



City of Olathe

City Planning Division

STAFF REPORT**Planning Commission Meeting: March 25, 2019**

Application:	<u>RZ19-0002:</u> Zoning amendment for RP-3 District (The Villas of Asbury)
Location:	15584 and 15608 S. Church Street
Owner/Applicant:	Sue Engbrotten, Pinnacle Construction
Engineer:	Matt Cox, Allenbrand-Drews & Associates
Staff Contact:	Dan Fernandez, Planner II

Site Area:	<u>10.51 ± acres</u>	Existing Use:	<u>Multi-family</u>
Current Zoning:	<u>RP-3</u>	Proposed Zoning:	<u>RP-3</u>
Building Area:	<u>8 Multi-family units</u>	Plat:	<u>The Villas of Asbury LT 15 and LT 16</u>

	Plan Olathe Land Use Category	Existing Use	Current Zoning	Site Design Category	Building Design Category
Site	Mixed Density Residential	Industrial/Warehouse	RP-3	N/A	N/A
North	Mixed Density Residential	Warehouse/Office	RP-3	-	-
South	Conventional Neighborhood	Warehouse/Office	R-1	-	-
East	Conventional Neighborhood	Industrial/Warehouse	R-1	-	-
West	Mixed Density Residential	Warehouse/Office	M-2	-	-

1. Comments:

The applicant is requesting a zoning amendment to allow the building setback along the west property line to be reduced from 75 feet to a range of 65 feet to 71 feet. The subject

site was rezoned (RZ-31-00), and a preliminary site development plan approved in February 2001. The approved plan included 180 townhome units in 4-plex buildings. As part of the approval, a stipulation was included that there be a 75-foot setback from the west property line, however, the recorded plat for the townhome buildings encroached into the required setback. This zoning amendment will correct and address this issue and a zoning amendment is the only avenue available to revise or remove an approved stipulation. Additional history of the development and reason for the zoning amendment is included in Section 5 of this staff report.

2. Existing Conditions/Site Photos:

The subject properties consist of two lots for two future 4-plex buildings that are located within the Villas of Asbury development.



Site Aerial



View looking west from interior driveway

3. Public Notice:

A neighborhood meeting was held in accordance with the UDO on March 4, 2019 with approximately 47 attendees. Issues discussed included construction timeline and process, stormwater, the location of buildings and vehicle parking. The minutes from this meeting and the sign-in sheet has been included in the Planning Commission packet.

The applicant mailed the required public notification letters to surrounding properties within 200 feet and posted signs on the subject property per *UDO* requirements. Staff received an email in opposition from a resident with concerns about how the applicant has worked with the HOA and residents of Asbury during past construction projects. The email has been included in the packet. A letter of support from the HOA has also been included in the packet for your review.

4. Site and Building Design/Development Requirements:

There are no proposed changes to density, access, parking, or the building and site design with this application. The layout and location of the two subject buildings are the same as the approved preliminary site development plan.

The approved preliminary site development plan included 1 story townhomes to be constructed of brick, stucco and fiber cement siding and include architectural features such as porches and stoops. The building permit plans will show the required material and architectural features which staff will review.

An existing row of trees is located along the west property line for screening from the adjacent industrial development. However, there are gaps in the tree line and the applicant is showing additional trees to be planted in those gaps. The number and types of trees shall be shown on a landscape plan with the submittal of building permits for the 4-plexes.

5. Building Setback Line/Zoning Amendment

The rezoning and preliminary site development plan approval included a stipulation that a 75-foot setback be established along the west property line which is adjacent to industrial zoning. This setback was shown on the approved plans and included on the Villas of Asbury plat. At the time of approval, per the UDO, the rear yard setback for a RP-3 zoned property was 15 feet if existing hedgerows or natural features provided screening.

The 4-plexes within the development are individually platted and when Lots 15 and 16 were platted in 2001, they were located over the setback line. Staff met with the applicant to discuss alternative solutions such as reorienting the lots or building smaller 4-plexes so that the buildings don't encroach into the setback.

The applicant stated that due to driveways and access drives that reorienting the lots was not an option. Also, their preference was to build 4-plexes that are similar or the same as the 4-plexes throughout the development and that would not be possible by shrinking the building footprint.

Since those options were not possible, the applicant is proposing to reduce the 75-foot setback immediately west of Lots 15 and 16. The new setback line would range from 65 to 71 feet. The rest of the setback line would remain at 75 feet. An exhibit of the

proposed new setback line has been included the Commission packet. A replat of the property is required to include the new setback lines as part of the plat.

6. Zoning Amendment Analysis

A list of the Golden Rules criteria for a change of zoning is included with the staff report and analysis. Staff has reviewed the surrounding zoning, land uses, existing structures and character of the area and does not find that approval of the zoning amendment would adversely affect the safety and character of the surrounding neighborhood. Since the applicant is only requesting an amendment to a stipulation on a setback line with no change in land use or zoning classification, additional level of analysis typically included is not required for this case.

7. Waiver Request

The applicant is requesting a waiver requests which is for the reduction in the landscape buffer requirement. Per Section 18.40.240 of the UDO, waivers can be granted if certain criteria are met. The applicant has submitted a waiver request which has been included in the Planning Commission packet.

Properties zoned R-3 require a Type 5B buffer when adjacent to industrial zoned properties per Section 18.30.130 of the UDO. A Type 5B buffer is 75 feet in width with no landscaping.

The applicant is requesting a waiver to this requirement since the setback is proposed to range from 65 feet to 71 feet immediately west of the Lots 15 and 16.

The applicant states that existing hedgerows will continue to provide a buffer between this development and the industrial properties to the west. The hedgerow will not be affected by this proposal and additional trees will be planted for additional screening. The proposed site plan shows evergreen trees on the west property line to provide an additional landscape buffer. Also, the public will suffer no loss or inconvenience by the granting of the waiver.

8. Staff Waiver Analysis

Staff is supportive of the waiver request due to the proposal meeting criteria for waivers found in Section 18.40.240.E of the UDO and for the following reasons. The density, layout, landscaping, access and building and site design are not affected by the waiver request. And as mentioned previously, the applicant will be providing additional screening between this multi-family residential development and the industrial development to the west.

9. Staff Recommendation:

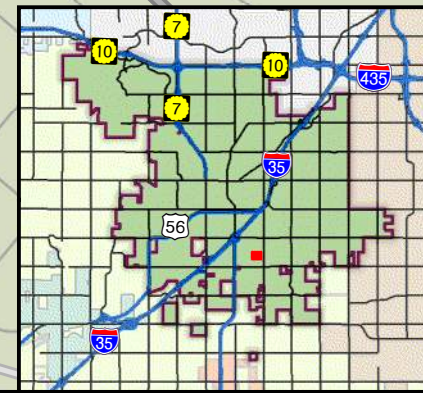
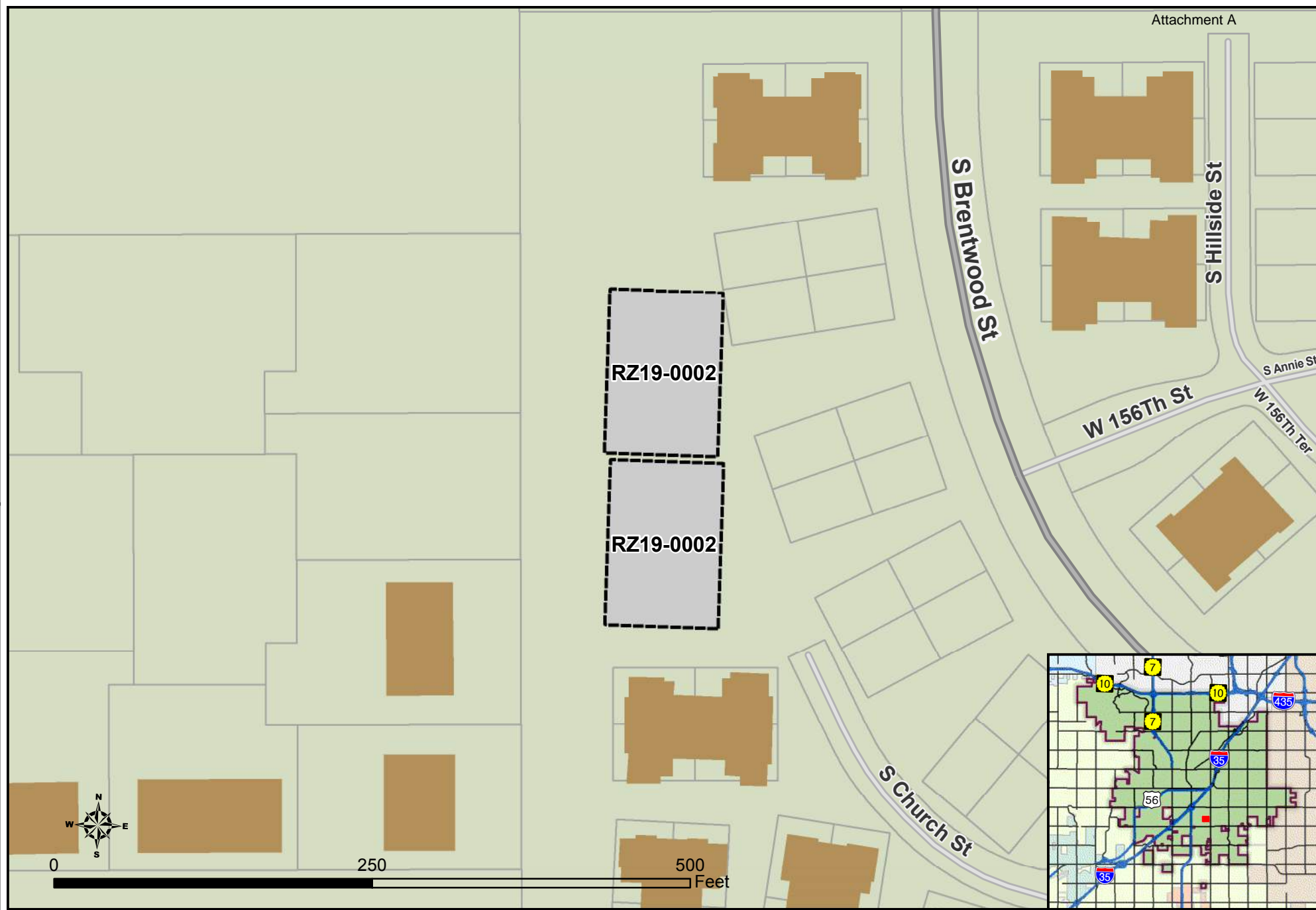
A. Staff recommends approval of RZ19-0002 for the following reasons:

- (1) The proposed development complies with the Goals, Objectives and Policies of the Comprehensive Plan.
- (2) The zoning amendment meets the *Unified Development Ordinance* criteria for considering zoning applications.

- B. Staff recommends approval of RZ19-0002 with the following stipulations to be included in the ordinance. These stipulations include those previously approved and required with the original change of zoning (RZ02-XXX) along with newly amended stipulations below:
- (1) An amendment shall be granted for the RP-3 zoning ordinance to allow a reduced building setback of 65 feet from the west property line as shown on the submitted site plan.
 - (2) A waiver shall be granted to permit the landscape buffer along the west property line to range from 65 feet to 71 feet as shown on the submitted site plan.
 - (3) Prior to obtaining building permits, the property shall be replatted to show the adjusted building setback line.
 - (4) A landscape plan showing the size and type of trees to be planted along the west property line shall be submitted and approved with the building permits.
 - (5) The combined overall maximum density for the R-1 and RP-3 development area shall be limited to 4.6 dwelling units per acre.
 - (6) All RP-3 zoned areas shall be subject to the following design requirements:
 - a) Apartment buildings shall be prohibited.
 - b) All buildings shall be designed with an appearance of individuality between dwelling units. Such design shall include varied rooflines, varied facade depths to create variety and individuality, and front porches. Mirror image" structures in which the same design is repeated for all units in a structure with no variety shall be prohibited.
 - c) A variety of building exterior designs shall be used, with no building design plan to account for more than one-third of the development area.
 - d) Building facades facing the public or private streets shall be designed with street orientation to include entrances, porches, windows and other design elements to create the appearance of a front facade. A predominant front entry shall be provided on all facades facing the street.
 - e) Each dwelling unit shall be provided with an attached garage. No freestanding garages, carports or surface parking lots shall be permitted. However, small areas for guest parking may be permitted if entirely screened from view from the streets/drives.
 - f) Buildings shall be oriented and designed so no garages or parking lots are visible from any public or private streets, or access drives,

unless otherwise approved by the Planning Commission with final site development plans.

- g) If the Planning Commission permits a structure(s) with garages oriented toward a public or private street, a minimum thirty-(30) foot setback shall be maintained for the garage portion of the structure.
- h) Exterior building facades shall be finished with high quality building materials and architectural detailing. Exterior walls shall be finished with a minimum of seventy-five (75) percent decorative masonry materials such as stone, brick/masonry or a comparable masonry material, EIFS, stucco and siding (fiber cement board) may be permitted as a minor accent material. Vinyl siding, wood siding, or other synthetic or imitation materials with a false or "tacked on" appearance shall be prohibited.
- i) Roofing materials shall be the heaviest grade of 'Timberline' or comparable shingles, concrete or clay tile, or slate.
- j) An open space area of a minimum 3.3 contiguous acres shall be maintained in a central location for use by all persons who reside within the townhouse area. Such open space area shall include neighborhood amenities such as i.e., swimming pool/clubhouse, playground, tennis court, exercise path, cabana, etc. Detention areas may be included as part of the open space calculation if designed and maintained as a wet-bottom facility with spray fountain(s).
- k) All fences shall be wrought iron, picket fencing (not exceeding 4 feet in height) or a similar decorative fencing material. Solid wood fencing and chain-link fencing shall not be permitted. Except, chain-link fencing may be permitted around sports courts.
- l) Sidewalks shall be provided on both sides of all public and private streets and drives.
- m) A staggered double row of evergreen trees shall be installed and maintained along the west and south property lines. However, credit shall be given for existing trees located along the west property line. The number of evergreen trees to be installed by the developer along the west property line may be reduced by the Planning Commission with approval of the final site development plan upon submission of a tree survey.



THE VILLAS OF ASBURY

RZ19-0002

Attachment A SITE PLAN FOR ZONING AMENDMENT

LOTS 15 & 16 THE VILLAS OF ASBURY

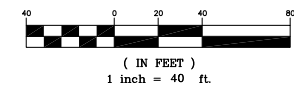
CITY OF OLATHE,
JOHNSON COUNTY, KANSAS

STATEMENT OF PURPOSE:

Lots 15 and 16 of The Villas of Asbury, the last unimproved lots in the development, were platted in such a way that the westerly portion of each lot falls within the 75 foot building setback along the west boundary of The Villas of Asbury, reducing the buildable area of both lots. Pinnacle Construction, the owner of the lots, has built the last eight buildings in this development, and desires to continue providing a housing product that meets the demands of the market for the last two lots in the development. In the current market, a smaller building that would fit within the current configuration of the setback on the lots is significantly less desirable and marketable. Due to the existing infrastructure and surrounding lots, it would be impossible to move the boundaries of Lots 15 and 16 outside of the setback. The purpose of this zoning amendment request is to remove the portion of the platted building setback line that falls within the west portion of Lots 15 and 16 so that entirety of each lot can be utilized for future building construction.



GRAPHIC SCALE



OWNER / DEVELOPER:
PINNACLE CONSTRUCTION CO., INC.
CONTACT: SUE ENGBROTEN
1227 E 119TH STREET
GRANDVIEW, MO 64030
PHONE: (913) 271-6223



**CIVIL ENGINEERS
LAND SURVEYORS - LAND PLANNERS**

122 N. WATER STREET
OLATHE, KANSAS 66061
PHONE: (913) 764-1076 FAX: (913) 764-8635



THE VILLAS OF ASBURY

Attachment A

This is a survey and plat of part of the E 1/2 of the SE 1/4 of Section 12, T14S, R23E of the Sixth Principal Meridian, in the City of Olathe, Johnson County, Kansas, more particularly described as follows:

Beginning at the Southeast corner of the SE 1/4 of Section 12, T14S, R23E of the Sixth Principal Meridian, in the City of Olathe, Johnson County, Kansas, thence S 77°51'41" W, along the South line of said SE 1/4, a distance of 715.73 feet to the TRUE POINT OF BEGINNING, thence continuing S 87°45'14" W, along the South line of said SE 1/4, a distance of 20.00 feet; thence N 02°14'46" W, a distance of 143.63 feet; thence Northerly, on a curve to the right having a radius of 850 feet, for a distance of 235.55 feet; thence S 87°45'14" W, parallel with the South line of said SE 1/4, a distance of 555.78 feet to a point on the West line of the E 1/2 of said SE 1/4, a distance of 1,549.77 feet to a point 328.41 feet South of the Northwest corner of the E 1/2 of said SE 1/4, as measured along said West line; thence N 87°23'23" E, parallel with the North line of said SE 1/4, a distance of 512.23 feet; thence S 02°14'46" W, a distance of 153.81 feet; thence S 11°23'23" E, a distance of 86.00 feet; thence S 01°42'42" W, a distance of 67.13 feet; thence S 02°14'46" W, a distance of 184.40 feet; thence S 13°42'00" E, a distance of 76.26 feet; thence Northerly, on a curve to the left having an initial bearing of 140°04'41" E, and a radius of 370 feet, for a distance of 12.05 feet; thence N 89°12'00" E, a distance of 131.48 feet; thence Northerly, on a curve to the right having a radius of 250 feet, for a distance of 129.70 feet; thence N 87°53'33" E, a distance of 134.98 feet to a point on the East line of said SE 1/4, said point being 770.00 feet South of the Northwest corner of said SE 1/4; thence S 02°04'27" E, along the East line of said SE 1/4, a distance of 50.00 feet; thence S 87°23'23" E, a distance of 145.04 feet; thence Southwesterly, on a curve to the left having a radius of 300 feet, for a distance of 183.80 feet; thence S 89°23'23" E, a distance of 38.00 feet; thence Southwesterly, on a curve to the left having a radius of 1,236 feet, for a distance of 258.19 feet; thence S 10°12'00" W, a distance of 31.20 feet; thence Southwesterly, on a curve to the right having a radius of 1,236 feet, for a distance of 103.19 feet; thence S 17°50'00" W, a distance of 110.00 feet; thence S 17°50'00" W, on a curve to the left having a radius of 570 feet, for a distance of 220.49 feet; thence S 14°00'00" E, a distance of 365.00 feet; thence Southwesterly, on a curve to the right having a radius of 530 feet, for a distance of 134.98 feet; thence S 22°00'00" E, a distance of 62.10 feet; thence Southwesterly, on a curve to the left having a radius of 400 feet, for a distance of 168.67 feet; thence S 02°14'46" W, a distance of 220.92 feet to the TRUE POINT OF BEGINNING, containing 34.8633 acres, more or less.

The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as "THE VILLAS OF ASBURY".

The streets and roads shown on this plat and not heretofore dedicated to public use, are hereby so dedicated.

An easement or license to enter upon, locate, construct and maintain or authorize the location, construction, or maintenance and use of conduits, water, gas, electric, sewer pipes, poles, wires, drainage facilities, ditches and culverts, and similar utility facilities, upon, over, and under these areas outlined and designated on this plat as "Utility Easement" or "U/E", is hereby granted to the City of Olathe, Kansas, and other governmental entities as may be authorized by state law to use such easement for said purposes.

An easement or license to enter upon, locate, construct and maintain or authorize the location, construction, or maintenance and use of conduits, water lines, storm pipes, sewer pipes and related facilities and structures, upon, over, and under these areas outlined and designated on this plat as "Drainage Easement" or "D/E", is hereby granted to the City of Olathe, Kansas, and other governmental entities as may be authorized by state law to use such easement for said purposes.

An easement or license is hereby dedicated to the City of Olathe to enter upon, locate, construct and maintain or authorize the location, construction, or maintenance and use of conduits, sewer pipes, surface drainage facilities, etc., upon, over, and across these areas outlined and designated on this plat as "Sanitary Sewer Easement" or "SSE".

An easement or license is hereby dedicated to the City of Olathe to enter upon, locate, construct and maintain or authorize the location, construction, or maintenance and use of conduits, sewer pipes, manholes, etc., upon, over, and across these areas outlined and designated on this plat as "Sanitary Sewer Easement" or "SSE".

An easement or license is hereby dedicated to the City of Olathe to enter upon, locate, construct and maintain or authorize the location, construction, or maintenance and use of water lines, fire hydrants, valves, etc., upon, over, and across these areas outlined and designated on this plat as "Water Line Easement" or "WLE".

All areas of Tracts "A", "B", "C", and "D" not occupied by future buildings shall be reserved for the City of Olathe or "Water Line Easement" or "WLE" and "Sanitary Sewer Easement" or "SSE".

An easement is hereby granted and reserved by the undersigned proprietor of the above described land unto itself and The Villas of Asbury Homes Association to enter upon, plant, replace, remove, mow, dig, trim, spray, eliminate tree, remove, and otherwise maintain, and to authorize any such maintenance, of any and all grass, shrubs, plants and other landscaping and all fences and monuments installed by the undersigned proprietor and by The Villas of Asbury Homes Association upon, over, and under these areas outlined and designated on this plat as "Landscaping Easement" or "L/E".

An easement or license is hereby dedicated to the City of Olathe, to enter upon, over and across these areas outlined and designated on this plat as "Tree Preservation Easement" or "TPE". Trees shall not be removed from a tree preservation easement without the City of Olathe's permission, unless such trees are dead, diseased or pose a threat to the public or adjacent property. The Villas of Asbury Homes Association, or their designers, shall be responsible for the maintenance of the tree preservation easement, including but not limited to the removal of dead, diseased trees or trees posing a threat to the public or adjacent property.

A perpetual easement of access over, across, and upon the areas designated as Tracts "B", "C" and "D", "Access Easement" and "Ingress & Egress Easement" are hereby reserved to the undersigned proprietor, its heirs, assigns, etc., for ingress and egress of all owners and occupants of lots and parcels depicted on this plat, their guests and invitees. Owners and occupants of adjoining lands to the North, South, East, and West of the plat, or well as other properties within this development shall have the same right of ingress and egress as all owners and occupants of lots and parcels depicted on this plat. No restrictions or conditions that would prohibit the free flow of traffic shall be allowed to be constructed or maintained within said "Access Easement", "Ingress & Egress Easement", and Tracts "B", "C" and "D".

All Lots and Tracts within this plat shall be subject to a "Common Facilities Agreement" to be recorded by subsequent document in the Office of the Register of Deeds. Such agreement will address maintenance of common utility lines serving all owners of each Lot and/or Tract.

Tracts "B", "C" and "D" shall be designated as "Utility Easement". All utility locations within Tracts "B", "C" and "D" shall be approved by the owners of said Tracts "B", "C" and "D" prior to installation.

Tracts "A" and "C" shall be dedicated by separate instrument to The Villas of Asbury Homes Association, which shall be responsible for all maintenance of said Tracts.

Tracts "B", "C", "D", "E", "F", "G" and "H" shall be owned by The Villas of Asbury Homes Association, which shall be responsible for all maintenance of said Tracts.

An easement or license is hereby dedicated to the City of Olathe to enter upon, locate, construct, and maintain or authorize the location, construction, or maintenance and use of conduits, sewer pipes, surface drainage facilities, etc., upon, over, and across these areas outlined and designated on this plat as Tracts "A" and "C".

All divisions in this subdivision shall heretofore be the sole responsibility of The Villas of Asbury Homes Association and are to be maintained by said Association.

The lots in this subdivision shall not be subdivided except pursuant to Chapter 16B.09, Lot Splits, of Unified Development Ordinance or by plat.

The use of all lots in this subdivision shall hereafter be subject to the restrictions which will be executed as a separate instrument of writing and will be recorded in the Office of the Register of Deeds of Johnson County, Kansas, said restrictions will hereby be made a part of the dedication of this plat as though fully set forth herein.

The undersigned proprietor of the above described tract of land hereby consents and agrees 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 use and thoroughfares or parts thereof, for public use, from the lien and effect of any special assessments and that the amount of the unpaid special assessments on the land dedicated shall be paid and remain a lien on the remainder of the land proposed to be dedicated for public use or thoroughfares.

IN TESTIMONY WHEREOF, the undersigned proprietor has caused this instrument to be executed this 31st day of July, 2001.

JOSEPH W. CAMPBELL, President
EWIN 3 DEVELOPMENT, L.L.C. (Owner of all except 157th Street Right-of-Way lying South of 157th Street)

STATE OF KANSAS
COUNTY OF JOHNSON
BE IT REMEMBERED, that on this 31st day of July, 2001, before me a Notary Public in and for said County and State, came JOSEPH W. CAMPBELL, President of EWIN 3 DEVELOPMENT, L.L.C., who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said L.L.C., and he duly acknowledged the execution of the same to be the act and deed of said L.L.C.

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

JOSEPH W. CAMPBELL
Notary Public
My Commission Expires: March 10, 2007

APPROVED by the Planning Commission of the City of Olathe, Kansas, on this 28th day of July, 2001.

By: RICHARD W. DICKER, Chairman

APPROVED by the Governing Body of the City of Olathe, Kansas, on this 17th day of July, 2001.

By: MICHAEL COPELAND, Mayor
ATTEST: DEBRA S. GRADY, City Clerk

I hereby certify that this is an accurate and true plat of survey on this 27th day of July, 2001.

Max L. Doherty
Kansas L.S. No. 923

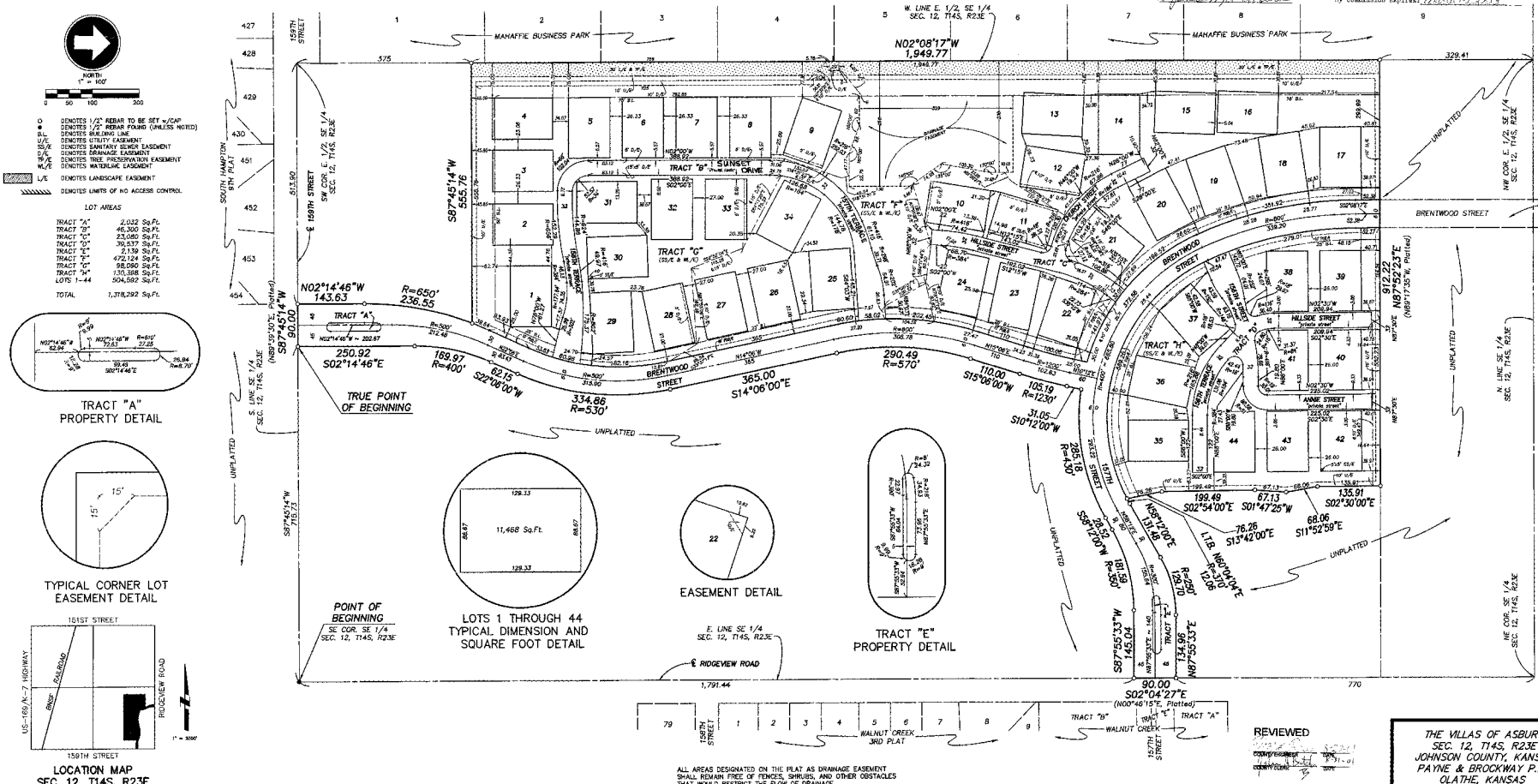
JOSEPH W. CAMPBELL, President
EWIN 3 DEVELOPMENT, L.L.C. (Owner of all except 157th Street Right-of-Way lying South of 157th Street)

JACOBUS-CAMPBELL EXCAVATION, INC.
157th Street Right-of-Way and Brentwood Street Right-of-Way lying South of 157th Street

STATE OF KANSAS
COUNTY OF JOHNSON
BE IT REMEMBERED, that on this 31st day of August, 2001, before me, the undersigned, a Notary Public in and for said County and State, came JOSEPH W. CAMPBELL, President of JACOBUS-CAMPBELL EXCAVATION, INC., who is personally known to me to be the same person who executed the within instrument, of writing as the act and deed of said Corporation.

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

JOSEPH W. CAMPBELL, President
My Commission Expires: March 10, 2007



REVIEWED
DATE: 8/2/01
BY: [Signature]
FOR: [Signature]

THE VILLAS OF ASBURY
SEC. 12, T14S, R23E
JOHNSON COUNTY, KANSAS
PAYNE & BROCKWAY P.A.
OLATHE, KANSAS

Asbury Villas
RX-00092

Neighborhood meeting held March 4, 2019, 7 pm, at the Asbury Villa Clubhouse

Welcome by Randy Willbanks and background information of his purchase of the last 10 lots from the original developer who had gone out of business. Introduction of Sue Engbroten and Matt Cox (Allenbrand & Drews) owner of Pinnacle Construction and principal of Asbury Holdings, LLC

Overview of project was presented by Sue Engbroten, Asbury Holdings, LLC and Complete Realtors. Displayed site plan for zoning amendment and explained that the rear building set back line is within the building envelope limiting the size of the building and possibly if any building, can be built on these two lots. Reiterated that the building lines are not moving so no additional property needs to be acquired but rather the rear set back line only would needed to be adjusted. Sue explained that the site plan was modified after the certified letters had been mailed and that a second certified letter had been mailed today, March 4 but those letters would not require a signature. Sue also explained that the site plan shows building envelope of 16 and 18 are very close and showed on the site plan the shadow line of building 18 which does not take up the entire building envelope. A site plan showing the distance building to building was about 21 feet was presented and referenced typical single family side set backs of 7-7.5' leaving 14-15' between houses. The placement of the proposed asphalt drives and proximity to the existing walking trail were also shown and highlighted. If trail is damaged by construction, builder agrees to make necessary repairs. Discussed City requirement to add evergreen trees in gaps in existing tree preservation easement (hedge row). Noted that trees drawn on site map are not exact in number or in placement.

Construction traffic will be a concern, builder proposes construction of building 16 first, during construction of 16, construction vehicles will park on lot 15, signs will posted to aid in keeping construction vehicles from parking on the asphalt access roads to buildings 18 and 19 and between 18 and 17. These signs would need to be posted at the "bump" where Church Street changes from curbed street to asphalt and at the access point off of Brentwood between building 17 and 18. Some parking may be necessary along the curbed sections of Church street. During construction of building 15, construction vehicles would need to park on curbed section of Church Street. Asphalt that is damaged on access road to 18 and 19 may be damaged during construction and if necessary will be overlaid when construction is completed. The builder had also previously committed to pouring an asphalt "ramp" where the curbed section of Church ends. Because of the "bump" this will be done once the buildings on 15 and 16 are completed because it will not withstand construction vehicles. The concrete curb that was placed by the original developer will not be removed.

Pinnacle construction plans to build the same building that they have previously constructed in asbury. At this time, it is undecided if they will construct the buildings with 4- 2 car garage units (as built on lot 38, 39, 40) or if they will be the 2- 2 car and 2 - 1 car garage buildings (as built on 18, 19, 20, 21 and 41)

Permanent parking for overflow is shown on buildings 15 and 16 and lack of parking for 17 and 18 has been discussed with HOA. Builder agrees to assist with site prep of additional parking on common area when preparing for asphalt drives and will help coordinate the asphalt but

does not agree to pay for asphalt for the previously discussed overflow parking in that area as it was not shown on the original plat map. Any such modification may need city approval. HOA had previously asked if builder considered adding sidewalks to the asphalt streets between 15 and 16 and 18 and 19, builder does not plan of adding sidewalk there as it was not shown on the original plat maps.

HOA had requested that we discuss draining issues. The HOA has a bid to extend the storm inlet box 200 feet to the north side of building 18 at a cost of \$8000. Sue said any change to the storm water drains would have to be approved by the city of the county whoever is in charge of those in Olathe. Sue deferred to Randy and Matt Cox for further discussions about drainage. Matt Cox said the grading for the buildings has been per the developments approved grading plan. Randy said that he was not opposed to participating in the cost of moving the box provided it was approved by and the work was contracted by the HOA rather than Pinnacle or Asbury Holdings. He would consider financial participation but has not seen any bids, etc.

Sue asked if there were any questions.

Ann Armstrong (livings in unit 1802) expressed concerned about it looking like the corner of the new building would almost touch her building. Asked why we can't just move lot 16 back toward the tree line. Sue put back up the site plan with the measurement from building to building and pointed out that the building was approximately 21 feet away. Explained that the site plan has not changed, was as originally platted and if you look closer at the light lines inside the building envelope you can see where the existing building 18 is in reference to the building envelope of proposed building 16. The outline of proposed building 18 is the maximum size because it is the building with all 2 car garages)

Jan Christenson (unit 1903) expressed concerns about how close the buildings were and the traffic

Ralph Apel (unit 201) asked for an explanation of what is meant by building envelope. Sue responded by pointing out the rectangular building lots and explained that any building had to fit within the rectangle.

Susana Waterman (unit 1900) expressed concerns about cars parked in driveways of proposed building 15 protruding into the access road to building 18 and 19.

Pam Borchers (unit 1803) asked what could be done to provide some privacy screening for Ann Armstrong's patio? Suggested landscape screening of some type which would need to be approved by the HOA. Ann said if the building is actually 20 feet away she really wasn't concerned about additional screening

Julie Katke (unit 2000) suggested that construction vehicles be directed to park on Brentwood rather than on Church Street.

George Drake (unit 3203) expressed concerns regarding evergreen trees. Sue said they did not know the number, species or specific sizes of the tree requirements at this time.

George Drake continued on that his dues went to pay for drainage improvements that he shouldn't have to pay for on the new buildings. Sue explained the verbiage in the new home construction contract (executed by everyone who had purchased a new unit) that the builders

drainage plan includes gutters, downspouts, splash blocks and grading to the approved site plan. Any further drainage resolution that is needed whether discovered prior to or after closing is to be paid for by the buyer. The HOA agreed to take corrective measures on these units, as they have on the units previously built (by others) George Drake ask Randy to define "participation" Randy said in reference to the request of the HOA about moving the storm inlet, that if it was approved by the governing body he would consider financial participation but didn't have enough information and had not seen any formal bids or engineered drawings. That said, he had been told approximately \$8000, he would pay up to \$8000 but would not commit to an open ended amount and would need to review the information prior to making a commitment.

Royce Cook (unit 2102) asked if the construction traffic would be coming in and out on Church street, dump trucks and the like. Sue said yes, that would be the only way they could access the property. He said the construction traffic "gets old".

Walter Geiss (unit 2103) has concerns about construction traffic damaging Church Street, says it is already in bad shape. Wants to know if the builder is going to pay to resurface the street if it is damaged. Sue said an assessment of the street would need to be made prior to construction and after construction to determine if that was necessary.

Sue concluded the meeting shortly before 8 and invited everyone to take a closer look at the site plan display

THE VILLAS OF ASBURY

POTENTIAL DISCUSSION ITEMS FOR NEIGHBORHOOD MEETING, BUILDINGS 15-16. Monday, March 4, 2019

1. The distributed Site Plan makes it appear as though the Building on Lot 16 will be very close to Building 18. What is the separation between buildings at 16-18 ? Does it take into account the gas line which runs to Building 17? It might be helpful to show the actual size of the buildings and the open space between them.
2. How does this change compare with the original plat approved in 2001, which also shows Building 16 envelope very close to Building 18 envelope? Does the change in the set back or envelopes mean that Lots 15 and 16 will require purchase of common area land from the HOA?
3. With the change in the set back on the west side and given the requirement for 20 feet wide asphalt drives (per fire dept. requirements) on the west side of Buildings 15 and 16, will that impact the trail and, if so, does builder agree to repair any damage to the trail?
4. Will there be the addition of evergreens in the west tree line in order to provide buffering in the gaps?
5. Construction traffic access was an issue at Building 18 because of the closeness of the asphalt drive between 17-18. What will be done to limit construction traffic primarily on South Hillside Street and South Church Street off Brentwood and keep construction traffic to a minimum on the asphalt driveway between 17-18? How will construction parking be controlled to keep interference on asphalt driveways north of 14 and along 18-19-20 to a minimum?
6. Asphalt. Given the prospective construction traffic on the asphalt driveways north of Building 14; on asphalt drive between 17-18 (limited); and on asphalt driveway to Buildings 18 and 19, at the completion of the project will those areas be re asphalted by the builder at the completion of the project? There also is the "bump" at the end of South Church Street which will need to be addressed.

7. Will the construction of Buildings 15 and 16 be consistent with Buildings 18, 19, 20, and 21?

8. Parking. It appears that the asphalt driveways on the west side of Buildings 15 and 16 will have slight extensions at the end, consistent with other asphalt driveways in the community. However, parking at 17-18; on the east side of Buildings 15 and 16; and the north side of 14 appears limited. An option at 17-18 would be a small parking lot in the open space to the west of 17. Is that something the builder would consider installing?

9. Sidewalks. Sidewalks were installed along the private street (S. Church St.). Has consideration been given to extending sidewalks along the sides of the asphalt driveway between Buildings 15-16 and Buildings 18-19?

10. DRAINAGE. You are aware that the HOA has expended or is about to expend funds to remedy drainage issues between 18-19, 19-20, and 20-21. Those are caused by sump pump discharges and the relative flatness of the land, thus resulting in the need for installation of underground drainage. The HOA will be taking the position with City of Olathe Planning Commission that a condition of approval of the Site Plan for buildings 15-16 should include an extension of the 12" double wide pipe for approximately 200 feet from the existing storm inlet box to the north side of building 18. Tees will be installed for connections from Buildings 15-16 so that storm water discharges would be installed underground and connected with the new underground. That work would need to be done near the beginning of construction. Present estimate for the extension of of the 12" line would be approximately \$8,000. Please advise as to your position on drainage plans.

CITY OF OLATHE,
JOHNSON COUNTY, KANSAS



NORTH

(IN FEET)
1 inch = 40 ft.

Adair and Associates, Inc.

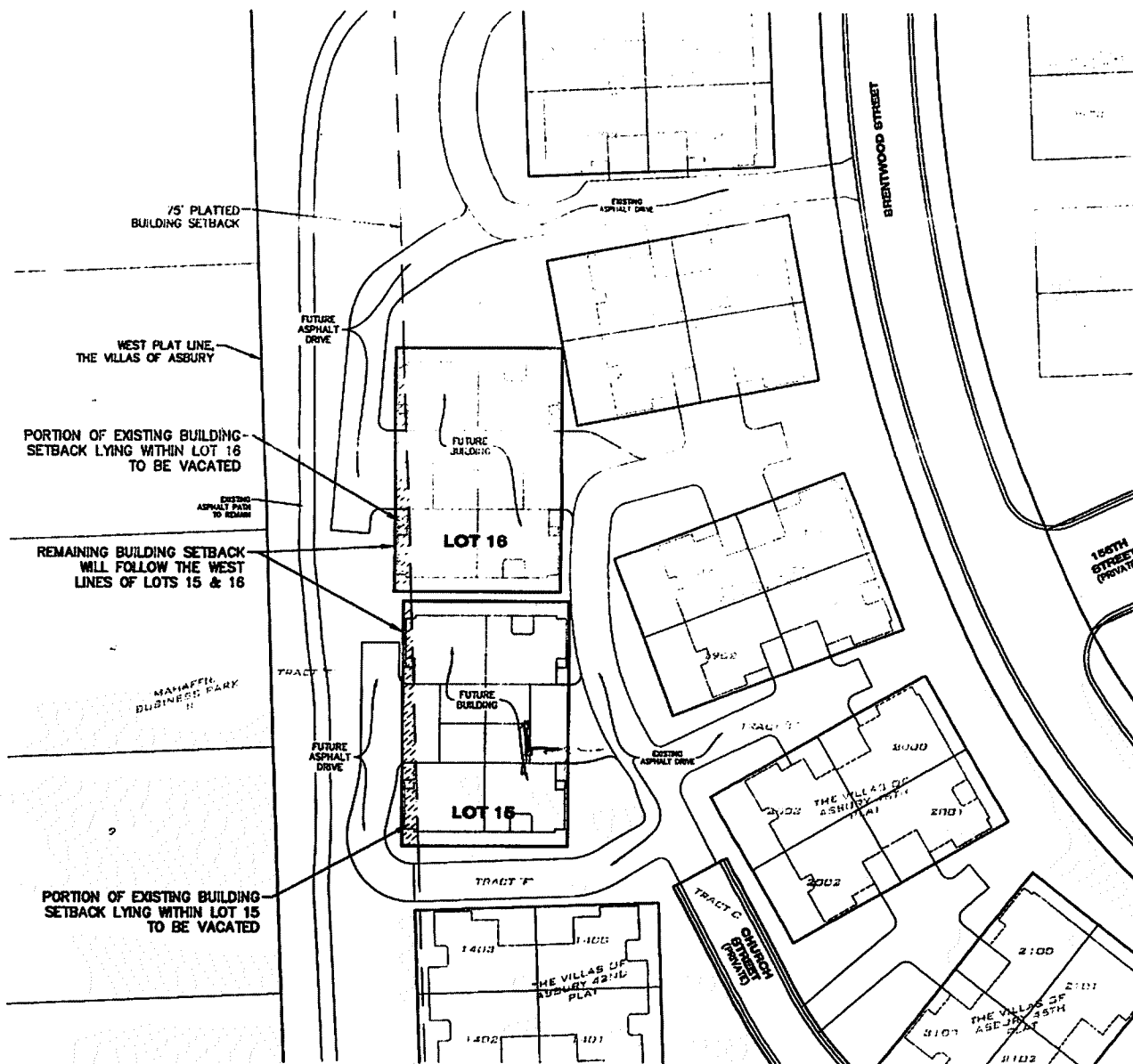
123 N. WATER STREET
OLATHE, KANSAS 66061
PHONE: (913) 764-1078 FAX: (913) 764-5635

SITE PLAN FOR ZONING AMENDMENT LOTS 15 & 16 THE VILLAS OF ASBURY

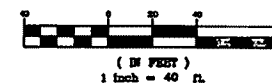
CITY OF OLATHE,
JOHNSON COUNTY, KANSAS

NOTE:

The purpose of this zoning amendment request is to vacate and/or rezone the portion of the plat building setback line that falls within the west portion of Lots 15 and 16 so that entirety of each lot can be utilized for future building construction.



GRAPHIC SCALE



OWNER / DEVELOPER:
PINNACLE CONSTRUCTION CO., INC.
CONTACT: SUE ENGBROTEN
1227 E 110TH STREET
GRANDVIEW, MO 64030
PHONE: (813) 271-6223



**CIVIL ENGINEERS
LAND SURVEYORS - LAND PLANNERS**

122 N. WATER STREET
OLATHE, KANSAS 66061
PHONE: (913) 764-1076 FAX: (913) 764-8635

Meeting Sign-In

RZ-00092

Date: March 4, 2019

Asbury Villa Clubhouse

Time: 7 PM

Print Name	Address
1. Rhonda McGraw	1301
2. Carolyn Ebr Stanley	1203
3. Susana Wolimon	1900
4. Denise Spotts	1902
5. Irish Metz	2200
6. Carol Sheffner	2303
7. Delynn Kleinbrook	2202
8. Rubalee Davis	2400
9. Jo Ann Yegor	2301
10. Cathy Camp	803
11. Betty Elson	4303
12. Mary Lou Jamieson	0401
13. Rick Jamieson	0401
14. Phyllis Muckens	0601
15. Muri Hindry	3103
16. Brent Fogle	2902
17. WALTER GEIGS	2103
18. George Dren	3203

Meeting Sign-In

RZ-00092

Date: March 4, 2019

Asbury Villa Clubhouse

Time: 7 PM

	Print Name	Email	ADDRESS
1.	BOB HAMM		3302
2.	SUSAN WILEY		15554 S. HILLSIDE
3.	MIKE WILEY	"	"
4.	ROYCE COOK		15645 S. CHURCH ST. #2102
5.	TRON NOWAK		15627 S. Church #1402
6.	Bobb Beckett		15754 S. Brentwood St Unit 3701
7.	Paula & Peggie Miller		15552 S. Brentwood #1702
8.	Doug Hohulin		15576 S. Brentwood #1801
9.	DAVE & JULIE KATKE		15671 S. CHURCH ST. #2000
10.	GREG & DEANN MITCHELL		15778 S. BRENTWOOD #2803
11.	HARRINGTON		18630 W 158th Place #4800
12.	John James		15576 Brentwood #1800
13.	Ron Vorkatzer		15557 So. Hillside St. #4002
14.	RALPH APEL		18565 W 158th Ter #20
15.	Barbara Yates		18565 W. 158th Ter. unit #200
16.	Rozella Goodman		18525 W. 158th Ter. Unit 100
17.	Marna Dunlap		15644 S CHURCH ST. #1201
18.	Bill Seiler		15554 S. Hillside, Unit 3903

Meeting Sign-In

RZ-00092

Date: March 4, 2019

Asbury Villa Clubhouse

Time: 7 PM

	Print Name	Address
1.	Paye K. Hagin	15554 S. Hillside unit 3902
2.	Glenn Smith	18666 W. 157th Terr # 900
3.	Mary A. Mustain	15698 S. Hillside #1000
4.	Nancy Walker	18875 W. 158th Pl. #451
5.	Shenie Benson	18536 W. 158th Pl. 4601
6.	Ann Asf	15576 S. Brentwood 1802
7.	Jan Christenson	15597 S. Church 1903
8.	Sam Borchers	15576 S. Brentwood 1803
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		

From: [Planning Contact](#)
To: [Dan Fernandez](#)
Subject: FW: Case No. RZ 19-0002
Date: Thursday, March 07, 2019 3:23:06 PM

From: Dave Wallace <wallacejd1@gmail.com>
Sent: Thursday, March 07, 2019 02:36 PM
To: Planning Contact <PlanningContact@OLATHEKS.ORG>
Subject: Case No. RZ 19-0002

In the above reference matter concerning a rezoning request for Lots 15 & 16 of the Villas of Asbury, a subdivision of land in the City of Olathe, with the request brought forward by Asbury Holdings, LLC - Pinnacle Construction, I wish to object.

My name is James Wallace, a trustee of the Wallace Family Trust, which owns a unit on Lot 14 of the subject property (street address 15620 S. Church St. Unit 1403), directly adjacent to the subject properties. We have owned our property for nearly four years, during which time Pinnacle has constructed several units near us, and we have been very disappointed with the way Pinnacle has done business and the way they have treated their customers and our homeowners association (HOA). Our HOA had to absorb a number of costs to fix things that were legitimately Pinnacle's responsibility, particularly in the area of drainage.

We do not believe the Pinnacle has earned the right for rezoning since the problems they are facing are due largely to previous construction errors. We have little faith that Pinnacle would live up to their obligations any better in the future than they have in the past, especially since the rezoning will impact drainage due to reduced setbacks. In this matter, Pinnacle is even trying to reduce their landscaping obligations, which would further aggravate the drainage issue.

Your consideration of denying this rezoning request is greatly appreciated.

Thank you.

Sincerely,

James Wallace
15620 S. Church St. Unit 1403
Olathe, KS 66062

THE VILLAS OF ASBURY

March 19, 2019

RE: Comments on RZ 19-0002

Zoning Amendment, Lots 15-16, Villas of Asbury

This letter submits comments on the above rezoning matter scheduled for hearing with the Olathe City Planning Commission on Monday, March 25, 2019.

The Villas of Asbury Homeowners Association Board (HOA) supports the proposed rezoning allowing an extension west of the originally platted building setback line that falls within the west portion of Lots 15 and 16. This extension west will allow the construction of the last two buildings under the plat originally approved in 2001 and consistent with other buildings in the community

As it relates to any preliminary approval of a development site plan, we would request the following conditions:

1. Gaps in the present historic preservation tree line to the west of these two lots should be filled with suitably sized evergreens to allow year round buffering from the industrial area to the west.
2. The asphalt walking trail on the west side of lots 15 and 16 shall be preserved and any damage to the trail due to construction shall be repaired by the developer/property owner.
3. The prior plats approved have included the following provision:
"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."
4. Asphalt driveways installed to allow access to the units would meet the requirements of the fire department for access.

The HOA has expressed concern about appropriate drainage for the new buildings given issues with prior buildings at lots 18, 19, 20, 21 and the general flatness of the terrain in the area. However, in the open session at the Neighborhood Meeting on March 4, 2019, the property owner/developer agreed to cooperate in drainage plans for the new buildings, to include financial participation with the HOA. Therefore, the HOA feels that issue can be resolved through written agreement between the property owner/developer and the HOA.

Respectfully submitted:

William H. Seiler, Jr., President
15554 South Hillside St., Unit 3903
Olathe, KS 66062