjacent area.

Chair Vakas opened the public hearing. **Comm. Fry** asked staff to address the proposed asphalt sidewalk. **Mr. Moore** said staff does not intend for the applicant to construct a public sidewalk in a private landscape tract. He recommends changing the language to “adjacent to Tract F.” He deferred further comments to Public Works. **Aimee Nassif, Chief Planning and Development Officer** said staff was aware of the problem with the stipulation. Also, when sites don’t meet UDO or Comprehensive Plan requirements or expectations, they wait for opportunities such as this to address the problem. She said maintaining an asphalt trail is more difficult, as well as it’s not as safe for ADA compliance or for children walking to school.

Chet Belcher, Transportation Manager, said that it is common practice to build a sidewalk to property, which is where the mistake was made. He noted that 167th and 165th Streets have 12 children crossing the street during peak hours. There need to be 25 children crossing in order to qualify for a school crossing guard.

Comm. Fry asked about using asphalt versus concrete. **Mr. Belcher** said once the sidewalk goes in, there’s no reason it should be torn out. He does not understand the advantage of using asphalt, which they do not maintain. **Ms. Nassif** added that there is no timeline of when this phase would be developed. If asphalt is allowed, it could be many years before it is removed and replaced. She believes it makes more sense for realizing quality of life initiatives and strategies, and now is the best opportunity for the sidewalk. **Mr. Duggan** feels no one is addressing the fact that this is not the developer’s problem, but rather something that the school district – as the prior property owner – didn’t finish before it was annexed. He again said finishing the sidewalk is not their responsibility. Also, there are no streetlights on this street, which are required on collector roads. He also said there are utilities along that street. **Comm. Fry** asked if asphalt is put in now, is there some way to make sure that it is concreted by the time Phase 3 is developed. **Ms. Nassif** stated that the UDO requires a sidewalk in R-1 District zoning. **Mr. Belcher** agreed with **Ms. Nassif**. **Chair Vakas** asked if it makes sense to allow an asphalt sidewalk with a time limit. **Mr. Belcher** does not think so. Once it is installed, it becomes the City’s property. In his opinion, the cost of installing and removing asphalt is a complete throw-away.

Chair Vakas asked for the status of street lights. **Mr. Belcher** said he could explore that possibility and come back to the Planning Commission in four weeks to talk about that. **Chair Vakas** asked if this matter needs to be continued. **Ms. Nassif** said staff is not stipulating anything about lighting at this time, but they can vet that internally and communicate with the applicant directly.

Comm. Freeman asked if sidewalks have to be concrete per the UDO. **Ms. Nassif** said five-foot wide concrete sidewalks are required.

Comm. Nelson asked **Mr. Moore** to clarify the design of the cul-de-sac on 163rd Terrace and whether there was thought given to putting a home in rather than green space. **Mr. Moore** said the City would prefer to have green space along Lindenwood. Landscaping is required in the tracts along collector roadways. **Comm. Nelson** asked if there is an intent to connect the road to Lindenwood. He is thinking from a safety or future planning perspective what could be located there. **Mr. Moore** does not believe many drivers would want to make that connection, although fencing could be included there, as well, to deter a driver.

Comm. Corcoran asked if all the school district's concerns have been addressed, including the sidewalk connection. **Mr. Moore** said they have, and said the school district is happy with the stipulations staff has recommended. **Chair Vakas** called for a motion to close the public hearing.

Motion to close the public hearing was made by Comm. Nelson and seconded by Comm. Allenbrand.

Motion passed 9-0.

Chair Vakas does not want to put the developer in the position of building a concrete sidewalk that has to be repaired. **Mr. Belcher** agreed. Staff believes this is the best way to move forward.

Mr. Duggan re-approached the podium. He said his client believes that if the City is so confident there will never be any repairs to it, they are happy to put concrete in one time only, and if something happens, the City can repair it.

Mr. Munoz asked if the developer is required to fix the sidewalk if it is damaged. **Mr. Belcher** said that whoever breaks it is responsible to fix it.

Motion to recommend RZ19-0022 for approval as stipulated was made by Comm. Corcoran and seconded by Comm. Allenbrand, for the following reasons:

1. The proposed development complies with the policies and goals of the Comprehensive Plan for Housing and Land Use (Principles HN-2.2 and LUCC-6).
2. The requested rezoning to R-1 district meets the Unified Development Ordinance (UDO) criteria for considering zoning applications.

Comm. Corcoran's motion included recommending approval of the rezoning to the R-1 district as presented, with no stipulations.

Comm. Corcoran's motion included recommending that the following stipulations be addressed with the final plat:

1. A final plat must be approved and recorded prior to issuance of building permits.
2. The stormwater runoff rate directed to the USD 230 property must match the existing, undeveloped peak runoff rate after the Stonebridge Property is developed. Detailed calculations will be required with the street and storm sewer public improvements.
3. A 5-foot wide concrete sidewalk must be constructed with the first phase in **adjacent to** Tract F, along the north side of W. 165th Street, tying into the sidewalk at the adjacent property line of Woodland Spring Middle School and extending northeasterly to S. Britton Street.
4. Landscaping provided in each common tract will be identified on a landscape plan submitted with the final plat for each respective phase of development.
5. Final plats must include a Tree Preservation Easement (TP/E) along the northern property line, as identified on the preliminary plat.
6. As required by the *UDO*, all exterior mechanical equipment or utility cabinets located within front yards or corner lots must be screened from public view with landscaping.
7. Prior to approval of a final plat for Phase 2, a revised street tree plan must be provided showing street trees in front of Lots 57 and 58.

8. Street names must be finalized and provided prior to recording the final plat.

Aye: Youker, Sutherland, Freeman, Nelson, Allenbrand, Fry, Munoz, Corcoran, Vakas (9)

No: (0)

Motion was approved 9-0.

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>SU19-0006:</u> Special Use Permit renewal for keeping chickens on a lot less than 3 acres.
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A motion to continue SU19-0006 to a future Planning Commission meeting was made by Comm. Freeman and seconded by Comm. Sutherland and passed with a vote of 9 to 0.



Planning Division

MINUTES

Planning Commission Meeting: October 28, 2019

Application:	<u>VAC19-0004</u> Vacate an Existing Utility Easement at Central Elementary School
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Andrea Fair, Planning Intern, presented a request to vacate an existing 12-foot utility easement at 305 East Cedar. The subject property borders Central Elementary School on the east side and is currently owned by the Olathe School District. The school district is working to relocate surface utilities in order to provide additional play space. The easement was recorded on the Millbrooke Plat in 1959. Public Works has reviewed this proposed vacation and recommends approval as proposed. She noted that there is access to East Cedar, and there are no proposed changes to access to drives and public utilities.

Ms. Fair stated that the applicant mailed notification letters as required by the UDO. Staff has not received any concerns or feedback at this time. Therefore, staff recommends approval of the vacation of the existing utility easements.

Chair Vakas opened the public hearing and asked if the applicant had anything to add; they did not. **Chair Vakas** called for a motion to close the public hearing.

Motion by Comm. Freeman, seconded by Comm. Allenbrand, to close the public hearing.

Motion passed 9-0.

Motion to recommend VAC19-0004 for approval as proposed was made by Comm. Freeman and seconded by Comm. Sutherland.

Aye: Youker, Sutherland, Freeman, Nelson, Allenbrand, Fry, Munoz, Corcoran, Vakas
(9)

No: (0)

Motion was approved 9-0.



Planning Division

MINUTES – Other Matters

Planning Commission Meeting: October 28, 2019

Chair Vakas announced that that tonight is Commissioner Munoz's last meeting. He is moving out of the Olathe area to explore a new opportunity. He thanked Mr. Munoz for his significant contributions to the Planning Commission, and wished him continued success. Mr. Munoz feels fortunate to have had this opportunity to serve.

Chair Vakas stated that the next Planning Commission is scheduled for Monday, November 25, 2019.

There were no other announcements.

Meeting adjourned.



City of Olathe
Planning Division

STAFF REPORT

Planning Commission Meeting: November 25, 2019

Application:	MP19-0022, Minor Plat for TLC, 3rd Plat
Location:	480 South Rogers Road
Owner/Applicant:	Olathe Unified School District #233
Engineer:	Dave Rinne, P.S.; Schlagel and Associates
Staff Contact:	Andrea Fair, Planning Intern

Site Area: <u>3.17± Acres</u>	Proposed Use: <u>School and Parking Lot</u>
Lots: <u>1</u>	Current Zoning: <u>RP-3</u>
Tracts: <u>0</u>	

1. Comments:

This is a request for approval of a minor plat for TLC, 3rd Plat (a replat of all of lot 5, TLC, 2nd Plat) on 3.17± acres located at 480 South Rogers Road. The site was rezoned from M-1 Light Industrial to RP-3 Planned Low-Density Multifamily District in June of 2011.

The Olathe Unified School District #233 is requesting the minor plat in order to create lot 7 and lot 8 to replace lot 5, in order to reflect their new maintenance agreement with Kids TLC. The updated maintenance agreement specifies that Kids TLC is responsible for the maintenance and upkeep of all parking lots and driveways. The minor plat will allow ownership of the land to match these new maintenance responsibilities.

No public easements or street right-of-way will be dedicated with this replat and the plat will not require City Council acceptance.



Site Aerial



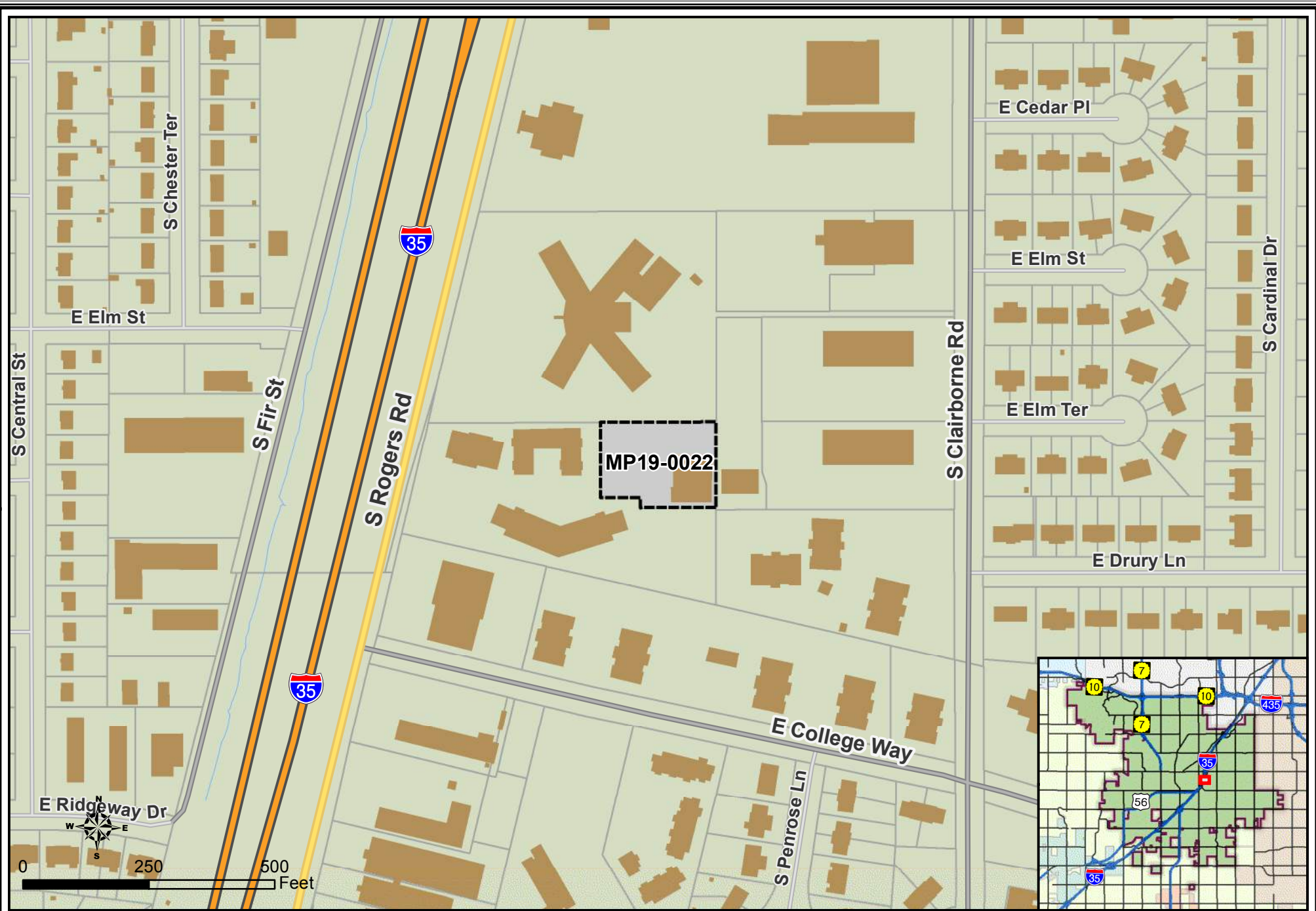
View looking East from Rogers Road

2. Plat Review:

- a. **Lots/Tracts** – The replat includes 2 lots and no tracts. Lot 7 will be 25,687 square feet and lot 8 will be 11,728 square feet. All lot sizes are in accordance with UDO requirements for the RP-3 District.
- b. **Public Utilities** – The subject property is located in the City of Olathe water and sewer service areas.
- c. **Streets/Right-of-Way** – The subject property can be accessed through internal site private drives via South Rogers Road. There is a 25-foot ingress/egress easement located within the northeast corner of lot 7 granting access to South Clairborne Road through a private road.

3. Staff Recommendation:

Staff recommends approval of MP19-0022.



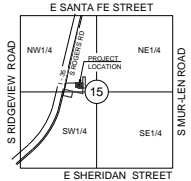
TLC 3RD PLAT
MP19-0022



User: jaredmd
Date: 11/19/2019



FINAL PLAT OF
TLC, 3RD PLAT
A REPLAT OF ALL OF LOT 5, 'TLC, 2ND PLAT', A SUBDIVISION IN
THE EAST 1/2 OF SEC. 31-13-24, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS



SECTION 15-13-23
LOCATION MAP
SCALE 1" = 2000'

DESCRIPTION:
A REPLAT OF ALL OF LOT 5, 'TLC, 2ND PLAT', A SUBDIVISION IN
THE EAST ONE-HALF OF SECTION 31, TOWNSHIP 13 SOUTH,
RANGE 24 EAST, IN THE CITY OF OLATHE, JOHNSON COUNTY,
KANSAS AND CONTAINING 37,415.67 SQUARE FEET, MORE OR LESS.

APPROVALS:
APPROVED BY the Planning Commission of the City of Olathe, Johnson County, Kansas, this ____ day
of _____, 20____.
Chairman, C.S. VAKAS

DEDICATIONS:
The undersigned proprietor of the described tract of land has caused the same to be subdivided in the manner as shown on the
accompanying plat, which subdivision shall hereafter be known as 'TLC, 3RD PLAT'.
The undersigned proprietor of said property shown on this plat hereby certifies that all prior existing easement rights on land to be
dedicated for public use and public ways and thoroughfares running to any person, utility or corporation have been absolved except
that same person, utility or corporation shall retain whatever easement rights they would have as if located in a public street.

RESTRICTIONS:
The use of all lots, units and properties in this subdivision shall hereafter be subject to the Restrictions, which
instruments are to be recorded in the Office of the Register of Deeds of Johnson County, Kansas, as provided
above, and which shall hereby become a part of the dedication of this plat as though set forth herein.

CONSENT TO LEVY:
The undersigned proprietor of the above described tract of land hereby agrees and consents that the
Board of County Commissioners of Johnson County, Kansas, and the City of Olathe, Johnson County,
Kansas, shall have the power to release such land proposed to be dedicated for public ways and
thoroughfares, or parts thereof, for public use, from the lien and effect of any special assessments,
and that the amount of unpaid special assessments on such land so dedicated, shall become and
remain a lien on the remainder of this land fronting or abutting on said dedicated public way or
thoroughfare.

EXECUTION:
IN TESTIMONY WHEREOF, _____ and
_____, of UNIFIED SCHOOL DISTRICT NUMBER 233, by the authority of its
Member, has caused this instrument to be executed, this ____ day of _____, 20____.

UNIFIED SCHOOL DISTRICT NUMBER 233

By: _____ and By: _____
ACKNOWLEDGMENT:
STATE OF _____)
COUNTY OF _____)

BE IT REMEMBERED that on this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for said
County and State, came _____ of UNIFIED SCHOOL DISTRICT NUMBER 233,
who are personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said company, and
such duly acknowledged the execution of the same to be the act and deed of same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Notary Public _____ My Commission Expires: _____
Print Name _____

I HEREBY CERTIFY THIS PLAT WAS PREPARED
UNDER MY DIRECT SUPERVISION BASED ON A
FIELD SURVEY PERFORMED ON 08-26-2019. THE
DETAILS SHOWN ARE TRUE AND CORRECT TO
THE BEST OF MY KNOWLEDGE AND BELIEF.

PRELIMINARY
Aaron T. Reuter - Land Surveyor
KSI LS-1429

Flood Note: This property lies within flood zone X, defined
as areas determined to be outside the 0.2% annual chance
floodplain as shown on the Flood Insurance Rate Map
20091C0079G, Revised August 3, 2009.

Kansas State Certificates of Authority
Schlagel & Associates, P.A.
Engineers • Planners • Surveyors • Landscape Architects
14920 West 107th Street • Lenexa, Kansas 66215
(913) 492-5158 • Fax: (913) 492-8400

DATE 11-20-19
DRAWN BY JMT
CHECKED BY AAR
PROJ. NO. 19-139
FINAL PLAT OF
TLC, 3RD PLAT
SHEET NO. 1

LEGEND:
● FOUND 1/2" REBAR WITH CLS 48 CAP
○ SET 1/2" REBAR W/LS-54 CAP
--- EXISTING LOT AND PROPERTY LINES
--- UTILITY EASEMENT
--- WATERLINE EASEMENT

SCALE: 1" = 30'
BASIS OF BEARINGS:
TLC, 2ND PLAT

LOT #	AREA (SF)
LOT 7	25,687.33
LOT 8	11,728.34
TOTAL	37,415.67

STAFF REPORT

Planning Commission Meeting: November 25, 2019

Application:	<u>FP19-0031:</u> Lone Elm Commerce Center, Second Plat		
Location:	In the vicinity of 167 th Street and Lone Elm Road		
Owner/Applicant:	Dale George		
Engineer:	Judd Claussen, P.E., Phelps Engineering, Inc.		
Staff Contact:	Emily Carrillo, Senior Planner		

Acres:	<u>4.19 ± acres</u>	Proposed Use:	<u>Outdoor Storage</u>
Zoning:	<u>M-2</u>	Lots:	<u>0</u>
		Tracts:	<u>1</u>

1. Comments:

This is a request for approval of a final plat for Lone Elm Commerce Center, Second Plat for 4.19± acres, located in the vicinity of 167th Street and Lone Elm Road; behind, north of Building 1.

The property is currently unplatted and was rezoned from CTY RUR to M-2 in September 2017 (RZ-17-006), and a revised preliminary site development plan was approved for this lot by the Planning Commission in September 2019.

This plat includes one (1) tract to be used for outdoor storage, landscaping, screening, private open space, and stormwater quality treatment facilities. Public easements are being dedicated with this plat which will require City Council acceptance.



View from 167th St., storage yard to be located behind building



Aerial view of the subject property (outlined in red)

2. Final Plat Review:

- a. **Lots/Tracts** – This plat includes one (1) tract intended to be utilized for outdoor storage, landscaping, screening, private open space, and stormwater quality treatment facilities.
- b. **Utilities** – The property is in the City of Olathe Sewer and WaterOne service areas, and there are no changes to public utilities with this application. A Utility Easement (U/E) and a Sanitary Sewer Easement (S/E) will be dedicated with this final plat.
- c. **Streets** – Access to the site will be provided through two (2) internal access drives that connect to the parking/drive area for Building 1 of the Lone Elm Commerce Center, from 167th Street. There will be no direct access to the site from public streets.

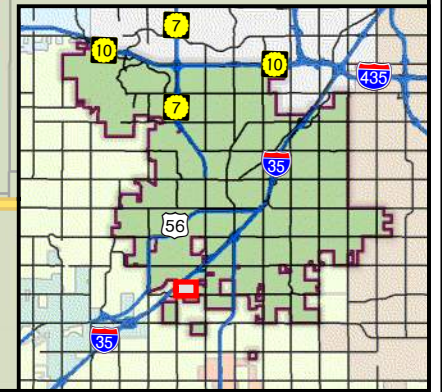
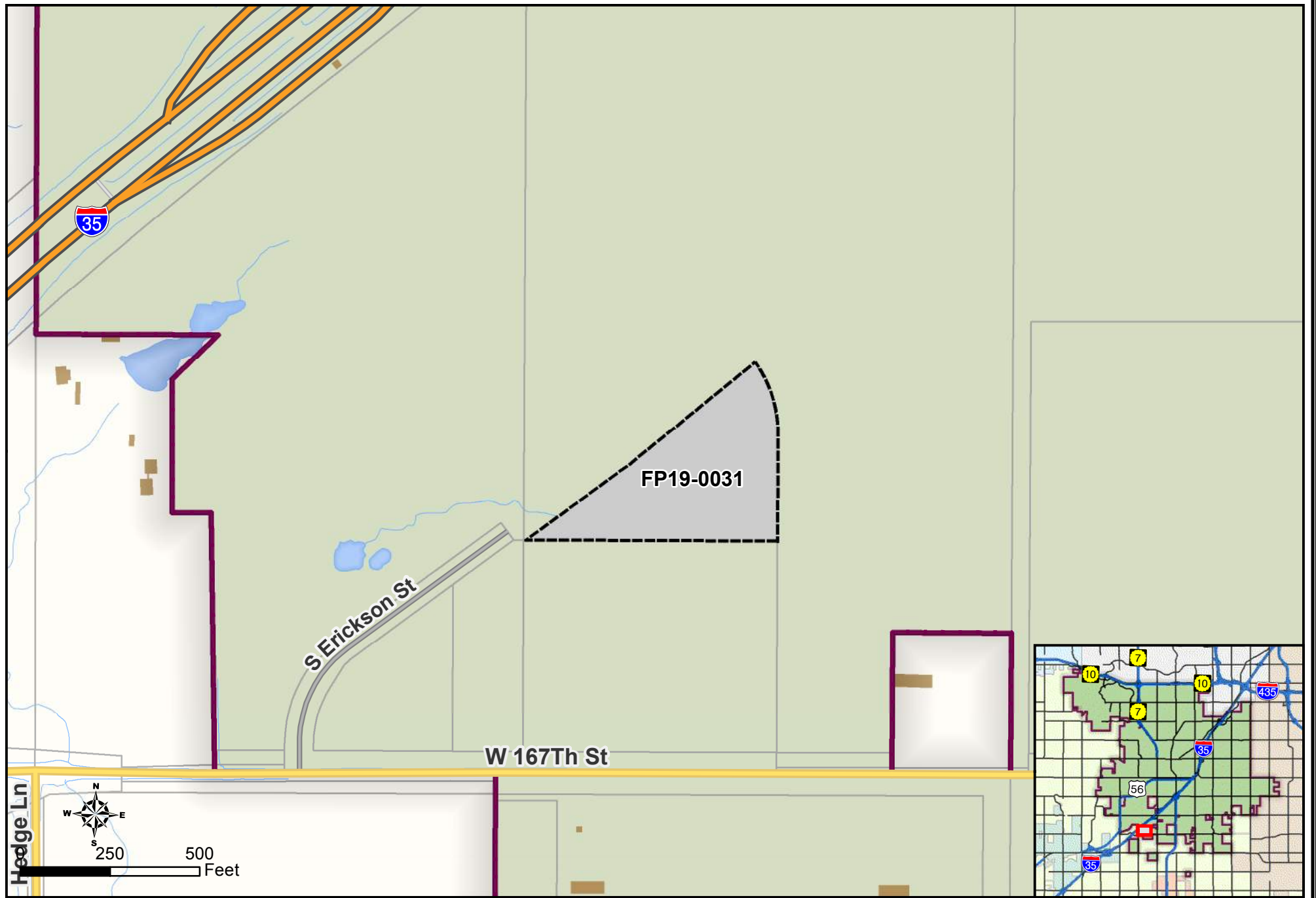
3. Excise Taxes:

Final plats are subject to a street excise tax and traffic signal excise tax based on square feet of the land area. The required excise fees shall be submitted to the Planning Division prior to recording the final plat.

4. Staff Recommendation:

Staff recommends approval of FP19-0031, Lone Elm Commerce Center, Second Plat, with the following stipulations:

- a. Prior to recording the final plat, include the book and page number for all easements previously dedicated on the subject property.
- b. Prior to recording, a digital file of the final plat (pdf format) must be submitted to the Planning Division.
- c. Prior to recording the final plat, a final site development plan must be submitted and approved administratively by the Planning Division.
- d. Any dedicated utility easements must be finalized and identified on the final plat prior to recording.
- e. All above ground electrical and/or telephone cabinets must be placed within the interior side or rear setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of-way if cabinets are screened with landscape materials per UDO requirements.



User: jaredmd
Date: 11/19/2019

LONE ELM COMMERCE CENTER, SECOND PLAT
FP19-0031



A SUBDIVISION OF LAND IN THE SOUTHWEST QUARTER
SECTION 15, TOWNSHIP 14 SOUTH, RANGE 23 EAST, IN THE CITY OF OLATHE,
JOHNSON COUNTY, KANSAS

FBI MEMPHIS OFFICE
WFO K. Winkler
Citing Name Code
67-100-100
Tolson-WFO-100

2020 Planning Commission Schedule

(*City Council dates provided for reference)

Planning Commission dates (2 nd & 4 th Mondays)	City Council dates (1 st & 3 rd Tuesdays)
Jan 13	Feb 4
Jan 27	Feb 18
Feb 10	Mar 3
Feb 24	Mar 17
Mar 9	Apr 7
Mar 23	Apr 21
Apr 13	May 5
Apr 27 (No meeting – APA Conference)	May 19
May 11	Jun 2
May 25 (No meeting – Memorial Day)	Jun 16
Jun 8	Jul 7
Jun 22	Jul 21
Jul 13	Aug 4
Jul 27	Aug 18
Aug 10	Sept 1
Aug 24	Sept 15
Sep 14	Oct 6
Sep 28	Oct 20
Oct 12	Nov 3
Oct 26	Nov 17
Nov 9	Dec 1
Nov 23	Dec 15
Dec 14	Jan 5, 2021
Dec 28	Jan 19, 2021

STAFF REPORT

Planning Commission Meeting: November 25, 2019

Application:	<u>SU19-0006:</u> Special Use Permit for keeping chickens on a lot less than 3 acres
Location:	430 E Cedar Street
Owner:	Vickie Jestice
Applicant:	Madison Scott and Brent Jestice
Staff Contact:	Kim Hollingsworth, AICP, Senior Planner

Site Area:	<u>1.07± acres</u>	Proposed Use:	<u>Keeping Chickens on a Lot Less than 3 Acres</u>
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	Plan Olathe Land Use Category	Existing Use	Current Zoning
Site	Mixed Density Residential	Residence, Single-Family	R-1
North	Urban Center/Downtown	Residence, Single-Family	R-2
South	Mixed Density Residential	Residence, Single-Family	R-1
East	Mixed Density Residential	Residence, Single-Family	R-1
West	Mixed Density Residential	Residence, Single-Family	R-1

1. Introduction

The following is a request for a special use permit for the keeping of ten chickens on the property located at 430 E Cedar Street. A special use permit is required to keep chickens on a residential lot less than 3 acres. This is the first special use permit request for the property.

The application was continued by the Planning Commission at the request of staff during the October 28, 2019 Planning Commission meeting so staff could gather additional information.

2. Details of Proposal

The applicant is seeking the special use permit to keep the chickens as family pets and a source of food. The property contains a single-family home and an accessory garage structure to the rear of the home. The chicken coop is located in the rear portion of the property, directly east of the accessory garage. The large enclosure includes an outdoor area fully enclosed in wire fencing and an attached wooden shed structure to provide a

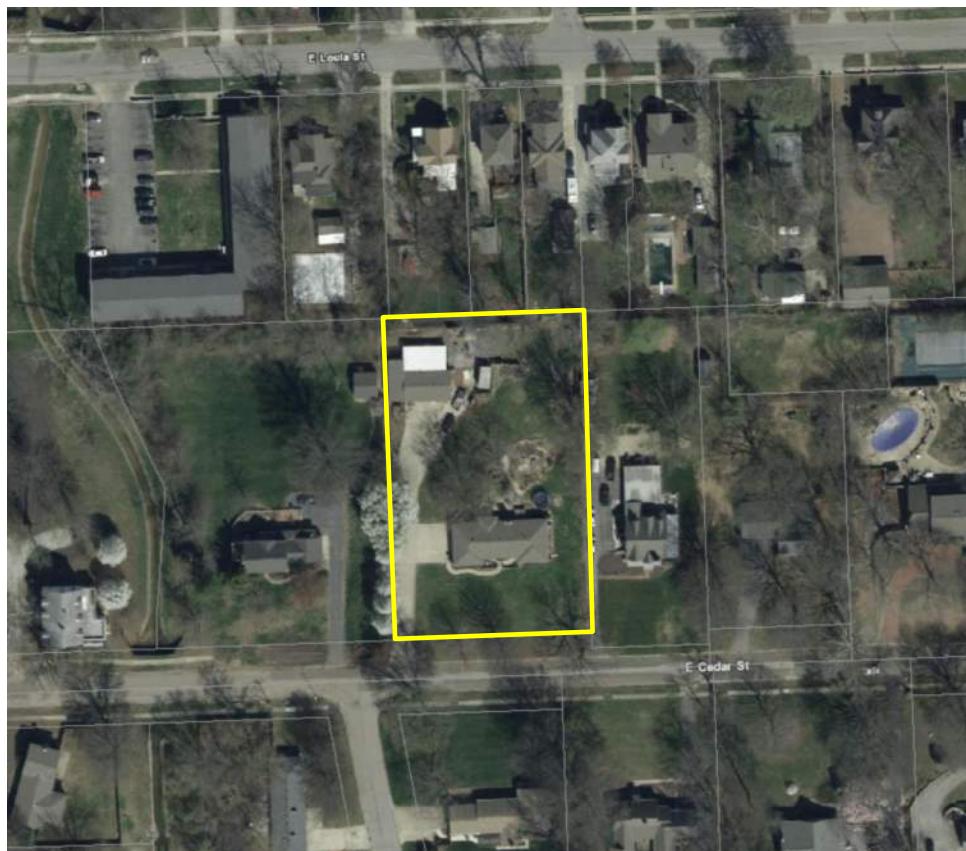
protected indoor area for the chickens. The applicant tends to the chickens throughout the week and completes a more thorough cleaning every weekend. The waste collected from the chickens is used as a natural fertilizer for the garden.

There are a significant number of mature trees and additional vegetation within the perimeter of the property to provide increased screening for surrounding properties. The chickens only roam free range in the yard when the owners are present and only hens will be kept on the property.

3. Existing Conditions

The single-family home was built in 1985 and is located within the Original Town area. Surrounding properties are developed with residential single-family homes. The chickens were obtained by the applicant in 2017 and the current coop was constructed in July 2019 to provide increased space for the chickens. The Community Enhancement Division completed an inspection on the property in August 2019 in response to a complaint received by the City regarding smell and the quantity of chickens. The Community Enhancement Division issued a code violation and notified the applicant that a special use permit is required for keeping chickens on a lot less than 3 acres.

The applicant is seeking the special use permit to rectify the code violation that was given to the property in August 2019 for possessing the chickens. The Community Enhancement Division performed a follow-up inspection on October 31, 2019 and no code violations were documented on the property. Additionally, City staff has not received any complaints regarding the chickens since that time.



Aerial View of Subject Property and Surrounding Vicinity



View of Existing Chicken Coop

4. Public Notification

The applicant mailed the required public notification letters to surrounding properties within 200 feet and posted signs on the subject property per UDO requirements. A neighborhood meeting was not required as there is no new development associated with this request. Staff has not received any correspondence regarding the proposed use. After the continuance, public notification letters were mailed and the sign was reposted to notify surrounding property owners of the November 25, 2019 public hearing meeting date.

5. Time Limit

Per Section 18.40.100.F.4 of the UDO, the Planning Commission may recommend, and the Governing Body shall grant a special use permit for any period of time as is warranted under the circumstances. The applicant is requesting a 2-year time period as they plan to move to a different property with increased acreage within the next 2 years.

6. Comprehensive Plan Analysis

The following are criteria for considering special use 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 promotes sustainable and environmentally conscious practices to encourage the responsible use of land in Olathe.

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 proposed use is located within a single-family neighborhood and is surrounded by single-family homes within lots of a similar size. A significant number of lots within the

neighborhood contain accessory structures commonly associated with single-family residential uses.

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 surrounding properties contain R-1 and R-2 zoning districts which are both considered low-intensity, residential districts. The proposed use is in conformity and harmonious with existing adjacent developments. Single-family homes and associated accessory uses are the most appropriate use for the subject property due to the long-standing presence of low-density residential neighborhoods within the surrounding vicinity.

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 permitted uses which it has been restricted within the R-1 District; however, a special use permit is required to further evaluate the compatibility of the nature of this particular use given the existing conditions in the surrounding area.

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

The subject property is not currently vacant and was zoned R-1 Residential Single-Family in 1970.

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

The proposed special use permit should have no detrimental effect on nearby residential properties. The R-1 District promotes uses and activities that are already occurring on surrounding properties within the neighborhood.

G. 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 have no impact on the road network or parking available on the property.

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

The rezoning of the subject property for the proposed use is not anticipated to generate any environmental harm or pollution concerns. The keeping on animals is also subject to the provisions of Title 8 of the Olathe Municipal Code which outlines of proper treatment of animals, encourages responsible ownership and the responsibility of the property owner to eliminate possible health hazards that could be created by animals that have not received adequate care.

I. The economic impact of the proposed use on the community.

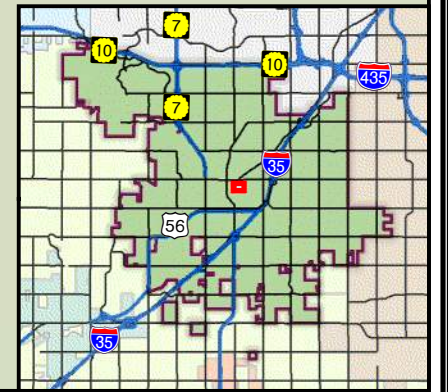
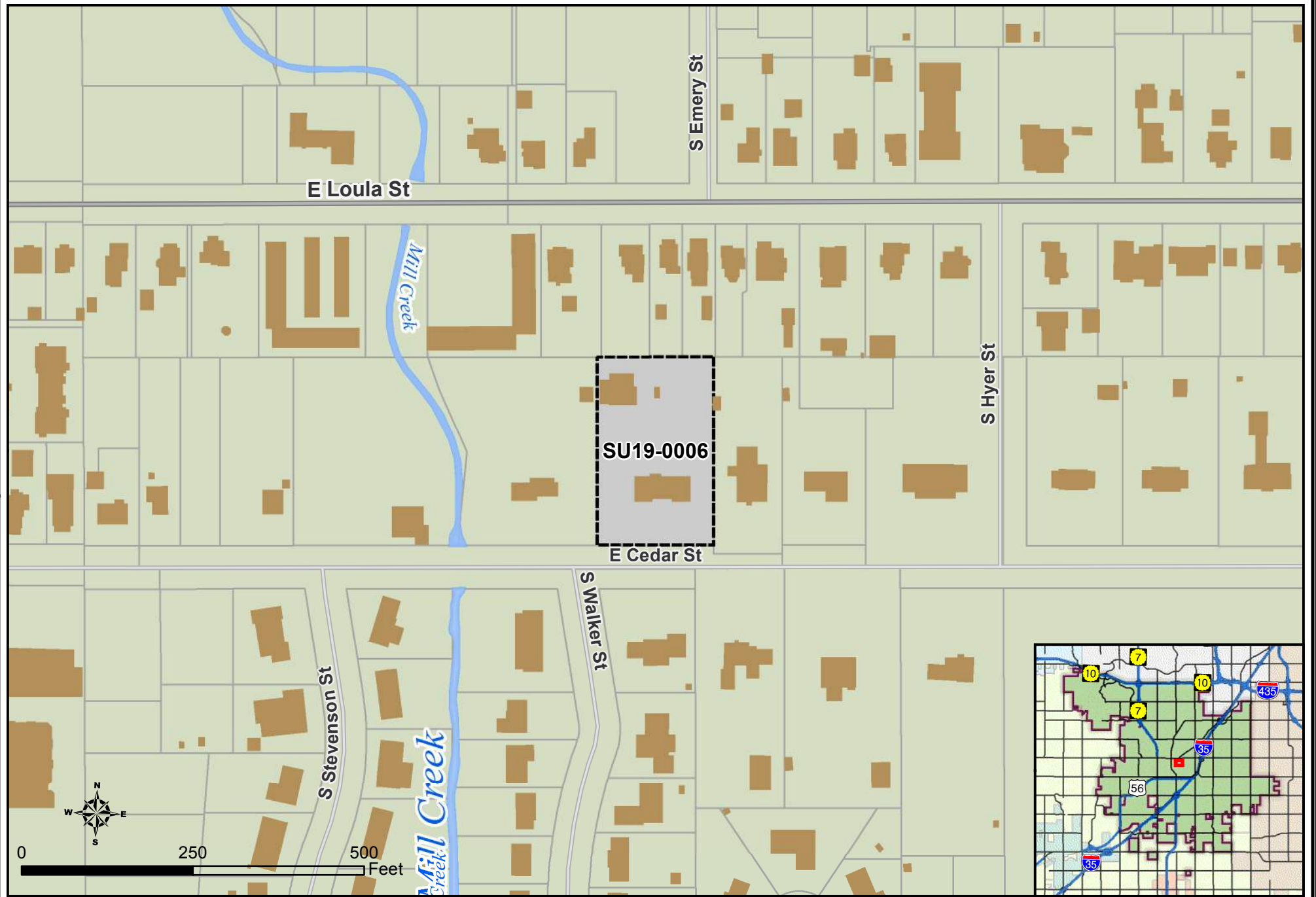
There is no anticipated economic impact on the community.

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

The proposed use does not negatively impact public health, safety, or welfare as presented. If the use were denied, the applicant would not be able to keep chickens on the property and would need to provide another suitable home for the chickens already residing on the property.

7. Staff Recommendation

- A. Staff recommends approval of SU19-0006 for the following reasons:
 - (1) The proposed development complies with the policies and goals of the *Comprehensive Plan*.
 - (2) The complies with the *Unified Development Ordinance* criteria for considering special use permit applications.
- B. Staff recommends approval of the special use permit (SU19-0006) with the following stipulations:
 - a) The special use permit is valid for a period of two (2) years following Governing Body approval, with an expiration date of December 17, 2021.
 - b) The property will be limited to a maximum of ten chickens at any given time. Only hens will be permitted on the property and roosters will not be permitted.
 - c) The raising of chickens is limited to personal (hobby) purposes only. Chickens may not be bred, boarded or sold for commercial purposes.



SPECIAL USE PERMIT - KEEPING CHICKENS
SU19-0006



User: jaredmd
Date: 10/23/2019



RECEIVED

SEP 30 2019

Olathe Planning Division

Statement of the purpose-

Hello,

My name is Madison Scott, and my boyfriend's name is Brent Jestice. We are applying for a Special Use Permit for our 10 backyard chickens. Neither one of us had ever had chickens so starting our flock was a learning experience! April of 2017 one of our coworkers bought chickens for an Easter photoshoot with her kids and did not know what to do with them after the pictures were taken. I have come to find out this unfortunately happens with a lot of other animals including "Easter Bunnies" which tend to end up in Pounds after they figure out that the animals were more work than they imagined. We talked it over and decided to surprise Brent's daughters with these 6 baby chicks. Our best decision ever in my opinion!

Currently the coop and chickens are in my boyfriend's mothers' backyard located on Cedar St in Original Town Olathe, where my boyfriend also lives. Brent and I plan on finding a home of our own on more acreage within the next 2 year's so we hope to get a permit for that amount of time. These chickens have become a huge part of our family as silly as that sounds. They are our pets who happen to provide us with breakfast as well as a built-in pest control! We have loved every minute of having these birds and they bring joy to everyone who comes to the house. We do not let the birds free range (out of the coop) unless we are able to be there to watch them. We have had too many close calls with stray dogs as well as Chicken Hawks while we were present that we don't want to risk something happening while we aren't there to protect them!

In July of this year we purchased an old hand-built play house that we spent 2 days, sun up to sun down, converting into a new coop! With the help of our friends and family we were able to make sure we had the coop ready with a safe, caged in area for the birds to roam while we were away at work during the day. We are so proud of the work we have done, and the chickens love all the room! The coop gets a once over every weekend, as in cleaning windows, raking the bedding, and scooping/scraping any of their poop off the window seals as well as their roost areas. The collected poop goes into a gallon bucket which we use as fertilizer for the yard. Brents mother Vickie also uses it in her beautiful flower garden! Every other weekend the bedding inside the coop gets completely cleaned out and new bedding goes down. The old bedding is thrown out in a yard waste trash can for pick up on Mondays.

Now when you think of chickens I'm sure what comes to mind is the obvious, delicious meat and eggs, but for myself, they are SO much more than that. They have become almost therapeutic for me. I struggle with anxiety and depression and I have found that sitting outside with the chickens is so stress relieving. They are so funny to watch when they get spooked by something or even if they are just free ranging around looking for food. They all have their own quirks and personalities which I know, who the heck thought a chicken could have a personality! I like to compare them to dogs because they come when you call them, they make little noises when they are happy and mad, they love treats, and they all flock together! I often get called the crazy chicken lady or at work I get called the "Egg Lady". Every weekend I stay with Brent so while he is working on his hobbies (cars) I am spending time in the coop or out in the yard with the chickens! When and if we have to leave, we herd them back into the coop which is very easy if you have a bag of freeze dried meal worms with you! My favorite thing to do is stand on the other side of the yard and shake the bag of worms and watch them come running from all corners of the yard. They will never turn away from a bag of meal worms!

A story I love to tell people is my most recent visit to Sprint to get a new phone. While I was working with the gal swapping over my contacts and photos to the new phone she laughed and said she has seen a lot of girls my age with thousands of selfies but never one with thousands of chicken pictures! We had a good laugh over it and I showed her a few videos I had of them. I love to show them off! With all these pictures I have created a social media page that has gained almost 4 thousand fellow chicken enthusiast followers! I have gained a whole new perspective on birds and chickens after creating this page and receiving feedback from people all over the world. It is so cool to see the different chickens and coop setups that everyone else has in their backyards. I had someone from Australia who found my page and sent me a new feeder and waterer free of charge if I posted pictures and tagged them for my followers to see. It is so cool what kind of people you can reach just through posting pictures to social media!

Following the social media trend, I came across a gal who rehabs battered, caged, sick, or even hurt hens. Along with the help of her husband and kids, they give these birds one on one care in the comfort of their own home. This is something most chickens are not used to. One video she posted made me cry, this was the first time this chicken was seeing or feeling grass under its feet! These are things most people take for granted and don't think about! I believe this touches me most because I have a special needs chicken of my own. We bought 4 new baby chicks a year ago and as they grew older we noticed one walking with a limp. This little chicken has come to be one of my favorites! Her name is Cripple, and she has a bum leg that we believe she was born with. She is the sweetest little hen ever who will come up to you if you hold your hand out!

So as you see, these birds have so much more meaning to our family than just a small meal. I can't imagine life without them, and I am hoping to continue to raise this little flock of ours while complying with the city and permit laws.

Thank you for your time!

Madison Scott and Brent Jestice