



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 2/5/2019

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**DEPARTMENT:** Public Works, Planning Division

**STAFF CONTACT:** Zachary Moore, Planner II

**APPLICANTS:** Roy Ingelse and Tracie Alexander

**SUBJECT:** SU18-0005: 1512 E. Frontier Lane; Request for a Special Use Permit to allow more than four animals (dogs) at one household.

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**ITEM DESCRIPTION:**

Consideration of a special use permit (SU18-0005) to allow more than four (4) animals at a residential household; located at 1512 E. Frontier Lane. Planning Commission recommends denial 5-0

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**SUMMARY:**

The following application is a request for a SUP to allow the keeping of up to ten dogs at one household at one time. A SUP is required to keep more than four animals at one time, and this is the first SUP request for the property located at 1512 E. Frontier Lane.

The applicants held a neighborhood meeting on July 23, 2018, and there were thirteen people in attendance. Some of the topics discussed at the neighborhood meeting included waste from the dogs, if any new buildings were proposed on site, the relationship between the owners and the dogs, if the dogs have bitten anyone, recent repairs of the fence, the ongoing court case, and dogs barking in the neighborhood. Minutes from the neighborhood meeting are in this packet.

A SUP allows one household to keep more than four dogs at one household. Staff discovered, during its research, that the breeding and selling of dogs on the subject property has been occurring. Breeding and selling of dogs is classified as an Animal Care Facility, per the *Unified Development Ordinance (UDO)*, and is not allowed in any residential zoning district. Staff advised the applicant that the breeding and selling of dogs was not an allowed use at this property by right or with the SUP, however, the applicant chose to proceed with the application.

Since 2007, the City of Olathe Animal Control Division (Animal Control) received seven different reports, and issued eleven citations regarding the dogs that are being kept at 1512 E. Frontier Lane, including four "Over the Limit" (keeping more than four dogs) and "No City Licenses" citations. The first citation for being "Over the Limit" was issued in 2014, and the applicant was made aware of the SUP requirement at that time. On July 17, 2018, Animal Control sent staff an email, which is included in this packet, which listed the court cases and reports on file, along with Animal Control's recommendation that this application be denied.

On January 14, 2019, the Planning Commission held a public hearing for this application. The Planning Commission discussed the number of open violations that are pending in Municipal Court, the number and nature of violations, and that commercial uses, such as the Animal Care Facility use

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occurring on site, are not allowed in residential zoning districts. Staff recommended denial and the Planning Commission recommend denial of the SUP request with a 5-0 vote, for the following reasons:

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

The use that is occurring on site of animal breeding and the retail sales of animals is not allowed in the R-1 District, and is in violation of the *UDO*. Based on the reports received from Animal Control and correspondence from neighbors, staff finds that issues of public health and safety related to this application exist, and therefore this permit request is not appropriate for this location.

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**FINANCIAL IMPACT:**

None.

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**ACTION NEEDED:**

1. Approve a Special Use Permit to allow ten dogs to be kept at the household at 1512 E. Frontier Lane (super-majority [5 votes required] to overturn Planning Commission recommendation of denial) but return to a future City Council date with stipulations for approval of Resolution 19-XXXX.
2. Deny application SU18-0005 for a Special Use Permit to allow up to ten dogs to be kept at the household at 1512 E. Frontier Lane.
3. Return the Special Use Permit application to the Planning Commission for further consideration with a statement specifying the basis for the failure to approve or disapprove.

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**ATTACHMENT(S):**

- A. Planning Commission Packet
- B. Planning Commission Minutes