

STAFF REPORT

Planning Commission Meeting: November 25, 2019

Application:	<u>SU19-0006:</u> Special Use Permit for keeping chickens on a lot less than 3 acres		
Location:	430 E Cedar Street		
Owner:	Vickie Jestice		
Applicant:	Madison Scott and Brent Jestice		
Staff Contact:	Kim Hollingsworth, AICP, Senior Planner		
Site Area:	<u>1.07± acres</u>	Proposed Use:	<u>Keeping Chickens on a Lot Less than 3 Acres</u>

	Plan Olathe Land Use Category	Existing Use	Current Zoning
Site	Mixed Density Residential	Residence, Single-Family	R-1
North	Urban Center/Downtown	Residence, Single-Family	R-2
South	Mixed Density Residential	Residence, Single-Family	R-1
East	Mixed Density Residential	Residence, Single-Family	R-1
West	Mixed Density Residential	Residence, Single-Family	R-1

1. Introduction

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

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

2. Details of Proposal

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

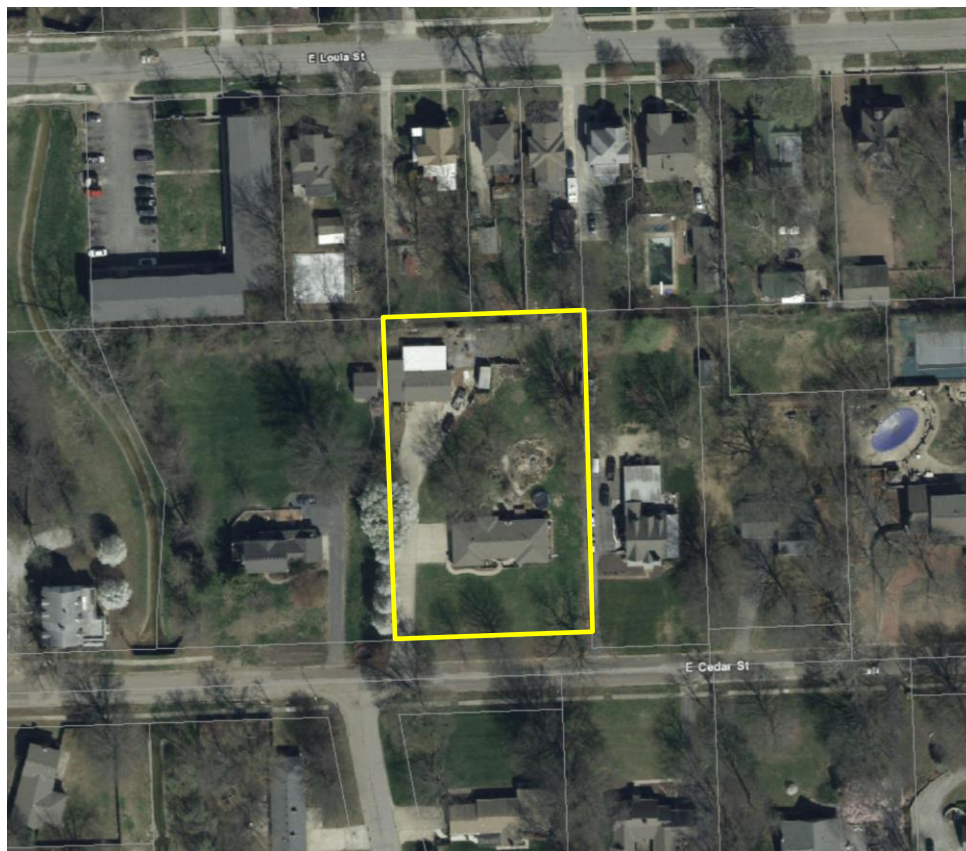
protected indoor area for the chickens. The applicant tends to the chickens throughout the week and completes a more thorough cleaning every weekend. The waste collected from the chickens is used as a natural fertilizer for the garden.

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

3. Existing Conditions

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

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



Aerial View of Subject Property and Surrounding Vicinity



View of Existing Chicken Coop

4. Public Notification

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

5. Time Limit

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

6. Comprehensive Plan Analysis

The following are criteria for considering special use applications as listed in *Unified Development Ordinance (UDO) Section 18.40.090 G* and staff findings for each item:

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

The Comprehensive Plan promotes sustainable and environmentally conscious practices to encourage the responsible use of land in Olathe.

B. *The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).*

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

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

C. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

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

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

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

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

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

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

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

G. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

The proposed use will have no impact on the road network or parking available on the property.

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

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

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

There is no anticipated economic impact on the community.

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

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

7. Staff Recommendation

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