

**STAFF REPORT**

August 26, 2020

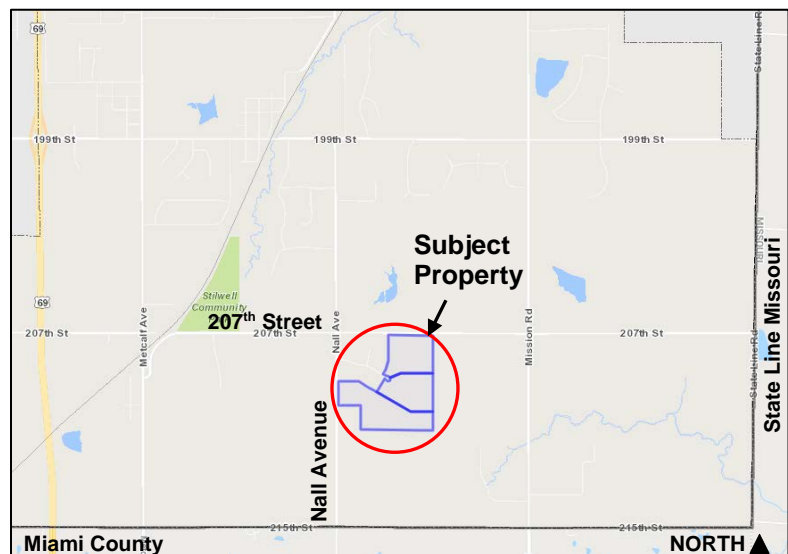
**To:** Southeast Consolidated Zoning Board  
**Fr:** Pamela Hayhow, AICP, Senior Planner  
**Re:** Application No. 20-58-FDP (AU)

**APPLICATION INFORMATION**

**Applicant** Harold Phelps, Phelps Engineering, Inc.  
**Landowner:** S&J Real Estate, LLC and \*Gaten Properties, LLC  
(\*Purchased subject property on August 18, 2020)  
**Requested Actions:** Final Development Plan (Final Plat) for 21 residential lots to be known as Oakleaf Ridge, Fourth Plat  
**General Location:** 207<sup>th</sup> Street and Nall Avenue  
**Legal Description:** Part of NW¼ of Section 16, Township 15, Range 25  
**Existing Land Use/Zoning:** Agricultural/\*RUR, Rural District  
\*Current zoning but PRLD, Planned Residential Low Density District recommended and pending BOCC approval  
**Existing Improvements:** None  
**Property Size:** 103± acres

**PROPOSAL**

The property is located on the southeast corner of 207<sup>th</sup> Street and Nall Avenue. Applications for rezoning the property from Rural District (RUR) to Planned Residential Low Density District (PRLD) and a Preliminary Development Plan (PDP) for 21 lots of Oakleaf Ridge, Fourth Plat were recommended for approval by the Southeast Consolidated Zoning Board on August 5, 2020. The Board of County Commissioners (BOCC) will decide of the applications on September 10, 2020. The applicant is aware, and staff is recommending a stipulation, that this Final Development Plan (FDP) is dependent upon approval of the rezoning and PDP applications by the BOCC. If the rezoning and PDP are not approved by the BOCC or there are any changes to the plan, this FDP will need to return for separate consideration by the Zoning Board.



**Figure 1:** Vicinity map

This will be the second and final phase of the Oakleaf Ridge subdivision originally approved for development in 2005. There will be approximately 4,900 ft. of new interior on-site streets constructed, water mains extended from existing water mains along 207<sup>th</sup> Street and Nall Avenue, and fire hydrants installed to provide services for the additional 21 residential lots.

**Recommendation Summary:** Staff recommends **approval** of the final development plan to serve as the final plat, for the reasons that the final development plan complies with the preliminary development plan, meets the *Zoning and Subdivision Regulations (Regulations)*, subject to stipulations, and includes the information discussed by the developer during the public hearing for the Preliminary Development Plan (PDP). For more detail, please see the entire the staff report.

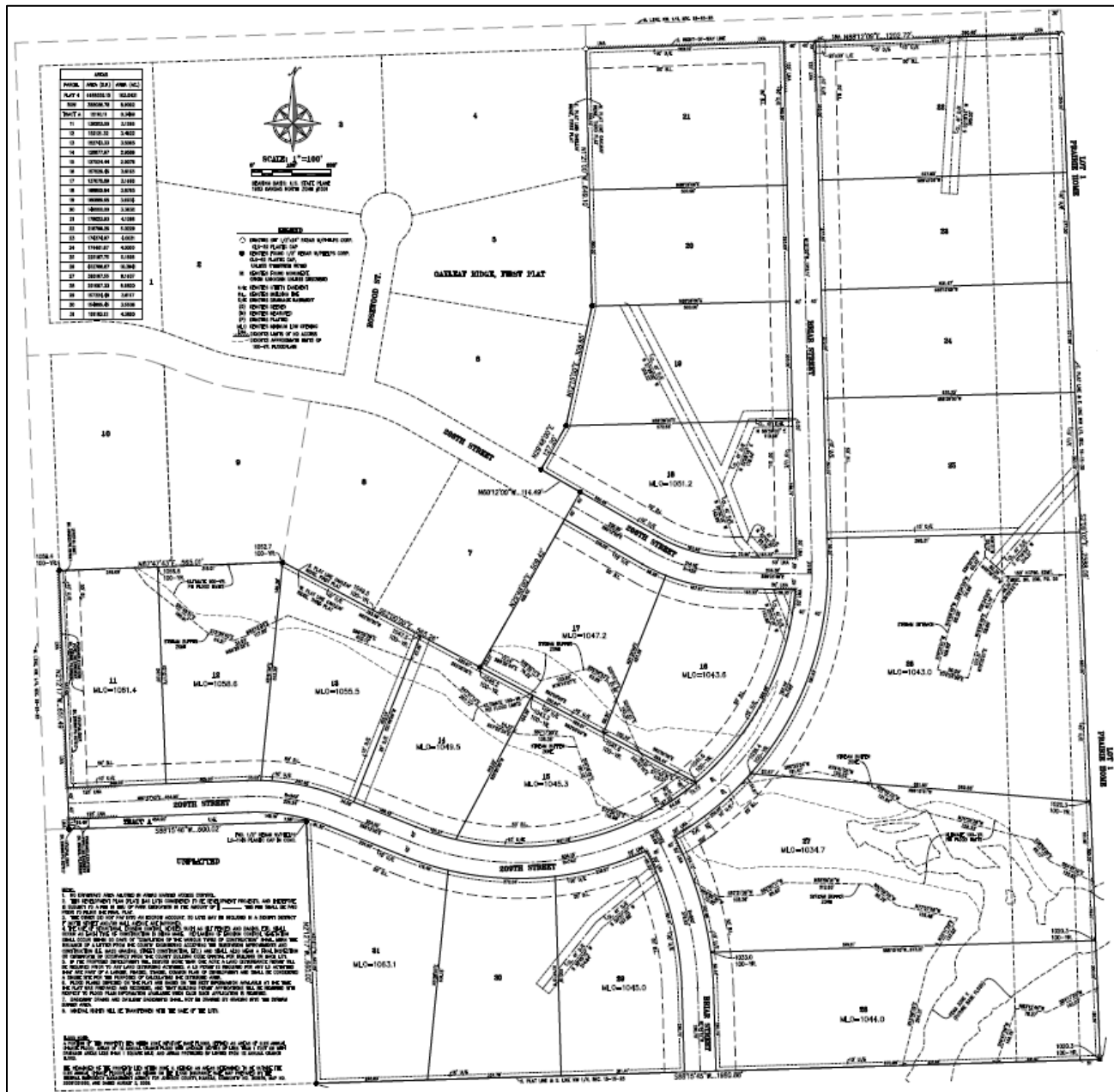


Figure 2: Proposed Final Development Plan (outlined in blue).

## MINIMUM INFRASTRUCTURE REQUIREMENTS

The Johnson County Zoning and Subdivision Regulations (*Regulations*) state that the minimum infrastructure for public facilities and services shall be available or provided before land is used in accordance with Article 31. Article 31 provides that the approval of any development plan shall be conditioned such that all of the required infrastructure be available or provided before land is used in accordance with such approval.

Minimum Infrastructure requirements (MIR) were reviewed as part of the PDP application. The PDP was recommended for approval with MIR waivers to allow 207<sup>th</sup> Street and Nall Avenue to remain as constructed instead of being improved to meet the Type "B" Collector Street Standard but with at least 4-foot wide gravel shoulders, and to allow the use of on-site septic systems alone instead of also constructing dry sewers. With these waivers and subject to compliance with the recommended stipulations, the FDP complies with the minimum infrastructure requirements.

## FINAL DEVELOPMENT PLAN REVIEW

The final development plan has been reviewed with respect to the preliminary development plan and the Zoning and Subdivision Regulations (see recommended stipulations for the preliminary development plan listed below). The final development plan complies with the preliminary development plan. Certain stipulations recommended for the preliminary development plan carry over and are pending prior to filing the final development plan as the final plat. The recommended stipulations of the PDP and related actions for the FDP are reviewed below:

1. The interior on-site streets shall be designed and constructed in conformance with the Johnson County Street Construction and Storm Drainage Standards for Subdivisions. Prior to filing the final plat approved street plans and bonds guaranteeing the work shall be furnished and a standard improvement agreement shall be executed by the owner. ***Pending, required prior to filing the final development plan as the final plat.***
2. The stream setback shown on the preliminary plat shall be re-labeled as stream buffer zone. ***The setback is re-labeled on the final development plan.***
3. The applicant shall petition the Water District for a water main extension and service prior to filing the final plat. ***Pending, required prior to filing the final development plan as the final plat.***
4. A copy of the proposed watermain layout showing the fire hydrant locations shall be submitted to the Chief Building Official for review prior to filing the final plat. ***Pending, required prior to filing the final development plan as the final plat.***
5. All applicable County code and regulation requirements, including but not limited to building code, fire code, wastewater, stormwater, floodplain, land disturbance, and post construction water quality shall be met prior to any future construction or land disturbance activities. ***Pending, will be addressed with the building permit on each lot.***
6. The following notes shall be shown on the final development plan, which shall serve as the final plat, except, however, 6(c) below which shall contain at the time of final approval the correct amount of the fee in lieu of park dedication:

- a) "If the proposed development will disturb more than one acre a Land Disturbance Permit will be required prior to any land disturbing activities. *A LD Permit is required for any LD activities that are part of a larger, phased, staged, common plan of development and shall be considered a single site for the purposes of calculating the disturbed area.* **Note is shown on the final development plan.**
- b) "Flood plains depicted on the plat are based on the best information available at the time the plat was prepared and recorded, and that building permit applications will be reviewed with respect to flood plain information available when each such application is reviewed". **Note is shown on the final development plan.**
- c) This Development Plan (Plat) has lots considered to be Development Projects, and therefore is subject to a fee in lieu of park dedication in the amount of \$ \_\_\_\_\_. This fee shall be paid prior to filing the final plat. **A fee in lieu of parkland dedication for the subject property was paid when the Second Plat was recorded in 2008. This note shall be corrected on the final development plan to reflect that the fee has been previously paid and that no additional fee in lieu of dedication is required with this final plat.**
- d) Wastewater collection and treatment shall be available or provided in accordance with then applicable County policies, regulations and standards for on-site wastewater disposal and the Environmental Sanitary Code of the County prior to the issuance of a building permit to allow the construction of a dwelling. Alternatively, public sanitary sewers shall be available or provided. **Note is shown on the final development plan.**
- e) Erosion shall be avoided by minimizing the destruction of vegetative land cover prior to and during all construction related to the subdivision or individual lot development (grading, buildings, streets, etc). The use of structural erosion control devices such as silt fences and basins, etc, shall occur as each type of construction is being made. Replanting of erosion control vegetation shall occur within 90 days of completion of the various types of construction. For purposes of this provision, "completion of the various types of construction" shall mean the issuance of a letter from the County Engineer accepting the subdivision improvements and construction (i.e. mass grading, street construction, etc.) and shall also mean a final inspection or Certificate of Occupancy from the County Building Code Official for buildings on each lot. **Note is shown on the final development plan.**
- f) No driveways are allowed in areas marked Access Control. **Note is shown on the final development plan.**
- g) Basement drains and daylight basements shall not be drained by grading into the stream buffer area. **Note is shown on the final development plan.**
- h) Mineral rights will be transferred with the sale of the lots. **Note is shown on the final development plan.**
- i) The Owner did not pay into an escrow account, so these lots may be included in a benefit district if either 207<sup>th</sup> Street and Nall Avenue are improved. **Note is shown on the final development plan.**

During the public hearing for the preliminary plat, the owner indicated that a Homes Association was going to be formed for the Oakleaf Ridge subdivision and that there was going to be monumentation

and landscaping installed at the subdivision entrances. In addition, the Zoning Board asked for information about how a small pond located partially on proposed Lot 31 and partially of the adjoining unplatted property to the west, owned by the Davidson's would be shared and maintained.

In light of this discussion, the owner has submitted a draft of the Oakleaf Ridge Declaration of Covenants, Conditions, and Restrictions between the property owners within both phases of Oakleaf Ridge and Gaten Properties, LLC.

The final plat reflects a 25 ft. by 30 ft. landscape easement on the northwest corner of proposed Lot 22. There is drainage easement and a general utility easement within part of the landscape easement shown but there is 225 sq. ft. of area outside of these easements where a monument sign and landscaping could be installed free of disruption. The landscape easement is dedicated on the plat to allow the Homes Association to maintain the landscaping and/or monumentation signs or authorize the maintenance of the landscaping and/or monument signs in the landscape easement. NOTE: There was no information submitted regarding a monument sign or landscaping but the required plans and details will be addressed separately with a sign permit. The owner did provide a picture of the type of monumentation and landscaping he is considering (see Figure 3). In addition, Tract A, along the south side of the new interior on-site road from Nall Avenue, is being dedicated as common open space to the maintained and owned by the Homes Association. Monumentation and landscaping could be developed on Tract A near this intersection although there is an existing 50 ft. wide gas line easement abutting Nall Avenue. Any monument sign or landscaping would be subject to the restrictions for this existing gas line easement.



**Figure 3:** Style of monumentation being considered (without hanging lights)

The owner indicated that he has attempted to reach an agreement with the adjoining property owner to the south and west in regard to maintenance of the small pond located partially on proposed Lot 31 and partially on the adjoining property. At the time of this report, that agreement had not been finalized. Staff would recommend that the agreement be perpetual and filed in conjunction with the final plat.

## **RECOMMENDATION**

Planning staff recommends **approval** of the Final Development Plan which shall serve as the final plat for a 21-lot residential subdivision to be known as Oakleaf Ridge, Fourth Plat, subject to the following stipulations:

1. This final development plan is dependent upon approval of the rezoning and preliminary development plan applications, SE 20-55-REZ and 20-56-PDP, by the Board of County Commissioners.
2. The interior on-site streets shall be designed and constructed in conformance with the Johnson County Street Construction and Storm Drainage Standards for Subdivisions. Prior to filing the final plat approved street plans and bonds guaranteeing the work shall be furnished and a standard improvement agreement shall be executed by the owner.
3. The applicant shall petition the Water District for a water main extension and service prior to filing the final plat.
4. A copy of the proposed watermain layout showing the fire hydrant locations shall be submitted to the Chief Building Official for review prior to filing the final plat.
5. A sign permit is required prior to construction of any monument sign for the subdivision.
6. All applicable County code and regulation requirements, including but not limited to building code, fire code, wastewater, stormwater, floodplain, land disturbance, and post construction water quality shall be met prior to any future construction or land disturbance activities.
7. The note regarding the fee in lieu of parkland dedication shall be revised on the final development plan which shall serve as the final plat, as follows, "This development plan is a replat of lots considered to be development projects for which a fee in lieu of parkland dedication was previously paid, therefore no additional fee in lieu of parkland dedication is required with this plat."
8. The Owners shall provide homeowners' association creation documents and restrictive covenants, if any, to the Planning Department staff for review concurrent with submission of a revised Final Development Plan. The covenants shall address proposed Tract A, shall identify the use of the Tract and state that said tract shall be owned and maintained by the homeowners' association.
9. A copy of the executed, perpetual agreement regarding maintenance of the pond located partially on Lot 31 and partially on the adjacent property owned by Todd and Lindsey Davidson shall be provided to staff prior to the filing of the final plat.
10. Revised preliminary and final development plans shall be submitted prior to filing of the final plat.

## **REASON FOR RECOMMENDATION:**

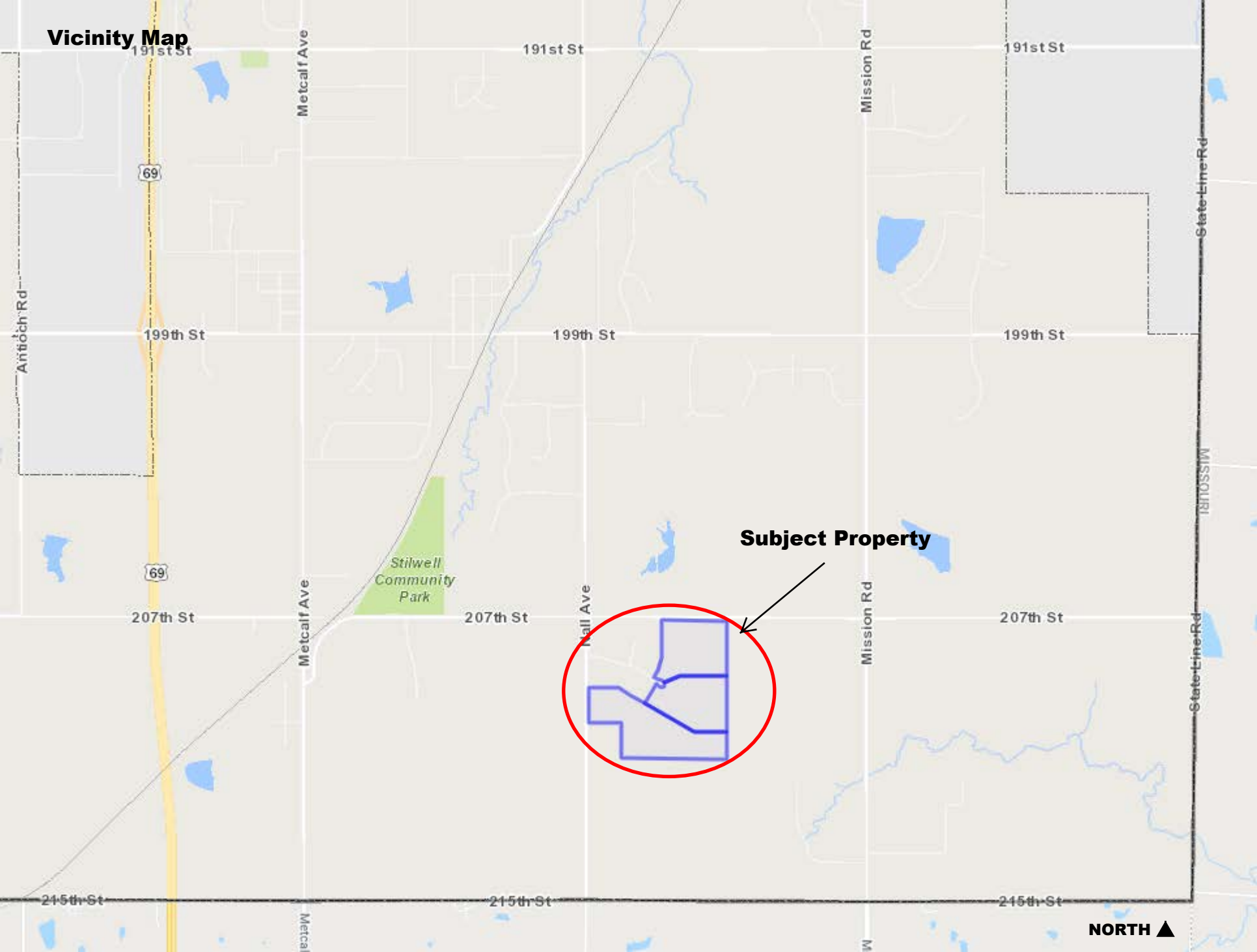
The final development plan which shall serve as the final plat complies with the preliminary development plan and the Zoning and Subdivision Regulations.

**RECOMMENDED MOTION:**

I recommend approval of application SE 20-58-FDP, a Final Development Plan which shall serve as the final plat for a 21-lot residential subdivision to be known as Oakleaf Ridge, Fourth Plat for the reason, and subject to the stipulations, recommended by staff.

**Enclosures:** Vicinity Map, Final Development Plan, Public Works comments

# Vicinity Map



**Subject Property**

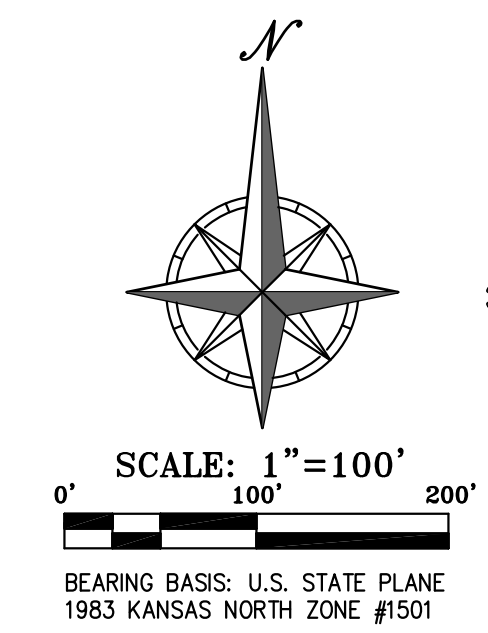
**NORTH** ▲



# FINAL PLAT OF OAKLEAF RIDGE, FOURTH PLAT

**REPLAT AND RESURVEY OF OAKLEAF RIDGE, THIRD PLAT  
AND PLATTED 208TH STREET RIGHT-OF-WAY IN THE  
NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 15, RANGE  
25, IN AUBRY TOWNSHIP, JOHNSON COUNTY, KANSAS**

AREAS		
PARCEL	AREA (S.F.)	AREA (AC.)
FLAT 4	4488556.15	103.0431
ROW	380066.78	8.9092
TRACT A	15110.11	0.3469
11	136203.00	3.1268
12	152121.32	3.4922
13	152743.33	3.5065
14	128877.97	2.9586
15	127524.44	2.9276
16	157526.45	3.6163
17	137075.89	3.1468
18	168860.84	3.8765
19	160886.65	3.6934
20	146500.00	3.3632
21	179023.93	4.1098
22	218796.26	5.0229
23	174374.97	4.0031
24	174481.67	4.0055
25	225187.75	5.1696
26	452766.87	10.3941
27	398167.55	9.1407
28	291067.33	6.6820
29	157324.48	3.6117
30	154665.45	3.5506
31	191183.12	4.3890



**LEGEND**

- DENOTES SET 1/2" x 24" REBAR W/PHELPS CORP. CLS-82 PLASTIC CAP.
- DENOTES FOUND 1/2" REBAR W/PHELPS CORP. CLS-82 PLASTIC CAP. UNLESS OTHERWISE NOTED.
- DENOTES FOUND MONUMENT, ORIGIN UNKNOWN UNLESS DESCRIBED.
- U/E DENOTES UTILITY EASEMENT
- B.L. DENOTES BUILDING LINE
- D/E DENOTES DRAINAGE EASEMENT
- (D) DENOTES DEEDED
- (M) DENOTES MEASURED
- (P) DENOTES PLATTED
- MLO DENOTES MINIMUM LOW OPENING
- DENOTES LIMITS OF NO ACCESS
- - - DENOTES APPROXIMATE LIMITS OF 100-YR. FLOODPLAIN

**DESCRIPTION**  
Replat and resurvey of Lots 11, 12 and 13, OAKLEAF RIDGE, THIRD PLAT, a platted subdivision of land in the Northwest Quarter of Section 16, Township 15 South, Range 25 East, in Aubry Township, Johnson County, Kansas, containing 103.0431 acres, more or less or replatted land.

The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner shown on the accompanying plat which subdivision shall hereafter be known as "OAKLEAF RIDGE, FOURTH PLAT".

**DEDICATION**  
An easement is hereby granted to Johnson County, Kansas to locate, construct maintain or authorize the location, construction, and maintenance of conduits, gas, water, sewer lines, poles, wires, and anchors and all or any of them over, under, or along the strips designated as "Utility Easements" or by the abbreviation "U/E" on the accompanying plat.

The undersigned proprietor of the above described land does hereby grant an easement or license to the Oakleaf Ridge Homes Association to maintain the landscape areas and or monument signs or to authorize the maintenance of said landscaping and monuments within those areas outlined and designated on this plat as "Landscape Easements".

No construction or disturbance of any type, including clearing, grubbing, stripping, fill, excavation, linear grading, paving or buildings is allowed in the Stream Setback except by permission of the city/county engineer.

Street rights-of-way shown on the accompanying plat not heretofore dedicated to public use are hereby dedicated. Where prior easements rights have been granted to any person, utility or corporation on said parts of the land so dedicated, and any pipes, lines, poles and wires, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated in accordance with the proposed improvements as now set forth, the undersigned proprietor hereby agrees to indemnify Johnson County, Kansas from any expense incident to the relocation of any such existing utility installations within said prior easement.

Tract A is designated as common open space to be owned and maintained by the homes association.

**CONSENT TO LEVY**  
The undersigned proprietor of the above described land hereby consents and agrees that the Board of County Commissioners of Johnson County, Kansas shall have the power to release such land proposed to be dedicated for public ways and thoroughfares, or parts thereof, for public use, from the lien and effect of any special assessments, and that the amount of unpaid special assessments on such land dedicated, shall become and remain a lien on the remainder of such land fronting or abutting on such dedicated public way or thoroughfare.

**RESTRICTIONS**  
All lots, parcels, tracts and properties in this subdivision shall hereafter be subject to the Declaration of Restrictions for "Oakleaf Ridge", which instrument is recorded in the Office of the Register of Deeds of Johnson County, Kansas, and which shall hereafter become a part of the dedication of this plat as though fully set forth herein.

**EXECUTION**  
IN TESTIMONY WHEREOF, the undersigned proprietor have hereunto subscribed their name this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Gaten Properties, LLC, a Kansas Limited Liability Company

Jeffrey S. Myers, Manager

**ACKNOWLEDGEMENT**  
STATE OF KANSAS )  
COUNTY OF JOHNSON )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public, in and for said County and State, came Jeffrey S. Myers, Manager of Gaten Properties, LLC, a Kansas Limited Liability Company, who is personally known to me to be the same person who executed as such member, the within instrument, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my notarial seal at my office in said County, the day and year last above written.

Notary Public My Appointment Expires: \_\_\_\_\_

**APPROVALS**  
APPROVED BY Southeast Consolidated Zoning Board on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

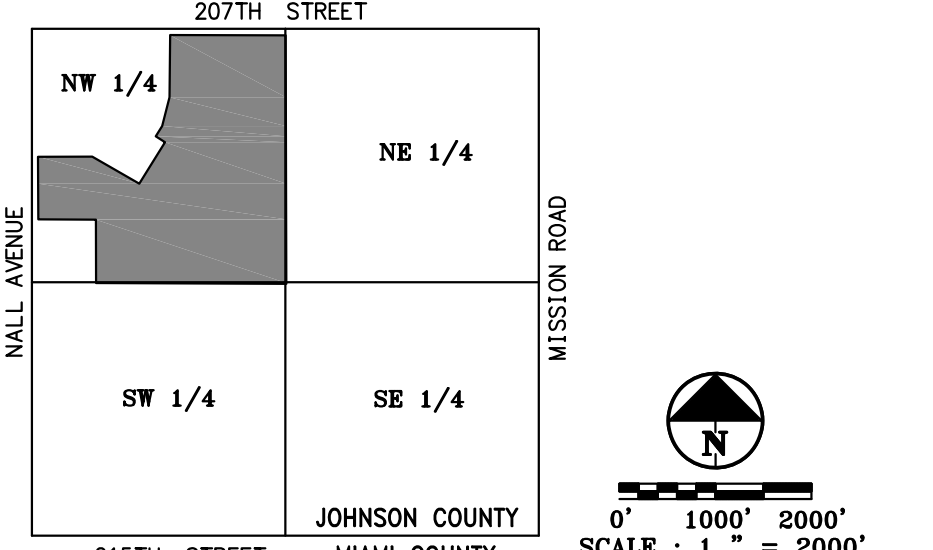
Chairman \_\_\_\_\_ Secretary \_\_\_\_\_

APPROVED by the Board of County Commissioners of Johnson County, Kansas on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Chairman: Ed Elert Deputy County Clerk: Lynda Sader

APPROVED by the County Engineer of Johnson County, Kansas this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

County Engineer: Brian Pletig, P.E.



**VICINITY MAP SECTION 16-15-25**

I, THOMAS D. PHELPS, HEREBY CERTIFY THAT IN JUNE 2020, I OR SOMEONE UNDER MY DIRECT SUPERVISION HAVE MADE A SURVEY OF THE ABOVE DESCRIBED TRACT OF LAND AND THE RESULTS OF SAID SURVEY ARE CORRECTLY REPRESENTED ON THIS PLAT.

THOMAS D. PHELPS  
LS-1075  
KANSAS  
LAND SURVEYOR

**PEI** PHELPS ENGINEERING, INC.  
PLANNING  
ENGINEERING  
IMPLEMENTATION

1270 N. Winchester  
Olathe, Kansas 66061  
(913) 393-1155  
Fax: (913) 393-1166



## Memorandum

**To:** Pamela Hayhow  
Planning Department

**From:** Keith Markway, P.E.  
Public Works

**Date:** August 25, 2020

**Subject:** SE-20-58-FDP (AU)  
Final Development Plan – Oakleaf Ridge, 4<sup>th</sup> Plat

1. The property is proposed to be rezoned from RUR to PRLD, Planned Residential Low Density District. Article 31 of the Zoning and Subdivision Regulations requires that abutting roads contiguous to the subdivision or development tract onto which local streets in the subdivision or development connect shall be constructed to at least the Type “B” Collector Street Standard but with at least 4-foot wide gravel shoulders.

Nall Avenue is a 28-foot wide asphalt roadway with open ditches and no apparent edge dropoff from the roadway. As such, Nall Avenue appears to be the functional equivalent of the Type “B” Collector with 4-foot gravel shoulders when comparing the overall width of the pavement/shoulder section and safety issues such as edge drop-off.

207<sup>th</sup> Street is a 23-foot wide asphalt roadway with open ditches and no shoulders; therefore 207<sup>th</sup> Street does not meet the Minimum Infrastructure Requirements. To meet the Minimum Infrastructure Requirements the Applicant must perform the following improvements on the south side of 207<sup>th</sup> Street: add a four-foot wide gravel shoulder and perform grading in the Right-of-Way for the roadside ditch section as shown for the Type “B” Collector cross-section. These improvements are required from the northeast corner of the proposed Plat to the intersection of Nall Avenue. All work shall be performed in conformance to the Street Construction and Storm Drainage Standards for Subdivisions.

2. This subdivision has new streets to be constructed by the developer. All streets shall be designed and constructed in conformance with the Johnson County Street Construction and Storm Drainage Standards for Subdivisions including all aspects regulatory. Prior to filing the final plat approved street plans, bonds guaranteeing the work, and an improvement agreement must be furnished. There is a \$200 review fee for street plan review. Subsequent reviews are \$100.
3. The Final Stormwater Management Plan has been submitted in compliance with our regulations.
4. The Final Stormwater Water Quality Management Plan has been submitted in compliance with our regulations.

5. In addition to the limits of the FEMA Floodway and FEMA Zone X being shown on the Plat the following note shall be included on the Plat; *“Flood plains depicted on the plat are based on the best information available at the time the plat was prepared and recorded, and that building permit applications will be reviewed with respect to flood plain information available when each such application is reviewed”*.
6. In addition to the limits of the Stream Buffer Zone conforming to the requirements of APWA 5600 being shown on the Plat the following note should be added *“No construction or disturbance of any type including clearing, grubbing, stripping, fill, excavation, linear grading, paving, or building is allowed in the buffer zone except by permission of the County Engineer”*.
7. If the proposed development will disturb more than one acre a Land Disturbance Permit will be required prior to any land disturbing activities. *A Land Disturbance Permit is required for any land disturbance activities that are part of a larger, phased, staged, common plan of development that will disturb a cumulative total of more than one acre over the life of the development.*