



October 9, 2006

**MEMORANDUM**

TO: Northwest Consolidated Zoning Board  
FR: Dean Palos, AICP, Director of Planning  
RE: Olathe Involuntary Annexation Review

The following information is provided in reference to an involuntary annexation proceeding initiated by the City of Olathe for property located on 143<sup>rd</sup> Street. The property is surrounded by the City of Olathe and the City has set an annexation public hearing for October 24, 2006.

Kansas State Statute, K.S.A. 12-530 (b), requires the City of Olathe to submit its resolution of intent to involuntarily annex this property (See Attached) to any county or township planning commission having jurisdiction over any portion of the area to be annexed. As such, the Planning Commission and the Zoning Board are asked to make a finding of the compatibility or the incompatibility of the proposed annexation with the *Johnson County Rural Comprehensive Plan* and the *Olathe Comprehensive Plan*. Consistent with past planning practices, planning staff has reviewed this issue and has provided this report to the Planning Commission and to the Zoning Board for purposes of discussion and consideration.

At its September 26, 2006 meeting, the Johnson County Planning Commission, on a vote of 6-1-1, found the involuntary annexation proposed by Olathe to be compatible with the *Johnson County Rural Comprehensive Plan* and the *Olathe Comprehensive Plan*.

**STAFF REPORT:**

**Property Owners:** Kar Choi and Ying Yau Tse  
**Legal Description:** Part of Section 32, Township 13, Range 23  
**Site Address/Location:** 25020 and 25380 W. 143<sup>rd</sup> Street  
**Existing Land Use and Zoning:** Residential and agricultural with RUR, Rural District zoning  
**Existing Improvements:** Single-family dwelling and farm improvements  
**Site Size:** Approximately 6 acres

**BACKGROUND INFORMATION**

The subject property is currently configured as three rural-zoned parcels containing roughly two acres each. The southeastern parcel contains a single-family dwelling and various agricultural accessory structures, the western parcel contains one small accessory building, and the remaining land is vacant (See Figure 1).

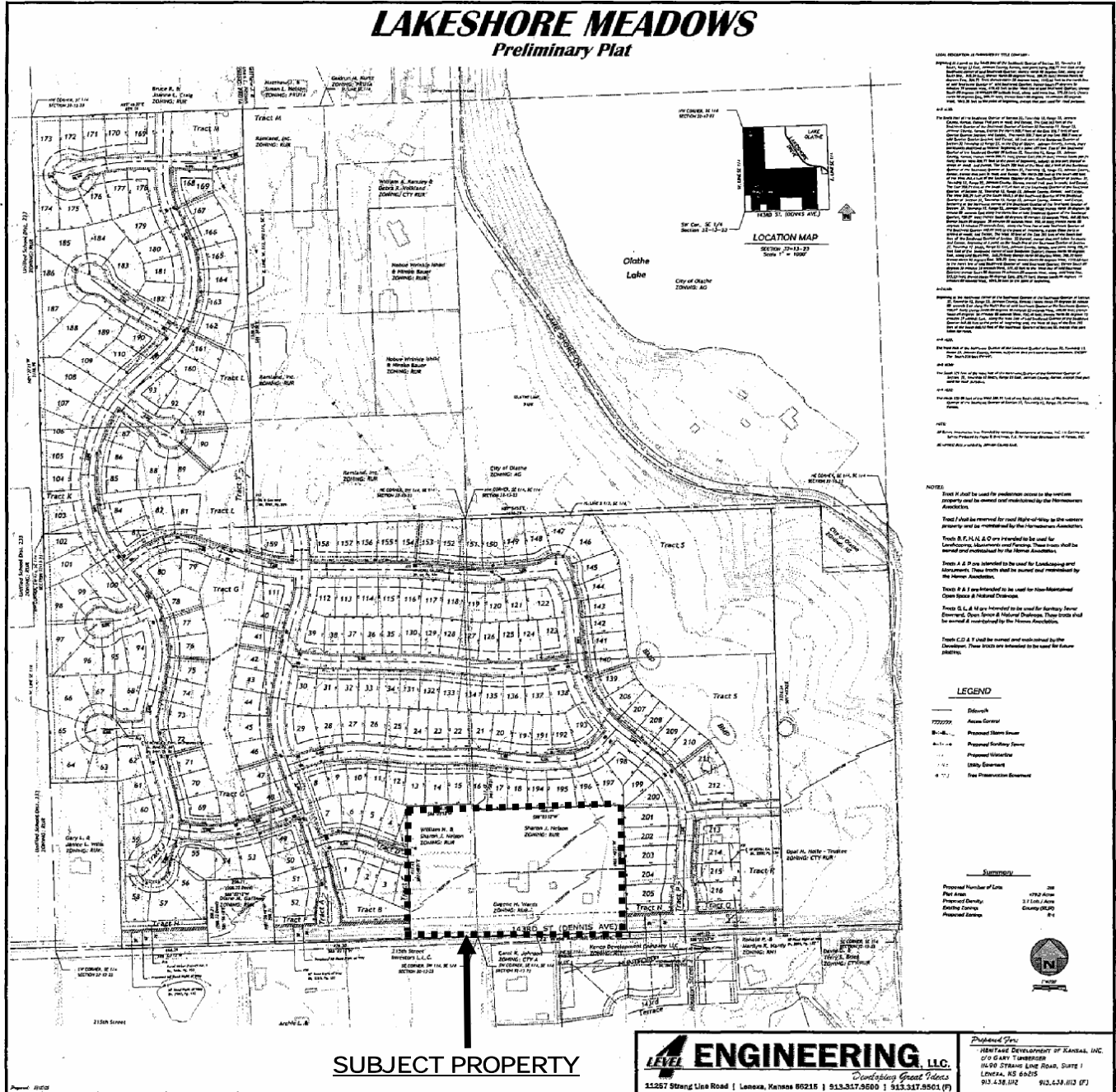
These parcels are surrounded on all four sides by land within the City of Olathe. Further, there is a City of Olathe approved plat for a residential subdivision (Lakeshore Meadows) that surrounds this property on the west, north, and east sides (See Figure 2). Final plats were approved by the City in December, 2005, for the first two phases of this subdivision, which include a stub street abutting the subject property’s west boundary and which otherwise adjoins the subject property on its west and north boundaries.

**Figure 1**



**Aerial view of Subject Property – Current Conditions**

Figure 2



Lakeshore Meadows Residential Plat -- Subject Property Shown Within Dashed Border

**Property and Subdivision History:** The subject parcels are non-conforming and appear to be the products of at least two splits, in 1992 and 2005, there were done by the previous property owner, not in accordance with the *Zoning and Subdivision Regulations* (the Regulations).

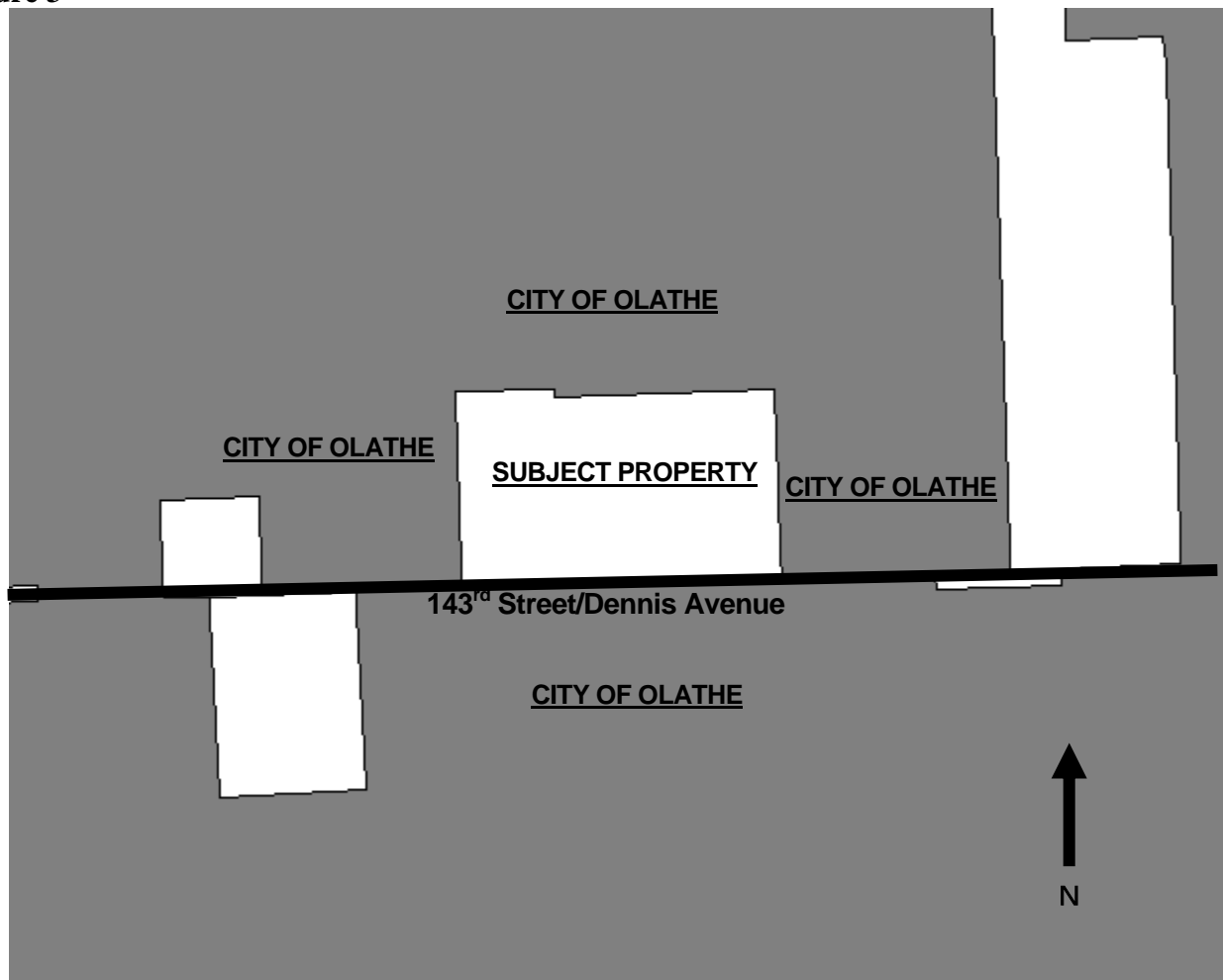
**Zoning History:** This land has been zoned RUR, Rural District, since the district was established as part of the county-wide rezoning in 1994.

This property was recently considered by the County for rezoning. The property owner requested to rezone the subject property from RUR to PRB-1, Planned Rural Retail Business District in order to facilitate a

Development Plan to construct a retail-commercial center and associated infrastructure in four phases, as indicated on the attached Preliminary Development Plan. The application was approved by the Board of County Commissioners on September 21, 2006.

Figure 3, below, illustrates that the subject parcel is surrounded by the City of Olathe.

**Figure 3**



*Areas within the City of Olathe are in gray. Areas not yet annexed into the city are in white.*

The following are what staff believes to be the most relevant excerpts from the adopted County and City Comprehensive Plans, which each set forth general policy guidelines for reviewing developments such as that proposed within the involuntary annexation area.

### **Relevant Johnson County Comprehensive Plan Policy Guidelines**

The "Policy Area Map" in the *Rural Comprehensive Plan: A Plan for the Unincorporated Area of Johnson County* (County Plan) adopted in 2004, designates the subject property as being located within

the “Urban Fringe.” The County Plan provides numerous policies regarding development within the Urban Fringe. The following are excerpts from the County Plan with the particularly relevant statements highlighted in *bold and italics*:

### **3.3 Coordinated Approach to Development**

*Policies:*

1. *The County should cooperate with affected governmental entities*, utilities (e.g., water, electric), and public service providers (e.g., school districts, fire districts), by the exchange of relevant land use planning information.
2. *Islands of unincorporated area surrounded by cities are not desirable from a planning perspective due to the inefficiencies and difficulties of providing County services to these areas.*
3. Areas within unincorporated Johnson County that are currently developing or are expected to develop near cities *should be planned in co-operation with the nearby city or cities.*

*Action Steps:*

1. *To the extent feasible a proposed development in the unincorporated area, near any city, should be coordinated with the plans, regulations, and standards of the nearest city.*

### **3.8 Land Use**

*Policies:*

#### **Non-Residential**

1. *Commercial and industrial development is best suited in cities* or the New Century AirCenter or where there is existing commercial/industrial zoning for it and where there is or will be adequate infrastructure to support it (i.e. roads, public sanitary sewer, and public water).

### **6.1 Urban Fringe Policy Area Description**

Proposed development in the Urban Fringe Policy Area requiring major infrastructure upgrades and higher levels of public services than normally provided by the County *should be avoided or occur within city boundaries* where these necessary services and infrastructure may be provided more cost effectively and efficiently.

#### **6.5.1 Development Review Policies**

In addition to the land use criteria recommended to governmental bodies by the Kansas Supreme Court, rezoning and subdivision applications are also be reviewed based upon, but not limited to, the following policies:

3. *Proposals for development near city boundaries will be reviewed regarding whether such development may or should occur within the nearby city. County staff will consult with the abutting city and will counsel the prospective developer on the reasons and options for developing within the abutting city.*
5. *Contiguous or nearby to similar existing development.*

Based upon the County's Comprehensive Plan policies and recommendations noted above, staff thinks that if this six-acre tract is to be developed, the property should be annexed and its development should occur within the City of Olathe.

Except for the property owners themselves, those citizens and property owners who will be most affected by the development of this property will be the citizens of Olathe. An application for development of this property, therefore, should be heard and reviewed through the City of Olathe's public processes and in accordance with the city's regulations, rather than those of unincorporated Johnson County.

Allowing development of this property to occur within the unincorporated area would also establish a precedent that is contrary to the policies and recommendations contained in the County Plan.

## **Relevant City of Olathe Comprehensive Plan Policy Guidelines**

### **Olathe Annexation Resolution:**

City of Olathe Resolution No. 06-1134 announces the city's governing body's intention to consider annexing the subject property and includes the following three relevant "Whereas" statements:

"WHEREAS, the City of Olathe's Comprehensive Plan provides guidance on the appropriate development patterns for the subject properties;

WHEREAS, Annexation of the below listed properties will allow the City of Olathe the ability to ensure that development of the property will comply with the City's Comprehensive plan, unified Development Ordinance (UDO), and adopted design guidelines; and

WHEREAS, the properties are within the City of Olathe's established future growth area."

### **Olathe Comprehensive Plan:**

The *Olathe Comprehensive Plan* (City Plan) adopted in 1997, shows the subject property as being located within an area designated for future "residential" and "parks and open space". The City's Plan provides general policies regarding development relevant to the proposed annexation. The following are excerpts from the City's Plan with the particularly relevant statements highlighted below in ***bold and italics***:

#### **GENERAL LAND USE GOAL (LU)**

***Achieve a fiscally sound, environmentally safe, and aesthetically pleasing city, through the orderly and efficient development of land.***

**OBJECTIVE LU-A: Evaluate proposed development so it occurs in a fiscally effective manner for the city.**

Policy LU-A3: ***Direct new development to growth areas which currently have all services available.***

**OBJECTIVE LU-B: Encourage and reward innovative and quality site planning, which reduces costs to the public sector.**

**OBJECTIVE LU-C: Ensure adjacent land uses are developed in a manner to minimize negative impacts.**

**CITY SERVICES AND UTILITIES GOAL (CSUT)**

*Coordinate the adequacy, cost, availability, and quality of public services (sewer, water, drainage, fire, police and streets, etc.) to help guide development.*

*OBJECTIVE CSUT-A: Increase cooperation to guide development among the city, county, Water District #1, State of Kansas, and private utility companies.*

Policy LU-C6: *Developments shall coordinate with adjacent projects.*

Policy LU-C7: New developments shall meet or exceed quality standards established by adjacent properties so long as they meet existing codes.

Based upon the City of Olathe’s Comprehensive Plan policies and recommendations noted above, staff thinks that if this six-acre tract is to be developed, the property should be annexed and its development should occur within the City of Olathe.

**STAFF RECOMMENDATION**

Planning Staff recommends that the Zoning Board find that the involuntary annexation proposed by Olathe is compatible with both the County’s and City of Olathe’s comprehensive plans.