



City of Olathe
City Planning Division

STAFF REPORT

Planning Commission Meeting: July 8, 2019

Application:	<u>RZ19-0008: Rezoning from R-2 to D-Downtown (Mixed Use) and preliminary site development plan for My Child Advocate</u>
Location:	313 N. Chestnut Avenue
Owner(s):	Jason & Trina Nudson
Applicant(s):	Jason & Trina Nudson
Engineer:	Micah Kimball/Treanor HL
Staff Contact:	Emily Carrillo, Senior Planner

Site Area:	<u>0.26± acres</u>	Proposed Use:	<u>Commercial, Law Office</u>
Units:	<u>1</u>	Plat:	<u>Platted, Original Town</u>
Current Zoning:	<u>R-2</u>	Proposed Zoning:	<u>D-Downtown (Mixed Use)</u>

	Plan Olathe Land Use Category	Existing Use	Current Zoning	Site Design Category	Building Design Category
Site	Urban Center/Downtown	Commercial, Office	R-2	3	C
North	Urban Center/Downtown	Residential, Single-Family	R-2	-	-
South	Urban Center/Downtown	Commercial, Office Vacant	C-O, CP-O	-	-
East	Urban Center/Downtown	Multi-Family	R-5	-	-
West	Urban Center/Downtown	Residential, Single-Family	R-2	-	-

1. **Proposal:**

The applicant is requesting a rezoning from R-2 to D (Downtown, Mixed Use) District, with an associated preliminary site development plan for My Child Advocate, a child advocacy law office. The subject property is located along the west side of N. Chestnut Street, just north of its intersection with Poplar Street. Staff is supportive of the request to rezone the subject property to the D (Downtown, Mixed Use) District, as outlined in this report.

The property is currently developed with an existing two-story structure that is being used as a law office. The existing law office is allowed with approval of a Special Use Permit (SUP), which was obtained by the applicant originally in 2010 and renewed in 2015. The SUP renewal was approved for a period of 5 years and does not expire until May 30, 2020.

Since the renewal of the SUP in 2015, the Unified Development Ordinance (UDO) has been amended, and no longer allows professional offices in the R-2 District with a SUP. Therefore, while the SUP is still valid for the use of a law office on the subject property, the applicant would not be able to renew the SUP prior to its expiration. Rezoning the subject property to the Downtown (Mixed-Use) District would allow the law office by-right as a permitted use.

The existing structure that is on the subject property is proposed to be demolished, and the associated revised preliminary site development plan that has been submitted is for the construction of a new two-story structure totaling 4,291 square feet. This new building is proposed to be built in the same location as the existing structure. There is also a detached garage in the southwestern corner of the subject property that is to remain on site.

2. **History:**

The subject property has been zoned R-2 since 1970, when conventional zoning was originally established throughout the City. The existing structure was constructed in 1920 and was originally used as a residential structure prior to its use as a law office. The subject property is a part of the original Town of Olathe plat, which was recorded in 1868. While the existing structure on the subject property was constructed in 1920, the Olathe Historic Preservation Board (OHPB) found that there was no historical significance to the existing structure and did not object to it being replaced.

At their May 16, 2019 board meeting, the OHPB formally requested that the applicant allow for documentation in the form of photos, as well as any historic deed or property owner information for the existing structure located at 313 N. Chestnut be collected prior to any demolition permits. The board will work to collect and upload all historic documentation into the Kansas Historic Records Inventory (KHRI) an online database of historic archived information, photographs and documents.

Additionally, the OHPB would like to formally recommend this application and architectural design to City staff, Planning Commission and City Council *“as a precedent of historically sensitive infill, where older residential homes are removed from the Downtown Core and Mixed-Use transition area to become commercial establishments in the D-Downtown district.”*

3. Existing Conditions/ Site Photos:

The existing structure was constructed in 1920 and originally used as a residential structure prior to its use as a law office. The structure has the appearance of a single-family residential building, but currently functions as an office.

The subject property is located within a transitional area surrounding the downtown core, identified as the Downtown Mixed-Use district and is therefore eligible and recommended for the proposed D-Downtown (Mixed-Use) zoning district. This mixed-use district includes less intense commercial and residential uses, some in new structures and some in older historic single-family housing units. This transition area is generally defined as extending from Pine Street on the west to Kansas City Road and the Kansas School for the Deaf on the east, and Spruce Street to the north to Cedar Street on the south.



Aerial View of site – outlined in navy



Site View – looking NW from N. Chestnut Street

4. Neighborhood Meeting/Public Notice:

The applicant held a neighborhood meeting for the rezoning to D-Downtown (Mixed-Use) and preliminary site development plan on the evening of June 17, 2019 at 313 N. Chestnut Street (see attached minutes). Three (3) citizens attended the meeting. Main topics of discussion focused on a description of the current office use and functions, proposed plans and elevations, and adjacent alley conditions. All participants were vocally supportive of the proposed plan. A copy of the meeting minutes is provided in this packet.

The applicant mailed the required public notification letters to surrounding properties within 200 feet and posted signs on the subject property per *Unified Development Ordinance (UDO)* requirements.

5. Zoning/Development Requirements:

- a. **Setbacks** – The following table lists the minimum building setback requirements for developments in the Downtown Mixed-Use District as well as the setbacks for the proposed structure.

	UDO Requirement	Proposed Plan
<i>Front Yard</i>	15 feet	15 feet*
<i>Side Yard</i>	8.1 feet (10% of lot width)	12 feet (north) 14 feet (south)
<i>Rear Yard</i>	10 feet from the property line	12 feet (to existing garage)

* UDO, Section 18.30.270 allows a 6-foot encroachment in the front yard for porches

- b. **Building Height** – The maximum building height for residential buildings in the D-Downtown (Mixed-Use) District is 7 stories or 90' feet. The height of the proposed building is approximately 30' feet, therefore, the proposed building is compliant with the height standards of the D District.
- c. **Frontage Buildout** – Frontage buildout is defined as “The length of a front building façade compared to the length of the front lot line, expressed as a percentage.” The minimum frontage buildout for nonresidential uses in the Downtown (Mixed Use) District is 80%. The width of the lot is 81' feet and 9" inches, therefore the width of the front façade is required to be approximately 65' feet and 5" inches. The proposed width of the front façade is approximately 43' feet and 2" inches or 53%. The applicant has requested a Waiver from this section of the UDO, and analysis of the Waiver request can be found in Section 7 of this report.
- d. **Landscaping** - Properties that are located within the Downtown District are exempt from the landscaping requirements of the UDO. However, the applicant has agreed to plant a new row of 3-foot tall boxwood hedges along the eastern portion of the proposed parking area, to help provide a visual buffer from N. Chestnut Street. There are also existing trees on the site, which will remain through redevelopment of the site.

6. Building Design:

Development that occurs within the Downtown District is subject to architectural design guidelines that will contribute to a high-quality architectural design of Downtown Olathe while complementing the existing development in residential neighborhoods. The proposed development meets or exceeds the applicable architectural requirements of the Downtown District that are listed below.

- a. Primary entrances to buildings at ground level shall face street rights-of-way rather than parking lots.
- *The primary entrance to the building is facing Chestnut Street.*

- b. The building façade shall have three vertical divisions: 'bases,' 'middles,' and 'tops.'
 - *The building has clear vertical division of a base, middle, and top.*
- c. Buildings shall employ a uniform level of quality on street-facing sides of the building that is visible from a neighboring area in the Downtown Mixed Use Zone.
 - *The proposed design of the building provides a uniform level of quality on the street facing façade.*
- d. Highly reflective glass is not permitted at the ground level of building elevations that abut a street right-of-way.
 - *The glass proposed to be used at the ground level of the elevation that abuts the street right-of-way is intended to be clear glass.*
- e. Each multi-story building shall have one clearly identifiable entrance abutting the street.
 - *The proposed building has a clearly identifiable entrance facing Chestnut Street.*
- f. At least 80% of the façade facing a street or public open space, shall be composed of building materials required for Category C Building Types.
 - *The façade facing Chestnut Street incorporates a high amount of glass and brick which meets the Category C design standards.*
- g. Consistent architectural design and durable building materials shall be continued on all façades adjacent to public streets and residential districts.
 - *All façades adjacent to public streets and residential districts provide a consistent architectural design that is compatible with the surrounding area.*
- h. The majority of the building(s) of a development shall possess an architectural character that respects traditional design principals, such as the ones provided in the list below:
 - Variation in the building form such as recessed or projecting bays;
 - Expression of architectural or structural modules and detail;
 - Diversity of window size, shape, or patterns that relate to interior functions;
 - Emphasis of building entries through projecting or recessed forms, detail, color, or materials;
 - Variations of material, material modules, expressed joints and details, surface relief, color, and texture to scale;
 - Tight, frequent rhythm of column/bay spacing, subdividing the building façade into small, human scaled elements.
 - *The design of the building is consistent with these traditional design principles listed above.*

i. Building walls facing a street, pedestrian walkway, or adjacent residential development shall:

- Incorporate architectural features such as columns, ribs, pilaster or piers, changes in plane, changes in texture or masonry pattern, or an equivalent element that subdivides the wall into human scale proportions.
 - *The east façade (street facing) provides a design that incorporates columns and several changes in plane. The northern façade (facing adjacent residential development) incorporates several changes in plane, and an overhang that subdivides the wall into human scale proportions.*
- Incorporate a building bay or structural building system for walls exceeding 30 feet in width. Bays should be visually established by architectural features such as columns, ribs or pilasters, piers, changes in wall planes, changes in texture or materials and fenestration pattern no less than 12 inches in width.
 - *The maximum width of a bay on the street facing or adjacent residential facing façades is approximately 26 feet. Each of these bays is visually established by a change in wall plane.*
- Incorporate at least one change in wall plane, such as projections or recesses, having a depth of at least three percent (3%) of the entire length of the façade and extending at least twenty percent (20%) of the entire length of the façade.
 - *The eastern façade incorporates a 10.5% recess in the wall plane for a total of 29% of the total façade, and the northern façade incorporates a 22.6% projection for a total of 14% of the total façade.*
- Incorporate features into ground level walls such as windows, entrances, arcades, arbors, awnings, trellises, or alternative architectural detail along at least sixty percent (60%) of the façade.
 - *The eastern façade includes a front porch, which incorporates an awning over a minimum 90% of the façade, and the northern façade provides a mid-wall overhang, similar to an eave along 77% of the façade.*
- Windows shall be recessed and include visually prominent sills or other forms of framing.
 - *The windows on all facades appear to be slightly recessed and have an appropriately scaled trim provided around all sides.*

7. Site Design Standards:

The subject property is located in the Urban Center/Downtown future land use map designation according to the *Comprehensive Plan* and the development is subject to **Site Design Category 3** (UDO 18.15.115). The following is a summary of the composite site requirements.

- a. **Façade Width in Frontage Area** – Development that is subject to Site Design Category 3 is required to have a minimum of 30% of the façade located within the frontage area, which is up to 15 feet from the front property line. The proposed development shows the front façade comprising 55% of the frontage area. The

Downtown District has an additional standard for frontage buildout, which the applicant is requesting a waiver from. Analysis of this waiver request can be found in Section 8, below.

- b. **Pedestrian Connection Options** – Development that is subject to Site Design Category 3 is required to provide enhanced pedestrian connections to encourage pedestrian use. The applicant has provided a pedestrian gateway into the site using landscaping and hardscape materials including a staircase with wrought iron railings on the walkway from the street to the front façade.

8. Waivers:

The applicant is requesting the following waivers from the City's Downtown dimensional and parking standards. The justification provided to support the waiver requests by the applicant can be found in the waiver request letter included in this packet.

1. Waiver from UDO, Section 18.20.210.B.1 – *Request for a waiver to allow a reduction in the Frontage Buildout for non-residential buildings in the Downtown District from 80% to 55%.*
2. Waiver from UDO, Section 18.20.210.D.3 – *Request for a waiver to allow more than one (1) commercial off-street parking area on one block in the Downtown District.*

UDO, Section 18.40.240.D.2 states, "The Approving Authority may approve the waiver if the applicant demonstrates one (1) or more of the following, and if the area proposed for modification is illustrated on the plat or site development plan."

- a) An alternative higher quality development design with no negative impacts to either the residential or nonresidential properties.
- b) Development restrictions imposed on the property to ensure low impact land uses, low scale buildings, and a site design arrangement in which adjoining residential properties will not be negatively impacts by any change in the applicable regulations.
- c) Existing topography, hedgerows, or natural features provide significant screening and an appropriate buffer for adjoining properties.
- d) Significant buffers are provided on adjoining residential properties and those properties will not be negatively impacted by any change in the applicable regulations.
- e) The regulations impose an unnecessary hardship upon the property owner arising from conditions unique to the property and alternative site design, building design, and building arrangements that are not possible. In such instances, findings shall be prepared that:
 - a. No private rights will be injured or endangered by the Waiver.
 - b. The public will suffer no loss or inconvenience thereby and that in justice to the applicant or applicants the application should be granted.

Staff Analysis of Waiver Requests:

Staff is supportive of the waiver requests due to the proposal meeting the criteria of providing a site design in which adjoining residential properties will not be negatively

impacted by the change in regulations and an alternative higher quality design being provided. The requested reduction in building frontage buildout to 55% of the lot width allows a design that is more compatible with adjacent and other nearby residential development in terms of scale and spacing. The remaining 45% of the frontage area of the lot is all to be used as open green space, to provide an additional buffer from the office use to the existing residential structure to the north.

The Downtown District does not allow more than one commercial-off street parking area on any one block, and the block that the subject property is on already has an existing off-street parking area, with 17 parking stalls, which is located on private property, which is not owned by the applicant. While the proposed office building does not have a high parking demand, the applicant requested that an off-street parking area be allowed to serve the office, just to the south of the building, with vehicular access from the alley. Not only will the four off-street parking stalls alleviate potential congestion on Chestnut Street, which is a local street that allows on-street parking in both directions, but it also allows a direct, accessible route to a building entry. Therefore, staff supports this waiver request for off-street parking.

9. Comprehensive Plan Analysis:

The future land use map of the *Comprehensive Plan* identifies the subject property as “Urban Center/Downtown.” The proposed Downtown zoning and office development is appropriate for this area.

The following are criteria for considering rezoning applications as listed in *Unified Development Ordinance (UDO) Section 18.40.090 G*.

A. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.

The property falls within the current *Plan Olathe* designation for Urban Center/Downtown. The entire property is currently zoned R-2 (Residential Two-Family) and is proposed to be rezoned to D-Downtown (Mixed-Use). The Urban Center/Downtown area is intended to serve as a primary business, government, and commercial hub as well as a place for art, community spaces, and cultural exhibits, with a revitalized historic downtown at the core of the urban center. The Urban Center/Downtown Area will include new entertainment options, restaurants, offices, retail, civic, and cultural amenities as well. The proposed rezoning and construction of a new office building complies with other goals and principles of the *Comprehensive Plan*.

- **Principle LUCC-4:** “Encourage mixed-use development, especially in the downtown area, to support commercial uses, promote walkability, and provide for a variety of housing options.”
- **Principle HN-1.3:** “Design infill and redevelopment to avoid negative impacts and ensure compatibility and appropriate transitions between land uses.”
- **Principle HN-1.8:** “Encourage infill housing in older residential neighborhoods that is architecturally compatible with surrounding properties.”
- **Principle CRL-3:** “Where possible, new construction should complement nearby historic buildings.”

- **Principle OT-1.1:** *“Encourage multiple uses Downtown. This includes office, services, and government as well as retail, restaurants, entertainment, and night life, mixed with a diversity of residential housing types and other compatible uses in a manner that is harmonious with the historic character of Downtown.”*

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 of a law office has existed at the subject property for the past 9 years and is compatible with the uses in the general area, which include other law offices, cultural arts centers, civic uses, and low-density residential development. The proposed building was designed in a way to be compatible with the surrounding properties in regards to architectural style, building materials, mass, and open space. The block that the existing property is located on primarily consists of buildings that have the appearance of a residential structure, while some of them, especially on the southern portion of the block, function as an office.

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 properties immediately north and east of the subject property have residential zoning designations, while the properties immediately to the south are zoned CP-O (Planned Office Building District) and C-O (Office Building District). Properties further south and west of the immediately adjacent lots are zoned D-Core (Downtown). All of the uses immediately adjacent and in the general vicinity of the subject property have uses which are compatible to the use that is proposed with this application. The existing use has been located at the subject property for the past 9 years and can function in a building that has a residential appearance.

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

Residential uses are allowed on the subject property with the existing R-2 zoning, but the existing and proposed use for a law office in the proposed Downtown district are appropriate for this site due to the surrounding mix of uses.

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

The subject property has been zoned R-2 since 1970, when the conventional zoning was originally established in the City. The existing structure was constructed in 1920, and the property has remained occupied for the past 9 years as an office.

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

The proposed redevelopment of a new office building on the subject property should have no detrimental affect on nearby properties. The proposed building is designed in a similar scale and mass as the existing building that has been in the same location for the past 99 years.

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 existing use of a child advocacy law office has had no apparent adverse effect to the road network or creating any parking problems in the vicinity. On-street parking is allowed on both sides of Chestnut Street, which the subject property has frontage on. The proposed redevelopment of the site is increasing the off-street parking for the same use by two parking stalls, as the applicant is proposing four off-street parking stalls, that will take access from the existing alley to the south of the subject property.

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

The proposed redevelopment of an office should not create any air pollution, water pollution, or other environmental harm.

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

Construction of the proposed development should increase the value of the subject property and contribute to improved quality and character of the surrounding neighborhood, potentially influencing improved property values.

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 rezoning to D-Downtown (Mixed-Use) does not pose a threat to the public health, safety and welfare. Denial of this application could be considered a hardship to the property owner.

10. Staff Recommendation:

- A. Staff recommends approval of RZ19-0008 for the following reasons:
 - (1) The proposed development complies with the policies and goals of the *Comprehensive Plan* for Land Use, Housing, Original Town and Cultural Landmarks & Resources.
 - (2) The requested rezoning to D-Downtown (Mixed-Use) district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
- B. Staff recommends approval of the rezoning to the D-Downtown (Mixed-Use) district.
- C. Staff recommends approval of the associated preliminary site development plan for My Child Advocate, subject to the following stipulations.
 - (1) A final site development plan shall be approved prior to issuance of a building permit.

- (2) The existing structure shall be documented and archived with the Olathe Historic Preservation Board prior to any demolition permit approval.
- (3) Fiber cement panels shall be used in the areas that say lap siding on the elevations.
- (4) 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.