

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

**Case # P-11-027**

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

Chairman Campbell read the standard *ex parte* statement. Chairman Campbell reported *ex parte* communications regarding PR-11-018.

Motion by Commissioner Kohler, seconded by Commissioner Locked, to approve the Consent Agenda, with a correction to P-11-028. Motion passed 6-0.

**Case Planner:** Dave Clements                      **Planning Commission Meeting Date:** August 22, 2011

**Request:**                      Approval of a final plat of twenty two (22) lots for Prairie Point, Third Plat, on 5.5± acres.

**Location:**                      East of Lone Elm Road and south of 108<sup>th</sup> Street.

**Owner/Applicant:**                      Clay Blair III, Prairie Point Homes, LLC.

**Engineer:**                      David A. Rinne; Schlagel & Associates

**Acres:**                      5.5±                      **Proposed Use:** Single-Family

**Number of Lots/Tracts:** 22/3                      **Current Zoning:** RP-1

**Streets and Right of way:**                      108<sup>th</sup> Terrace                      Millbrook Lane

<b>Existing</b>		
<b>Required</b>	50' (total)	<u>50' (total)</u>
<b>Proposed</b>	50' (total)	<u>50' (total)</u>

**1. Comments:**

This is a request for approval of a final plat of twenty (22) lots for Prairie Point, Third Plat, on 5.5± acres, located east of Lone Elm Road and south of 108<sup>th</sup> Street. A revised preliminary plan for Prairie Point and the first plat were approved by the Planning Commission on October 12, 2009. Prairie Point was created by revising the originally approved Camelot Reserve subdivision.

Camelot Reserve was approved by the Planning Commission on July 26, 2004 with rezoning (RZ-04-032) and original preliminary plat (P-04-075).

Sales in the first and second phases of Prairie Point have succeeded to a point where the applicant would like to proceed with the Third Plat and have additional lots available for future sales.

2. **Conformance with Official Plans and Policies:**

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

3. **Utilities:**

This property is located in Johnson County Wastewater and Water District #1 service areas. Services from these utilities are available to serve the site.

4. **Access:**

Prairie Point has direct access from Lone Elm Road. 108<sup>th</sup> Street proceeds east from Lone Elm Road and provides access to the third plat from 108<sup>th</sup> Terrace. Millbrook Lane is also dedicated on the plat as a north/south street serving the 20 lots in the subdivision.

5. **Open Space:**

Tracts G, H and I will be dedicated as open space tracts and will be used as open space areas, screening and buffering, and public trails. These tracts will be maintained by the Prairie Point Home Owners Association.

6. **Excise Fees:**

In accordance with Ordinance No. 05-126, a portion of this development is subject to a street excise tax of \$0.215 per square foot of land area. The street excise fee shall be submitted to the Development Services Department prior to recording the final plat. The approximate amount due is \$52,019.00

In accordance with Ordinance No. 02-52, a portion of the final plat is subject to a traffic signal excise tax of \$.0037 per square foot for single family zoning. The signal excise fee shall be submitted to Development Services prior to recording the final plat. The approximate amount due is \$895.00.

7. **Staff Recommendation:**

Staff recommends approval of P-11-027 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 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.

- b. 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.
- c. 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 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.
- d. Line extension, service connections and/or upgrades are subject to review and approval by the Public Works Department and Utilities Technical Support Division.
- e. The developer is responsible for planting street trees, subject to UDO §18.62.040. Such trees shall be planted at the completion of each phase of development. Street tree plans shall conform to the intersection sight distance requirements of UDO §18.68.150.
- f. Prior to the issuance of a certificate of occupancy, temporary or permanent street signs shall be installed on the streets listed on the building permits.
- g. 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.
- h. Prior to recording the final plat, a table identifying the total platted area and unplatted area shall be added to the face of the plat.
- i. In accordance with Ordinance No. 05-126, a portion of this development is subject to a street excise tax of \$0.215 per square foot of land area. The street excise fee shall be submitted to the Development Services Department prior to recording the final plat. The approximate amount due is \$52,019.00
- j. In accordance with Ordinance No. 02-52, a portion of the final plat is subject to a traffic signal excise tax of \$.0037 per square foot for single family zoning. The signal excise fee shall be submitted to Development Services prior to recording the final plat. The approximate amount due is \$895.00.

Motion by Commissioner Harrelson, seconded by Commissioner Ling, to approve P-11-027, 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 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.
- b. 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.
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- j. In accordance with Ordinance No. 02-52, a portion of the final plat is subject to a traffic signal excise tax of \$.0037 per square foot for single family zoning. The signal excise fee shall be submitted to Development

Services prior to recording the final plat. The approximate amount due is \$895.00.

Motion passes 6-0.

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

**CASE # PR-11-018**

**Dave Clements, Planning Manager, made the following staff presentation:**

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<b>Planner:</b>	Dave Clements	<b>Planning Commission Meeting Date:</b>	August 22, 2011
<b>Request:</b>	Request for approval of a revised final site development plan for Church of the Resurrection West, Phase I		
<b>Location:</b>	24000 W. Valley Parkway		
<b>Owner:</b>	Church of the Resurrection-United Methodist/Richard Cooper		
<b>Applicant:</b>	Michael J. Heule, Helix Architecture & Design		

<b>Acres:</b>	<u>9.72</u>	<b>Proposed Use:</b>	<u>Modular Office</u>
<b>Current Zoning:</b>	<u>BP (Business Park)</u>		
<b>Floor Area:</b>		<b>Parking:</b>	
Revised Phase I	<u>19.000 square feet</u>	Required	<u>165 spaces</u>
		Proposed	<u>165 spaces</u>
<b>Streets and Right of way:</b>	<u>Valley Parkway</u>		
	<b>Existing</b>	<u>60' (½ street)</u>	

**I. COMMENTS**

***This application was continued from the meeting of August 8, 2011, in order to allow the applicant to prepare a revised site plan showing the proposed modular building located on the north side of the existing church.***

***Related background information from the August 8th staff report is below:***

This is a request for a revised final development plan for Church of the Resurrection West (RezWest), Phase I. The Planning Commission reviewed

and approved the Phase I development plan for RezWest on August 9, 2010 (PR-10-011). The rezoning of the site and overall preliminary plan for the church was approved by the Planning Commission on July 12, 2010 (RZ-10-009).

Phase I was proposed as a 24,661 square foot multi/use sanctuary seating 600, with office space and children's education center. Prior to start of construction of the church, the Phase I area was reduced to approximately 19,000 square feet. The church size had to be reduced as the capital campaign for construction did not generate funding to build the Phase I as approved.

At this time, RezWest would like to add a modular building to the approved plan to provide temporary office space. The Planning Commission may recall that RezWest currently is conducting services at Prairie Trails Junior High School, and the church rents office space at another location on College Boulevard. RezWest would like to eliminate the rented office space and include key staff on site at the location of the new church. The proposed modular building is the only way to accomplish this inasmuch as the office space could not be provided in Phase I construction.

## II. **REVISED FINAL DEVELOPMENT PLAN**

- A. Location:** As a result of discussion at the August 8, 2011 meeting, the applicant has revised the site plan and located the proposed modular building on the north side of the church. At this location, the unit would not be visible from Valley Parkway, addressing concerns from the August 8<sup>th</sup> meeting. This location would be screened from 103<sup>rd</sup> Street and K-10 Highway by a tree preservation easement on the property.
- B. Design:** The applicant is proposing to paint the wood siding and trim on the modular to match the colors of the church.
- C. Site Impact:** The modular building does not adversely impact the site design as to floor area, impervious surface/stormwater run-off or parking considerations. Staff would suggest the main impact of the modular building on the site is one of compatibility and appearance, and the precedence for the use of temporary structures in the College West Business Park. There is also uncertainty about a definite timeline for the removal of the unit.
- D. Access:** The applicant is requesting a temporary gravel driveway be approved for access to the modular unit. This driveway is at the same location as the existing construction road at the site. The church is asking that this drive be approved as optional and installed based on need.

### **III. STAFF RECOMMENDATIONS**

The revised site plan addresses many of the concerns addressed at the August 8, 2011 Planning Commission meeting. The location of the modular building north of the church eliminates visibility of the unit from Valley Parkway, but the Planning Commission must continue their review of the precedent for modular units in College West Business Park.

It is unfortunate that the office space for the church could not be provided in the Phase I construction as it is important that the church have key staff at the church for business efficiencies.

However, staff would point out a concern for the modular unit and the potential for its extended use as has been seen in other circumstances.

Staff recommends approval of PR-11-018 with the following stipulations:

- (1) The modular building shall be located on the north side of the church in order to eliminate visibility from Valley Road. This location will help reduce any negative impact on the business park, and will not be readily visible from K-10 Highway due to the existing tree preservation easement.
- (2) The modular building shall be painted to match the material colors of the church as shown on sheet Phase One Plan 06.
- (3) A landscape plan shall be submitted providing plantings designed to screen the ramp system of the modular building, and along the south elevation to screen the unit from the church.
- (4) The modular building shall at all times be maintained in a neat, attractive condition. This includes on-going painting of all surfaces and maintenance of all physical elements of the building.
- (5) The temporary access drive shall have a dust free surface.
- (6) All electrical and/or telephone lines necessary to serve the modular building be placed underground.
- (7) All future phases of church construction shall require a final plan approval by the Planning Commission.
- (8) The modular building shall be removed by January, 2017. No future extension shall be granted for use of the modular unit.

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

Chairman Campbell: Any questions of Mr. Clements? All right. We'll here from the applicant.

*Bret Sheffield, 15919 South Stagecoach Drive, Olathe, appeared before the Planning Commission and made the following comments:*

Mr. Sheffield: I am a member of the church congregation and also a member to the building committee, and that's my capacity visiting with you here tonight. I wanted to briefly back up into how we got where we are. In listening to some of the conversation last week, I wanted to address some of the things that came up.

One of the things that I can say for the whole congregation is that we all wish we could have the offices inside. We really do. At the time we were back in front of the Planning Commission when we had the final development plan approved, we were also doing a capital campaign, as well as doing budgets, final construction numbers, and so forth. As those typical processes happen, we were able to get our entitlements set and we were finding more and more things out after we had received our approval. So, that's what brought about the need for the change based on our budget. We try to be very fiscally responsible in our decision making, and we had to make a hard choice. That hard choice was that we needed the programming space, we needed the worship space, and the office space was the one thing that we could do off site if we had to. It's not an easy choice. In the best of all worlds, we would have been able to have it there, but we felt that having the church there without the offices present was better than not. We are here before you to ask for the ability to put office space on the site because we do feel it is best for the church and the community if that office space is there.

Obviously, temporary offices aren't the best way of dealing with this, but we think it is an acceptable way on a short-term basis, and we hope you feel the same. By moving the building back to the north side, we hope that some of the concerns have been addressed by getting it out of the line of site from K-10 and the frontage road.

We're trying to put this office space in the modular unit more for efficiency in being able to serve the community better. One of the questions that came up last time we were here was how many visits a day we are getting. We did some research and found that we were having over 50 visits to the current office spaces in their temporary locations, remote from this site. Just a quick reminder that we have two temporary office spaces, one in Lenexa and one in Olathe, that serve as church office and gathering space. The hope is to be able to combine this all together. Actually, those numbers have been going up steadily once we announced the fact that church construction was going to be happening, and we're thrilled about that.

Our anticipated timeline, based on the current membership projections, to the best of our knowledge, we are anticipating that with the growth that we are experiencing already, we would be starting our next capital campaign in the spring of 2014, with the start of construction on our next phase, which would include office space, in the spring of 2014 and occupancy in the fall of 2015. Of course, like a lot of things, this is the best estimate we have based on our growth projections, but we feel pretty confident in those timeframes.

Why do we feel this is the right answer? Why is this good planning? Why would we rather have it here than the alternative, which is to not have a modular unit at all? First of all, it allows us to serve the community better. It has people at

the building complex all through the day when all these people are coming and visiting. There's better security. The lights are on, people are there. And it's also going to help us in serving the community better and grow faster and get to that next phase. We have an \$8 million investment in this first phase, which includes enough land to build a sizeable building, as was proposed before the Planning Commission previously. We're here to do the right thing for the long term, and we think that amongst the choices we have had to make, this is a good, wise decision and a short-term decision.

As Mr. Clements mentioned, we just received a copy of stipulation 9, which is a suggestion that we post a performance bond for the removal of the unit. Unfortunately, agreeing to something like that and the cost associated with that is not something we can agree to tonight. It is something that would have to go to the board of trustees. But my recommendation and our opinion is that it's not necessary. As I mentioned, we have a sizeable investment in this facility, and if the City tells us that this unit needs to go at the end of our term, at the end of 2016, hopefully we will have had it removed prior to that. But if we're asked to remove it, we're going to remove it. We won't be forced to remove it because we will do it willingly. So, we feel that the money posting to the bonds is probably better spent in other ways in the community.

With that, if the Planning Commission deems it necessary, we'll probably have to request an extension and table it again for that one specific reason, but hopefully we can talk about the other merits of the proposal anyhow. As we mentioned last time, we appreciate your consideration of this and your discernment on this, and again, we think this is a way for us to serve the community in the best way we can in the time that we have and the financial constraints that we're under.

With that, I'm going to turn it over to questions and answers. We have several people here who can step up and answer any questions you might have.

Chairman Campbell: Questions at this point of the applicant?

Comm. Kohler: I missed the last meeting so I don't know at what stage we're at. I assume this is the right time for all these questions, one of which is to Dave. I just want to get on the record that what you said about the line of sight, it's staff's opinion that the new facility would not be readily visible, but indeed there is a possibility that it could be seen from K-10.

Mr. Clements: Well, until it's there, you couldn't say for sure, but I've been by there three times. You can see the two-story elevation of the church. The location of the modular building is – It's difficult to see from K-10. I think if you take your eyes off the road and try real hard, you might be able to see it, but it's not going to be prominently visible. That's the best way I can explain it. In my opinion, it will not be readily visible.

Comm. Kohler: Okay. Is it appropriate to ask questions about plans for the interior? [*inaudible*] ...

*Rev. Molly Simpson, 33810 West 83rd Street, De Soto, Kansas, appeared before the Planning Commission and made the following comments:*

Rev. Simpson: I'm the campus pastor, so I'm probably suited to answer questions about the interior.

Comm. Kohler: My question is to do with how the space is going to be used. The plans call for how many offices? It looks like it would accommodate quite a number. Are there going to be more offices in the new facility than you are currently renting elsewhere?

Rev. Simpson: The unit that we're currently looking at I believe has a few additional spaces drawn out than we would necessarily need. We currently have ten staff. Only two are in physical offices. The rest are in cubes and common space. We do have two pastors and our pastors would like to have closed door spaces for counseling and those kinds of things. We're looking to purchase an existing unit, so depending on the way it is currently configured, we need at least two interior offices with staff space for eight additional staff, as well as team conference work. Most of us work with ministry teams of ten to 15 people and bring in our small group teams to work, so we'll work around a conference space with our various staff members. So, two is a minimum. If we found a unit that had ten, I'm sure all of our staff would love to have their own office. That's the range that we're working with.

Comm. Kohler: Will the space be used strictly for offices or will there be other kinds of activities in the proposed building?

Rev. Simpson: We will not be doing children's programming or large gathering type of events. Within our current offices we have many volunteer meetings and we receive missions, donations, and small groups come together to sort and prepare donations. Some larger conference opportunities amongst teams and some small group gathering spaces, but beyond those types of meetings and discussions and gatherings, it wouldn't be a large-scale assembly space by any means.

Comm. Kohler: Okay. Those are the questions I had.

Comm. Locke: Mr. Sheffield just said that you averaged about 50 visits. Is that daily?

Rev. Simpson: On an average.

Comm. Locke: My question is, how are people directed to where you are? When you say it's 50 average, is that the small group gatherings that you're talking about, where an announcement is made and they know where to find you? Or are these people that are more or less off the street that are coming in for aid? And how are they directed to your current location since they are offsite?

Rev. Simpson: People who are coming to meet someone or for an intended purpose, whether it's an announcement that's been in the bulletin or an email, they are directed to that location. We occasionally have people who walk in who have found us in the phone book. We actually have people show up at the school where we worship, they come to the school offices, looking for me to ask questions of church staff there at the school mid week, and the school sends

them down the street to their office, or calls us to help that person find their way. Which is one of the reasons why we know there will continue to be loss of staff time and efficiency and some struggles with trying to get the right people to the right places. We have lived in multiple locations currently, and there is ongoing confusion, but we live with it, and we make the best of it. But people who are coming for a specific reason will seek out and find our address.

Chairman Campbell: Any other questions? One question that I have is, at this point, we have nine stipulations, and we understand about the ninth one, but are you okay with the other eight at this point?

Mr. Sheffield: I apologize. I haven't seen the most recent version of this, but in looking through this, I do see the eight that are referenced here, and we are okay with those eight stipulations.

Chairman Campbell: The two significant ones are five and six from the last time – the dust-free surface for the temporary drive –

Mr. Sheffield: I know staff has been visiting with members of the design team about that. That's a difficult one because we think an access drive back there would provide better access, but we do understand the thoughts of staff, and we still fall back to having it is better than not having the modular facility there. And number six is fine as well.

Chairman Campbell: Those are the significant changes from previously. Any other questions for staff or applicant? Comments? Discussion?

Comm. Rinke: I really have struggled with this one quite a bit and have given it a lot of thought. After our last meeting, I guess the one thought that really stuck out to me was a comment that Mr. Harrelson made – If this project had come to us with this proposed modular building from the get-go, we would not have approved it. And I know I would not have approved it. So, that's where I'm at now, and I don't see how I can support this.

Comm. Harrelson: My speaking ability will limit my ability to tell you how positively I feel about your church, about the mission that I have. But I can tell you that one of our jobs here is to be unbiased. I don't want to accuse anyone of intentionally misleading us in any way, so if my comments at the last meeting were taken that way, then that was not the intention. But, I do think that we have to be very careful. There are other people in the community that don't feel the same way about a church as maybe some of us do, so I think it's important for us to be unbiased in how we look at projects. And this one, although very important to some of us here, still, to me, has to fall under the ordinances that govern the rest of the projects that come before us. Since this one was rezoned and specifically presented as a project not having a temporary building, it becomes very difficult for me to justify why that is a good decision. So, my position has not changed from our previous meeting for that reason.

Comm. Ling: I would like to thank the applicant and the staff for working through and coming through with a continuance. I appreciate the location to the north and that is acceptable to me. I know it's a little more of a burden on the applicant, but

I think the most important thing is screening from the front access road. I also requested staff to add the stipulation regarding the maintenance of the facility, and that's been added and you've agreed to that, too. I appreciate that. This staff report has the most strict removal stipulation I've ever seen for modular buildings and I think that is acceptable. To my knowledge, we've allowed modular buildings without this strictness, so I thank you. And also the indication that it will be removed timely, per the stipulation.

We have to be honest with ourselves here. These are tough economic times, and the applicant has agreed to a short-term need here, and I think it's a very reasonable request for a short-term need. We have other modular buildings in the city. There are other churches. I can think of two or three other churches that have modular buildings right now. I can think of government facilities that have modular buildings right now. I'm not going to treat you guys any differently. You have a need. I think it makes sense. You've addressed our view shed issues. I think you have done what the staff has asked you to do, and I appreciate that.

As to stipulation 9, I would agree with the applicant, that I don't think this is necessary. I think we've got the applicant's word and we have a very strong stipulation in the staff report. I honestly don't know how much money would actually be set aside to remove a modular building. I'm not sure that has much bite into it, and I'm assuming there's sewer, water, and things like that, so there could be more to it. So, I don't think that's necessary at this point.

In summary, I would be supportive of this application moving forward as stipulated in staff's report, excluding the proposed stipulation number 9.

Chairman Campbell: Ms. Locke? Comments or questions?

Comm. Locke: My questions have been answered. I feel as Commissioner Ling on this. The question I asked regarding the visits, my concern on that was just hearing the last time and this time about the decision on the use of the facility and removing the administrative offices. I mean, that was something that you needed, and now, as the need within the community, I can understand wanting the space for that. The question I asked regarding the visits, if people can be directed off site, why is it imperative then that you meet them at this location? You've answered my question clearly, so again, I'm inclined to agree with Commissioner Ling. I can see the need. You have satisfied the request made last time, and I would be willing to vote in favor.

Comm. Kohler: I wish this was one of those easy nights on the Planning Commission. In some ways, I wish that I did not know, like, and respect the people who are attending tonight, and in your larger congregation. And I wish it wasn't that Church of the Resurrection isn't one of the outstanding contributors to this community. If it someone of lesser standing, I would be reminded of what a boss once told me when I was pitching for what I described as some temporary positions, and he said, "Nothing quite so permanent as temporary solutions." So, the stipulation that was added tonight, I wasn't sure how I felt about that because we won't be talking about that for quite some time, even though this is described as temporary. I haven't lived her for a lot longer than that, and it seems like a long time. And what I've been able to gather during my term of service on the Commission is that as just a policy matter and planning direction for this community, that temporary facilities like this just don't make a heck of a lot of

sense in any situation, let alone a placement that could conceivably be seen from K-10, but I won't argue that case. I must be one of the people who looks a little more closely at Cedar Creek. So, I would not be in favor, but it has everything to do with representing the interests of the larger community.

Chairman Campbell: Thank you. I feel a little bit like Mr. Rinke and have struggled with this one. I listened intently the last time and have had some other discussions with both staff and with the community. One of the things I have come to the conclusion on is – and I agree with Mr. Harrelson – if this had come forward in the beginning, we would never have addressed that. But the truth of the matter is that this is a timing issue, that just because you're in construction doesn't mean you don't have a need, and we have approved those uses in other areas when buildings were already occupied. And I cannot separate that from my own thinking. If you are already in the building and you approve a temporary use for a temporary building, we've done that. We do it consistently. And one of the things has been the concern about where this is, and I think our stipulations at this point address that. Mr. Ling is correct – These are the most stringent stipulations that I've seen for a modular building in my eight years on the Commission. So, at this point, you've done what we've asked you to do. I'm not thrilled with it. I think as a community we need to address what we're going to do in the long term with temporary buildings and have that actually codified at some point. But at this point, you've done everything we've asked. You've worked hard and done it very quickly, and I appreciate that. At this point, I would be in favor of moving forward because I cannot separate the timeline difference, whether you're occupied or not occupied. That has been some of the struggle that we have had.

With that, are there any other comments?

Comm. Kohler: I have a question now. What are the ramifications, if this is the final decision here tonight and there are no other stages? I'm just wondering about the less than full attendance that we have. The only way this goes through is with a majority voting.

Chairman Campbell: That's correct.

Motion by Commissioner Ling, seconded by Commissioner Locke, to recommend approval of PR-11-018, subject to the following stipulations, as amended:

- (1) The modular building shall be located on the north side of the church in order to eliminate visibility from Valley Road. This location will help reduce any negative impact on the business park, and will not be readily visible from K-10 Highway due to the existing tree preservation easement.
- (2) The modular building shall be painted to match the material colors of the church as shown on sheet Phase One Plan 06.
- (3) A landscape plan shall be submitted providing plantings designed to screen the ramp system of the modular building, and along the south elevation to screen the unit from the church.

- (4) The modular building shall at all times be maintained in a neat, attractive condition. This includes on-going painting of all surfaces and maintenance of all physical elements of the building.
- (5) The temporary access drive shall have a dust free surface.
- (6) All electrical and/or telephone lines necessary to serve the modular building be placed underground.
- (7) All future phases of church construction shall require a final plan approval by the Planning Commission.
- (8) The modular building shall be removed by January, 2017. No future extension shall be granted for use of the modular unit.

Motion fails 3-3, with Commissioner Harrelson, Commissioner Kohler and Commissioner Rinke voting against the motion to approve.

Mr. Clements: A plan review can be appealed to City Council.

Chairman Campbell: At this point we are deadlocked, but it can go forward to City Council. If you decide to do that and take it to City Council, I would specifically address stipulation (9) so you can at least have an answer about that, whether it's appropriate or not, in your estimation.

Rev. Simpson: I just, in the interest of the public, but especially for all of you here, one of the things that grieves my heart is that in any way, if there is any measure of feeling deceived at all, I just want to reassure anyone who might be listening that in no way would we ever come forward with any sort of bait and switch. Our church would dearly be in trouble if we had that kind of integrity. So, I would like to personally say that. Thank you for your time and careful thoughts in this process.

Chairman Campbell: Thank you.

**MINUTES  
CITY OF OLATHE  
STAFF REPORT**

**CASE # VAC-11-002**

**David Clements, Planning Manager, made the following staff presentation:**

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<b>Case Planner:</b>	Sean Pendley	<b>Planning Commission Meeting Date:</b>	August 22, 2011
<b>Request:</b>	Vacation of waterline easement and utility and access easement for Lot 2, 119 Plaza, Fourth Plat.		
<b>Location:</b>	12080 South Strang Line Road		
<b>Owner:</b>	Heart of America Group, Kirk Whalen		
<b>Applicant/ Engineer:</b>	Phelps Engineering, Judd Claussen		

<b>Streets and Right of way:</b>	<u>Strang Line Road</u>
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<b>Existing</b>	<u>62' (1/2 street)</u>
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<b>Required</b>	<u>62' (1/2 street)</u>
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<b>Proposed</b>	<u>n/a</u>
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**I. COMMENTS**

The following is a request to vacate a waterline easement and utility and access easement on Lot 2, 119 Plaza, Fourth Plat. The easement vacations are associated with the new Hilton Garden Inn Hotel. The easements were originally dedicated with 119 Plaza, Second Plat for the Machine Shed restaurant and adjacent hotel. The easements are no longer needed since the utilities have been relocated and new easements have been recorded with the replat for the hotel.

**II. ANALYSIS**

**A. Utilities and Easements:**

The 10-foot public waterline easement extends across Lot 2 in the location of the new hotel. A water main relocation was required for the new hotel and the Public Works Department has reviewed and approved the new waterline location. There are no conflicts with vacation of the abandoned waterline easement.

The 25-foot utility and access easement served as a standard utility easement and cross access easement for the former restaurant, existing

hotel and shopping center. A new utility and access easement was dedicated with the 119 Plaza, Fourth Plat. The new easement allows cross access between the two hotel sites, Lots 1 and 2, and the adjacent shopping center properties for 119 Plaza.

**B. Public Notification:**

The applicant has notified all property owners within 200 feet of the subject easements per *Unified Development Ordinance (UDO)* requirements. Staff has not received any concerns or questions regarding the proposed vacations. The applicant has also obtained signatures from all the private utility providers indicating there are no conflicts with the proposed easement vacations.

**III. STAFF RECOMMENDATIONS**

Staff recommends approval of VAC-11-002 for vacation of the subject waterline easement and utility and access easement for Lot 2, 119 Plaza Fourth Plat.

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

Comm. Harrelson: I have a question for Dave. I see the sketches but I don't think I got the drawing that shows the connection or what's on either end of this. I assume the vacation doesn't leave the Comfort Suites high and dry. I don't see a reference here for that.

Mr. Clements: I'm sorry, there's not an area-wide utility easement for that. These are just from the old Machine Shed restaurant, for the most part.

Comm. Harrelson: All right, thank you.

Chairman Campbell: Again, this is a public hearing. Is there anyone here who would like to speak in favor of this item? Seeing or hearing none, is there anyone who would like to speak in opposition? Seeing or hearing none, we'll come back to the Planning Commission. Any final questions or comments before we close the public hearing? If not, do I have a motion to close the public hearing?

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

Motion passes 6-0.

Motion by Commissioner Ling, seconded by Commissioner Locke, to approve VAC-11-002, subject to the following staff recommendation:

VAC-11-002  
August 22, 2011  
Page 3

Staff recommends approval of VAC-11-002 for vacation of the subject waterline easement and utility and access easement for Lot 2, 119 Plaza Fourth Plat.

Motion passes 6-0.



Staff recommends approval of the proposed amendment to Chapter 18.60 Parking and Loading, as follows:

18.60.130 F. A person convicted of violating subsection (c) shall be guilty of an ordinance violation and subject to a fine of not more than Twenty-five Dollars (\$25.00); a person convicted of a second violation of subsection (c), within a twelve (12) month period, shall be guilty of an ordinance violation and subject to a fine of not more than Fifty Dollars (\$50.00); a person convicted of a third or subsequent violation of subsection (c), within a twelve (12) month period, shall be guilty of an ordinance violation and subject to a fine of not more than One Hundred Dollars (\$100.00)

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

Comm. Ling: Mr. Clements, I was on board until that very last statement, and then you got me confused. Is this a change or a new section?

Mr. Clements: It's new language.

Comm. Ling: It's new language. So, did you describe it at the beginning of your conversation, the current practice is to give a warning, and then go to a fine?

Mr. Clements: Right.

Comm. Ling: This doesn't include a warning any more, does it?

Mr. Clements: The Notice of Violation is eliminated in subsequent violations. So, if an individual gets a Notice of Violation for an initial violation, ten days to remove a car, for example, and then a ticket can be issued. If they move the car within the ten days and then they violate it again in two weeks, they can go ahead and give them a ticket and not have another ten day notice of violation.

Comm. Ling: Okay, but the individual that does this once by mistake, he's going to get a warning.

Mr. Clements: Yes.

Comm. Ling: Okay, thank you.

Chairman Campbell: Thank you for the clarification. Any other questions or comments? Again, this is a public hearing. Is there anyone who would like to speak in favor of this item? Seeing or hearing none, is there anyone who would like to speak in opposition? Seeing or hearing none, we'll come back to the Planning Commission. Any further questions before we close the public hearing? If not, do I have a motion to close the public hearing?

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

Motion passes 6-0.

Motion by Commissioner Rinke, seconded by Commissioner Ling, to recommend approval of UDO-11-001, subject to the following staff recommendation:

Staff recommends approval of the proposed amendment to Chapter 18.60 Parking and Loading, as follows:

18.60.130 F. A person convicted of violating subsection (c) shall be guilty of an ordinance violation and subject to a fine of not more than Twenty-five Dollars (\$25.00); a person convicted of a second violation of subsection (c), within a twelve (12) month period, shall be guilty of an ordinance violation and subject to a fine of not more than Fifty Dollars (\$50.00); a person convicted of a third or subsequent violation of subsection (c), within a twelve (12) month period, shall be guilty of an ordinance violation and subject to a fine of not more than One Hundred Dollars (\$100.00)

Motion passes 6-0.



Chairman Campbell: Any questions or comments? Again, this is a public hearing. Is there anyone who would like to speak in favor of this item? Anyone who would like to speak in opposition? Seeing or hearing none, we'll come back to the Planning Commission. Any further questions before we close the public hearing? If not, do I have a motion to close the public hearing?

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

Motion passes 6-0.

Motion by Commissioner Harrelson, seconded by Commissioner Locke, to recommend approval of UDO-11-002, subject to the following staff recommendation:

a.18.54.040, 10. The fee for the temporary sales and events permit shall be established by the Governing Body by resolution. ~~That a fee to be determined by the City Manager or his designated representative shall be charged each applicant for a temporary sales and events permit.~~

Motion passes 6-0.

Other matters – August 22, 2011

Chairman Campbell: Anything else, Mr. Clements?

Mr. Clements: Our next planning Commission meeting will be Monday, September 12th. We have four public hearings scheduled for that night, and we will start with our normal 5:30 workshop. Thank you.

Chairman Campbell: Anything else? We are adjourned.