

**MINUTES
CITY OF OLATHE
DEVELOPMENT SERVICES**

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

Chairman Campbell read the standard *ex parte* statement; No commissioners reported any *ex parte* communications.

It was noted by Chairman Campbell that a commissioner's name was misspelled in the minutes from the March 28, 2011, regarding planning case P-11-010.

Item 2, P-11-013, was removed from the Consent Agenda for further discussion at the request of Chairman Campbell.

Motion by Chairman Campbell, seconded by Commissioner Ling, to approve the minutes from the March 28, 2011, meeting, with the correction of the spelling of a commissioner's name in planning case P-11-010. Motion passed 6-0

I.

Case No: P-11-013 **Meeting Date:** April 25, 2011

Request: Approval of a final plat for 42 lots and 3 tracts, for Cedar Creek Village I, Twenty-Ninth Plat, on 23.25± acres (**Renewal**).

Location: In the vicinity of Cedar Creek Parkway and Valley Parkway

Owner/Applicant: Ronald Mather; Cedar Creek Development Company

Engineer: David Rinne; Schlagel & Associates

Acres:	<u>23.25±</u>	Proposed Use:	<u>Single-Family Residential</u>
Number of Lots/Tracts:	<u>42/3</u>	Existing Zoning	<u>R-1</u>
Streets and Right of way:	<u>Valley Parkway</u>	<u>101st Street</u>	
	<u>Existing</u>	<u>120' (Total)</u>	<u>50' (Total)</u>
	<u>Required</u>	<u>120' (Total)</u>	<u>50' (Total)</u>
	<u>Proposed</u>	<u>120' (Total)</u>	<u>50' (Total)</u>

1. Comments:

This is a request for approval of a final plat for 42 lots and 3 tracts, for Cedar Creek Village I, Twenty-Ninth Plat, on 23.25± acres, located in the vicinity of Cedar Creek Parkway and Valley Parkway.

The rezoning for this area (RZ-07-027) was approved by the Planning Commission on October 8, 2007 and the preliminary plat (P-08-003) was approved on February 25, 2008. The final plat was approved by the Governing Body on July 15, 2008.

Section 18.12.280 of the Unified Development Ordinance requires all final plats to be recorded within eighteen (18) months of approval by the Governing Body or they are deemed null and void. Based on this requirement, this final plat had to be recorded no later than January 15, 2010. A subsequent one-year extension was granted with PAR-09-022, to allow final recording by January 2011.

The final plat was not recorded, and the applicant has chosen to refile the subdivision request to reinstate the final plat, and allow an additional period for recording.

2. Conformance with Official Plans and Policies:

The proposed plat, as stipulated, complies with the City's *Unified Development Ordinance (UDO)*.

3. Utilities:

The property is located within the City of Olathe water and sewer service area. Water and sewer main extensions are required to provide service to this site.

All main extensions, relocations, service connections and/or upgrades are subject to review and approval by Municipal Services and Public Works.

4. Streets/Access:

Access to the subdivision will be located off of Valley Parkway via 101st Street, which extends through the plat area; all lots will have direct access to 101st Street. This is within the future Valley Parkway Benefit District; the plat will need to be held for recording until this petition has been approved by the Governing Body.

5. Excise Taxes:

A benefit district is to be created for the construction of arterial streets in this area. Staff has stipulated that such a benefit district shall be approved by the City Council prior to recording of a final plat for this property. Property that is part of a benefit district for street improvements is not required to pay street or signal excise fees. If a benefit district is not created that will fund the construction of Valley Parkway, then excise taxes will be calculated and required with the final plat.

6. Open Space and Tree Preservation Areas:

Tracts A, B, and C shall be dedicated as open space or common area and will be owned and maintained by the Cedar Creek Homes Association. The preliminary plat indicated tree preservation areas on the west, north, and south sides of the property located outside of the plat area. The applicant has also indicated a

preservation area along the back side of lots 1 through 10. A perpetual tree preservation easement extends along the rear property lines of Lots 1-23, and Lots 25 and 26.

7. Staff Recommendations:

Staff recommends approval of P-11-013 subject to the stipulations as originally approved with the request, as follows:

- a. Property owner shall provide guarantees for the arterial roadway improvements through the deposit of street excise fee's or creation of a benefit district, or build roadway.
- b. Prior to and upon recording of the plat, a digital file of the final plat shall be submitted to the Development Services Department. 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.
- c. Prior to recording the plat, a master fence/screening plan and street tree plan, indicating the layout, species and size of street trees, shall be submitted to the Development Services Department.
- d. Prior to issuance of a building permit, a performance and maintenance bond in an amount to be determined by the City Engineer, shall be submitted in accordance with UDO § 18.68.390.B and 18.12.040.B to ensure that public improvements, streetlights, sidewalks, street trees, and landscaping will be installed, approved, and maintained after completion of the development. The developer may submit separate bonds from contractors for applicable public improvements, including streets, storm sewers and drainage systems, sanitary sewers, water distribution systems and landscaping.
- e. Prior to issuance of a building permit, a performance and maintenance bond in an amount to be determined by the City Engineer, shall be submitted in accordance with UDO § 18.68.390.D to ensure that all erosion control measures are installed and maintained and that all of the development's streets and sidewalks remain free of debris during all phases of construction.
- f. Line extension, service connections and/or upgrades are subject to review and approval by the Public Works Department and Utilities Technical Support Division.
- g. The developer is responsible for planting street trees, subject to UDO §18.62.045. Such trees shall be planted at the completion of each phase of development.
- h. Prior to the recording the final plats, standard orange barricade fencing shall be installed around all tree preservation areas. Any destruction of trees within preservation areas is subject to the penalties outlined by UDO Section 18.62.120.G.

- i. All aboveground 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 screened with landscape materials.
- j. Prior to recording the plat, an affidavit shall be provided identifying the organization that will be the legal entity having permanent responsibility and authority for the installation, maintenance and repair of the landscape or screening tracts, private greenways, parks or common open space areas as indicated on the final plat, as well as for the payment of all expenses, including taxes and special assessments. The document shall be recorded with the Johnson County Register of Deeds office concurrently with the recording of the final plat.

This item was pulled from the consent agenda at the request of Chairman Campbell.

Chairman Campbell: You have before you a new recommended stipulation that would replace 7.a. with the one that we currently have. Is there a need to read this into the minutes?

Mr. Clements: I don't think it needs to be read.

Chairman Campbell: And this stipulation came into being through staff and the applicants together, correct?

Mr. Clements: This case was continued from our last meeting until tonight, pending some revised language for that stipulation pertaining to the benefit district and responsibilities and improvements, and with the flurry of activity, the language just came about after the staff report was prepared last week. So, we do have it refined, and we believe it is appropriate and ready to go. Mr. Shaver was the principal author of that language.

Chairman Campbell: So this would replace stipulation 7.a. with what we have. Are there any questions or comments about that?

Comm. Ling: Typically on these extension requests, the stipulations would be exactly the same as the original [*Audio cuts out.*]

Motion by Commissioner Ling, seconded by Commissioner Locke, to approve P-11-013, subject to the following stipulations, as amended:

- a. ~~Property owner shall provide guarantees for the arterial roadway improvements through the deposit of street excise fee's or creation of a benefit district, or build roadway.~~

- a. The Cedar Creek development is subject to an overall "Master Benefit District Plan" for arterial and collector roadways, sewer systems, waterline systems and appurtenant improvements. This property may be subject to existing or future assessments for said benefit districts. Property owners within this subdivision agree to participate in the creation of any future benefit districts affecting this property so long as any such benefit districts are created in compliance with Kansas law. Property owners within this subdivision also agree to pay any and all special assessments that affect their property as a result of said benefit districts, so long as such assessments are levied in compliance with Kansas law.

A separate instrument shall be recorded at the Johnson County Department of Records & Tax Administration as an agreement to run with the land. This instrument shall be recorded at the same time any deeds for property within the plat area are recorded, so long as any such recording occurs prior to 1) creation of any future benefit districts, and 2) the levy of any special assessments, both in compliance with Kansas law.

- b. Prior to and upon recording of the plat, a digital file of the final plat shall be submitted to the Development Services Department. 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.
- c. Prior to recording the plat, a master fence/screening plan and street tree plan, indicating the layout, species and size of street trees, shall be submitted to the Development Services Department.
- d. Prior to issuance of a building permit, a performance and maintenance bond in an amount to be determined by the City Engineer, shall be submitted in accordance with UDO § 18.68.390.B and 18.12.040.B to ensure that public improvements, streetlights, sidewalks, street trees, and landscaping will be installed, approved, and maintained after completion of the development. The developer may submit separate bonds from contractors for applicable public improvements, including streets, storm sewers and drainage systems, sanitary sewers, water distribution systems and landscaping.
- e. Prior to issuance of a building permit, a performance and maintenance bond in an amount to be determined by the City Engineer, shall be submitted in accordance with UDO § 18.68.390.D to ensure that all erosion control measures are installed and maintained and that all of the development's streets and sidewalks remain free of debris during all phases of construction.
- f. Line extension, service connections and/or upgrades are subject to review and approval by the Public Works Department and Utilities Technical Support Division.
- g. The developer is responsible for planting street trees, subject to UDO §18.62.045. Such trees shall be planted at the completion of each phase of development.

- h. Prior to the recording the final plats, standard orange barricade fencing shall be installed around all tree preservation areas. Any destruction of trees within preservation areas is subject to the penalties outlined by *UDO* Section 18.62.120.G.
- i. All aboveground 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 screened with landscape materials.
- j. Prior to recording the plat, an affidavit shall be provided identifying the organization that will be the legal entity having permanent responsibility and authority for the installation, maintenance and repair of the landscape or screening tracts, private greenways, parks or common open space areas as indicated on the final plat, as well as for the payment of all expenses, including taxes and special assessments. The document shall be recorded with the Johnson County Register of Deeds office concurrently with the recording of the final plat.

Motion passes 6-0.

B. Access/Streets: The lots will have access from an existing private drive on the South side of the lot.

C. Lots/Units: The proposed replat creates a separate lot for each pad site and a tract containing the existing detention basin. Ridgeview 119, L.L.C. will be responsible for ownership and maintenance of Tract A.

D. Excise taxes: The required street and traffic signal excise fees were paid with the original final plat, therefore the replats are exempt from excise taxes.

IV. STAFF RECOMMENDATION

A. Staff recommends approval of P-11-017 subject to the following stipulations:

- (1) Prior to and upon recording of the plat, a digital file of the final plat shall be submitted to the Development Services Department. 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.
- (2) Prior to recording the plat, an affidavit shall be provided identifying the organization that will be the legal entity having permanent responsibility and authority for the installation, maintenance and repair of Tract A, as indicated on the final plat, as well as for the payment of all expenses, including taxes and special assessments. The document shall be recorded with the Johnson County Records and Tax Administration office concurrently with the recording of the final plat.

Motion by Commissioner Ling, seconded by Commissioner Rinke, to approve P-11-017, subject to the following stipulations:

- (1) Prior to and upon recording of the plat, a digital file of the final plat shall be submitted to the Development Services Department. 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.
- (2) Prior to recording the plat, an affidavit shall be provided identifying the organization that will be the legal entity having permanent responsibility and authority for the installation, maintenance and repair of Tract A, as indicated on the final plat, as well as for the payment of all expenses, including taxes and special assessments. The document shall be recorded with the Johnson County Records and Tax Administration office concurrently with the recording of the final plat.

Motion passes 6-0.

**MINUTES
CITY OF OLATHE
PLANNING SERVICES
SU-11-001**

Case Planner: Dave Clements **Date:** April 25, 2011

Request: Renewal of an existing Special Use Permit for an emergency shelter/group home.

Location: 19475 W. 151st Terrace (southeast corner of 151st Terrace and Hamilton Circle).

Owner/Applicant: Kids TLC, /Krystal Wright

Acres: 1.019 **Proposed Use:** Emergency shelter/group home

Number of Lots: 1 **Current Zoning:** M-2

	Land Use	Zoning	Comprehensive Plan Designation
Site	Group Residential Youth Home Campus	<u>M-2</u>	<u>Non-Residential</u>
North	<u>Industrial</u>	<u>M-2</u>	<u>Non-Residential</u>
East	<u>Industrial</u>	<u>M-2</u>	<u>Non-Residential</u>
South	<u>Industrial</u>	<u>M-2</u>	<u>Non-Residential</u>
West	<u>Industrial</u>	<u>M-2</u>	<u>Non-Residential</u>

Comments:

This is an application to renew an existing special use permit for an emergency shelter/group home for KidsTLC. The property is located at 19475 W. 151st Terrace. The subject property has been used as a group home or residential facility since 1981. KidsTLC acquired the property in 2006 when the company took ownership of Keys Youth Services. . The most recent special use permit allowed the organization to house (no more than 11) male and female youths, ages 11 and older.

2. **Background:**

The history of the Special Use at this address is listed below:

<u>Approved SUP for group home (SU-6-81)</u>	<u>05/19/81</u>
<u>2-year renewal (SU-20-83)</u>	<u>10/04/83</u>
<u>4-year renewal (SU-21-85)</u>	<u>10/15/85</u>
<u>5-year renewal (SU-25-91)</u>	<u>11/19/91</u>
<u>5-year renewal (SU-19-96)</u>	<u>02/04/97</u>
<u>5-year renewal (SU-02-02)</u>	<u>02/05/02</u>
<u>5 year renewal (SU-06-006)</u>	<u>05/02/06</u>

3. **Stipulations of Approval:**

Over time, there have been various stipulations regulating the Special Use permit. Applicable current stipulations are:

- a. *Approval of this amended special use permit will allow the organization to house (no more than 11) male and female youths, ages 11 and older.*
- b. *Final plat for subject property to be recorded at the Johnson County Register of Deeds.*
- c. *The special use permit shall be for the current owner, TLC for Children and Families, Inc. Any new group or change in ownership shall be required to obtain a new special use permit.*
- d. *Any violation of the special use permit stipulations shall be considered a zoning violation and the property shall be subject to citations and possible revocation of the special use permit.*
- e. *The home shall be used as a single-family residence or for the purposes of operating an emergency shelter as defined by the Kansas Department of Health and Environment (KDHE).*
- f. *The center shall be licensed by the Kansas Department of Health and Environment as an emergency shelter.*
- g. *Appropriate supervision shall be provided to all youth twenty-four (24) hours a day, seven (7) days per week.*
- h. *The home shall meet all Johnson County Health Department requirements for operation.*
- i. *The special use permit may be revoked at any time if, upon the vote of a majority of the City Council members after a hearing, reasonable grounds exist to believe that TLC has failed to comply with all stipulations identified herein.*

4. **Proposed Stipulations:**

The applicant points out that several types of youth programs can be operated under a residential center license by KDHE, including but not limited to a maternity center, emergency shelter, transitional living, youth resource center and others. KidsTLC would like to have the Special Use Permit renewed with broader language that states any type of programming licensed by KDHE as a residential center would be allowed under the Special Use. Many of the stipulations that are in place are part of standard compliance with state requirements, and many are customary regulatory requirements assigned by agencies for the type of business KidsTLC operates, and enforced by other agencies.

Kid TLC proposes the following general stipulation to simplify local regulations, and to facilitate program changes that meet KDHE regulations, without having to amend the Special Use permit in the future:

“All types of programming authorized under license with KDHE for a residential center shall be considered to be allowed with the Special Use Permit. The City of Olathe considers KidsTLC to be compliant with the Special Use Permit as the land use remains the same regardless of the variations of programming under the KDHE residential center license.”

5. **Renewal Period:**

As noted above, the initial Special Use Permit was approved in 1981, and the permit has been renewed 6 times. Kids TLC is requesting that the Special Use Permit be renewed without a future expiration date.

4. **Zoning, Uses and Character of Surrounding Area:**

The site and all surrounding property is zoned M-2 (General Industrial) zoning district and with the exception of the subject property, represent a variety of industrial uses.

5. **Neighborhood Meeting:**

Given the industrial zoning, use and character of the surrounding property, a neighborhood meeting was not required with this application; however, all property owners within 200 feet were notified. To date, Planning Services has not received any objections from surrounding property owners nor received objections submitted directly to the applicant.

6. **Access:**

Direct access to the site is from 151st Street from a driveway. Non-vehicular access to the site is from Hamilton Circle (to the west).

7. **Staff Recommendation:**

a. Staff recommends approval of SU-11-001 for the following reasons:

- (1) The group home for adolescents has continued to provide a beneficial service to the city and region since 1981. Inasmuch as

the land use of a group home/residential center is well established, the staff would recommend that the Special Use Permit renewal be approved without a future expiration date.

- (2) No adverse impacts have been reported by the neighboring property owners since the last special use permit renewal in 2006.
- b. Staff recommends approval of SU-11-001, subject to the following stipulations:
- (1) The Special Use Permit for the subject property shall be renewed without a future expiration date. The land use of a group home is well established at this location, and there has been no adverse impact on surrounding properties.
 - (2) All types of programming authorized under license with KDHE for a residential center shall be considered to be allowed with the Special Use Permit. The City of Olathe considers Kids TLC to be compliant with the Special Use Permit as the land use remains the same regardless of the variations of programming under the KDHE residential center license.
 - (3) Any violation of the special use permit stipulations shall be considered a zoning violation and the property shall be subject to citations and possible revocation of the special use permit.
 - (4) The center shall be licensed by the Kansas Department of Health and Environment as an emergency shelter.
 - (5) The home shall meet all Johnson County Health Department requirements for operation.

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

Comm. Fry: I have a question, and this may be a better question for the applicant. I want to just make sure I fully understand what the Kansas Department of Health and Environment programming entails. I know you had a couple examples. I guess they govern this type of a facility in the sense of allowing for certain things to take place. One of the things you mentioned was pregnancy and birthing type of services that might be held at this house. How does that change the age requirement for being over 11? Are they going to now allow infants? Or has that always been allowed? How does that change some of the current stipulations as they exist?

Mr. Clements: A very good question. I think Ms. Wright is probably better versed in a response.

Chairman Campbell: Any other questions?

Comm. Ling: I have a question for Mr. Clements in relation to a similar question on the extension of the programs authorized under this proposed special use permit. You take that, and you also take into consideration that we're taking this from a five-year permit to an indefinite permit. Is there any concern that the new type of programming would cause for the city versus the type of programming that was currently allowed under the previous special use permits?

Mr. Clements: I don't believe so, Mr. Ling. It would be my opinion that the residential center, the group home, that use is established, the land use is established, and I don't think that the age or sex or the situation of the occupant really would be a factor in my evaluation of the land use.

Comm. Ling: And/or its impasse on the adjacent landowners.

Mr. Clements: Correct.

Comm. Ling: Okay, thank you.

Chairman Campbell: Any other questions? We can hear from the applicant at this time.

Crystal Wright, TLC for Children and Families, 480 Rogers Road, Olathe, appeared before the Planning Commission and made the following comments:

Ms. Wright: Just to clarify, KDH&E heavily regulates all the programs that Mr. Clements mentioned. We have numerous programs in operation today, one at that site and several at our campus on Rogers Road. So, we currently offer emergency shelter, but we also do transitional living. We don't do any maternity centers, but we've done group boarding homes, Level 4 boarding homes, Level 5 boarding homes. The state has regulations over group boarding homes and residential centers from one book, and you can operate any one of those programs. So, we have a residential center licensed there today at that property. But, in the event we wanted to modify that program, we would utilize the same license that we have today – which is the residential center language that we're looking for – but we would still go through an application process, which is a letter of program change, you demonstrate what kind of program you're going to operate, the policies and procedures for that. You go through a process with KDH&E to get that approved. So, we would just like to be removed from the limitations of having so many processes to go through, knowing that KDH&E will go through of their bells and whistles to start a new program, but not necessarily having to come to the City to modify. And in the event that we wanted to serve our transitional living kids at that location, it certainly would work. Those are kids that are also 11 and older, same number of kids, male and female. Their focus would be less on emergency shelter with a short-term temporary stay, but it would still be short term and temporary, but also we would focus more on GEDs, getting jobs, figuring out how to help kids look towards college. And all of those fall under Residential Center and are programs that we are familiar with. So, we would like the special use permit to be more flexible and broad, so

if we see the needs of the community change, we can still meet those needs, make the program changes, run that through KDHE, but not have to ask for the City, legal, planning commission, city council, to get involved in each one of those decisions.

Chairman Campbell: Thank you. We appreciate the work TLC does. It's a gem of the community. So, what you're saying, the key words for this are "Residential Center." That keys everything off –

Ms. Wright: Right. Broader scope.

Chairman Campbell: It's a specific term that KDHE looks at and moves forward with. Does that change the age? It's been age restricted to 11. Could there be, at some point, you could do younger children?

Ms. Wright: Not unless we've made that change. We're comfortable with 11 and older. We might do transitional living and choose not to take kids that are less than 14, but 11 and over kind of covers the gamete.

Chairman Campbell: Is that a KDHE - ?

Ms. Wright: No.

Chairman Campbell: That's just internal to TLC. Okay. Thank you. Are there any other questions or comments? All right. This is a public hearing. Is there anyone else wishing to speak in favor of this item? Is there anyone wishing to speak in opposition? If not, we'll bring it back to the Commission for comments, or anything else.

Motion by Commissioner Ling, seconded by Commissioner Rinke, to close the public hearing.

Motion passes 6-0.

Chairman Campbell: Before we do vote, I'm a little concerned about an indefinite extension. We move beyond the realm of special use, and that almost becomes a zoning matter. I do agree that they are such operators and such a jewel in the city that five years is probably a little onerous, but I'm not comfortable with an indefinite. I'm willing to discuss that and see what we want to do with that.

Comm. Ling: That's where the question was going, and the indication of the change of the programming kind of amplified the concern for me. But then you look at the record of doing this on a five-year basis, is the burden worth the benefit that we're getting on them? The City always has the means to accept the complaints and to review the complaints from it. They are longstanding, and it has become more the City's policy now to go to some indefinite periods. In the past, it's been critical type asset facilities, which

definitely makes sense, but with a facility like this that's gone through multiple renewals, I feel your concern, Mr. Chairman. However, I think it seems appropriate in this case.

Chairman Campbell: Thank you. I wanted to bring it up as a matter of discussion and see what we wanted to do. I'm feeling on the fence. Any other comments?

Comm. Fry: I think TLC makes Olathe a better place to live. They have the track record, and I think that doing something indefinite would be a good thing to do.

Comm. Rinke: Especially considering where this property is located, I don't see where it could ever have a negative impact on the surrounding property owners.

Comm. Locke: Agreed.

Chairman Campbell: Any other discussion or comments? If we do vote, the recommendation of 7.b.4 would change from "emergency shelter" to "residential center." That wording would change, just so everyone is aware. Other comments?

Motion by Chairman Campbell, seconded by Commissioner Ling, to recommend approval of SU-11-01, for the following reasons:

- (1) The group home for adolescents has continued to provide a beneficial service to the city and region since 1981. Inasmuch as the land use of a group home/residential center is well established, the staff would recommend that the Special Use Permit renewal be approved without a future expiration date.
- (2) No adverse impacts have been reported by the neighboring property owners since the last special use permit renewal in 2006.

Chairman Campbell's motion included recommending approval of SU-11-001 subject to the following stipulations, as amended:

- (1) The Special Use Permit for the subject property shall be renewed without a future expiration date. The land use of a group home is well established at this location, and there has been no adverse impact on surrounding properties.
- (2) All types of programming authorized under license with KDHE for a residential center shall be considered to be allowed with the Special Use Permit. The City of Olathe considers Kids TLC to be compliant with the Special Use Permit as the land use remains the same regardless of the variations of programming under the KDHE residential center license.
- (3) Any violation of the special use permit stipulations shall be considered a zoning violation and the property shall be subject to citations and possible revocation of the special use permit.

- (4) The center shall be licensed by the Kansas Department of Health and Environment as an emergency shelter a residential center.
- (5) The home shall meet all Johnson County Health Department requirements for operation.

Motion passes 6-0.

**MINUTES
CITY OF OLATHE
STAFF REPORT**

CASE # RZ-11-003

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

Case Planner: Sean Pendley **Planning Commission:** April 25, 2011

Request: Zoning amendment for CP-2 district and revised preliminary development plan for Ridgeview Falls.

Location: Vicinity of 119th Street and Lennox Drive

Owner: RMPL Development Company, Inc., Peter Levy

**Applicant/
Engineer:** Shafer, Kline & Warren, Inc., Chad Porter

Acres:	<u>0.976±</u>	Proposed Use:	<u>Drive-through restaurant</u>
Current Zoning:	<u>CP-2</u>	Building Area:	<u>2,797 sq. ft.</u>
Parking Spaces:	Required	Proposed	
	<u>26</u>	<u>33</u>	

	Land Use	Zoning	Comprehensive Plan Designation
Site	<u>Undeveloped</u>	<u>CP-2</u>	<u>Community Commercial Center</u>
North	<u>Residential Care</u>	<u>RP-3</u>	<u>Mixed Use Residential</u>
East	<u>Undeveloped</u>	<u>RP-3</u>	<u>Conventional Neighborhood</u>
South	<u>Apartments</u>	<u>RP-4</u>	<u>Mixed Use Residential</u>
West	<u>Undeveloped</u>	<u>CP-2</u>	<u>Community Commercial Center</u>

Platted: No. A final plat shall be submitted and recorded prior to development.

I. COMMENTS

The following is a request for a zoning amendment for CP-2 (Planned General Business District) and a revised preliminary development plan for Ridgeview Falls. The change is being requested to allow a drive-through restaurant Jack in the Box.

In 2003, a rezoning to CP-2 (RZ-33-03) was approved for Ridgeview Falls. The preliminary development plan indicated a drive-through bank on the subject property. In 2007, a rezoning to NC (Neighborhood Center) district and revised development plan for Ridgeview Falls was approved to allow a mixed-use building with retail and condominiums uses for the interior of the shopping center. The revised plan did not show any changes for the pad sites along 119th Street.

The owner is currently proposing a new 2,797 square foot drive-through restaurant. The building location and site access is consistent with the original plan for Ridgeview Falls showing a bank on this site. The primary change for the proposed development is the location of the drive-through windows from the back of the building, as shown on the bank, to the west side of the restaurant.

The applicant held a neighborhood meeting on April 7, 2011 at Aberdeen Village to discuss the proposed development (see attached minutes). Only two residents attended the meeting and there were no concerns regarding the proposed development.

II. PRELIMINARY DEVELOPMENT PLAN

A. Public Utilities:

The property is located in the City of Olathe water service area and Johnson County Wastewater district. Utilities are currently available to the site. The applicant shall contact JCW for any conditions related to sanitary sewer service.

B. Access/Streets:

Access to the site will be provided from an existing curb cut on 119th Street, which will be a shared right-in/right-out drive. In addition, there will be a new private drive extension from Lennox Street on the north side of the site. The private drive will be constructed by the owner of Ridgeview Falls prior to occupancy of the restaurant.

The existing private drive, Lennox Street, may need to be revised to improve existing conditions and accommodate delivery trucks for the proposed development and other developments within Ridgeview Falls. Because this drive is shared by multiple properties, the owners for Jack in the Box and Ridgeview Falls are coordinating the details for timing and responsibility for improvements to the existing drive. Additional details will need to be submitted with the final site development plan for Jack in the Box.

Truck templates must be submitted indicating truck type WB-50 (large semitrailer) on the turning template map. Staff recommends a full WB-50 turning template entering from east bound on 119th Street through Lennox Street. Corrections need to be provided if turning paths encroach parking stalls, or run over/onto curbs.

C. Parking:

The site plan includes a total of 33 parking spaces and the minimum parking requirement for the proposed restaurant is 26 spaces. This complies with the *Unified Development Ordinance (UDO)* for minimum parking as well as the North Ridgeview Road requirements for maximum parking.

The development also includes two accessible parking spaces, which meets the parking requirements for disabled persons.

D. Drive-through:

The site plan identifies a total of eight (8) vehicle lengths for drive-through stacking with four (4) vehicles behind the window and four (4) vehicles behind the menu board per *UDO* requirements for drive-through stacking.

E. Pedestrian Access:

The site plan identifies a connection from the existing sidewalk along 119th Street leading to the entrance of the building. The sidewalk shall comply with ADA requirements for accessibility. In addition, a sidewalk will be provided along the new private drive from Lennox to continue the existing private sidewalk within the shopping center.

F. Landscaping:

There are existing deciduous shade trees to the east of the site along the existing private drive for Aberdeen Village. The proposed landscape plan identifies additional trees and shrubs around the perimeter of the site to comply with the landscape requirements for non-residential developments. The proposed landscaping also follows the North Ridgeview Road Corridor Guidelines.

G. Architecture/Design:

The restaurant is a one-story building with a pitched roof over the dining area and drive-through. The building includes faux windows on the top of the south and east elevations to give the appearance of a second story. The exterior building materials consist of brick, stone veneer and simulated slate roofing and awnings. The applicant has submitted color renderings for all sides of the building.

The restaurant also includes a patio with decorative metal fencing for outdoor dining. The proposed building complies with the architectural design criteria for the North Ridgeview Road Corridor Guidelines.

III. ANALYSIS

The following are criteria for considering zoning applications as listed in *Unified Development Ordinance (UDO) Section 18.12.140*:

A. *The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.*

The future land use map of the *Comprehensive Plan* identifies the subject area as a “Community Commercial Center”. These commercial centers are intended to provide a variety of larger scale retail uses and restaurants that draw from multiple neighborhoods. These centers tend to be more pedestrian scale than regional centers. The proposed development of a drive-through restaurant is consistent with the future land use map.

The proposed development also complies with principles of the Comprehensive Plan:

- **Principle LUCC-6:** *“Discourage “leap-frog” or sprawling land use patterns by encouraging growth in serviceable areas. Promote the infill of vacant parcels and reinvestment in buildable areas.”*

The associated **Policy LUCC – 6.1: Targeted Development** states: *“With the guidance of the Comprehensive Plan’s Future Land Use Map, encourage targeted development, redevelopment and infill so as to channel growth where it will contribute to the long-term community vision and improve access to jobs, housing and services.”*

The proposed restaurant is located in an area where infrastructure and other public services already exist. Development of this site promotes infill of a vacant parcel and provides new opportunities for economic development.

B. The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).

The surrounding area consists of commercial and multi-family residential land uses. The proposed drive-through restaurant is compatible with existing development and the size and scale of the building is appropriate for the subject property.

C. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

The surrounding shopping center is zoned CP-2 and the properties to the north and east are zoned RP-3. Arterial street right-of-way is located to the south of the property and multi-family uses are located across 119th Street.

D. The extent to which approval of the application would detrimentally affect nearby properties.

The proposed development should not have any negative impacts to surrounding properties and includes the following characteristics to minimize conflicts:

- Maintains existing access to the site and provides coordinated access with the shopping center.
- Drive-through restaurant is consistent with surrounding uses.
- Quality development that meets or exceeds the surrounding architectural style and building materials.

E. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

The proposed development of a drive-through restaurant will not adversely affect the capacity of the road network. However, there may need to be improvements to the existing private drive for Lennox Street to accommodate delivery trucks. The proposed development includes the required number of parking spaces for a restaurant.

IV. STAFF RECOMMENDATIONS

- A. Staff recommends approval of RZ-11-003 for the following reasons:
- (1) The proposed development complies with the Principles and Policies of the *Comprehensive Plan*, including *Principle ES-3: "Strengthen and revitalize existing commercial centers."*
 - (2) The zoning amendment for CP-2 district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
 - (3) The proposed development follows the site and building design criteria for the North Ridgeview Road Corridor Guidelines.
- B. Staff recommends approval of RZ-11-003 with the following stipulations to be included in the ordinance:
- (1) Prior to publishing the zoning ordinance and within thirty (30) days following approval by the Governing Body, a statement that a preliminary development plan has been approved for the subject property shall be filed in accordance with the requirements of Section 18.12.230 of the *Unified Development Ordinance (UDO)*.
- C. Staff recommends approval of the revised preliminary development plan with the following stipulations to be completed with the final site development plan:
- (1) Truck templates must be submitted indicating truck type WB-50 (large semitrailer) on the turning template map. Plans shall show a full WB-50 turning template entering from east bound on 119th street through Lennox Street.

- (2) A final drainage plan and stormwater calculations shall be submitted and approved in accordance with the city's stormwater design requirements.
- (3) A building material sample board shall be submitted with the final site development plan.
- (4) The outdoor patio shall include decorative black metal fencing.
- (5) A parking lot lighting plan, in accordance with *UDO* requirements, shall be submitted and approved with the final site development plan.
- (6) 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.
- (7) 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.
- (8) 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 at this time for staff? Mr. Rinke.

Comm. Rinke: On the roofing materials, is that a masonry type product, or asphalt?

Mr. Pendley: What they are proposing is a faux slate – it's a slate. Actually, we don't have a sample of that, but I believe it's similar to what, if I recall, what Taco Bueno would have. That would be a material sample that staff would request with the final site development plan. A material sample board will be received at that time.

Comm. Rinke: I had a question on stipulation C.1., which deals with the turn onto Lennox Drive. There is an island there now that has not been maintained. The curb is broken, there's no grass or ground cover. There are two streetlights that have been knocked down and haven't been replaced. Obviously, I think that's probably an issue because it's awfully tight through there. This stipulation deals with making sure that it is adequate for trucks to turn through there. But specific

to the stipulation, it says, "entering from eastbound on 119th." Wouldn't that be westbound? I assume it's trucks heading westbound that you're concerned about, correct?

Mr. Pendley: I believe that is what we would be addressing. This requirement actually came from the traffic division, so I'm not sure what their intent was. But I believe you are correct. I think the bigger concern is the turning movements for the westbound traffic leading onto Lennox. I think you're correct.

Comm. Rinke: It either should have said "from the east" or –

Mr. Pendley: Well, there may also be concern. I don't know the extent of the existing median here along Lennox. I'm sorry, I forgot to bring this up in my presentation. The existing private drive for Lennox is off site. However, of course, it will provide access to the subject property, and there are concerns today with the conditions of the private street, Lennox Street. There is a very narrow median along Lennox that does make it very difficult for traffic entering this site, especially truck traffic. I believe there is a problem with the curb being clipped here, like you said, for westbound traffic. There may also be concern with vehicles from the east due to the location of that median. I'm not certain of that. That is why staff recommended the stipulation or additional details to be provided for the truck templates with the final site development plan. We are aware of conflicts there today. There are also concerns about the condition of the median and the street lights. That is something that the developer is aware of and they are discussing that with the owner for Jack-in-the-Box, and they are discussing what improvements are going to be needed. So, that is something we are expecting, and the applicant is aware that that is going to have to be provided, the additional detail for the existing street is going to have to be provided with the final site development plan. At that time, whatever requirements are necessary would be discussed and stipulated.

Comm. Rinke: Thank you.

Comm. Ling: I have a question. On the drawing you have on the screen right now, the right-in/right-out, is that a – for lack of a better term – a "grandfathered" access point?

Mr. Pendley: I believe so. I don't know the details of that. I know that that curb cut did come into discussion with the preliminary development plans for Ridgeview Falls. Generally speaking, they are kind of grandfathered in because, again, I think the preliminary development plan for Ridgeview Falls showed that access. So, just as with a preliminary plan, the development is more or less tied to that general access layout. They are tied to that. We generally don't approve new curb cuts. Any of those that were approved previously, and especially those that were constructed like this existing apron out here, are more or less set. I believe the traffic division has looked at this and, because it is a proposed right-in/right-

out drive, we won't be having those left turn movements. That would be adequate. I know there may be some concern about that taper there. I know that is something that they did look at in the review, but I believe that the existing access drive would be adequate. You're still going to have some of those vehicles that will continue on into Lennox Street, but anybody heading westbound is probably going to take that first turning movement. However, because we're only catching that westbound traffic, I think that's why Public Works felt confident that this would function properly.

Comm. Ling: I'm assuming that was the case because you look at the other developments along here, all the way over to Ridgeview, and there is no right-in/right-outs on that in the interior developments. There are some on the main road. I assume this complies with our access management policy. The right-in/right-outs are convenient at one point, but they also tend to slow the queue down for the traffic on 119th Street. So, it's a brand-new development, and it seems to hamper it by doing this. But I'm assuming Traffic had a valid reason why that apron is there and why that access point was there.

Mr. Pendley: Correct. It's something we will have to look at in further detail with whatever development is proposed here. This is the site that was proposed last year for a Quik Trip. As proposed, this was something that staff felt would function.

Comm. Ling: That's all I had.

Chairman Campbell: Thank you. Anything else down here? I have a question regarding access. This seems to be the theme. The additional connector off of Lennox, that's to be constructed by others?

Mr. Pendley: Yes, the developer for Ridgeview Falls.

Chairman Campbell: Is there an agreement, a timing?

Mr. Pendley: There is no agreement at this point. That is something that we also brought up with the applicant, that we would certainly want to see what that agreement was, or at least have something tied to this building. The applicant for Jack-in-the-Box is aware of that. That will be a requirement, that that street be constructed prior to opening the Jack-in-the-Box. I believe it is a condition for their purchase of the property that that drive be constructed.

Chairman Campbell: Does there need to be a stipulation for that specifically since this is a preliminary?

Mr. Pendley: Staff didn't feel it was necessary to stipulate that with the preliminary development plan. We are going to have to address that with the

final, however, to make sure there is either some type of an agreement, or that there be a stipulation that it be constructed prior to occupancy.

Chairman Campbell: I don't want to have a restaurant that is a right-in/right-out access point only. It's very tight, too.

Mr. Pendley: Yes. And as I believe the applicant will indicate, that is something that they cannot live with either. They have to have that driveway. We discussed this through the review process.

Chairman Campbell: I would assume that was the case. Again, to talk about the access point, since we don't have anybody from Traffic here, I would be concerned, too, about not only including those templates, and they're talking specifically about the Lennox Street access, we might as well get them for the entire site, especially this right-in/right-out, because as trucks, fire trucks, whomever, have to come in and around there – It's another entry point. That's very tight.

Mr. Pendley: That's a good point. That's something we will ask to be provided again. The applicant did do that actually through this review process. I just didn't mention it in the staff report, but they did provide truck turning templates for that proposed right-in/right-out drive, and it did function properly. We will make sure that they have all of the proper turning templates. I believe we got what we needed with that on site, but we will verify that again with the final site plan.

Chairman Campbell: Thank you.

Comm. Fry: I have one other question about the private drive. When this is typically done, obviously we discuss whether it needs to be stipulated for them to do it or not. Who maintains it once it has been built? Is there a stipulation that should be there about maintenance of that road?

Mr. Pendley: That is actually a tract that is owned by Ridgeview Falls Development Company. That is the owner who would be responsible for the maintenance. So, we don't generally have a stipulation on a commercial development like this. That is just what it is. It was probably covered in the original plat for Ridgeview Falls, but that is something that the owner of Ridgeview Falls is – Or, if they assign a business association, similar to an HOA, that entity is responsible for the maintenance. The owner is aware of the maintenance concerns. But in this case, for this private drive, it would be the responsibility of the Ridgeview Falls shopping center.

Comm. Fry: Okay.

Chairman Campbell: Thank you. This is a public hearing. We're ready to hear from the applicant.

Brock Boyett, Development Manager, Jack in the Box, Inc., 8312 Allman Road, appeared before the Planning Commission and made the following comments:

Mr. Boyett: We are here requesting approval of this zoning amendment to change the use from the previously-approved drive-thru bank to a restaurant with a drive-thru, as well as the preliminary development plan. We have been working with staff for quite some time to modify our initial proposal to comply with all of the ordinance requirements of the City of Olathe, as well as the Ridgeview Falls Development, and worked with the councilwoman for this area as well, to get her initial input on it, too. We feel like it is consistent with the intent of the development for our use, and we would request that it be approved tonight.

Traffic flow through the site has been looked at very carefully with the templates. In fact, you'll notice that in the back of your packet, we've got the trash enclosures, and we've tilted those at an angle to make it easier for the trash truck to come in and do its job, without having them straight in where they could back up over curbs. We've looked at delivery trucks, emergency vehicles, service vehicles, as well as the customer automobiles coming in.

The existing columns and iron fencing along the east and north side of the property would remain. We're not taking that down. Of course, all of that landscaping stays, too. We are extensively landscaping our interior areas, as well as our perimeters.

Stormwater retention is to a basin that is existing behind the site to the west, and both of these sites will utilize that basin for retention. Pedestrian access is also provided. We've done a lot of modifications to our standard prototype exterior elevation, so what we end up with is something that is a little more massive in scale appearance-wise, while the floor plan is still the size we feel we need to do our business. The photos up on the screen came across looking like one of the bricks was a little more yellow than it really is. I think the packet copies are a little more true, a little more of a straw or tan color. It was a little deceiving on the screen up there.

I think those were the key things. We have had discussions with the developer to communicate the concerns of the City on the Lennox/119th Street intersection and the median in there and the narrowness of the northbound side of that entrance. The developer has agreed to remedy that in accordance to the desires of the staff and the City, either at the time that the property to the west of us is developed, or prior to us requesting our certificate of occupancy. They have agreed to write a letter to that effect to confirm that to all parties. Also, the rear access will be constructed by the developer prior to us completing our project. As you can see, we need that access point, as well as the front one, because the right-in/right-out on 119th Street provides us no access to westbound 119th Street if we don't have that rear cut. People coming out of the site that want to continue east on 119th Street, they can't do that without pulling a u-turn at Lennox, and we'd rather not introduce that turning movement into the street system. So, this gives them the option of going out back, continuing through

Ridgeview Falls, or coming out the Lennox Drive and utilizing the light for a safe turn to eastbound 119th Street.

That's it. I would be happy to answer any other questions that you might have.

Chairman Campbell: Are there any questions of the applicant?

Comm. Ling: I have a comment. I appreciate you working on the architecture. I know they are unusual requirements, but they do match and blend in with the rest of the buildings and structures in the area, so I appreciate the look. I think you did a nice job with the second story. I think it will look nice with the other structures in that area, too. So, thank you.

Comm. Kohler: I'm just curious about the chain, because I always associated it with California, for some reason.

Mr. Boyett: It's based in San Diego. I handle the Midwest. We have one at 18th and I-70. That was the first. It opened last November and it has done extremely well. Everybody in San Diego keeps asking when more are going to open out here because that one has done so well. So, we're under construction in Overland Park, we're in for permits, and we just got permits for another one in Kansas City, Kansas, at the Speedway, and Olathe, Blue Springs – you can guess, the usual suspects around town. We're looking forward to being part of the Olathe community.

Chairman Campbell: Thank you. I do also want to comment, the architecture is great. I appreciate the compliance with the corridor and not having to fight with that like we have in the past. A couple questions. You haven't closed on this property yet - ?

Mr. Boyett: No, we have not.

Chairman Campbell: Are you going to put money in escrow to make sure the road gets built? What are the safeguards for making sure that your entry points are done?

Mr. Boyett: It's in our contract and agreements that have been agreed to on that road. Originally, the property to the left of us, actually that developer was ahead of us, and it was expected that it would be in before we even got to this point. We know what happened there, and they may or may not be in play at the time that we're building. But we will have it escrowed so that that drive will be built, and if for any reason that they should not do it, then we have the money to do it ourselves. As well as the other half of the entrance drive, because if you look at the way that entrance drive comes in, the west portion is on the property at the west, and we have it covered under the same agreement.

Chairman Campbell: That was my next question. The other question I had, I'm only seeing one menu board. Are you planning to do a pre-menu board? I see one here, unless I missed it.

Mr. Boyett: The answer to the question is yes. Unless it is prohibited for some reason, we would have a second board, which is a preview board, no speaker in it.

Chairman Campbell: Yes, it's a new thing for us, so I wanted to make sure if you wanted it, we got it on here.

Mr. Boyett: It helps to have one. Gives them a head start to decide on what they want and try to keep the flow going.

Chairman Campbell: Any other questions or comments? This is a public hearing. Is there anyone here wishing to speak in favor of this item? Is there anyone wishing to speak in opposition? Seeing or hearing none, I'll bring it back to the Commission.

Motion by Commissioner Ling, seconded by Commissioner Locke, to close the public hearing.

Motion passes 6-0.

Chairman Campbell: Is there a motion or further discussion on RZ-11-003?

Motion by Commissioner Fry, seconded by Commissioner Ling, to recommend approval of RZ-11-003, for the following reasons:

- (1) The proposed development complies with the Principles and Policies of the *Comprehensive Plan*, including *Principle ES-3: "Strengthen and revitalize existing commercial centers."*
- (2) The zoning amendment for CP-2 district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
- (3) The proposed development follows the site and building design criteria for the North Ridgeview Road Corridor Guidelines.

Commissioner Fry's motion included recommending approval with the following stipulations to be included in the ordinance:

- (1) Prior to publishing the zoning ordinance and within thirty (30) days following approval by the Governing Body, a statement that a preliminary development plan has been approved for the subject property shall be filed in accordance with the

requirements of Section 18.12.230 of the *Unified Development Ordinance (UDO)*.

Commissioner Fry's motion included recommending approval of the preliminary development plan, with the following stipulations to be completed with the final site development plan:

- (1) Truck templates must be submitted indicating truck type WB-50 (large semitrailer) on the turning template map. Plans shall show a full WB-50 turning template entering from east bound on 119th street through Lennox Street.
- (2) A final drainage plan and stormwater calculations shall be submitted and approved in accordance with the city's stormwater design requirements.
- (3) A building material sample board shall be submitted with the final site development plan.
- (4) The outdoor patio shall include decorative black metal fencing.
- (5) A parking lot lighting plan, in accordance with *UDO* requirements, shall be submitted and approved with the final site development plan.
- (6) 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.
- (7) 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.
- (8) All on-site wiring and cables shall be placed underground.

Motion passes 6-0.

**MINUTES
CITY OF OLATHE**

CASE # PR-11-010

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

Case Planner: Sean Pendley **Planning Commission:** April 25, 2011
Request: Approval of a final site development plan for The Contractor's Garage.
Location: 15735 S. 169 Highway
Owner: Tom VanKeirsbilck
Applicant: RBK, LLC, Kevin Combs
Engineer: Green Engineering Services, Inc., Jay Green

Acres:	<u>3.35±</u>	Proposed Use:	<u>Mini-storage warehouse</u>
Current Zoning:	<u>M-2</u>	Building Area:	<u>27,000 sq. ft.</u>
Parking Spaces:	Required	Proposed	
	<u>3</u>	<u>10</u>	

Platted: Lots 1 and 2, Van Duss Business Center.

Note: This item is on the regular agenda for discussion regarding the stipulation for relocating the existing fencing outside the landscape area.

I. COMMENTS

The following is a request for a final site development plan for The Contractor's Garage, a mini-storage warehouse and outdoor storage area. The site is located at 15735 S. 169 Highway, approximately one block east of the highway. The existing site consists of an unimproved outdoor storage yard with a chainlink fence around the perimeter of the site.

The proposed development consists of two 13,500 square foot storage warehouse buildings and outdoor storage area for vehicles, trailers and work materials or equipment. The applicant has provided a project summary for the proposed development (see attached).

Per *Unified Development Ordinance (UDO)* requirements, storage of materials or equipment outside an enclosed building shall be 100 percent screened from public view. Staff has recommended a stipulation for the existing fence to be relocated outside the required landscape area per *UDO*

requirements. The applicant is requesting an exception for this requirement, which must be granted by the Planning Commission.

II. DEVELOPMENT PLAN

A. Public Utilities:

The property is located in the Water District No. 1 service area and City of Olathe sewer service area. Utilities are currently available to the site. The applicant shall contact Water One for any conditions related to water service.

B. Access/Streets:

Access to the site will be provided from two existing access drives on a private street that loops around to 169 Highway. The access drives and area in front of the storage buildings will have concrete paving. The proposed outdoor storage area has a gravel base.

C. Parking:

The proposed development includes a total of 10 parking spaces. The minimum requirement for mini-storage warehouse complexes is two spaces and one space for employees.

The development shall include a minimum of one (1) accessible parking space per *UDO* requirements for parking for disabled persons.

D. Drainage/Stormwater:

The site plan indicates two bioretention basins on the east side of the property. The development shall provide a permanent drainage easement for detention and Best Management Practices (BMPs). The easement shall describe the owner being responsible for the maintenance of the detention and water quality facilities.

The applicant has submitted a preliminary stormwater management report for the proposed development but additional information is required prior to development. A final stormwater report shall be submitted prior to issuance of a building permit and the report shall include the following information:

- existing and proposed hydrographs
- stage storage and stage discharge curves
- soil matrix design and proposed plantings for the bioretention basins
- long term detailed maintenance program for the water quality facilities
- color images of mature plantings to be used with the bioretention basins

E. Landscaping/Screening:

There is an existing 6-foot high chainlink fence around the perimeter of the site. The fence is located approximately five (5) feet from the edge of the existing private street. The *UDO* requires a minimum ten (10) foot landscape area around the perimeter of non-residential sites, except where adjacent to existing outdoor storage areas. In addition, the required perimeter landscape area shall be located outside of any fencing for the development, between the fence and the street, unless this requirement is otherwise modified by the Planning Commission.

Staff recommends relocating the existing fence outside the required landscape area along the private street to comply with *UDO* requirements. The applicant is requesting an exception to this requirement to keep the fencing in its current location and to provide landscaping outside and inside the fencing. The applicant has submitted a letter with justification for not relocating the fence (page two of project summary).

There are additional screening requirements for outdoor storage areas. Per *UDO* requirements, storage of materials or equipment outside a fully enclosed building shall be 100 percent screened from public view. The applicant is proposing skyrocket juniper shrubs outside the fence. These shrubs will have a height of five to six feet with a narrow spread of three to five feet according to the applicant. These shrubs do not comply with the city's minimum planting criteria which require evergreen trees with a minimum height of six (6) feet.

The landscaping on the inside of the fence includes a combination of Keterleer Juniper shrubs, Norway Spruce trees and Eastern Redbud trees. Staff is not familiar with the proposed Keterleer Juniper shrubs but they appear to be similar to Skyrocket Junipers with a height of 5-6 feet and narrow spread. The applicant has also provided two computer renderings showing the proposed landscaping with the fence in its current location and with the fence relocated approximately 10 feet from the back of curb.

Staff does not support the proposed landscape plan because the juniper shrubs do not appear to provide 100 percent screening per *UDO* requirements. In addition, the Skyrocket Junipers will be located very close to the edge of the existing street and may cause conflicts with the existing fence and overhang for the street.

F. Building Design/Materials:

The proposed warehouse buildings consist of metal siding and split face masonry wainscot with overhead doors on the west elevation facing the street. Existing buildings on surrounding properties consist of metal siding and masonry on the street side of the buildings.

III. STAFF RECOMMENDATION

Staff recommends approval of the final site development plan with the following stipulations:

- (1) A final stormwater report shall be submitted and approved by Public Works prior to issuance of a building permit. The report shall include all required information for stormwater quality.
- (2) A permanent drainage easement for detention and Best Management Practices (BMPs) shall be dedicated prior to issuance of building permit. The easement shall describe the entity responsible for ownership and maintenance of the detention and water quality facilities.
- (3) The development shall include a minimum of one (1) accessible parking space per *Unified Development Ordinance (UDO)* requirements for parking for disabled persons.
- (4) The existing chainlink fence along the private street shall be relocated outside the required ten (10) foot landscape area, unless this requirement is otherwise modified by the Planning Commission.
- (5) The landscape plan shall comply with *UDO* requirements for planting criteria and screening for outdoor storage areas.
- (6) Per *UDO* requirements, the landscape plan submitted with the building permit shall be sealed by a landscape architect licensed to practice in the state of Kansas.
- (7) Details for the proposed parking lot lighting shall be submitted and approved with the building permit.
- (8) 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.
- (9) 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.
- (10) 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: Questions for staff?

Comm. Fry: I guess I have a question in regards to what the applicant put together as far as their arguments against the fence relocation, now their infringement on the water line, how that would be resolved if this was approved with staff stipulations. If they did have to relocate it, are we putting them into

another situation where they're going to have to do something different? How is that going to work?

Mr. Pendley: That is something we were wondering. If the development is approved as stipulated, that will require relocation of the fence and approval of the new fencing in relation to the water line. This is Johnson County Water District One. They would need to approve any proposed fence relocation. They have indicated that Water One would be fine with it where it is, keep the fence where it is, but if it were to be relocated, whether that be ten to 12 feet, I think we could find an area where Water One would approve that. It's just got to be out of their easement. So, that is something that, as stipulated, it is something that would have to be approved by Water One.

Comm. Fry: So, let's say it's not, they say, "No way." Where does that put the applicant?

Mr. Pendley: Well, they may have to go 20 feet back. You get to some point where, as long as it is out of their easement, that's all they care about. They are only concerned about their water line. I believe it's only a ten foot wide water easement, so if you get ten feet back, it should resolve that problem. If they say no, don't relocate the fence at all, I don't know if they can say that. But if they did, I guess the applicant could come back with another modification or a revised plan. We could certainly modify any of these stipulations, add stipulations, say that the approval must be granted by Water One in relation to the water line easement, but again, if it is outside their easement, that should resolve any problem that they would have.

Chairman Campbell: Any other questions for staff? I have a couple. We did not get a stormwater report?

Mr. Pendley: Actually, they did submit a preliminary stormwater report, it just didn't have additional details for the stormwater quality and the bio retention, the plant materials, etc., some things that Public Works needed additional details for. The applicant agreed that they would provide those prior to building permit and Public Works was satisfied that they would get that prior to building permit. I think there was just concern about the plant material and the maintenance, and then the drainage easement. There would be a permanent drainage easement required, but they did submit a preliminary report.

Chairman Campbell: You were talking about bio retention, any easements going in there would also include City access for potential clean-out – *[Audio cuts out]* on a final development plan, don't we normally have that?

Mr. Pendley: We do.

[Audio cuts out]

Mr. Pendley:with any final, we should have all final details for stormwater control, detention, quality. The applicant is working with staff on providing that information. They could probably answer further details on that, but the engineer is aware of what they need to do to meet the requirements, and they understand that those best management practices and additional details are going to have to be approved prior to the building permit.

Chairman Campbell: So we're being asked to review a final plan where we don't have final details, is what you're saying.

Mr. Pendley: Yes, it's not typical –

[*Audio cuts out*] –

Mr. Pendley: That's true. That's another stipulation, something that we would normally get. That's something that staff would not indicate in the initial comments to the applicant - [*Audio cuts out*] – drafting the staff report that we are going to need a certified landscape plan that is signed by a registered landscape architect. That is a recent amendment to the UDO, that it requires a stamped and sealed landscape plan. The applicant is also aware of that, and they have also requested that it be continued until the time of building permit. Again, we could recommend approval if it meets the UDO in terms of the screening. We need to see that. It's not the ideal situation here. Obviously we still have concerns about the screening. That's why we're saying it has to meet that to staff, and the best way to meet that is to push the fence back and provide the full required 100 percent landscaping. We feel comfortable, but it certainly has to have a certified landscape plan.

Chairman Campbell: And the reason, as I understand it, behind the UDO requiring landscaping to be in front of fencing is for maintenance purposes, that if there is a code enforcement issue, that the City has the ability to come in and rectify that without having to – That's one of the reasons.

Mr. Pendley: That's one. Another reason is, especially when you're talking about an outdoor storage area like this, if you're behind a chainlink fence, yes, you see green back there, but you don't see the true aspect of the screening that's behind the fence. It should be in front of the fence to get the full effect of a more natural buffer, not a chain link fence.

[*Audio cuts out*]

Mr. Pendley: - a couple of shrubs, and you can see in the pictures of the current conditions, it's not very well maintained. I don't think you get much better when you put shrubs in that mix, so that is another concern.

Chairman Campbell: Okay. We've had this discussion before. We have the - [*Audio cuts out*] – and I don't want to sit up here and design it tonight. We don't have a complete package, so I'm inclined to say I need a complete package to look at, react to. And for me personally, I need to know what the reason is for not following the UDO beyond economic conditions. I mean, the UDO is very specific about this. We're very apt to grant exceptions if there are compelling reasons, not compelling economic reasons. That's not a land use planning issue. So, I am inclined, at this point, to say this needs to go back to the drawing board. I don't know how anybody else feels at this point.

Comm. Ling: If you're looking for comments, just so the applicant understands the comments as to the fence, in my opinion, I would support staff's position on that, that the fence should be relocated back. It's entirely too close to the public street at this time, and to provide the adequate landscaping. I understand the

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Chairman's concerns about seeing a plan, but if this were to be continued, in my opinion, the fence would need to be relocated for my approval.

Chairman Campbell: I guess that's my concern at this point, that we are trying to redesign. We're asked to approve a final plan and I don't have a final plan to approve.

[Audio cuts out] – 1:06:10

Motion by Chairman Campbell, seconded by Commissioner Ling, to continue item PR-11-010 to the May 23, 2011, meeting.

Motion passes 6-0