



**LEE'S SUMMIT**  
MISSOURI  
Development Services Department

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## Development Services Staff Report

<b>File Number</b>	PL2021-348
<b>File Name</b>	VACATION OF RIGHT-OF-WAY
<b>Applicant</b>	Schlagel & Associates
<b>Property Address</b>	Right-of-way abutting 1100 SW 3 <sup>rd</sup> St
<b>Planning Commission Date</b>	July 28, 2022
<b>Heard by</b>	Planning Commission and City Council
<b>Analyst</b>	Hector Soto, Jr., AICP, Senior Planner
<b>Checked By</b>	Kent Monter, PE, Development Engineering Manager

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### Public Notification

Pre-application held: April 20, 2021

Neighborhood meeting conducted: July 14, 2022

Newspaper notification published on: July 9, 2022

Radius notices mailed to properties within 300 feet on: July 7, 2022

Site posted notice on: July 7, 2022

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### Attachments

Legal Description and Exhibit, dated June 16, 2022

Neighborhood Meeting Summary

Location Map

## 1. Project Data and Facts

Project Data	
<b>Applicant/Status</b>	Schlagel & Associates/Engineer
<b>Applicant's Representative</b>	Jeffrey T. Skidmore, P.E.
<b>Location of Property</b>	Abutting 1100 SW 3rd St.
<b>Size of Property</b>	±0.15 Acres (6,750 sq. ft.)
<b>Zoning</b>	R-1 (Single-family Residential) and CP-2 (Planned Community Commercial District)
<b>Comprehensive Plan Designation</b>	Commercial
<b>Procedure</b>	The Planning Commission holds a public hearing and makes a recommendation to the City Council on the proposed vacation of right-of-way. The City Council holds a public hearing and takes final action on the vacation of right-of-way application. All vacation of right-of-way applications shall be approved by ordinance.
<b>Duration of Validity</b>	The vacation of right-of-way goes into effect upon City Council final action, unless otherwise stated in the approval, and does not expire.

Current Land Use	
	<p>The subject 50' wide x 135' long right-of-way houses a driveway connection from SW McClendon Dr for the new Chipotle restaurant (former Pizza Hut site) and Hardee's.</p>

Description of Applicant's Request
<p>The applicant requests to vacate the subject right-of-way as part of the redevelopment of the old Pizza Hut site for the new Chipotle restaurant. The existing driveway located within the right-of-way solely provides shared access to the restaurant sites. The right-of-way serves no general public purpose and</p>

thus can be vacated. Access to both sites from SW McClendon Dr can be maintained via a private cross-access easement between the two lots.

## 2. Land Use

**Description and Character of Surrounding Area**

The subject right-of-way is located north of SW 3<sup>rd</sup> St along SW McClendon Dr. The right-of-way is generally located west of the SW 3<sup>rd</sup> St and SW Oldham Pkwy/Ward Rd intersection, which is anchored at three corners with commercial development. The northeast corner of the intersection is composed of US 50 Hwy frontage. The subject right-of-way provides secondary, rear access to the Chipotle and Hardee’s sites from the abutting single-family residential subdivision to the west.

### Adjacent Land Uses and Zoning

<b>Northwest:</b>	Single-family residential/R-1
<b>Southwest (across SW McClendon Dr):</b>	Single-family homes/R-1
<b>Southeast:</b>	Restaurant/CP-2
<b>Northeast:</b>	Restaurant/CP-2

**Site Characteristics**

The subject right-of-way contains a driveway from SW McClendon Dr to the Chipotle site and a drive connection from said driveway to the Hardee’s site.

## 3. Unified Development Ordinance (UDO)

Section	Description
2.460, 2.470	Vacation of Right-of-way

### Unified Development Ordinance

The purpose of the application is to vacate an excess 50’ wide x 135’ long segment of right-of-way along SW McClendon Dr that provides no public benefit. Elimination of the right-of-way does not negatively impact the surrounding general area, nor the two restaurant sites served by the existing driveway located within said right-of-way. The existing shared driveway will remain in place with the requirement for a private cross-access easement that will ensure continued mutual use by the abutting commercial lots.

## 4. Comprehensive Plan

Focus Areas	Goals, Objectives & Policies
Facilities & Infrastructure	Objective: Maintain high-quality service levels for existing and future customers.

### **Comprehensive Plan**

The proposed vacation of right-of-way does not compromise the ability to implement and/or achieve any policies, goals or objectives outlined in the Comprehensive Plan. Interconnectivity between the two abutting commercial lots and SW McClendon Dr can be maintained via a private cross-access easement.

## **5. Analysis**

### **Background and History**

- November 14, 1984 – A 50' wide x 70' long segment of right-of-way was dedicated by separate document via Instrument #1984I0598455 with the Jackson County Recorder of Deeds office.
- June 21, 1985 – Board of Alderman approved the Consent Agenda item for the Pizza Hut site plan (Appl. #1985-116).
- January 10, 1986 – A 50' wide x 65' long segment of right-of-way was dedicated via Instrument #1986I0667242 with the Jackson County Recorder of Deeds office.
- June 13, 1994 – Planning Commission approved the Consent Agenda item for the final development plan (Appl. #1994-108) for Pizza Hut at 1103 SW Oldham Pkwy.
- October 13, 1998 – City Council approved the final development plan (Appl. #1998-185) for Pizza Hut Addition at 1103 SW Oldham Pkwy.
- August 24, 2021 – The City Council approved the preliminary development plan (Appl. #PL2021-181) for Chipotle at 1103 SW Oldham Pkwy by Ordinance No. 9224.
- November 23, 2021 – Staff administratively approved the final development plan (Appl. #PL2021-319) for Chipotle at 1103 SW Oldham Pkwy.

### **Compatibility**

The proposed vacation of right-of-way is consistent with the approved plan for the redevelopment of the old Pizza Hut site with a Chipotle that is near completion of its construction, which does not require retention of the existing public right-of-way.

### **Adverse Impacts**

The proposed vacation of right-of-way will not negatively impact the use or aesthetics of any neighboring property, nor does it negatively impact the health, safety and welfare of the public. The subject segment serves no general public purpose for the greater surrounding area. The right-of-way houses a private driveway improvement serving two commercial lots. The continued use of the shared driveway onto SW McClendon Dr from the Chipotle and Hardee's sites can be maintained via a private cross-access easement.

### **Public Services**

The proposed vacation of right-of-way will not impede the normal and orderly development and improvement of the surrounding property. The subject right-of-way serves no public purpose for the area's street network. The surrounding commercial and residential lots are fully developed with no need for any public street extension.

The proposed vacation of right-of-way has no impact on any public water, storm sewer or sanitary sewer lines in the area. There is an existing 8" sanitary sewer main along the east side of SW McClendon Dr (adjacent to the right-of-way to be vacated), but the main is located within existing public right-of-way that will be unaffected by the proposed vacation.

**Recommendation**

With the conditions of approval below, the application meets the requirements of the UDO and the Design & Construction Manual (DCM).

**6. Recommended Conditions of Approval**

**Site Specific**

1. The vacation of right-of-way shall not become effective until such time as a cross-access easement is dedicated over the existing driveway from SW McClendon Dr shared between Lot 1, Pizza Hut Addition and Lot 1, Hardee's Addition.
2. A copy of the recorded cross-access easement shall be provided to the Development Services Department.