



City of Olathe
Planning Division

MINUTES – Opening Remarks

Planning Commission Meeting: August 12, 2019

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

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 MN19-0722, the meeting minutes from July 22, 2019, was made by Comm. Nelson and seconded by Vice Chair Rinke and passed with a vote of 8-0.



City of Olathe
Planning Division

MINUTES

Planning Commission Meeting: August 12, 2019

Application:	<u>FP19 0012:</u> Request approval for a final plat for College Meadows Fifth Plat containing 7 lots and 1 common tract on 7.19± acres; located in the vicinity of W. 113th Street and S. Crestone Street.
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A motion to approve FP19-0012 on the Consent Agenda was made by Comm. Nelson and seconded by Comm. Corcoran, and passed with a vote of 6 to 0 with the following staff stipulations:

- a. The final plat is subject to a street excise tax of \$0.215 per square foot of land. Based on the plat area, the required street excise fee is \$67,297.09. The required excise fee shall be submitted to the City Planning Division prior to recording the final plat.
- b. The final plat is subject to a traffic signal excise tax of \$0.0037 per square foot of land area. Based on the plat area, the required signal excise fee is \$1,158.14. The required excise fee shall be submitted to the City Planning Division prior to recording the final plat.
- c. The final plat shall identify a Public Recreation Easement (PR/E) in Tract O.
- d. Prior to recording the final plat, an executed stream corridor maintenance agreement shall be submitted to Public Works.
- e. Prior to recording the final plat, a copy of the recorded HOA agreement shall be submitted that describes maintenance of all stormwater quality BMP's, detention facilities and stream corridor.
- f. Prior to recording the plat, standard orange barricade fencing shall be installed around all tree preservation areas. Any destruction of trees within preservation areas is subject to the penalties outlined in *UDO* Section 18.30.240.



City of Olathe
Planning Division

MINUTES

Planning Commission Meeting: August 12, 2019

Application:	PP19-0003 Preliminary Plat for Bear Creek
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Dan Fernandez, Planner II, presented an application for approval of a preliminary plat for three single-family lots at the southeast corner of 159th Street and Lindenwood Drive. Staff is recommending approval with stipulations. He also noted that the applicant is requesting waivers from the UDO and contesting a few of staff's stipulations.

Mr. Fernandez presented an aerial of the site with location and surrounding zoning. Staff requires a 25-foot right-of-way be dedicated along the southern limits of the property. The plan as submitted does not align with the City's Access Management Plan, which promotes connectivity. The plan as proposed would also eliminate a connection point to any future development to the east.

Mr. Fernandez further noted that once 159th Court is continued to the east, the access drive will be rerouted and connect to 159th Court because 159th Court is a street with a lower level of service. Also, this will reduce the amount of conflicts compared to Lindenwood Drive.

Mr. Fernandez then stated that the access drive shown is 18 feet in width; staff is stipulating that this be 22 feet, which is the minimum required to accommodate two-way traffic. Also, all future buildings must meet minimum front yard setbacks along both Lindenwood Drive and 159th Court. Should this plat be approved with the proposed stipulations, a revised preliminary plat meeting the required stipulations will be required for review and approval by the Planning Commission prior to submitting for final plat.

Mr. Fernandez said the applicant is requesting a waiver from the 25-foot landscape tract requirement along arterial roads. Instead, they are proposing a 20-foot easement. Staff is supportive of both waiver requests and recommends approval of the preliminary plat with stipulations.

Comm. Corcoran asked who is responsible for maintaining the landscape easement. **Mr. Fernandez** responded that the owner of the property would be responsible initially, and once Lot 1 sells, the owner of Lot 1 would be responsible for maintaining that easement.

Comm. Nelson thinks the extension of 159th Court is important because of potentially landlocking property behind it. He asked Mr. Fernandez if accessibility to property to the east was a concern. **Mr. Fernandez** responded that it is, and continuing connectivity whenever possible is always recommended. Comm. Nelson is concerned about the reduction to 20 feet and questions how it will impact sidewalks and bike connectivity in the future. Mr. Fernandez responded that the applicant is dedicating necessary right-of-way for this preliminary plat. The right-of-way is not being reduced, just the buffer.

Comm. Fry asked if 159th Court goes through, if there is a scenario where the developer could still have three lots.. **Comm. Corcoran** asked about minimum lot width; Mr. Fernandez responded it is 60 feet. **Comm. Fry** noted that the buffer to the north is probably less of an issue because there are only two lots.

Chair Vakas asked the applicant to come forward. **Mark Huggins**, Payne & Brockway, Applicant, 426 South Kansas, approached the podium. Mr. Huggins discussed 159th Court. He pointed out that 159th Street is an arterial street, and Lindenwood to the west is a collector street. The proposed street would be about 190 feet south of the arterial, which is less than the requirement. He added that 25 feet of right-of-way does not allow for space to build 159th Court. In order to be built, 25 feet from the property to the south would be needed, which would put the right-of-way into an existing house. Therefore, he does not see how it is physically possible to build the house as proposed.

Mr. Huggins said the property to the east is approximately 46 acres and is currently used for large-lot residential development, however, on the City's future master plan, it is shown as mixed-use residential, which could include commercial and services. He added that the 46 acres has an existing street location to the north onto 159th Street, which street location would meet the Access Management Plan's requirement. Also, on the east side of the property is a collector roadway that intersects Mur-Len. Therefore, there are two locations where the 46 acres could access arterial roadways, and there is a third road that intersects this acreage to the south. He believes this 46 acres could be adequately served with currently accessible roads when it comes into develop. He further believes 159th Court is not a road that could be built, nor would the owner/developer have the right to build it. He sees this as devaluing the property by going from three lots to two lots, with no certainty that access could be improved to the 46 acres.

Comm. Nelson asked which 46 acres Mr. Huggins was referring to. Mr. Huggins indicated he is talking about the property that has not been platted. There were no other questions of the applicant. **Chair Vakas** asked Mr. Fernandez or Mr. Belcher to talk about more about the roadways and the adequacy of that infrastructure. **Mr. Belcher** stated there is a strong encouragement to maintain connectivity preserve the street network. **Comm. Fry** asked if it could currently be built with the house to the south as it exists now. Mr. Belcher responded that the house would have to be torn down, but that could be well into the future. **Comm. Nelson** asked where this goes after tonight, and if there are ideas where this will connect to the south. Mr. Belcher envisions connection to Heatherwood and an extension up to 159th Street.

Comm. Fry stated he does not support putting the landowner in the position of having to tear down a house to put in a road that he does not believe fits. Chair **Vakas** called for a motion.

Motion by Vice Chair Rinke, seconded by Comm. Sutherland, to recommend approval of PP19-0003, with the following stipulations:

- a. 25-feet of right-of-way shall be dedicated along the southern limits of the property to accommodate future expansion of 159th Court to the east.
- b. All drive access shall be relocated to 159th Court when 159th Court is constructed. The curb cut on to Lindenwood Drive shall be removed after access is provided on 159th Court.

- c. All buildings shall meet the front yard setbacks from both Lindenwood Drive and the future 159th Court.
- d. The interior access drive shall be 22-feet wide to accommodate two-way travel.
- e. A waiver shall be granted to allow for a 20-foot landscape easement along 159th Street with landscaping which exceeds the minimum requirements of the UDO.
- f. A revised preliminary plat in accordance with the stipulations listed above will be submitted for review and approval before the Planning Commission prior to approval of the final plat.
- g. A landscape plan shall be submitted with the final plat.
- h. All excise fees shall be submitted to the City Planning Division prior to recording the final plat.

Aye: Sutherland, Nelson, Rinke, Vakas (4)

No: Fry, Corcoran (2)

Motion was approved 4-2.



City of Olathe
Planning Division

MINUTES

Planning Commission Meeting: August 12, 2019

Application	<u>PR19-0016</u> Final Site Development Plan for WaterOne Elevated Tank
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Kim Hollingsworth, Senior Planner, presented the staff report for PR19-0016, a request for acceptance of a final development plan for the WaterOne Elevated Tank located southeast of K-7 and K-10 Highway. She provided a history of the proposed tank, noting that the City of Olathe and WaterOne entered into an intergovernmental agreement related to the facilities in 2013, and a pump station was built in 2016. She also explained the process for reviewing the item under the intergovernmental agreement.

Ms. Hollingsworth noted that this site was annexed in 1996 and maintains the County Rural District zoning designation and is designated an Employment Area on the PlanOlathe Future Land Use Map. She said the new elevated water tank would be very similar to the existing WaterOne tank on Renner Boulevard and would primarily serve as backup and storage for the Renner tank. She added that the applicant provided an overall view of the site showing improvements, including a gravel roadway from Lone Elm to the site. A security fence is also proposed for the site along with landscaping around the perimeter.

Ms. Hollingsworth presented an elevation of the tower. The branding and appearance of this tower matches other WaterOne towers. Additionally, the applicant held a neighborhood meeting, with no other individuals in attendance. City staff has not received any correspondence from members of the public or surrounding property owners. The applicant has also corresponded with the city of Lenexa regarding the project.

Ms. Hollingsworth concluded by saying staff recommends acceptance of the final development plan, and because this item is an acceptance this evening, staff and the applicant continue to vet and finalize the stipulations, which is customary in an item of this nature.

Chair Vakas asked if any Olathe residents are impacted by this tower. **Ms. Hollingsworth** said no Olathe residents live within the typical neighborhood notice boundary and the nearest Olathe neighborhood is at least 0.5 miles east. **Comm. Fry** has heard rumors about Lone Elm potentially becoming an exit off of K-10. He questioned if this tower would impact that decision. **Chet Belcher, Transportation Manager**, approached the podium and stated there no intention to pursue an interchange at that location any time in near future.

Chair Vakas opened the public hearing and asked the applicant to come forward. **Michelle Wirth**, Director of Production, WaterOne, 10747 Renner, Lenexa, approached the podium. She provided background and information on WaterOne. She said they review their master plan every five years, and these project needs were identified in 2008. A site selection study was completed in 2011 and supporting pipeline improvements were completed in 2016. She explained the purpose for this tower, including the ability to meet growing demands and for emergency storage. Once this tower is in service, the primary tower in Lenexa will be temporarily taken out of service for maintenance. She further explained why elevated water storage is preferred, including lower capital cost and maintenance costs.

Ms. Wirth presented renderings and views from various directions. They hope to advertise for bids starting in October 2019, and anticipate construction beginning in January 2020 through spring of 2021. They plan to place the tower in service in the summer of 2021. She noted that there are additional stipulations that they will be working through with staff, per the intergovernmental agreement.

Chair Vakas asked if this is WaterOne's second elevated storage tank. **Ms. Wirth** noted that there are tanks similar to this one at 199th and Lackman, one going in on Johnson Drive, and the Renner tower location. There are about 10 other facilities throughout the area that include either pump stations or older-style water towers.

Chair Vakas asked Ms. Wirth to talk further about security considerations. **Ms. Wirth** replied i Infrastructure such as this is considered critical infrastructure under Homeland Security, which is why towers such as this have fencing. Security comes primarily from the fencing, and she notes that there is limited access from public streets.

Comm. Fry is interested in the sign on the water tower and questioned whether it could be more Olathe-centric, considering it could be seen somewhat as a gateway into Olathe. **Ms. Wirth** responded that this tower is almost identical to the other site, and due to the proximity of it, they recommend staying with the current tank logo design. **Comm. Fry** would like to consider what else could be done to reflect a welcoming feeling to Olathe. **Comm. Nelson** agrees, and notes that storage facilities on the edge of town were not approved in the past because of the first impression those could make. He appreciates the importance of this tank making the area more developable. He also questioned whether there will be restrictions to what else can be developed in the area, consistent with the Comprehensive Plan. **Aimee Nassif, Aimee Nassif, Chief Planning and Development Officer**, stated that this is an area for future redevelopment, which is why additional landscaping was provided by the applicant.

There were no further questions; **Chair Vakas** called for a motion to close the public hearing.

Motion by Comm. Sutherland, seconded by Comm. Corcoran, to close the public hearing.

Motion passed 6-0.

Motion by Vice Chair Rinke, seconded by Comm. Fry, to recommend acceptance of PR19-0016 with the following staff stipulations:

- a. The development shall be maintained in accordance with the provisions and requirements of the Intergovernmental Agreement signed September 3, 2013 and attached as Exhibit A, and all subsequent amendments to the referenced agreement.
- b. WaterOne will participate in future roadway access improvements determined when future development plans are prepared as identified in the letter provided to the City of Olathe dated August 5, 2019 and attached as Exhibit B.
- c. The six-foot tall chain-link security fence shall be finished in a black anodized coating.
- d. Tree protection fencing shall be installed within all tree preservation areas as shown on the landscape plan dated July 31, 2019.

- e. Wireless communication facilities including towers or antennae located outside any building shall only be allowed by separate approval of the City of Olathe.
- f. Any buildings and accessory structures must be approved by the City of Olathe and in accordance with the requirements of the Intergovernmental Agreement.

Aye: Sutherland, Nelson, Rinke, Fry, Corcoran, Vakas (6)

No: (0)

Motion was approved 6-0.



City of Olathe
Planning Division

MINUTES

Planning Commission Meeting: August 12, 2019

Application:	<u>SU19-0003</u>: Renewal of a special use permit for keeping chickens on a lot less than three (3) acres
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Andrea Fair, Planning Intern, presented this request for a special use permit renewal to keep chickens on a residential lot less than three acres and is also requesting an increase in the number kept. The residence is located in a residential neighborhood at 509 South Willow Drive. The chicken coop is 60 square foot in size and has a roof. Mulch is used to reduce odor and provide bedding. The chickens have areas to roam, roost and nest. The coop is cleaned regularly and the waste is composted for trees on the property and nearby community garden.

Ms. Fair stated that staff is in support of the applicant's request for a renewal to this special use permit, and to keep two additional chickens. No complaints have been received and the site remains in good condition, meeting all UDO requirements. Staff is recommending approval.

Vice Chair Rinke asked what limits have been placed on other special use permits allowing chickens. **Ms. Fair** said there is one other existing permit for six chickens.

Chair Vakas opened the public hearing and asked the applicant to come forward. **Roy Wesley McCoy, 509 South Willow Drive**, Applicant, approached the podium. He has lived with his wife at this residence for 15 years. He has five chickens right now, no roosters, and would like to increase to eight. They rotate the chickens to maximize egg production. They use the eggs for personal consumption, as well as give eggs away to others.

Comm. Fry asked if Mr. McCoy would object to having more than five years for the permit. **Mr. McCoy** said he would like to have 10 years, if possible. **Chair Vakas** called for a motion to close the public hearing.

Motion by Vice Chair Rinke, seconded by Comm. Fry, to close the public hearing.

Motion passed 6-0.

Comm. Fry said he is willing to support a 10-year special use permit in this situation.

Motion by Comm. Fry, seconded by Vice Chair Rinke, to recommend approval of SU19-0003, for the following reasons:

- (1) The proposal conforms to the Goals, Objectives and Policies of the *Comprehensive Plan*.
- (2) The proposal complies with the *Unified Development Ordinance (UDO)* criteria for considering special use permit requests.
- (3) The applicant has not received any complaints since the approval of the first Special Use Permit, SU14-0004.

Comm. Fry's motion included recommending that the following stipulations be included in the ordinance, as amended:

- (1) The Special Use Permit is valid for a period of ten (10) years ~~5-years~~ following Governing Body approval, with an expiration date of September 3, 2029 ~~2024~~.
- (2) The property shall be limited to a maximum of 8 chickens at any one time.
- (3) The raising of the chickens shall be limited to personal (hobby) purposes only. Chickens may not be bred, boarded or sold for commercial purposes.

Aye: Sutherland, Nelson, Rinke, Fry, Corcoran, Vakas (6)

No: (0)

Motion was approved 6-0.



City of Olathe
Planning Division

MINUTES

Planning Commission Meeting: August 12, 2019

Application:	<u>VAC19-0003</u>	Vacation of sanitary easement (Benton House of Olathe)
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Dan Fernandez, Planner II, presented a request for vacation of sanitary a sanitary easement for Benton House, located at the northwest corner of 151st Street and Blackfoot Drive. The request is being made because a new sanitary easement was dedicated with the final plat and the new line is located within the new easement. The easement to be vacated is no longer necessary. Staff recommends approval as proposed.

Chair Vakas opened the public hearing and asked the applicant to come to the podium. However, the applicant was not present. **Mr. Fernandez** noted that for a simple matter such as this, presence of the applicant is not necessary. Chair Vakas called for a motion to close the public hearing.

Motion by Comm. Sutherland, seconded by Comm. Nelson, to close the public hearing.

Motion passed 6-0.

Motion by Comm. Sutherland, seconded by Vice Chair Rinke, to recommend approval of VAC19-0003, as follows:

Staff recommends approval of the sanitary easement vacation as proposed.

Aye: Sutherland, Nelson, Rinke, Fry, Corcoran, Vakas (6)

No: (0)

Motion was approved 6-0.



City of Olathe
Planning Division

MINUTES

Planning Commission Meeting: August 12, 2019

Application:	<u>RZ19 0009:</u> Request approval for a rezoning from R 1 District to Downtown (Mixed Use) District and preliminary site development plan for Olathe Glass Expansion on 1.48± acres; located at the northeast corner of the intersection of Santa Fe Street and East Kansas City Road.
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Motion to continue RZ19-0009 to a future Planning Commission meeting was made by Comm. Nelson and seconded by Vice-Chairman Rinke.

Motion passes 6-0.



City of Olathe
Planning Division

MINUTES

Planning Commission Meeting: August 12, 2019

Application:	<u>RZ19 0010:</u> Request approval for a rezoning from CTY RUR District and C 2 District to R 2 (Residential Two Family) District and preliminary site development plan for Cedar Creek Twin Villas on 20.33± acres; located in the northeast corner of the intersection of College Boulevard and the future Cedar Creek Parkway.
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Motion to continue RZ19-0010 to a future Planning Commission meeting was made by Vice-Chairman Rinke and seconded by Comm. Sutherland.

Motion passes 6-0.



City of Olathe
Planning Division

MINUTES

Planning Commission Meeting: August 12, 2019

Application:	<u>RZ19-0011</u>: Request for a zoning amendment to Ordinance 17-55, for a Planned District (PD) and revised preliminary site development plan for Tommy's Express Car Wash
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Dan Fernandez, Planner II, presented a request for a zoning amendment to Ordinance 17-55 for the Archer Subdivision Planned District, to allow for a car wash facility on a Lot 2 of the development. He said staff is not supportive of this zoning amendment and is recommending denial. Although staff informed the applicant of this recommendation to deny, the applicant wished to proceed. **Mr. Fernandez** presented the approved preliminary plan, noting apartments on the west side, Lot 2 or the proposed car wash, and additional commercial to the south. The applicant submitted a site plan for the car wash, which is a prohibited use so has not been reviewed by staff because of the zoning recommendation for denial. He said staff recommends denial because the proposed car wash is not consistent with the policies and goals of the Comprehensive Plan; the car wash does not align with the stipulations agreed upon at the creation of the Planned District; and the application does not meet several of the criteria for a rezoning under section 18.40.090 of the Unified Development Ordinance.

Vice Chair Rinke noted a statement of purpose from the applicant, indicating that the closest car wash is about four miles away. Vice Chair Rinke questioned if there is a car wash actually adjacent to the Archer Subdivision. **Mr. Fernandez** said there is.

Chair Vakas opened the public hearing and asked the applicant to come to the podium. **Rob Heise, 10561 South Glenview Lane**, approached the podium. Mr. Heise acknowledged that there is a car wash immediately adjacent to the subdivision, but not one that processes cars as quickly as theirs. He provided a history of the application process, which started in January of 2019. They understand that a car wash is not allowed in this district, but due to the lengthy amount of due diligence they have provided, they believe a car wash is warranted. He also noted there is a regional commercial center to the north that includes other drive-through or vehicle-related types of establishments, as well as auto service stores.

Comm. Nelson questioned how this particular car wash could be allowed and others couldn't. The auto stores are still retail stores, not service stores. He does not feel that the applicant is addressing staff's reason for denial. **Mr. Heise** does not know why car washes were not allowed in the original rezoning. However, he said the master developer for the overall Archer Court development has provided a letter in support of their project, saying it would be good for the apartment component of the overall project. He said they are also working with other retail developers in town to develop the commercial along the front, and they are also supportive of their car wash.

Rocky Gupta, 397 South Parker Street, approached the podium. He said there are actually four car washes in a one-mile radius from this location. They own one at 355 South Parker

Street. Another one is at Santa Fe and Ridgeview, one at Santa Fe and Parker Street, and one behind Quik Trip. He and his partner own several car washes in the Kansas City area. Other than competition, he is concerned about making the area auto-centric. Also, he stated that car washes do not create very many jobs because many of them are self-service. He believes adding another car wash will create problems with traffic. He supports staff's request for denial.

There being no one else to be heard, **Chair Vakas** called for a motion to close the public hearing.

Motion by Comm. Nelson, seconded by Comm. Sutherland, to close the public hearing.

Motion passed 6-0.

Comm. Fry asked staff to describe concerns that were raised and why a car wash in this location is not a good idea. **Aimee Nassif, Chief Planning and Development Officer**, said that when the development originally came in, it was proposed and approved as a Planned District. In a Planned District, the developer is allowed to propose their own development standards for items such as building height, site layout, setbacks, and land uses are negotiated in exchange.. This area was created and approved as a pedestrian-friendly and pedestrian-oriented uses, not motor vehicle-type uses. This is why car washes were specifically prohibited in this planned district.

Comm. Nelson does not understand why the developer would write a letter saying they support a car wash after they were part of the process that said one would not be allowed. He supports staff's recommendation for denial.

Motion by Comm. Nelson, seconded by Vice Chair Rinke, to recommend denial of RZ19-0011, for the following reasons:

- A. As detailed in this report, the proposed zoning amendment to allow a car wash in the Archer Subdivision Planned District is not consistent with the policies and goals of the Comprehensive Plan for a Neighborhood Commercial Center as identified in PlanOlathe. Neighborhood Commercial Centers are intended to define neighborhoods as specific places and be suited to a pedestrian friendly design and character.
- B. The proposed development of a car wash does not align with the stipulations that were agreed upon in the creation of this Planned District. A stipulation was included on the zoning ordinance stating that car washes were not allowed in the Archer Subdivision.
- C. As proposed, this application fails several of the criteria for a rezoning under section 18.40.090 of the Unified Development Ordinance.
 - 1) *"The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies."*
 - 2) *"The character of the neighborhood including but not limited to: land use, zoning, density (residential), floor area (nonresidential and mixed use), architectural style, building materials, height, siting, and open space."*
 - 3) *"The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses."*

- 4) *"The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations."*
- 5) *"The length of time the property has been vacant as zoned."*
- 6) *"The extent to which approval of the application would detrimentally affect nearby properties."*

If the Planning Commission recommends denial of the zoning amendment to the Archer Subdivision Planned District, as recommended by staff for failure to meet the UDO criteria for rezonings, approved stipulations of the Archer Subdivision Planned District, and PlanOlathe goals, the application will still proceed to the City Council. If the zoning amendment is denied, the associated preliminary development plan would automatically fail as the requirements and standards for the plan review are based upon the requested zoning amendment. Should the zoning amendment be approved, a preliminary development plan would return at a later date to the Planning Commission and City Council following staff review of the development plan.

Aye: *Sutherland, Nelson, Rinke, Fry, Corcoran, Vakas (6)*

No: *(0)*

Motion to deny was approved 6-0.



City of Olathe
Planning Division

MINUTES – Other Matters

Planning Commission Meeting: August 12, 2019

Chair Vakas noted that the next Planning Commission is scheduled for Monday, August 26, 2019, at 7:00 p.m.

There were no other announcements.

Meeting adjourned.