



**PLANNING COMMISSION  
MONDAY, JANUARY 23, 2012 - 7:00 PM**

**FINAL AGENDA**  
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**CONSENT AGENDA**

1. Minutes from the January 9, 2012 Planning Commission meeting - Cases:  
*P-11-037, P-11-038, PR-11-027, P-11-039, PR-11-021*

**REGULAR AGENDA**

**New Business**

1. **UDO-11-004:** Request for approval of an amendment to Chapter 18.44.020, M-2 General Industrial District, permitted uses, of the *Unified Development Ordinance (UDO)*.

Applicant/  
Owner: City of Olathe

**PUBLIC HEARING**

**MINUTES  
CITY OF OLATHE  
CITY PLANNING DIVISION  
STAFF REPORT**

**CASE # P-11-037**

The meeting was called to order by Chairman Jon Campbell, with the following members present: Mike Kohler, Jeremy Fry, Greg Harrelson, Nedra Locke, John Almeida, Paul Ling and Mike Rinke.

*Reciting Pledge of Allegiance.*

Chairman Campbell read the standard *ex parte* statement. No Commissioner reported having any *ex parte* communications.

A motion to approve Consent Agenda items 1, 2 and 3 was made by Commissioner Ling and seconded by Commissioner Locke. Motion was approved 8-0.

**Planner:** Dan Fernandez                      **Planning Commission:** January 9, 2012

**Request:** Approval of a final plat for 2 lots and 1 tract on 9.55± acres, for Harmony Valley Ranch

**Location:** 12700 West 151<sup>st</sup> Street

**Owner/  
Applicant:** Canine Concepts, LLC., Josh Turpin

**Engineer:** Engineering Solutions, Matt Schlicht

<b>Acres:</b>	<u>9.55±</u>	<b>Proposed Use:</b>	<u>Animal Specialty Service</u>
<b>Current Zoning:</b>	<u>AG</u>		
<b>Lots:</b>	<u>2</u>	<b>Tracts:</b>	<u>1</u>
<b>Streets and Right of way:</b>	<u>W. 151st Street</u>		
	<b>Existing</b>	<u>55' (1/2 street)</u>	
	<b>Required</b>	<u>55' (1/2 street)</u>	
	<b>Proposed</b>	<u>N/A</u>	

**I. COMMENTS**

This is a request for approval of a final plat of 2 lots and 1 tract for Harmony Valley Ranch, located at 12700 W. 151<sup>st</sup> St. The preliminary plat for two lots and 1 tract for Harmony Valley Ranch (P-11-002) was approved by the

Planning Commission on February 28, 2011. A final site development plan (PR-11-003) for a canine training and event center was approved by the Planning Commission on February 28, 2011.

The subject area is currently unplatted and a final plat is needed before additional development can take place on the property.

## **II. FINAL PLAT REVIEW**

### **A. Lots/Tracts:**

The final plat includes 2 lots, 1 tract as well as the partial right away along W. 151<sup>st</sup> St. for a total of 9.55 acres. The applicant has chosen not to plat the northern portion of the property since there are no plans for development at this time. This area currently is being used as a walking trail. This land is required to be platted prior to any future development can take place.

### **B. Utilities/Municipal Services:**

The property is located in the City of Olathe Water District and Johnson County Wastewater District. Utilities are currently available to the site.

### **C. Streets/Right-of-Way:**

The lots have access to W. 151<sup>st</sup> Street which is already constructed. The street meets *Unified Development Ordinance (UDO)* requirements for public right-of-way.

### **D. Drainage:**

Tract A of the proposed plat will serve as a private drainage easement and is adequate for storm drainage.

### **E. Tree Preservation:**

A twenty-five foot (25') tree preservation easement (TP/E) shall be included along the eastern property line of Lot 1. This easement must be shown on the final plat submitted for recording.

### **F. Street and Signal Excise Taxes:**

In accordance with Ordinance No. 01-105, the property is subject to a street excise tax \$0.215 per square foot of land area. The arterial street right-of way is exempt from the area that is taxed, leaving 8.8 acres subject to the excise fees. Based on the net plat area, the street excise fee is \$82,415.52. The required excise fee shall be submitted to the City Planning Division prior to recording the final plat.

In accordance with Ordinance No. 02-52, the final plat is subject to a traffic signal excise tax of \$.0098 per square foot for agricultural zoning. The signal excise fee shall be submitted to the Planning Division prior to recording the final plat. The required traffic signal excise fee is \$3,756.61.

### **III. STAFF RECOMMENDATIONS**

Staff recommends approval of P-11-037 with the following stipulations:

- a. Prior to and upon recording of the plat, a digital file of the final plat shall be submitted to the City Planning Division. The submission of the digital plat file shall conform to the formatting standards, layering system, and text styles of the City of Olathe Planning Division Digital File Submittal Standards.
- b. In accordance with Ordinance No. 01-105, the property is subject to a street excise fee \$82,415.52. The excise fee shall be submitted to the City Planning Division prior to recording the final plat.
- c. In accordance with Ordinance No. 02-52, the final plat is subject to a traffic signal excise fee of \$3,756.61. The signal excise fee shall be submitted to the City Planning Division prior to recording the final plat.
- d. A twenty-five foot (25') tree preservation easement (TP/E) shall be included on the final plat along the east property line of Lot 1. The tree preservation easement must be shown on the final plat submitted for recording.
- e. Prior to any future development of the unplatted property, a final plat is required for the subject property. The property will be subject to City excise fees and a potential dedication of right-of-way and public improvements.
- f. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of-way if cabinets are screened with landscape materials.
- g. Following approval by the City of Olathe Planning Commission, the final plat shall be considered for review by the Board of County Commissioners of Johnson County prior to development.
- h. An affidavit shall be recorded with the final plat with language addressing the close proximity of the property to the Johnson County Executive Airport. Language used will be per Johnson County requirements.

Motion by Commissioner Ling, seconded by Commissioner Locke, to approve P-11-037, subject to the following stipulations:

- a. Prior to and upon recording of the plat, a digital file of the final plat shall be submitted to the City Planning Division. The submission of the digital plat file shall conform to the formatting standards, layering system, and text styles of the City of Olathe Planning Division Digital File Submittal Standards.

- b. In accordance with Ordinance No. 01-105, the property is subject to a street excise fee \$82,415.52. The excise fee shall be submitted to the City Planning Division prior to recording the final plat.
- c. In accordance with Ordinance No. 02-52, the final plat is subject to a traffic signal excise fee of \$3,756.61. The signal excise fee shall be submitted to the City Planning Division prior to recording the final plat.
- d. A twenty-five foot (25') tree preservation easement (TP/E) shall be included on the final plat along the east property line of Lot 1. The tree preservation easement must be shown on the final plat submitted for recording.
- e. Prior to any future development of the unplatted property, a final plat is required for the subject property. The property will be subject to City excise fees and a potential dedication of right-of-way and public improvements.
- f. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of-way if cabinets are screened with landscape materials.
- g. Following approval by the City of Olathe Planning Commission, the final plat shall be considered for review by the Board of County Commissioners of Johnson County prior to development.
- h. An affidavit shall be recorded with the final plat with language addressing the close proximity of the property to the Johnson County Executive Airport. Language used will be per Johnson County requirements.

*Motion passes 8-0.*

**MINUTES  
CITY OF OLATHE  
CITY PLANNING DIVISION  
STAFF REPORT**

**CASE # P-11-038**

**Planner:** Dan Fernandez                      **Planning Commission:** January 9, 2012

**Request:** Approval of a minor plat for 1 lot on 1.34± acres, for Arbor Creek Village, 17<sup>th</sup> Plat

**Location:** Vicinity of 159<sup>th</sup> Terrace and Wyandotte Drive

**Owner/  
Applicant:** Frank H. Devocelle, Olathe Medical Service, Inc.  
Jim Hubbard, Norton, Hubbard, Ruzicka & Kreamer

**Engineer:** Payne & Brockway, P.A, Todd Allenbrand

<b>Acres:</b>	<u>1.34±</u>	<b>Proposed Use:</b>	<u>Parking lot</u>
<b>Current Zoning:</b>	<u>NC</u>		
<b>Lots:</b>	<u>1</u>	<b>Tracts:</b>	<u>0</u>
<b>Streets and Right of way:</b>	<u>159th Terrace (private street)</u>		
	<b>Existing</b>	<u>50' (total)</u>	
	<b>Required</b>	<u>50' (total)</u>	
	<b>Proposed</b>	<u>N/A</u>	

**I. COMMENTS**

This is a request for approval of a minor plat of 1 lot for Arbor Creek Village, Seventeenth Plat, located at 159<sup>th</sup> Terrace and Wyandotte Drive. This application is a replat of Lot 45, Arbor Creek Village, 8<sup>th</sup> Plat and Lots 74 and 75, Arbor Creek Village, 16<sup>th</sup> Plat. The 8<sup>th</sup> Plat (P-04-102) was approved by the Planning Commission on September 13, 2004 and the 16<sup>th</sup> Plat (P-08-049) was approved by the Commission on October 27, 2008.

The applicant is requesting approval of this final plat to allow the construction of additional parking due to increased services at the medical building. The applicant has submitted a conceptual site plan for the proposed parking lot. Per the *Unified Development Ordinance* (UDO), in Neighborhood Center Districts (NC), not more than one hundred twenty-five percent of the required parking for a use may be provided on-site unless the parking is shared. The applicants have stated that the proposed lot is to be

shared with the surrounding developments and the parking lot plan includes a note for shared parking.

## **II. FINAL PLAT REVIEW**

### **A. Lots/Tracts:**

The final plat includes 1 lot on 1.34 acres.

### **B. Utilities/Municipal Services:**

The property is located in the Water District Number One and Johnson County Wastewater District.

### **C. Streets/Right-of-Way:**

The lot has access to 159<sup>th</sup> Terrace which was constructed with a previous plat. 159<sup>th</sup> Terrace is a private street and there are no changes proposed for the existing street.

### **D. Drainage:**

This property lies within the city regulated future floodplain as designated in the Johnson County flood study dated August 3, 2009. Payne and Brockway submitted a revised HEC-RAS model which shows the property to be outside the future floodplain as depicted on this replat. A LOMA may be required to be submitted to FEMA to revise the F.I.R.M.

### **E. Landscaping/Screening:**

No landscaping plan is required for this final plat, however, landscaping will be addressed with the parking lot permit.

### **F. Street and Signal Excise Taxes:**

No excise fees will be required as this is a replat of existing lots.

## **III. STAFF RECOMMENDATIONS**

Staff recommends approval of P-11-038 with the following stipulations:

- a. Prior to and upon recording of the plat, a digital file of the final plat shall be submitted to the City Planning Division. The submission of the digital plat file shall conform to the formatting standards, layering system, and text styles of the City of Olathe Planning Division Digital File Submittal Standards.
- b. A parking lot permit must be submitted to the City; the permit needs to be reviewed and approved before construction can begin.
- c. A revised site development plan is required for any expansion of the existing medical building.

Motion by Commissioner Ling, seconded by Commissioner Locke, to approve P-11-038, subject to the following stipulations:

- a. Prior to and upon recording of the plat, a digital file of the final plat shall be submitted to the City Planning Division. The submission of the digital plat file shall conform to the formatting standards, layering system, and text styles of the City of Olathe Planning Division Digital File Submittal Standards.
- b. A parking lot permit must be submitted to the City; the permit needs to be reviewed and approved before construction can begin.
- c. A revised site development plan is required for any expansion of the existing medical building.

*Motion passes 8-0*

**MINUTES  
CITY OF OLATHE  
CITY PLANNING DIVISION  
STAFF REPORT**

**CASE # PR-11-021**

**Sean Pendley, Senior Planner, made the following staff presentation:**

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<b>Planner:</b>	Sean Pendley	<b>Planning Commission:</b>	January 9, 2012
<b>Request:</b>	Preliminary site development plan, 13.6± acres, for Cedar Creek Marketplace.		
<b>Location:</b>	Southeast corner of K-10 Highway and Cedar Creek Parkway.		
<b>Owner:</b>	West Star Development, Mike Christie		
<b>Applicant:</b>	Nolte & Associates, Tom Nolte		
<b>Engineer:</b>	Shafer, Kline & Warren, Inc., Chad Porter		

<b>Acres:</b>	<u>13.6±</u>	<b>Proposed Use:</b>	<u>Shopping Center</u>
<b>Current Zoning:</b>	<u>C-2</u>	<b>Building Area:</b>	<u>79,700 sq. ft. (total)</u>
<b>Lots:</b>	<u>5</u>		
<b>Parking Spaces:</b>	Required <u>319 (total)</u>	Proposed <u>484 (total)</u>	

  

<b>Streets and Right of way:</b>	<u>K-10 Highway</u>	<u>Cedar Creek Pkwy</u>	<u>Valley Pkwy</u>
<b>Existing</b>	200' (½ Street)	120' (½ Street)	60' (½ Street)
<b>Required</b>	200' (½ Street)	120' (½ Street)	60' (½ Street)
<b>Proposed</b>	n/a	n/a	n/a

**Platted:** A portion of the property, 1.8 acres, is platted as Cedar Creek Plaza Shops, 2<sup>nd</sup> Plat. The remaining property is unplatted.

**1. Proposed Development:**

The following is a request for a preliminary site development plan for Cedar Creek Marketplace. The proposed shopping center includes a 50,000 square foot grocery store, attached retail building, two free-standing retail buildings, drive-through restaurant and bank. There is an existing gas station and convenience store adjacent to the subject property on Valley Parkway.

The property is currently zoned C-2 (General Business District). A rezoning to C-2, C-O and R-1 was approved in 1988 as part of the original Cedar Creek plan for commercial, office and residential development. The gas station and convenience store was built in 1996 and there was no preliminary site plan approved for the remainder of the C-2 zoning. Two lots in this area have been platted, Cedar Creek Plaza Shops, First Plat (gas station) and Second Plat (undeveloped).

2. **Existing Site Uses:**

There is an existing billboard located on the north side of the property, close to K-10 Highway. The billboard is considered a legal nonconforming use and is allowed to remain in accordance with *Unified Development Ordinance (UDO)* requirements. A sign permit is required for the billboard and the permit shall be renewed every three (3) years. The billboard shall be removed at the time of development for Lot 1.

A self-support telecommunications facility is located near the billboard and this is also considered a nonconforming structure. The preliminary site plan shows that the existing facility will remain with the development. Any modifications to the facility will be subject to current *UDO* requirements.

There is an existing tornado siren located on Lot 4 and the site plan indicates that the siren will be relocated by the City. It should be noted that the developer will be required to pay for the relocation prior to development of the subject property.

3. **Neighborhood Meeting:**

The applicant held a neighborhood meeting on November 30, 2011 to discuss the proposed development with the home owners association (see attached minutes). There were approximately 28 residents in attendance. There were questions regarding the view of the development from K-10 Highway and the loading dock screening. The applicant also answered questions about the proposed architecture and stormwater management.

According to the applicant, there were no outstanding issues and the home owners supported the proposed commercial development.

4. **Utilities/Municipal Services:**

The property is located in the City of Olathe water and sewer service area. Main extensions will be required for the proposed development. Water service connections and meter locations will be required in accessible grassy areas.

Final site development plans shall show the Fire Department Control locations for sprinkler systems and public fire hydrants are required per the Fire Department.

5. **Access/Traffic:**

The proposed commercial development will have three access drives on Valley Parkway. The western drive is the existing access for the gas station and the center drive is also currently installed as shown. The eastern drive will be constructed with future development of the grocery store and/or retail buildings. The approach for the eastern drive is located on the adjacent property, owned by Cedar Creek Development. An agreement or letter of consent shall be obtained from the owner prior to construction of this drive.

A traffic impact study was conducted by SKW Inc. for the proposed development. The existing and proposed intersections were analyzed utilizing the existing lane configurations and proposed traffic control (stop signs). Under the full build out conditions, all movements at the four subject intersections are modeled to operate at acceptable levels of service "A" or "B" conditions under the existing roadway geometrics and traffic control.

The traffic study noted that, during the PM peak hour, there is a potential for vehicles to queue into the near through lane on Cedar Creek Parkway. If these conditions evolve, the solution would be to lengthen the storage lane. For Shadow Ridge Drive (west drive on Valley Parkway), there is a potential for vehicles to queue to a point where they block access to the adjacent right-turn lane. The solution would be to create a 3-lane driveway with separate through and left-turn lanes.

Traffic Engineering staff reviewed the traffic impact study and staff concurs with the study recommendations:

- Lengthen left-turn storage lane on Cedar Creek Parkway.
- Provide 3-lane driveway with separate through and left-turn lane at Shadow Ridge Parkway.

The traffic improvements shall be constructed prior to occupancy of the first building in the shopping center.

#### 6. **Stormwater/Drainage:**

The site drains to the south through an existing stormwater drainage system that enters Shadow Lake. A preliminary stormwater drainage study was submitted for the proposed development. The study notes that three detention basins will be constructed on-site to accommodate the increase in peak runoff that will be accompanied by the proposed development. The site plan shows a wet basin located in the southwest corner of the site that will be able to detain up to the 10-year design storm and serve as a water feature. The plan also identifies Best Management Practices (BMPs) in the form of rain gardens, native vegetation and bioretention basins to improve water quality.

The detention basin and pond will require a retaining wall due to the steep grades. Fencing will be required on the top of the wall and staff recommends the use of decorative metal fencing. There is also a combination of trees and native vegetation proposed around the basin.

A final drainage plan and stormwater calculations shall be submitted with the final site development plans. The final plans shall identify all water quality features and detention areas. Public Works has reviewed the preliminary stormwater study and recommends approval with additional details to be submitted with final development plans.

7. **Parking:**

The preliminary site plan identifies a total of 484 parking spaces for the shopping center and commercial pad sites. The requirement for commercial buildings is one (1) space per 1,000 square feet of floor area. Based on the total floor area of 79,700 square feet, the minimum parking requirement for the shopping center is 319 spaces. Given that some of the commercial buildings will be restaurants, there will be additional parking required to meet one (1) space for every three (3) seats. With a surplus of 165 spaces, there will be sufficient parking to capture the demand for any restaurants. The details for specific parking requirements will be determined at the time of final site plan and/or building permit.

The final site development plans shall identify the minimum number of accessible spaces for disabled people per *UDO* requirements. In addition, photometric plans for parking lot lighting shall be submitted with final development plans.

Sheet C-3 shows that four parking spaces behind retail building 1 are only 16 feet in length. The minimum length for parking stalls is 18 feet, provided there is a 25-foot drive aisle and a minimum 6-foot sidewalk or landscape area used for an overhang. The final site plan shall identify the minimum required parking dimensions.

8. **Pedestrian Access:**

There are existing sidewalks on Cedar Creek Parkway and Valley Parkway. The site plan identifies sidewalk connections along the access drives leading to the commercial buildings. Decorative brick pavers or stamped concrete shall be provided for all crosswalks within the shopping center per *UDO* requirements.

9. **Setbacks/Buffers:**

The minimum building setback for C-2 districts is 40 feet from arterial street right-of-way. Valley Parkway is considered an arterial street. Retail building 2 shows a building setback of approximately 27 feet. The final site development plan shall identify the required building setback.

The minimum parking/paving setback is 15 feet from street right-of-way. Part of the paved service area north of the attached retail building 1 appears to be within 15 feet of the right-of-way for K-10 Highway. The final site development plan shall identify a minimum setback of 15 feet per *UDO* requirements and to provide an adequate landscape buffer from K-10 right-of-way.

10. **Landscaping:**

Most of the existing trees will need to be removed along the north and east property lines to accommodate the proposed development. In addition, a group of trees will be removed on the west side of the property to construct the detention basin. The landscape plan shows a variety of shade trees, evergreen trees and ornamental trees around the perimeter of the shopping center. The landscape plan shows evergreen trees and shade trees on the north property line to provide some screening for the loading dock and service areas for grocery store.

The existing trees around the telecommunications facility are proposed to be removed and replaced with a retaining wall. Fencing will be required around the ground equipment per *UDO* requirements. In addition, staff recommends additional evergreen trees along the north property line to provide adequate screening for the telecommunications facility.

Native grasses or shrubs have been provided for screening across most of the parking and vehicular areas facing streets. Other paved areas are located at higher elevations than surrounding streets. Staff recommends providing shrubs along the north side of Lot 1 to provide additional screening for the loading dock and service area facing K-10 Highway.

11. **Line-of-Sight:**

The applicant has submitted a line-of-sight drawing to illustrate the views from K-10 Highway and Valley Parkway. According to the drawing, the finished grade of the grocery store is at the same approximate height as the existing grade of K-10 Highway. The pad sites range between 4-10 feet above the street grade for Valley Parkway.

Retaining walls will be constructed around the perimeter of the shopping center. The applicant is proposing a "Versa-Lok Mosaic" or similar product for the retaining walls. Staff recommends a finish that is compatible with the natural stone walls along Cedar Creek Parkway. Retaining wall material samples shall be submitted with the final development plans. All walls greater than 30 inches in height require fencing and staff recommends the use of decorative metal fencing.

12. **Architecture/Design:**

The applicant has worked extensively with staff to provide an architecture and design that meets the highest standards for sites in high visibility areas per *the Development Policy for Commercial Buildings*. The proposed grocery store has a flat roof design but incorporates multiple pitched roof elements with slate shingles along the front and side elevations and on part of the rear elevation. The building materials consist of face brick, cast stone and stucco. The loading dock and trash compactors on the rear of the grocery store are screened by masonry walls to match the building.

The attached retail building and free-standing buildings will incorporate similar architectural design and building materials. The retail building 3 is oriented with the storefront facing north towards the interior of the shopping center. The rear elevation faces Valley Parkway, however it has

been designed with doors, windows and a canopy to give the appearance of a storefront.

The site plan identifies the restaurant building 2 with a drive-through lane facing diagonally towards Valley Parkway. The finished grade for the restaurant site is approximately 5 feet above existing street grade and a 3-foot high landscape berm is provided on the top of the retaining wall to assist with screening the drive-through lane from the street.

13. **Staff Recommendations:**

Staff recommends approval of PR-11-021 subject to the following stipulations:

- a. Final site development plans are required prior to any new buildings. Final plat(s) shall also be approved and recorded for unplatted property.
- b. A sign permit is required for the existing billboard in accordance with *Unified Development Ordinance (UDO)* requirements. The billboard shall be removed at the time of development for Lot 1.
- c. Any modifications to the existing telecommunications facility are subject to current *UDO* requirements. Upon grading of Lot 1, fencing shall be required around the ground equipment and additional landscaping shall be provided to replace the existing evergreen trees proposed for removal.
- d. The existing tornado siren located on Lot 4 shall be relocated prior to development of the subject property and the property owner or developer shall pay for relocation.
- e. The final site development plans shall identify a minimum parking/paving setback of fifteen (15) feet from street right-of-way.
- f. The final site development plans shall identify a minimum building setback of forty (40) feet from arterial street right-of-way.
- g. The traffic improvements identified in the traffic impact study shall be constructed prior to occupancy of the first building in the shopping center.
- h. Prior to construction of the eastern access drive, an agreement or letter of consent is required from the subject property owner.
- i. The parking spaces shall meet the minimum dimensions per *UDO* requirements.
- j. The drive-through uses shall provide the minimum required stacking distances per *UDO* requirements.
- k. The final site development plans shall identify the minimum number of accessible spaces for disabled people per *UDO* requirements.

- l. A parking lot lighting plan shall be submitted and approved with the final development plans.
- m. A final drainage plan and stormwater calculations shall be submitted with the final site development plans. The final plans shall identify all water quality features and detention areas.
- n. Water and sewer main extensions will be required for the proposed development. Water service connections and meter locations are required in accessible grassy areas.
- o. Final site development plans shall show the Fire Department Control locations for sprinkler systems and public fire hydrants are required per the Fire Department.
- p. Decorative brick pavers or stamped concrete shall be provided for all crosswalks within the shopping center per *UDO* requirements.
- q. All buildings shall comply with the *Commercial Building Appearance Guidelines*. Consistent architectural design, including building materials and colors, shall be carried throughout the development.
- r. Shrubs and/or additional evergreen trees shall be provided along the north side of the paved area on Lot 1 to provide adequate screening for the loading dock and service area facing K-10 Highway.
- s. The retaining walls shall include a finish that is compatible with the natural stone walls along Cedar Creek Parkway. Material samples shall be submitted and approved with the final development plans.
- t. All retaining walls greater than 30 inches in height require fencing. The fencing shall consist of decorative metal.
- u. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of-way if such cabinets are screened with landscape materials.
- v. As required by the *UDO*, all exterior ground or building mounted equipment, including but not limited to mechanical equipment, utility meter banks and coolers, shall be screened from public view with landscaping or an architectural treatment compatible with the building architecture.
- w. All on-site wiring and cables shall be placed underground.

*Following staff presentation, the Chairman opened the meeting up to questions from commissioners:*

Comm. Ling: Sean, can you walk me through on the plan drawings where the significant retaining walls are. There may be some grade difference along this

side. I think you talked about the K-10 side, but on Valley Parkway for the one out building, and then what's proposed as a drive-thru restaurant. My specific question gets into, how elevated is that drive-thru restaurant?

Mr. Pendley: That was definitely a concern of staff. This area that we're talking about here, the retaining wall along Valley Parkway along the drive-thru restaurant site, I believe that wall ranges in height from about two feet at the farthest end here, where it starts, up to about, I think the highest point is six to eight feet here. I'll ask the applicant to clarify that. I believe that is what the grading plan showed. At this point here, the closest area to Valley Parkway, I think that's where it's at its highest point, and I think it's about six feet. On top of that retaining wall I believe there are shrubs and native grasses that are added for additional buffer in that area. It does sit higher than the existing grade from Valley Parkway. Staff was also concerned that the drive-thru window in this location here, it's kind of placed at a diagonal to the street. However, it's really facing right at the intersection, so staff is concerned with that view. I'll try to show the line of site drawing that tries to get at this. I think this might be showing the retail building, but it's a similar type of retaining wall, and the berming and landscaping will be provided on the top. So, essentially, you will also have some landscaping there to buffer that, but it's supposed to be designed at a height that it's not as visible from the existing street grade right in front of the site. However, I'm sure as you approach this site coming east along Valley Parkway you may be able to see the drive-thru side, but not at the closest point to the entrance to the intersection.

Comm. Ling: Are we approving the drive-thru location tonight? How do we address that location tonight?

Mr. Pendley: We do not have any specific stipulations regarding this drive-thru for this site and this plan. This is a preliminary development plan. We're not necessarily improving it in its current location, no. With all of these sites, including the grocery store, final development plans will be required. So, as each one of these come forward with a real user and a real plan, we'll need to look at that more critically. We do not have any stipulations that prohibit a drive-thru window from facing the street. However, it's something that we may want to consider. The way this is shown, it's shown kind of at a diagonal, so you could say it's really not facing the street, but it could be visible.

Comm. Ling: But when you come up Valley Parkway going east, it's going to be very visible, especially if the elevation is mounted higher, too. So, I will express my concerns tonight, that that is a real concern. A very nice office park could develop here in the future and to have the drive-thru mounted right there seems questionable at this point.

My other questions get into the visibility of this area. The existing gas station seems to struggle because of the ability for people to find the location. I didn't think about it because I always knew it was there, but when you drive off of K-10 and you try to find it, if you didn't know it was there, I agree that it is hard to find. I bring that up because the screening that we put on K-10, I understand the visibility screening for the loading bays, but I'm concerned that we almost screen this too much. When you think of Woodland and K-10 where that Price Chopper is mounted where people can find it easily, we certainly want this business to do really well where it's at and wouldn't want to screen any signage or the building such that people aren't going to be able to easily find this grocery store. So, I

guess it's trying to screen it enough for the loading bays. Maybe there needs to be something done with the loading bays because I would hate for them to screen this site too much because it's already a hard site to find. They're not going to have offsite signage, so individuals on K-10 – if that's their customers. If the customers are people just randomly driving off K-10, you've got to be able to see it. Now, the Cedar Creek people who know it's there, that's not an issue for them. I just see how Woodland and K-10 was done and it's a very visible Price Chopper. You can certainly see that that establishment is there.

Mr. Pendley: I would note that we did have this conversation briefly with the applicant in the initial stages of the project review, and although the billboard will not be allowed to continue, they like keeping that for now for the Cedar Creek advertising. However, in the future, a highway sign will be allowed that does meet the current UDO requirements that is almost the same height of the existing billboard. It's allowed up to 30 feet in height. It does have to be a little narrower, and it does have to have a masonry base with landscaping around it, but they will be allowed a highway sign for the commercial development.

Comm. Ling: The other one is a traffic question. I'll ask Alonzo. Alonzo, having personally driven this a number of times, this is a concern that I'll raise. You're coming south out of the gas station and you're going to go west on Valley to get over to Cedar Creek Parkway. It's a beautiful right turn, but when you're trying to do that merge, you get all the way over, and then head south back into Cedar Creek, there are a lot of visibility issues. I've always been concerned I'm missing some car that's sitting there because it's hard to make that maneuver. I know all the infrastructure is in place here, but is there any way to try to address that maybe there needs to be additional lanes here, a dedicated right turn for those going right? It is a concerning maneuver that I'm always missing a car that's coming westbound on Valley.

*Alonzo Linan, Mobility Manager and Traffic Engineer, appeared before the Planning Commission and made the following comments:*

Mr. Linan: What you're referring to, if I understand correctly, is coming out and making this turn and not being able to see vehicles coming out this way. Our comments as staff are that a lane improvement be made at that intersection for southbound vehicles. As part of the traffic study, there's a concern that those who wish to come south and east would back up far enough that they would block that right turn to begin with. So, our recommendation per the staff report is to improve that intersection to add an additional lane for that, so that we can separate those movements as they come out. That it specifically addresses your concern, I don't know. We had a discussion about site distances or site triangles, but we can certainly make sure that that's part of our discussion with the developer and their engineer.

Comm. Ling: I just know that right now, I'm pretty comfortable there's not a car there because there's not a lot of development out there, but in the future when this area gets loaded up – which is good – to me, it seems like a real concern. I don't know if you've driven it and had the same fear of not seeing stuff as they're flying that down that hill – Anyway, I know the infrastructure is there and there's not a lot we can do at this point, but I just wanted to bring it up. That's all I had.

Chairman Campbell: Any other questions for staff? If not, we'll hear from the applicant.

*Tom Nolte, Nolte and Associates, P.A., 9400 Reeds, Overland Park, appeared before the Planning Commission and made the following comments:*

Mr. Nolte: It has taken us three years to get here. This has been quite a project. I've watched this project for the last 22 years and was on the planning commission in the northern city there when the group came and visited to make sure that we had considerations for zoning on the north. They wanted to show their master plan at that time. Drove the site. It was a unique opportunity to see the master planning of 5,000 acres and the idiosyncrasies that go along with the consideration of creating a community, not only a community of diverse housing, but also of business, offices, and of retail. I really thought that the retail component would have developed sooner than what it has, but now that this has become apparent, they are proposing 79,000 square feet of development on 13.5 acres. Usually applications that come in front of you are much more dense – in other words, 25 percent. You would see probably twice the density that you see here. I think it's somewhere around 12-14 percent density, which is fairly light.

There is one major component to this site, which is the grocery store component. The balance of the site becomes much more ancillary to that – the use of pad sites and the retail leg that goes east from the grocery store. What's also interesting about the site is that it is a C-2 site. Very seldom do we see proposals come with C-2 zoning. That's the old county zoning before this was annexed into Olathe. It was annexed in because Olathe had sewers, and that was a needed component. For a long time, that component of Cedar Creek set out there kind of as an isolated tract unto itself. But now, the development has moved westward on K-10 and we're getting close to seeing investment in the retail component of Cedar Creek. This infrastructure has been there for over 20 years – the streets, the design of those streets, the utilities. This is pretty good stuff. I really, really enjoyed Cedar Creek and watching it develop over these years. I have found it to be a premier neighborhood.

In my letter to staff reviewing the neighborhood meeting we had, it was well attended. In fact, it was probably the most well-attended presentation that we have had in my career. Usually we come in and have three or four people who don't have supportive feelings towards any development. This one was embraced, and in fact, I ended my letter by saying that this is the first time I've ever made a presentation where they applauded at the end. We had great questions and a lot of information was exchanged. Mr. Mike Beale was there, who is one of the developers. Mike Christie was there, myself, and also Chad Porter with Shafer, Kline and Warren. He's our engineer on this and has stayed with this project the whole time.

Let me explain. The west entrance and the mid-section entrance, they are already there. That's part of the infrastructure that was built and proposed and the dual lanes designed. We are adding this new east entrance, which is basically to provide an opportunity for trucks to access the site and segregate the traffic. This is one big rock up there, and as you drive to Cedar Creek you'll notice there is a rock cut. We're sitting on top of rock, so we have to knock some of that rock out to get this to work. It's a challenging site, both from the topography issues, and also, the access was predetermined. We have added a water feature, which I wasn't really excited about at first. I always saw Cedar Creek as, I thought they were kind of taking care of all these detention issues with the double lakes that they have, but apparently not. We're going to keep

some of the water on top of the hill for a while. As Sean explained, we've taken the main detention area and it is now a water feature.

I also wanted to explain that we are cutting that down into that hillside. We have three sets of retaining walls around that also, but that will open up the view to the gas station from the intersection of Cedar Creek Parkway and K-10. So we should get a lot better view as you look over the top of the detention basin. We will have a lighted water feature. We are working with Cedar Creek and developers to get more feedback because they do have another water feature on down Cedar Creek Parkway, which are fairly famous. Their waterfalls. So, they do like water features and they want to have some input on this.

There are a lot of other unsung issues that came forth. There's a lot of connectivity, a lot of walk ability, sidewalks. We worked on that for several sessions. Civil engineering is very complex because of the balancing that is associated with the rock excavation, in trying to find the proper floor elevation. Because out in front of a grocery store, it needs to be fairly level or the carts roll away. So, there are several balancing points in here of having to finish the floor and the parking lot out front. We worked together, and then, of course, the folks that like grocery stores so much, they don't really want anyone else touching their parking or messing around, so that tends to be a separate entity. Once they sit down, everybody gets to sit down. So that's where you see the balance of these pad site developments. But I did think it was unique for planners to work with staff on a C-2 site. Usually we're C-P. Very seldom do we participate in a C-2 site. So, there are some idiosyncrasies, and one of those is the setbacks, and we are more than glad to accommodate that.

Now, in the staff report, we have stipulations a. through w. The civil engineering side, the land planning side and the developer side have all reviewed these and we are in agreement. We feel we can fulfill these. So, we have very little to talk about. I will stand for questions. Mr. Porter is also here to answer any questions you might have. We will be back separately for each of the parcels, and also for the plat. So, we know we have a ways to go, but this is an important step. This is not a rezoning step; this is a planning step. This was master planned some time ago but the zoning never changed. Tonight we are talking about land use as it refers to retail, with a major element in pad sites and access and topography and landscaping. I think we have accomplished a lot of the standards set forth by planning.

Comm. Kohler: I have a couple questions. I won't question the dirty pool you played by showing that familiar coffee brand emblem in your paperwork that is pretty darn attractive. And this is an exciting project. I have a few questions about the grocery aspect and what gives your group confidence about it. As close by as De Soto, they've been round and round a million times about the inability to support a grocery store because there are not enough rooftops, and it doesn't seem like the Cedar Creek area is any more populous than that. I hear things about how well the grocery to the east is doing. What gives you confidence that there is population to support a grocery store there? What are you basing that on?

Mr. Nolte: That question was also asked at the homes association meeting. Mr. Beale was there, and Mr. Beale is part of the Ball family of food stores. The Ball's have basically two main retail groups that they work with – Hen House and Price Chopper. They know what the demographics are south. They are hoping that the demographics on the north side – the street changes names there, and to the north I think it's called Canyon Creek, in Lenexa. So, they are seeing some

growth in that area. I drove home tonight on K-10 and it was bumper to bumper. What's interesting about K-10 is the amount of traffic it is handling right now. It handles more traffic between Lawrence and Lenexa than I-70 handles from Kansas City, Kansas, to Lawrence. There is a heavy volume of traffic and a lot of commuters who use K-10. They feel that, at first, they will have to be very sensitive to K-10, but as the population fills in, the store will become very viable. The store is not going to probably be built first. The most important thing that we are doing tonight – just so we understand – is this plan allows what all good planning does. It allows for a determination of access, setback, landscaping, lighting, signage, so that when this plan is offered, and then each one of these final plans come forward, they know exactly what they do or don't have. So, I would say right now that there are banks looking at this site and there are retail pad sites looking at this site. As soon as possible, they would like to build a grocery store.

Comm. Kohler: But if it's determined in the final analysis that there's just not enough there to make grocery a growing concern, will other plans proceed? What alternative uses do you think will be viable there as well?

Mr. Nolte: Well, since the owners of this property are in the grocery store business, it's going to be a grocery store.

Comm. Kohler: And the size of the grocery store, how does it compare to the one down the road? Is it a little smaller?

Mr. Nolte: Yes. This is 50,000 feet. There's another breakpoint at 68,000, 75,000 and 92,000. This is very similar to the grocery store that is at Deer Creek. It's also a Hen House. We did the Thomasville store, which, again, we have both dual frontages to Metcalf and we also have the interior, so we work both sides of the building. This is a 50,000 square foot building, which is a moderate sized grocery store.

Comm. Kohler: That traffic that you referred to that can be bumper to bumper on K-10, when it comes off of K-10 and heads south on Cedar Creek Parkway, I think one of the stipulations calls for revising that turn lane. That will be pretty essential because that will fill up pretty quick. That's all I have.

Chairman Campbell: Any other questions? All right. We will bring it back to the Planning Commission. Any questions, comments, or is there a motion for approval?

Motion by Commissioner Ling, seconded by Commissioner Almeida, to recommend approval of PR-11-021, subject to the following stipulations:

- a. Final site development plans are required prior to any new buildings. Final plat(s) shall also be approved and recorded for unplatted property.
- b. A sign permit is required for the existing billboard in accordance with *Unified Development Ordinance (UDO)* requirements. The billboard shall be removed at the time of development for Lot 1.

- c. Any modifications to the existing telecommunications facility are subject to current *UDO* requirements. Upon grading of Lot 1, fencing shall be required around the ground equipment and additional landscaping shall be provided to replace the existing evergreen trees proposed for removal.
- d. The existing tornado siren located on Lot 4 shall be relocated prior to development of the subject property and the property owner or developer shall pay for relocation.
- e. The final site development plans shall identify a minimum parking/paving setback of fifteen (15) feet from street right-of-way.
- f. The final site development plans shall identify a minimum building setback of forty (40) feet from arterial street right-of-way.
- g. The traffic improvements identified in the traffic impact study shall be constructed prior to occupancy of the first building in the shopping center.
- h. Prior to construction of the eastern access drive, an agreement or letter of consent is required from the subject property owner.
- i. The parking spaces shall meet the minimum dimensions per *UDO* requirements.
- j. The drive-through uses shall provide the minimum required stacking distances per *UDO* requirements.
- k. The final site development plans shall identify the minimum number of accessible spaces for disabled people per *UDO* requirements.
- l. A parking lot lighting plan shall be submitted and approved with the final development plans.
- m. A final drainage plan and stormwater calculations shall be submitted with the final site development plans. The final plans shall identify all water quality features and detention areas.
- n. Water and sewer main extensions will be required for the proposed development. Water service connections and meter locations are required in accessible grassy areas.
- o. Final site development plans shall show the Fire Department Control locations for sprinkler systems and public fire hydrants are required per the Fire Department.
- p. Decorative brick pavers or stamped concrete shall be provided for all crosswalks within the shopping center per *UDO* requirements.
- q. All buildings shall comply with the *Commercial Building Appearance Guidelines*. Consistent architectural design, including building materials and colors, shall be carried throughout the development.

- r. Shrubs and/or additional evergreen trees shall be provided along the north side of the paved area on Lot 1 to provide adequate screening for the loading dock and service area facing K-10 Highway.
- s. The retaining walls shall include a finish that is compatible with the natural stone walls along Cedar Creek Parkway. Material samples shall be submitted and approved with the final development plans.
- t. All retaining walls greater than 30 inches in height require fencing. The fencing shall consist of decorative metal.
- u. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of-way if such cabinets are screened with landscape materials.
- v. As required by the *UDO*, all exterior ground or building mounted equipment, including but not limited to mechanical equipment, utility meter banks and coolers, shall be screened from public view with landscaping or an architectural treatment compatible with the building architecture.
- w. All on-site wiring and cables shall be placed underground.

*Motion passes 8-0*

**MINUTES  
CITY OF OLATHE  
CITY PLANNING DIVISION  
STAFF REPORT**

**CASE # PR-11-027**

**Sean Pendley, Senior Planner, made the following staff presentation:**

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**Planner:** Sean Pendley                      **Planning Commission:** January 9, 2012

**Request:** Final site development plan for a drive-through restaurant for Freddy's Frozen Custard.

**Location:** Northwest corner of 118<sup>th</sup> Street and Black Bob Road.

**Owner:** Preston Group, LLC, Scott Redler

**Applicant:** Payne & Brockway, Todd Allenbrand

**Architect:** Winter Architects, Don Winter

<b>Acres:</b>	<u>1.87±</u>	<b>Proposed Use:</b>	<u>Drive-through Restaurant</u>
<b>Current Zoning:</b>	<u>MP-1</u>	<b>Proposed Zoning:</b>	<u>CP-2</u>
<b>Building Area:</b>	<u>3,436 sq. ft.</u>		
<b>Parking Spaces:</b>	Required	Proposed	
	<u>45</u>	<u>63</u>	
<b>Streets and Right of way:</b>	<u>118<sup>th</sup> Street</u>	<u>Black Bob Road</u>	
	<u>private</u>	<u>50' (½ Street)</u>	
<b>Existing</b>	<u>private</u>	<u>50' (½ Street)</u>	
<b>Required</b>	<u>n/a</u>	<u>n/a</u>	
<b>Proposed</b>			

**Platted:** Part of Lot 13, North Olathe Industrial Park. A replat for the subject property is also on this agenda.

**1. Comments:**

The following is a request for a final site development plan for Freddy's Frozen Custard restaurant. The proposed drive-through restaurant consists of a 3,436 square foot building with 106 indoor seats and an outdoor patio with 24 seats.

A rezoning (RZ-11-015) from MP-2 to CP-2 was recommended for approval by the Planning Commission on December 12, 2011. The rezoning is scheduled for the January 10, 2012 City Council meeting.

At the public hearing, Commissioner Almeida noted that there were potential conflicts with pedestrian traffic crossing through the drive-through lane to get to the building entrance. There was a recommendation to include some type of designated striping to advise drive-through traffic of pedestrian crossings. Following the meeting, the applicant submitted a revised site plan showing pedestrian crosswalks through the south and east sides of the drive-through lane.

2. **Alternate Layout:**

Staff originally recommended that the drive-through window be located on the east elevation so it was not visible from the street. Upon further review of the site plan, staff noted that the majority of the drive-through stacking is surrounding the outdoor dining area and the vehicles are still visible from Black Bob Road. This layout seems to crowd the entrance to the building and obstructs the view of the covered patio from the intersection of 118<sup>th</sup> Street and Black Bob Road. The patio is one of the best features of the building and it should be open and accessible.

Staff recommended that the applicant submit an alternate layout for the drive-through which opened the entrance to the building and directed the vehicle stacking to the rear of the building. The applicant submitted a conceptual layout (dated 9-14-11) that was originally considered at the time of application for rezoning. This layout has the patio facing Black Bob Road and shows the drive-through around the rear of the building but it forces most of the on-site parking farther away from the building and still creates potential conflicts with pedestrian traffic.

The applicant submitted another alternate layout (dated 12-28-11) that opens the view of the building entrance and directs the drive-through lane to the rear of the building. The drive-through window is on the west elevation facing Black Bob Road but the stacking is away from the front patio area and it minimizes potential conflicts for pedestrian traffic. The primary view of this site will be from the intersection of 118<sup>th</sup> Street and Black Bob Road. Staff recommends this alternate layout since it reduces the conflicts with pedestrian traffic and minimizes the view of drive-through stacking from the intersection.

3. **Utilities:**

The property is located in the City of Olathe water and sewer service areas. Utilities are available to the site. The warehouse building on the property to the north has been demolished and all procedures for termination and relocation of utilities shall be completed.

4. **Access/Traffic:**

The final site plan shows a modification for the north access drive to comply with the City's *Access Management Plan*. The drive approach has been

moved further east away from Black Bob Road. Traffic Engineering staff has reviewed the plan and recommends approval of the proposed access.

The proposed drive-through lane provides the minimum required stacking depth per *Unified Development Ordinance (UDO)* requirements.

5. **Drainage:**

A water quality and detention analysis was submitted for the proposed development. There is an existing regional detention basin located to the southeast of the site that was constructed for the adjacent shopping center.

The applicant has proposed expanding the basin to account for the additional 1.87 acres of development for the restaurant. The analysis shows that the expanded basin would reduce the post-development peak runoff rates to meet the City's stormwater design requirements. Public Works has indicated that the proposed development plan complies with the City's stormwater ordinance.

The proposed development also includes Best Management Practices (BMPs) to improve stormwater quality. The BMPs for this site include a bioretention area with native grasses and plants. In addition, the existing trees on the east side of the property will be preserved.

Since the detention basin is off-site, an agreement with the adjacent property owner is required for the combined use of the detention basin and the agreement must be filed with Johnson County prior to recording the replat. The agreement shall also specify maintenance responsibilities for the detention basin.

6. **Parking:**

The site plan indicates a total of 63 parking spaces for the restaurant. The minimum requirement for restaurants is one (1) space for every three (3) seats. Based on the total of 130 seats, a minimum of 43 parking spaces are required. The site plan shows three accessible spaces which exceeds the minimum parking requirement for persons with disabilities.

The photometric plan complies with *UDO* requirements for parking lot lighting.

7. **Landscaping:**

If the Planning Commission recommends approval of the alternate layout with the drive-through window on the west elevation, staff recommends additional evergreen trees on the west property line to improve screening.

The bioretention area includes a variety of native grasses and plants to help remove pollutants from stormwater run-off and retain water quality. The landscape plan also shows the existing trees on the east side of the site to be preserved.

8. **Architecture/Design:**

As submitted, the drive-through window is located on the east elevation to minimize visibility of drive-through lane from Black Bob Road. Given the potential conflicts for pedestrian traffic through the drive-through lane, staff would support the alternate layout with the drive-through window on the west elevation. This layout also directs the vehicle stacking to the rear of the building and improves the view of the front elevation and outdoor patio.

If the drive-through window were located on the west elevation, this side of the building would still incorporate similar building design and materials, including windows, awnings and stone.

The restaurant incorporates similar design and building materials with existing commercial buildings in the adjacent shopping center and the building complies with the City's *Commercial Building Appearance Guidelines*. The proposed wall signs and monument sign shall comply with *UDO* requirements.

9. **Staff Recommendation:**

Staff recommends approval of PR-11-027 subject to the following stipulations:

- a. The rezoning (RZ-11-015) and preliminary development plan for a drive-through restaurant shall be approved by the City Council.
- b. The Planning Commission shall approve the alternate layout for the drive-through lane on the north and west side of the building (plan dated 12-28-11).
- c. If approved by the Planning Commission, the alternate layout shall identify additional evergreen trees on the west property line to provide screening for the drive-through lane.
- d. All demolition materials on the property to the north shall be cleared and the site shall be graded and reseeded in accordance with the *Unified Development Ordinance (UDO)*.
- e. An agreement is required with the adjacent property owner for the combined use of the detention basin. The agreement shall specify maintenance responsibilities and must be filed with Johnson County prior to recording the replat.
- f. LED strip lighting or other types of illuminated banding is prohibited.
- g. The awnings shall not include backlighting. All lighting shall be directed downward and not create internal illumination of the awnings.
- h. Sign permits shall be approved for all wall signs and monument sign in accordance with *UDO 18.62.090*.
- i. The building shall comply with the *Guidelines for Screening of Rooftop Mechanical Equipment*.

- j. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of-way if such cabinets are screened with landscape materials.
- k. As required by the *UDO*, all exterior ground or building mounted equipment, including but not limited to mechanical equipment, utility meter banks and coolers, shall be screened from public view with landscaping or an architectural treatment compatible with the building architecture.
- l. All on-site wiring and cables shall be placed underground.

*Following staff presentation, the Chairman opened the meeting up to questions from commissioners:*

Chairman Campbell: Any questions? Thank you for listening to us at the last meeting. We'll hear from the applicant. Welcome back.

*Mark Huggins, Payne & Brockway, 426 South Kansas, Olathe, appeared before the Planning Commission and made the following comments:*

Mr. Huggins: Here with me tonight is Scott Redler and Randy Simon with the Preston Group, and Dan Winter with Winter Architects. We've been meeting on this since last fall and it has gone pretty well. I do have something I would like to talk about tonight but it's not necessarily about where we're at now in the project. I would say that we have read all of staff's comments and are in agreement with them. Our understanding is that once our building permit plans are approved by staff and we either have a demolition permit for the warehouse at 15021 West 117th Street or a revised plan that makes that building conform to city standards, we will be allowed to get a building permit. I know all of our discussions with staff have been about demolition of that building. I haven't discussed this with Sean or anybody, but there is some interest in that building that might make it compatible with city standards.

I'd say we are in agreement with the alternate plan that has been presented to you tonight, having the drive-thru on the west side of the building or on the Black Bob Road side. I think Sean explained very well what happened and how we got to this point and I don't need to go through that. I do have an indirect comment about that process. I think it went well. We came through it with a better plan than we started, but during the process of making application, we had to prepare several plans that were based off of the old layout. Those plans were, for instance, like photometric plans, storm sewer design, truck turning movement plan, the preliminary stormwater plan, preliminary water quality plan. These were all critical elements to the final project, and again, it's important that this all gets done correctly before this project is built. But having these plans prepared before we get to the Planning Commission turns into a pretty costly item for the developers, and even though they are aware of that, they are still happy to make the change, even though they know these plans are going to have to be revised now. I just wanted to get up here and talk about that a little bit because I've discussed this many times with staff. To me, these items could be stipulated as requirements that meet city standards, so that after the development plan is

approved by the Planning Commission, and after the rezoning is approved by the City Council, then we can start work on designing these items. I know there are some items that need to be addressed in order to make sure that this is a project that can meet city standards, but I think there are several items that could be stipulated. It would make it a lot easier to have the flexibility to make these adjustments like we've made on this project. It would certainly be more cost effective for the developer. I know that's not the City's main priority, but I think that's a good thing to think about, especially in these economic times. I think if we did go that direction, I think one critical issue is that staff have a lot of support in making those stipulations if something is stipulated at the development plan stage, so there isn't a plan prepared at the development plan stage, when it comes to the building permit plan, staff certainly has to be supported in making those requirements at the building permit stage. I just wanted to suggest that and talk about it a little bit. I'd be glad to discuss that or any items on this project.

Chairman Campbell: I appreciate the comment. We are currently undergoing an extensive UDO update and design guidelines and we actually talked about that exact thing in our workshop tonight. We appreciate your input. Are there other questions or comments regarding this development? We talked at length about it last time and changes have been made. Mr. Ling.

Comm. Ling: I hate to even bring it up, but at the last meeting I was silent on the issue, and I guess silence doesn't mean concurrence or change. I prefer the original layout. For me, it's not the stacking of the cars as much as the windows right along Black Bob, which is another thoroughfare. Sean, I know you were pointing to 119th Street as the view shed. I think Black Bob is also a concern for view shed. We have a nice restaurant on the corner, they've done a great job with their landscaping presentation at that restaurant. And I know the establishment needs drive-thru windows. That's what this is. But to have a drive-thru window right on the visible side. I was content to addressing the pathway for pedestrians. Sean was very correct that this occurs many other places in the city, where you have to walk through the stacking lane for the drive-thru window. I think it's successful in many other areas. So, again, I hate to bring it up, but I guess I should have brought up that my silence did not mean that I concur with the change. In this case, I do not think it is appropriate to have the window on the west side. I think it should be back on the east side. And I prefer the initial layout.

The other question I have is, I had the opportunity to view the Freddy's in Lawrence and they have several signage qualities to them – ice cream cones and things like that. The ice cream cone that will be on the front of this one, I imagine that comes in the signage package, or are we approving that - ?

Mr. Pendley: [*off microphone*] That would not require a signage package because what they were showing conceptually would work. [*inaudible*] required number of signs, [*inaudible*], and they would be required to meet the UDO requirements for signage in terms of size.

Comm. Ling: Describe to me what the ice cream cone will look like. Will it be like the one in Lawrence? It appears to be a plastic – I think it actually sits on top of the building in Lawrence.

Mr. Pendley: I do not know the details for the sign.

Comm. Ling: Again, I'm just trying to match the very tasteful restaurant that's on the corner. I just want to make sure that we are compatible just a few hundred feet north of there. If the applicant could address that question.

*Dan Winter, Winter Architects, appeared before the Planning Commission and made the following comments:*

Mr. Winter: The building in Lawrence is a completely different style than this one. It's what we call the "wedding cake" design. It goes up, it towers, it's real high, and the cone is a real visible feature. This is more of a squared-off design. The cone is in line with the signage, kind of blends in with the signage more. Now, the background material here is an EFIS of what you call dryvit. That's what the cone is made out of, is the same material as the building signage, the building EFIS. It's just carved out of EFIS and it's the same color, except for the little white area on top.

Unidentified: Is it illuminated?

Mr. Winter: No. Just the sign is illuminated.

Chairman Campbell: And it's only on the west elevation.

Mr. Winter: Yes.

Comm. Ling: That's all I have, Mr. Chairman. I didn't realize that the discussion last time was going to result in substantial changes. I apologize to everyone involved that I appear to be differing right now. I should have spoke up last time.

Chairman Campbell: Any other questions or comments?

Comm. Almeida: I was looking at one of the plans and it is showing shrubbery along Black Bob. Do we know the approximate height of that? If those are three or four foot tall, from a car it would be hard to see [inaudible] cars and the windows.

Mr. Pendley: The shrubs are typically a minimum of three feet high, sometimes upwards of four or five feet. One thing that staff did note in the report, if the Planning Commission did choose to approve the alternative layout with the drive-thru window on the Black Bob side, staff would recommend additional evergreen trees to also help provide additional screening. I know that's something we don't typically recommend, to cover up an architectural feature with landscaping, but in this case, staff recommended that due to the unique situation with the drive-thru and the pedestrian movements.

Chairman Campbell: Any other questions?

Comm. Rinke: Generally, I do support having the drive-thrus on the interior of the property, but on this particular site and this particular layout, I do think that having it on the Black Bob side would be the appropriate location and I would support the application.

Comm. Harrelson: As I look at the three plans – I was not here, by the way, for the first case – but I think the consideration for pedestrians that would pass

through a drive-thru lane far outweighs having cars a little more visible. We must have 120 drive-thrus in this town, so I can't imagine that putting the cars on the west side is a big deal breaker, for me anyway.

Chairman Campbell: I'll comment on that as well. Based on the first layout, I agree with Mr. Rinke. In general, I do not want the cars stacking on the drive side, on the street side, but neither did I like all the parking from the original layout up against the street. I'm much more comfortable with the alternate layout at this point. Any other questions or comments? A motion?

Mr. Pendley: I have one additional comment. I forgot to note this in my report, but if the Commission does approve the alternate layout, the fire department did have a stipulation noted that I forgot to include in the report. If the alternative layout is approved with the drive-thru lane on the west side of the building, a remote fire department control is required for the fire hydrant. The applicant is aware of that. We just wanted it noted that it is a requirement if the alternate layout is approved. That would be an additional stipulation m. if that is approved.

Motion by Commissioner Almeida, seconded by Commissioner Rinke, to recommend approval of PR-11-027, subject to the following stipulations, as amended:

- a. The rezoning (RZ-11-015) and preliminary development plan for a drive-through restaurant shall be approved by the City Council.
- b. The Planning Commission shall approve the alternate layout for the drive-through lane on the north and west side of the building (plan dated 12-28-11).
- c. If approved by the Planning Commission, the alternate layout shall identify additional evergreen trees on the west property line to provide screening for the drive-through lane.
- d. ~~All demolition materials on the property to the north shall be cleared and the site shall be graded and reseeded in accordance with the *Unified Development Ordinance (UDO)*.~~
- d. As proposed, a demolition permit is required for removal of the existing office-warehouse building and adjacent parking. Prior to issuance of a certificate of occupancy for the restaurant, the existing building and parking shall be removed.
- e. An agreement is required with the adjacent property owner for the combined use of the detention basin. The agreement shall specify maintenance responsibilities and must be filed with Johnson County prior to recording the replat.
- f. LED strip lighting or other types of illuminated banding is prohibited.
- g. The awnings shall not include backlighting. All lighting shall be directed downward and not create internal illumination of the awnings.

- h. Sign permits shall be approved for all wall signs and monument sign in accordance with *UDO 18.62.090*.
- i. The building shall comply with the *Guidelines for Screening of Rooftop Mechanical Equipment*.
- j. All above ground electrical and/or telephone cabinets shall be placed within the interior side or rear building setback yards. However, such utility cabinets may be permitted within front or corner side yards adjacent to street right-of-way if such cabinets are screened with landscape materials.
- k. As required by the *UDO*, all exterior ground or building mounted equipment, including but not limited to mechanical equipment, utility meter banks and coolers, shall be screened from public view with landscaping or an architectural treatment compatible with the building architecture.
- l. All on-site wiring and cables shall be placed underground.
- m. A remote Fire Department Connection is required with the revision to the north access drive.

*Motion passes 7-1, with Commissioner Ling voting in opposition to the motion.*

Comm. Ling: For the reasons stated. Drive-thru windows on the primary thoroughfares should be frowned on.

**MINUTES  
CITY OF OLATHE  
CITY PLANNING DIVISION  
STAFF REPORT**

**CASE # P-11-039**

**Planner:** Sean Pendley                      **Planning Commission:** January 9, 2012

**Request:** Final plat for one lot on 1.87± acres, for Freddy’s Frozen Custard – Olathe.

**Location:** Northwest corner of 118<sup>th</sup> Street and Black Bob Road.

**Owner:** Preston Group, LLC, Scott Redler

**Applicant:** Payne & Brockway, Todd Allenbrand

**Architect:** Winter Architects, Don Winter

<b>Acres:</b>	<u>1.87±</u>	<b>Proposed Use:</b>	<u>Drive-through Restaurant</u>
<b>Current Zoning:</b>	<u>MP-1</u>	<b>Proposed Zoning:</b>	<u>CP-2</u>
<b>Lots:</b>	<u>1</u>		
<b>Streets and Right of way:</b>	<u>118<sup>th</sup> Street</u>	<u>Black Bob Road</u>	
	<u>private</u>	<u>50' (½ Street)</u>	
<b>Existing</b>	<u>private</u>	<u>50' (½ Street)</u>	
<b>Required</b>	<u>n/a</u>	<u>n/a</u>	
<b>Proposed</b>			

**1. Comments:**

The following is a request for a final plat for Freddy’s Frozen Custard – Olathe, a replat of Part of Lot 13, North Olathe Industrial Park. An associated final site development plan (PR-11-027) for Freddy’s Frozen Custard restaurant is also on this agenda.

**2. Utilities:**

The property is located in the City of Olathe water and sewer service areas. Utilities are available to the site.

**3. Access:**

The proposed restaurant site has access from an existing private drive in the shopping center to the south and from an existing drive for the industrial

property to the north. Cross-access easements were recorded with the original plat for North Olathe Industrial Park.

There will be no changes to access for Black Bob Road and Limits of No Access (LNA) are identified on the plat.

**4. Drainage:**

There is an existing regional detention basin located to the southeast of the site that was constructed for the adjacent shopping center (Tract A). The applicant proposes to expand the basin to account for the required stormwater detention for the restaurant.

The proposed development also includes Best Management Practices (BMPs) to improve stormwater quality. The BMPs for this site include a bioretention area with native grasses and plants. The final plat identifies a drainage easement for the bioswales and bioretention area.

Since the detention basin is off-site, an agreement with the adjacent property owner is required for the combined use of the detention basin and the agreement must be filed with Johnson County prior to recording the replat. The agreement shall also specify maintenance responsibilities for the detention basin.

The note on the final plat regarding the agreement between the owner of Tract A and the subject property shall be revised to state there "is an agreement" and not "will be an agreement". The agreement shall be approved by the City and filed with the county prior to recording the plat.

**5. Excise Taxes:**

The property is currently platted; therefore it is not subject to street and traffic signal excise taxes.

**6. Staff Recommendation:**

Staff recommends approval of P-11-039 subject to the following stipulations:

- a. Revise title to show correct name of replat "North Olathe Industrial Park".
- b. An agreement for the shared detention facility is required with the adjacent property owner. The agreement shall specify maintenance responsibilities and must be filed with Johnson County prior to recording the replat. The plat shall note that there is an agreement recorded with Johnson County Records and Tax Administration.
- c. Prior to recording the plat, a digital file of the final plat (pdf format) shall be submitted to the City Planning Division.

*Refer to PR-11-027 for discussion regarding this item.*

Motion by Commissioner Harrelson, seconded by Commissioner Rinke, to approve P-11-039, subject to the following stipulations:

- a. Revise title to show correct name of replat "North Olathe Industrial Park".
- b. An agreement for the shared detention facility is required with the adjacent property owner. The agreement shall specify maintenance responsibilities and must be filed with Johnson County prior to recording the replat. The plat shall note that there is an agreement recorded with Johnson County Records and Tax Administration.
- c. Prior to recording the plat, a digital file of the final plat (pdf format) shall be submitted to the City Planning Division.

*Motion passes unanimously.*

Other Matters for January 9, 2012 PC Meeting (Minutes)

Mr. Clements: We have two public hearings scheduled for our next meeting.

*Meeting adjourned.*



The M-2 General Industrial District is intended to provide for a wide variety of light industrial uses, including manufacturing and assembly. In addition to light industrial uses, the M-2 District permits automobile repair and maintenance shops, motor freight transportation, freight and cargo transportation and wholesale motor vehicles and motor vehicle parts. The M-2 district also permits bus barns and lots, which was the prior occupancy of the building on S. 169 Highway.

This partial list of permitted uses demonstrates that the M-2 district allows certain truck related activities, and the proposed amendment for business and commercial truck rental is similar to many existing permitted uses.

3. **Impact on the UDO:**

This proposed amendment would create a permitted use category of business and commercial truck rental in the M-2 district. Such use would be permitted in any M-2 zoning classification. The existing special use provisions for “motor vehicles, all types, sales, leasing and rental” would remain in the C-3 and CP-3 zoning districts.

4. **Amendment Precedence:**

Amendments to the UDO are not typically done at the request of a property owner or tenant to solve a specific occupancy problem as with this situation. UDO amendments are generally identified by staff, Planning Commission or City Council through working with the code, and are deemed necessary to solve inconsistencies or interpretative problems with the code, or to create new regulations.

Staff would note that such a use-by-use amendment is unusual and it is not the preferred way to process amendments to the UDO. Our current UDO update/revision process may help identify a list of up-to-date/current permitted uses that may eliminate such a need in the future.

5. **Staff Recommendation:**

Staff believes that “business and commercial truck rental” can be an appropriate use in the M-2 General Industrial District, and recommend approval of the proposed amendment. This amendment helps demonstrate how the City of Olathe can help address particular use problems with a timely and thorough amendment in a fashion that has no detrimental impact on other uses in the UDO, and we can help reasonably solve a long-term vacancy during the current difficult economic situation.