



City of Olathe

City Planning Division

STAFF REPORT

Planning Commission Meeting: January 14, 2019

Application:	<u>SU18-0005</u> Request for a Special Use Permit to allow more than 4 animals (dogs) at one household
Location:	1508 & 1512 E. Frontier Lane
Owner/Applicant:	Tracie Alexander/Roy Ingelse
Staff Contact:	Zachary Moore, Planner II

Site Area:	<u>1.3± acres</u>	Proposed Use:	<u>More than 4 animals at one household</u>
		Plat:	<u>Stagecoach Meadows Third Plat</u>

	Land Use	Zoning	Comprehensive Plan Designation
Site	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
North	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
East	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
South	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
West	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>

1. Details of Proposal

This is a request for a special use permit to allow the keeping of up to ten (10) dogs on the property at 1512 E. Frontier Lane at one time. This is the first special use permit request that has been filed to allow the keeping of more than 4 dogs at this site.

A Special Use Permit is required to keep more than four (4) animals per household. The subject property contains one household, and two residential lots, 1508 and 1512 E. Frontier Lane, and totals 17,653 square feet in size. The eastern of the two lots has a single-family home located on it, which was constructed in 1977. Staff recommends denial of this special use permit application based on the analysis on the following pages.



(Aerial view of subject property, property outlined in blue)



(Site view – looking north from Frontier Lane)

2. Public Notification/Neighborhood Meeting:

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

This application was originally scheduled to be considered by the Planning Commission on the July 23, 2018 agenda, but was continued to a date uncertain because the required Neighborhood Meeting Notice letters were not mailed out by the applicant by the mailing deadline for that meeting.

A neighborhood meeting was held on July 23, 2018, and there were 13 people in attendance. Some of the main topics of concern discussed at the meeting included waste from the dogs, if any new buildings were proposed on site, the relationship between the owners and the dogs, if the dogs have bitten anyone, recent repairs of the fence, the ongoing court case, and dogs barking in the neighborhood. (Please see attached minutes.)

3. Staff Analysis:

Special Use Permits are required for particular land uses that may be appropriate in certain areas under that zoning district with additional stipulation and review. Based on staff's review of this Special Use Permit request and information that has been provided to the City's Planning Division from the City's Animal Control Department, staff finds that this Special Use Permit request is not appropriate for this location.

While the permit request is for the keeping of 10 dogs only; staff discovered that the breeding and selling of dogs is currently occurring on site in violation of the Unified Development Ordinance. The intent of the special use permit is to allow the keeping of more than four dogs, not the retail sales of animals. The activity of breeding animals for sale would be classified as an Animal Care Facility, per the *Unified Development Ordinance*, and is not allowed in any residential zoning district.

Animal Control:

Since 2007, the City of Olathe Animal Control Division has seven (7) different reports regarding the dogs that are being kept at 1512 E. Frontier Lane, including four (4) "Over the Limit" (keeping more than 4 animals) and "No City Licenses" citations. A list of all 7 reports can be found in this packet. The first "Over the Limit" citation was written by Animal Control in 2014, and the property owner was made aware of the Special Use Permit at that time.

In August 2017, the property owner was found guilty on five (5) charges, including; "Running at Large," "Disturbs Persons by Chasing," "Injury to Property," "Over the Limit," and "No City Licenses." Per Animal Control, the City judge is waiting on decision of the special use permit before assessing fines for these charges.

Staff received an email from the City of Olathe Animal Control Division on July 17, 2018, which listed the court cases and reports that the Olathe Animal Control Division had on file. This email included that the Olathe Animal Control recommendation is that the Special Use Permit for more than 4 dogs to be kept at 1512 E. Frontier Lane be denied. That email is included within this packet for your consideration.

Based on reports received from the City's Animal Control Department and correspondence from neighbors, staff finds that issues of public health and safety related to this application exist and therefore this permit request is not appropriate for this location.

Staff has met with the applicant multiple times over the past year regarding this request and in those meetings, staff has shared our concern with the proposal with them.

4. Staff Recommendation:

As stated previously, staff recommends denial of this special use permit request for the reasons within this report. However, should the Planning Commission recommend approval, Staff is prepared to discuss necessary stipulations to be attached to the recommendation. Whether the Planning Commission recommends approval or denial, this application request is forwarded to the City Council for final review and decision. If the Planning Commission recommends denial, a super majority vote of City Council would be required for approval. In addition, when a time period for the permit is not specified, the time period per the UDO is for five years.

a. Staff recommends denial of SU18-0005 for the following reasons:

- i. The activity occurring on site is a commercial use, not permitted in this residential district.
- ii. The amount of and nature of the outstanding public health and safety violations on the site and citations issued by the City of Olathe.
- iii. The recommendation of Olathe Animal Control.