

The subject property is a large 85 acre tract currently improved with one single family home and two outbuildings or accessory structures. At this time, the applicant would like to construct a new 60' x100' barn (6000 square feet) on the property. The proposed barn would be used for storage of a tractor, loader and other equipment used to maintain the property.

The existing R-1 zoning district permits an accessory building with a maximum area of 1200 square feet. A shed is permitted with a maximum area of 400 square feet. With these restrictions of the R-1 zoning district, the applicants proposed barn would not be permitted.

The proposed AG zoning classification allows sheds, garages, barns, silos and other outbuildings without a size or height limitations.

II. EXISTING CONDITIONS

A. **Utilities/Municipal Services:**

The property is located in the City of Olathe water and sewer service areas. The property is currently served by a septic system.

B. **Access/Streets:**

The property has direct driveway access from Lakeshore Drive.

III. ANALYSIS

Staff's analysis of this application is based in part on the criteria established in *Golden v. City of Overland Park*, which determined factors a planning commission and city council should consider in making decisions on rezoning and special use applications. The following is the criteria for considering applications as listed in *Unified Development Ordinance (UDO) Section 18.12.140* and staff findings for each item:

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

The future land use plan for the *Comprehensive Plan* identifies the subject property as conventional residential. The proposed rezoning reflects the character of the property and serves to protect the semi-rural use. No change in land use is intended with this application that would be impacted by the future land use map of the Comprehensive Plan.

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

The character of the neighborhood is a mix of large lot residential properties and conventional R-1 platted subdivisions.

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

The proposed rezoning would not be detrimental to the nearby properties. The existing use of the property is semi-rural and agricultural in nature, and the proposed AG zoning district is appropriate for the character and nature of the property.

D. The extent to which the proposed use would substantially harm the values of nearby properties.

The proposed rezoning to an AG classification would not harm the value of nearby properties. The use of the property will not change with this rezoning. The application will not result in a new land use that would impact adjoining properties.

E. The gain, if any, to the public health, safety, and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

The proposed AG zoning classification is suited for the subject property, and serves to protect the nature of the site. Denial of the application provides no specific gain to the public health, safety, and welfare.

IV. STAFF RECOMMENDATIONS

Staff recommends approval of the proposed rezoning from R-1 Single Family Residential to AG Agricultural. The proposed AG Agricultural zoning district is appropriate for the character, nature and use of the subject property.

The staff recommendation is subject to the following stipulation to be included in the rezoning ordinance:

- (1) No accessory structure or outbuilding on the property shall be used for any type of commercial activity, business, or prohibited home occupation.

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

Comm. Kohler: In this instance, instead of rezoning, would a special permit application be a remedy?

Mr. Clements: No, there's no special use permit in the R-1 zoning district that would allow a structure as large as what Mr. Collis would like to build.

Comm. Kohler: Okay. If approved and it is zoned as AG – now, this isn't reflecting on the applicant here tonight, but what would the potential downsides be? Is there any reason that someone would have concern about rezoning to AG?

Mr. Clements: I don't believe so. The only downside would be that Mr. Collis is somewhat limiting the development potential of the property, but that's a conscious decision he's making not to do that. He believes that his surrounding

property owners are very supportive of the zoning to agricultural because they would not want to see that 85 acre tract developed at this point in time.

Comm. Rinke: Do you know if the applicant has any farm animals on the property?

Mr. Clements: I don't believe he does, but the applicant is here and perhaps he can speak to that.

Comm. Rinke: And I suspect that, based on where this property is, it's unlikely that someone would ever really want to be raising livestock there, but I guess if we've rezoned it, technically, if the property were to change hands, someone could put in that type of activity, correct?

Mr. Clements: Yes, they could.

Comm. Rinke: I'm wondering if it would be appropriate to put some restrictions on what type of agricultural activity would be allowed.

Mr. Clements: I think that would be a good topic for the Planning Commission to discuss and perhaps make some suggestions to the applicant.

Comm. Ling: My question follows the last two questions as to zoning as a culture. What other activities would be allowed on there that wouldn't be allowed on an R-1? Mr. Rinke brought up the livestock. Could the applicant build other structures on here to house, in a worse case, a hog shed or chicken shed? Are we exposing ourselves to those types of potential questions in the future?

Mr. Clements: Any prevented use in the agricultural district would be allowed. That's a classification that does allow farming and crops and livestock.

Comm. Ling: And that would be allowed without coming before this Commission again?

Mr. Clements: Correct.

Comm. Ling: Would there be anything else that would be allowed on agricultural zoning that wouldn't be allowed in R-1?

Mr. Clements: Let me just pause and get the development ordinance off the desk here. We'll visit that very quickly.

In the AG-Agricultural District, uses permitted by right are agricultural production of crops, livestock animal specialty, agricultural services, single-family residences, forest preserves and wildlife reservations. Those are the listed permitted uses. So, I think you're very close in terms of your line of questioning.

Chairman Campbell: Thank you. Any other questions? Is the applicant present?

Jim Hubbard, 130 North Cherry, Olathe, appeared before the Planning Commission and made the following comments:

Mr. Hubbard: I represent the applicant, Dave Collis, and his wife. Mr. Collis is here this evening. The only reason for this application is merely to be able to build a barn so he can keep his tractor. He's got 85 acres there and it's a lot of ground to mow, and as you can see from the layout, his house is right in the

middle of the tract. If you see the end of the driveway, on the south side of the driveway, there is a barn there. The new barn would be in that area. It's not close to the surrounding property lines. We've had no one call and object to this rezoning. Mr. Collis has no farm animals out there now. That is not his intent. We're just here so we can build a barn. But we'd rather not see a lot of restrictions put on the ground. I mean, as large as that tract is, someday he might want to have a horse or something, but that's not his intent today. We just want to build a barn. So, if I can answer any further questions, I'd be glad to do so.

Chairman Campbell: Any questions of the applicant? Is there anyone else wishing to speak in favor of this item? Anyone wishing to speak in opposition to this item? All right, are there any questions or comments before we close the public hearing?

Comm. Ling: Mr. Clements, would it be possible to restrict the uses here to R-1 that it currently is? I understand the avenue you're trying to take to get the building. I don't have a question about a larger barn. But the potential uses that could occur with agricultural, would there be a way to restrict those to the R-1 zoning that it currently is? Is that possible?

Mr. Clements: Perhaps I can have Mr. Price jump in and give you advice in terms of the kinds of stipulations or conditions you can attach to the down zoning.

Mr. Price: I'm not sure what you're getting at here, if you're trying to limit the livestock, or are you opposed to planting at a future date? If you start restricting what can be put on there to R-1 uses, that kind of eliminates the barn that he wants to go in there, too, because that would not be a use in an R-1 area.

Comm. Ling: That wouldn't be the intent. It's the livestock issue that concerns me. If a future applicant buys this property, they could come and install that without any approval from the City except a building permit. I guess that concerns me a little bit, if that's the appropriate thing to do with this property in the middle of the city. My thoughts would be to put some sort of stipulation that would restrict that future potential for livestock.

Mr. Price: You can put restrictions on use in there. I just wouldn't want you to restrict it to R-1 uses because that would kind of defeat the purpose of going to agricultural in the first place. But you can restrict certain functions within the AG district based upon where it's at in the UDO. Basically, what you want to do is restrict the mass production of animals.

Comm. Ling: Yes.

Mr. Price: I would think that you could craft a restriction for that specific purpose and tie it to the rezoning.

Comm. Ling: Do you have any suggested language at this time?

Mr. Price: Well, you're the wordsmith, Mr. Ling.

Comm. Ling: Is "mass production" the words that are in the ordinance? Does that have a definition in the ordinance?

Mr. Price: No, it does not have a definition in the ordinance. We would have to rely on the typical everyday terminology or definition of the words "mass

production.” But you could limit it to a number value – “no more than” three or four, or whatever the case may be. As the applicant’s attorney mentioned, they may want a horse or two. I don’t know that your concern is horse breeding or not, I don’t know if that’s one of your concerns, but you could limit the animals to a certain number above which would require some sort of special use permit or something to come back to the City for approval.

Mr. Clements: Mr. Campbell, Mr. Ling, I did take a look at special uses required in an agricultural district and there are a great variety of special uses that would be required for some type of activities. For example, a special use permit would be required for a feed lot and a stockyard. A special use permit would be required for gas extraction, camping facilities, greenhouses, metal mining – a whole variety. So, there is some control with the existing special use permit.

Comm. Ling: So, the question I asked before: Could an applicant bring a feedlot in without coming to the City? You’re now saying that a special use permit would be required on an agricultural use to install a feedlot?

Mr. Clements: Right, because that, by definition, would be different than livestock and animal specialty.

Comm. Ling: Okay. I guess that gives me a level of comfort, which is what I was looking for.

Mr. Price: You could still have a hog farm without it being a feedlot. You could still have a chicken farm without it being a feedlot.

Comm. Ling: What was the other terminology you used, Mr. Clements?

Mr. Clements: Feedlot and stockyard.

Comm. Kohler: Being a city boy, I want to ask what a stockyard is, what is the definition of that? And I would hate to be discriminatory towards some kinds of animals versus others, but horses I am okay with. Looking at horses on a neighboring property might be okay, versus a lot of hogs. So, I would like to know what a stockyard entails and whether it implies a number.

Chairman Campbell: I’m going to jump in here because I’m a farm boy. I think the mass production of animals is the key, and a feedlot or stockyard would indicate that there were mass production for commercial reasons happening here. I would hate to limit an agricultural zoning because even on 85 acres, what are we going to say? Ten head of cattle? I mean, that’s not very many. As a kid we had that many all the time, so it wasn’t a big deal. So, I would encourage us to have the adequate special use cases within the ordinance now, to limit the mass production of what we’re talking about. And we don’t want to see 150 head out here, and a slaughterhouse, etc., and that’s what we’re talking about with a stockyard or a feedlot.

Mr. Price: I think the restriction that Mr. Clements put forth was for no commercial use, and a feedlot and a hog farm – those would be commercial uses.

Chairman Campbell: Correct. No commercial activities actually stipulated. You are correct. Any other questions or comments?

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

Motion carries 5-0.

Chairman Campbell: Is there a motion on RZ-11-006?

Motion by Commissioner Ling, seconded by Commissioner Locke, to recommend approval of RZ-11-006, with the following stipulation to be included in the ordinance:

- (1) No accessory structure or outbuilding on the property shall be used for any type of commercial activity, business, or prohibited home occupation.

Motion carries 5-0.

The subject property is an 18.46 acre site currently improved with Prairie Creek Elementary School of the Spring Hill School District. The property was annexed to the City of Olathe in January of 2007. The existing school was constructed shortly thereafter.

One provision of the annexation agreement is that the school district would rezone the property to R-1 upon annexation. This rezoning was not completed by the school district as required by the annexation agreement.

At this time, the district is proposing a classroom addition to Prairie Creek Elementary School. The staff asked that the school district complete the rezoning in conjunction with approval of the classroom addition.

II. EXISTING CONDITIONS

A. **Utilities/Municipal Services:**

The existing school is served by Johnson County Wastewater District and Water District #1.

B. **Access/Streets:**

The property has access from 168th Street.

III. BUILDING AND SITE DESIGN

The proposed addition is located on the southeast side of the existing school. The addition will consist of 12 additional classrooms, with twenty additional parking spaces added to the existing parking area in front of the school. The addition meets all setback requirements, and the parking provided exceeds the UDO requirements for elementary schools.

The design of the addition is to match the existing school with the same type and color of brick, roofing and window treatments.

IV. ANALYSIS

Staff's analysis of this application is based in part on the criteria established in *Golden v. City of Overland Park*, which determined factors a planning commission and city council should consider in making decisions on rezoning and special use applications. The following is the criteria for considering applications as listed in *Unified Development Ordinance (UDO) Section 18.12.140* and staff findings for each item:

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

The future land use plan for the *Comprehensive Plan* identifies the subject property as primarily conventional residential. The proposed rezoning is consistent with the developing residential character of this area.

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

This developing area is a mix of single family residential homes, duplexes and townhomes approved with the Coffee Creek Meadows subdivision. Coffee Creek Meadows included the school site as a neighborhood amenity.

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

The proposed rezoning would not be detrimental to nearby properties. The rezoning is consistent with the area and will allow the school district to proceed with a classroom expansion designed to enhance the facility to better serve the neighborhood.

D. The extent to which the proposed use would substantially harm the values of nearby properties.

The proposed rezoning to an R-1 classification would not harm the value of nearby properties. The rezoning is consistent with the area and the approved zoning classifications of Coffee Creek Meadows.

E. The gain, if any, to the public health, safety, and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

The proposed R-1 zoning classification is suited for the subject property. Denial of the application provides no specific gain to the public health, safety, and welfare.

IV. STAFF RECOMMENDATIONS

Staff recommends approval of the proposed rezoning from County RUR to an R-1 Single Family Residential. The proposed R-1 zoning district is appropriate for the character of the area, and consistent with the land uses and zoning approved with Coffee Creek Meadows.

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

Chairman Campbell: This was before you were here? I don't remember when you came to the City. Was it 2007?

Mr. Clements: Yes, sir.

Chairman Campbell: How did this zoning get missed? Was this just oversight by multiple - ?

Mr. Clements: I think that must have been the case, yes.

Chairman Campbell: But we've changed our processes a little bit since that point, but I didn't know if there were other extenuating circumstances that you knew of.

Mr. Clements: I do not know, I'm sorry.

Chairman Campbell: Any other questions or comments for staff at this time? Is the applicant here?

David Contag, DLR Group, 7290 West 133rd Street, Overland Park, appeared before the Planning Commission and made the following comments:

Mr. Contag: We are the architects also for the project for the Spring Hill School District. That's a good question, how it got missed. We did the original school, and as part of the approval of that planning process, the school was supposed to be rezoned. I can't speak to why it did not get rezoned at that time. I'm available for any questions beyond that. We think it will be a great addition for the school and it is very much needed because of the amount of children in that district. It needs to expand to accommodate them.

Chairman Campbell: Any questions for the applicant? This is a public hearing; is there anyone else wishing 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 comments or questions, or is there a motion?

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

Motion carries 5-0.

Motion by Commissioner Rinke, seconded by Commissioner Ling, to recommend approval of RZ-11-008, per staff's recommendation as follows:

Staff recommends approval of the proposed rezoning from County RUR to an R-1 Single Family Residential. The proposed R-1 zoning district is appropriate for the character of the area, and consistent with the land uses and zoning approved with Coffee Creek Meadows.

Motion carries 5-0.

**MINUTES
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STAFF REPORT**

CASE # RZ-11-009

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

Case Planner: Sean Pendley **Planning Commission:** September 12, 2011

Request: Rezoning from MP-1 to CP-2, 1.73± acres, and preliminary development plan for Red Lobster Restaurant.

Location: Northwest corner of 117th Street and 119th Street.

Owners: Jerel and Patricia Stevens/ David Block, Block and Company

Applicant: Darden Restaurants, Jim Powell

Engineer: Olsson Associates, Brett Lauritsen

Acres:	<u>1.73±</u>	Proposed Use:	<u>Restaurant</u>
Current Zoning:	<u>MP-1</u>	Building Area:	<u>5,898 sq. ft.</u>
Parking Spaces:	Required	Proposed	
	<u>73</u>	<u>132</u>	
Streets and Right of way:	<u>117th Street</u>	<u>119th Street</u>	
	<u>Existing</u>	<u>60' (total)</u>	<u>60' (½ Street)</u>
	<u>Required</u>	<u>60' (total)</u>	<u>60' (½ Street)</u>
	<u>Proposed</u>	<u>n/a</u>	<u>n/a</u>

	Land Use	Zoning	Comp. Plan Designation
Site	<u>Office-Warehouse</u>	<u>MP-1</u>	<u>Regional Commercial Center</u>
North	<u>Warehouse/Parking</u>	<u>MP-1</u>	<u>Regional Commercial Center</u>
East	<u>Office/Warehouse</u>	<u>MP-1</u>	<u>Regional Commercial Center</u>
South	<u>Commercial</u>	<u>CP-2</u>	<u>Regional Commercial Center</u>
West	<u>Commercial</u>	<u>CP-2</u>	<u>Regional Commercial Center</u>

Platted: North Olathe Industrial Park, Lot 10 and part of Lot 11.

I. COMMENTS

A. Proposed Development:

The following is a request for a rezoning from MP-1 (Planned Restricted Industrial District) to CP-2 (Planned General Business District) and a preliminary development plan for Red Lobster restaurant.

The proposed development consists of a 5,898 square foot restaurant with 220 seats. The site is currently developed with a small office-warehouse building. The applicant is proposing to demolish the existing building and construct the proposed restaurant.

B. History:

The property was rezoned in 1973 from A (Agricultural) to MP-1 (RZ-08-73) to allow for the development of the North Olathe Industrial Park.

Another rezoning to CP-2 (RZ-05-011) was submitted in 2005 for the subject property and adjacent lot to the north to allow a drive-through restaurant, drive-through bank and retail building. This application was continued indefinitely by the Planning Commission and the application has since expired.

II. PRELIMINARY DEVELOPMENT PLAN

A. Utilities/Municipal Services:

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

B. Access/Traffic:

The proposed restaurant site will have one shared access drive on 117th Street. There is also a cross-access drive with the existing drive located on the commercial property to the west that leads to 119th Street. Per staff recommendation, the applicant has agreed to remove the existing drives on 117th Street and 119th Street due to conflicts with the Access Management Plan. Cross-access easements will be required for both of the proposed driveway connections.

The applicant submitted a traffic analysis for the proposed restaurant development. Based on the analysis, the proposed restaurant is not anticipated to create significant queuing on 117th and 119th Streets. The study does note that internally, motorists may experience delays during peak hours of weekend evenings.

Traffic engineering staff has reviewed the traffic analysis and indicated that the proposed development, with revised access drives, meets the City's Access Management Plan requirements. However, staff will require a revised traffic study with the final site development plan to provide additional documentation for the development.

C. Drainage:

A preliminary stormwater report was submitted with the rezoning. On-site detention is required for the proposed development. The applicant has proposed an underground detention facility and a mixture of Best Management Practices (BMPs), including native grasses, to reduce pollutants and to reduce stormwater volume.

Public Works has indicated that the preliminary development plan complies with the City's stormwater ordinance. A final drainage plan and stormwater calculations shall be submitted with the final site development plan.

D. Parking:

The site plan indicates a total of 132 parking spaces for the restaurant. The minimum requirement for restaurants is one (1) space for every three (3) seats. Based on the total of 220 seats, a minimum of 73 parking spaces are required. The proposed development incorporates one row of parking from the existing lot to the north. This is excess parking for the adjacent office-warehouse building so it will not take away from their required parking. Cross-access easements will be required along the north and west property lines.

The site plan shows five accessible spaces, which meets the minimum parking requirement for disabled people per *Unified Development Ordinance (UDO)* requirements. A photometric plan for parking lot lighting shall be submitted with the final development plan.

E. Pedestrian Access:

The site plan identifies a sidewalk on 119th Street and a new sidewalk connection along the cross-access drive to the existing shopping center to the west.

F. Landscaping:

The site plan identifies a variety of deciduous, evergreen and ornamental trees around the perimeter of the site per landscaping requirements for nonresidential developments. Shade trees are provided in the landscape islands and shrubs are identified along all parking areas facing the streets per *UDO* requirements.

G. Architecture/Design:

The restaurant is a one-story building with pitched roof elements and slate tile on three sides of the building. The exterior materials consist of stone veneer, brick and hardie-shingle lap siding. Awnings with slate tile are also included over most of the doors and windows. The applicant has submitted color renderings and perspectives for all sides of the building.

The restaurant incorporates similar building materials and design with existing commercial buildings along 119th Street and the building complies with the City's *Commercial Building Appearance Guidelines*.

H. Signage:

The applicant is requesting three wall signs and one monument sign for Red Lobster. According to *UDO* requirements, each free-standing commercial building is allowed not more than three (3) wall signs. In lieu of a permitted wall sign, one (1) monument sign is allowed. Therefore, only two wall signs would be allowed with a monument sign. The applicant has submitted a request for an exception to the sign ordinance to allow the additional signage for Red Lobster (see attached letter and sign package).

According to *UDO 18.64.210*, deviations to the sign regulations may be approved by the Planning Commission and Governing Body at the time of the rezoning. Any exceptions to the sign requirements may only be granted upon a finding that all of the following conditions have been met:

1. *That the deviation requested arises from such condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant.*
2. *That the granting of the deviation will not adversely affect the rights of adjacent property owners or residents.*
3. *That the strict application of the provisions of this ordinance would constitute unnecessary hardship upon the property owner represented in the application.*
4. *That the deviation desired will not adversely affect the public health, safety, morals order, convenience, prosperity, or general welfare.*
5. *That granting the deviation will not be opposed to the general spirit and intent of this ordinance. (Ord. 10-59 §18, 2010)*

In the letter the applicant explains that this site is a unique hardship due to the position of the building on the site and the amount of visible facades from the street. The sign package shows a view of the site for traffic approaching from the west. The applicant notes that the existing landscaping within the center median on 119th Street obscures visibility of the proposed building so additional signage is required.

Staff does not agree with the applicant that this is a unique situation because all the other pad sites along 119th Street have similar conditions and they comply with the sign ordinance. Typically, the only exceptions for additional signage have been for larger buildings, such as Bass Pro Shops and Wal-Mart where they have much larger facades and businesses that offer multiple types of products and services. In this situation for Red Lobster, staff believes that the monument sign will provide an adequate substitute for the wall sign on the west elevation. Therefore, staff does not support the requested exception for four signs.

III. ANALYSIS

The following are criteria for considering 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 plan for the *Comprehensive Plan* identifies the subject area as a Regional Commercial Center. These areas are intended to provide a diversity of retail, service, entertainment, office and related businesses. The proposed restaurant is consistent with the future land use plan.

- **Principle ES-3.1:** *“Reinvestment in Existing Commercial and Industrial Areas. Cooperate with the private sector to foster the revitalization of existing commercial and industrial areas in order to create greater vitality.”*
- 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. Redevelopment of this site promotes infill of an appropriate commercial use 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 office uses. The proposed 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 centers are zoned CP-2 and the properties to the north and east are zoned MP-1. The rezoning from MP-1 to CP-2 is appropriate for this site since it is located along 119th Street and the *Comprehensive Plan* identifies this as a commercial area.

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

The proposed development should not be a detriment to surrounding properties for the following reasons:

- consists of a similar use as the adjacent shopping center
- new access drives will be designed to allow proper cross-access between commercial properties and limit direct access to 119th Street
- is a 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 redevelopment removes existing drives on 117th and 119th Streets to improve access management in the surrounding area. The restaurant is not anticipated to create significant queuing on 117th and 119th Streets. The proposed development includes the required number of parking spaces for a restaurant.

F. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

Staff is not aware of any potential for unlawful levels of air, water or noise pollution with the proposed development. The site includes proper stormwater drainage and detention and uses best management practices to improve stormwater quality.

G. The economic impact of the proposed use on the community.

The proposed redevelopment follows the *Revitalization Goal* of the *Comprehensive Plan* by improving existing development conditions and providing additional economic development opportunities.

IV. STAFF RECOMMENDATIONS

A. Staff recommends approval of RZ-11-009 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 requested rezoning to CP-2 district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
- (3) The proposed development meets the height and area requirements for CP-2 zoning districts.

B. Staff recommends approval of RZ-11-009 with the following stipulation 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 preliminary development plan with the following stipulations to be completed with the final site development plan:
- (1) A revised traffic study shall be submitted and approved with the final site development plan.
 - (2) A final drainage plan and stormwater calculations shall be submitted and approved in accordance with *Title 17* of the *Municipal Code*.
 - (3) Per *UDO* requirements, the landscape plan submitted with the final site development plan shall be sealed by a landscape architect licensed to practice in the state of Kansas.
 - (4) A maximum of three (3) signs are permitted for the proposed development in accordance with *UDO 18.62.090*.
 - (5) A parking lot lighting plan, in accordance with *UDO* requirements, shall be submitted and approved with the final site development plan. Sign permit applications shall be submitted and approved prior to installation of any wall signs and/or monument signs.
 - (6) The building shall comply with the *Guidelines for Screening of Rooftop Mechanical Equipment*.
 - (7) 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.
 - (8) 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.
 - (9) All on-site wiring and cables shall be placed underground.

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

Comm. Ling: Mr. Pendley, the monument sign, is that at the corner at 119th and 117th?

Mr. Pendley: Yes. There is an existing monument sign and it would be in that same location, yes.

Comm. Ling: When I patronize the mall set of restaurants, the Great Mall restaurants, if you don't look real good as you drive by, by the time you get in back, I lose track of all the restaurants. Are we creating a situation similar to that? I'd sure like to fix that situation, and I would not want to create another situation like that. This way, you don't access this restaurant from the front. You can't drive into it from the front. You have to come in from the back. Do you think we're creating that situation here? It's not a whole row of restaurants, it's just one.

Mr. Pendley: I don't think so. That situation does exist because you have that ring road around there and they do not have direct access. This is different. It is the one last pad site right there. Now, redevelopment could potentially develop across the street to the east. Staff thought that because this is on a corner lot, you'll have the new driveway further north, which will be shared, and you do have to come in through the back side, but there is the opportunity for the right-in/right-out that they are proposing with the cross-access drive. There would be a tight turn to get around that but it can make the turning movement. The applicant did submit the turning templates. Yes, for the most part, most of the traffic will probably be coming in from the north on the back side of the restaurant. Given the problems with the existing drives, we felt this was a much better plan. So, we're looking primarily in terms of the access management.

Comm. Ling: I definitely agree with the access management. I just didn't want to create that same situation we have at the Great Mall.

Mr. Pendley: Because this one is just a freestanding lot on a corner, I don't think we will have that problem.

Chairman Campbell: Right now, the ordinance says three signs. It doesn't matter if it's two monument and one wall, three wall, just three signs.

Mr. Pendley: That is correct. As it is in any commercial district, that is the maximum. They figured that whether it be three wall or two wall and a monument, that's what it is limited to. However, there is the opportunity in the ordinance for exceptions to any of the sign regulations. That is where we got into situations like Bass Pro and Backyard Burger.

Chairman Campbell: And that's why your stipulation reads three signs.

Mr. Pendley: That's correct. They can decide. We'll leave that to the applicant and we'll see the final result with the final development, to comply with this stipulation or to comply with whatever is allowed by the Planning Commission. Ultimately, the City Council will have the final say, so even if a stipulation is approved that the applicant doesn't agree with, I believe they will would request that of City Council as well.

Chairman Campbell: Any other questions? Let's hear from the applicant.

Jim Powell, Darden Restaurants, Applicant, 1000 Darden Center Way, Orlando, Florida, appeared before the Planning Commission and made the following comments:

Mr. Powell: Our civil engineer is also here tonight if you have any questions about the site or traffic, and I've got our site enhancement services specialist, Sean Smith, who can spend a little more time on the sign exception we're asking for. We've been working with staff on this for a couple of months and it has gone really well. They have been great to work with. I think we have accommodated every request, including going with virtually 100 percent masonry building when our standard building was a majority lap siding. It was a Hardie plank, sort of cementitious material, but we both agreed that the brick was more appropriate and durable. We also worked with the adjacent property owners to allow us to exit into their driveway that comes off of 119th Street so we could close the other two accesses.

That kind of leads into a portion of our request for the signage. We're hoping that it will actually reduce some movements by having the third sign to give people a little more warning. I'll turn it over to Sean Smith.

Sean Smith, Site Enhancement Services, 6001 Nimitz Parkway, South Bend, Indiana, appeared before the Planning Commission and made the following comments:

Mr. Smith: We are requesting additional wall signage. Staff has stated that in CP-2 we could have 200 square feet of signage, ten percent of the façade area, but it's three sides. What we are proposing to you is a 32 square foot monument. The critter on the front, you could identify that as similar to a Backyard Burger logo, that's 24 square feet on our front elevation, or south facing 119th Street. Then, we are asking for two 50 square foot full expression signs, which are their new trademark logo identity, on the east and the west elevations. The only illuminated part in that particular location is the critter and the Red Lobster "Fresh Fish/Live Lobster." That's the only illuminated part. So you're looking at approximately 27.0 square feet for each elevation, or 2.2 percent. So, we come into the intent of the ordinance by not exceeding the square footage allowance and the 10 percent of the façade area. And if you look at the front elevation as a logo sign, then we believe we'd be able to capture that identity here. What I am showing you here is the view, if you're traveling east, to identify this property. There was an access here that is being removed, as staff stated, and it is a shared access up here now. You can either identify this property as a little below grade, and when you're at the top at Black Bob Road, it comes downhill, and you lose this particular site in that elevation. So, we feel that if you have 300 feet to identify the property as you come in and navigate and turn in that left turn lane, then you can access the property and come up 117th Street. You typically still don't have a freestanding sign that identifies the property and entry points. This particular location is unique in the fact that it has two shared access points. And the only way you can access it if you're traveling west along here is here, on the right-in portion. So, we feel that this additional wall sign would give you advance notification and visibility as you identify the property traveling east, to get into that turn lane and make the property traffic decisions, because by the time you look at the front elevation and notice our trademark critter lobster on the front elevation, you are already past that, and you have to come all the way down to make the U-turn. You either make this traffic lane, or you have to come all the way down to

the traffic control signal to make your U-turn back, to reposition and come around and access the property and turn right at 117th Street.

So, we feel this property is unique, in a sense. And like I stated, the entire sign package before you is 156 square feet in area, and 200 square feet could be allowed per code. And the façade coverage is 2.2 percent, roughly. Those two particular things would allow us to properly identify this location, access the property, and it's unique in the situation that it has cross-access points. There's not a traditional entry point in the property. We're removing those accesses on 119th Street, which I believe were originally there to help with the traffic control issues. And what we'd like to do, and staff stated, that circulation within the area and providing cross access, this signage would help alleviate traveling that area, and if you are accessing the property, to be able to identify the property, locate it, and get there safely.

If you have any questions, comments or concerns, I'd be happy to answer them. Actually, here is another photo of what the sign would look like in a 3-D approach, giving you an idea of what it would look like within that area as you're approaching it. It's well within the turn line to allow us to make that left turn into the property.

Mr. Powell: Just one point. Typically, along these cornices on three sides of the building that face the public ways, we typically have signs that we did take off because we tried to not be greedy as far as getting extra signage. We had "crab" and "lobster" and that type of thing all along those cornices areas, and we did take those off. We felt like this was the critical one.

Mr. Smith: And to reiterate, too, the only things that illuminate on this particular cabinet are the critter itself, and then the raised channels. They are all raised channels with LED technology. Those are the only things that are illuminated. It's not a panel design, it's not a flex face design, it's a raised channel to give it some depth. It's not your typical cabinet sign that you would see in a typical commercial area. And this is a commercial corridor where people expect to see signage. And the freestanding sign is 20 to 25 feet set back within the landscape area. The visibility is limited, and the freestanding sign's intent, like I said, is to identify the property.

Chairman Campbell: Thank you. Are there any questions at this point? We've heard a lot about the additional wall sign. Talk to me about the monument sign. Why all four? What's the compelling reason to keep all four?

Mr. Smith: The monument sign, you do get the visibility when you're traveling westbound. It identifies how you're turning into the property. So, the visibility as you're coming westbound to access it, it's location is here. It is set back so when you approach it from the west, the freestanding sign is visible from the west, so it helps with the navigation as you're approaching and make that right-hand turn. Because of the building setback, you'll capture this freestanding sign well before this wall sign. That identifies when you're making the right-hand turn into the property to proceed all the way up and turn into the cross-access. If you miss this, you're down here, you're slowing down and making a hard right into the property. So, the freestanding sign is 32 square feet in area, but we do feel it is important because it gives the identification so you're not going all the way down to make that right turn, or going further down to Black Bob Road to the traffic light to turn into Red Lobster, then come back through. Then, if you know the area, you're starting to navigate through here, the Blockbuster, etc., and you're

creating more traffic in this area. So, we think that if the sign is here, it alleviates the westbound traffic immensely. Typically that's what a freestanding sign does, is identify the property, and then usually at locations where there are entry points. So, this would give you advance notification as you're traveling west to proceed up 117th Street and turn left into the property.

Chairman Campbell: Thank you. Mr. Powell, in this market, how much drive-by traffic are you expecting? Are you expecting this to be a destination location?

Mr. Powell: I think both, in this case. We're actually closing the Red Lobster over at the mall. Number one, our lease is up. Number two, the Olive Garden and the Longhorn, which we both own, are going very well, and we feel like it's worth the investment to come over here, redevelop this property and everything that goes with it – the underground detention, the heavy landscaping – we think it's going to be worth the investment to do that. So, I think it's going to be a little of both. I have come into town quite a few times and that is a busy area. There's a lot of traffic. And I think if you give people a little extra visual that they can keep their eyes on the road and not have to be slowing down and looking and trying to find someplace. I think it helps.

Chairman Campbell: Thank you. Any other questions or comments? This is a public hearing. Is there anyone else here who would like to speak in favor of this item? Is there anyone who would like to speak in opposition? Seeing or hearing none, we'll come back to the Planning Commission for questions or comments.

Comm. Ling: I certainly appreciate the architecture you've done on this. It looks excellent. I look at the site and I just don't see the uniqueness here requiring what would be the fourth sign. So, I am not supportive of that. I certainly want you to have good signage and I want you to do well, but I just don't see how we can treat this property location as unique from all the others where we've restricted them to three signs. So, I would be supportive of the staff report as is.

Comm. Rinke: I would concur with Mr. Ling on all points.

Chairman Campbell: Any other comments?

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

Motion carries 5-0.

Motion by Commissioner Ling, seconded by Commissioner Rinke, to recommend approval of RZ-11-009, 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 requested rezoning to CP-2 district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.

- (3) The proposed development meets the height and area requirements for CP-2 zoning districts.

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

- (1) A revised traffic study shall be submitted and approved with the final site development plan.
- (2) A final drainage plan and stormwater calculations shall be submitted and approved in accordance with *Title 17* of the *Municipal Code*.
- (3) Per *UDO* requirements, the landscape plan submitted with the final site development plan shall be sealed by a landscape architect licensed to practice in the state of Kansas.
- (4) A maximum of three (3) signs are permitted for the proposed development in accordance with *UDO 18.62.090*.
- (5) A parking lot lighting plan, in accordance with *UDO* requirements, shall be submitted and approved with the final site development plan. Sign permit applications shall be submitted and approved prior to installation of any wall signs and/or monument signs.
- (6) The building shall comply with the *Guidelines for Screening of Rooftop Mechanical Equipment*.
- (7) 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.
- (8) 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.

- (9) All on-site wiring and cables shall be placed underground.

Motion carries 5-0.

**MINUTES
CITY OF OLATHE
STAFF REPORT**

CASE # RZ-11-010

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

Case Planner: Sean Pendley **Planning Commission:** September 12, 2011

Request: Zoning amendment for BP district, 20.26± acres, and revised preliminary development plan for Greenwood Business Center.

Location: Northeast corner of 134th Street and Greenwood Street.

**Owner/
Applicant:** GBC, LLC, Paul Licausi

Engineer: Shafer, Kline & Warren, Inc., Joel Riggs

Acres:	<u>20.26±</u>	Proposed Use:	<u>Business Park/ Nursing Facility</u>	
Current Zoning:	<u>BP</u>	Building Area:	<u>147,930 sq. ft. (total)</u>	
Parking Spaces:	Required	Proposed		
Nursing Facility	<u>56</u>	<u>92</u>		
Business Park	<u>327</u>	<u>432</u>		
Streets and Right of way:	<u>134th Place</u>	<u>Greenwood Street</u>	<u>133rd Street</u>	
	Existing	<u>30' (½ Street)</u>	<u>40' (½ Street)</u>	<u>50' (½ Street)</u>
	Required	<u>30' (½ Street)</u>	<u>40' (½ Street)</u>	<u>50' (½ Street)</u>
	Proposed	<u>30' (½ Street)</u>	<u>40' (½ Street)</u>	<u>50' (½ Street)</u>

	Land Use	Zoning	Comp. Plan Designation
Site	<u>Undeveloped</u>	<u>BP/ C-2</u>	<u>Commercial Corridor</u>
North	<u>Single Family Residential/ Elementary School</u>	<u>R-1</u>	<u>Conventional Neighborhood/ Secondary Greenway</u>
East	<u>Middle School</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
South	<u>Commercial</u>	<u>C-2/ CP-2</u>	<u>Commercial Corridor</u>
West	<u>Undeveloped</u>	<u>C-2</u>	<u>Commercial Corridor</u>

Platted: A portion of the property is platted as Greenwood Business Center. The remainder of the property shall be platted prior to development.

I. COMMENTS

A. Proposed Development:

The following is a request for a zoning amendment for BP (Business Park District) and a revised preliminary development plan for Greenwood Business Center. The applicant is proposing a skilled nursing facility in an area originally planned for a car wash and office/warehouse buildings. This is considered a substantial change from the original preliminary development plan and requires an amendment to the BP zoning district.

The proposed development includes a 62,000 square foot skilled nursing facility with a total of 80 beds. The primary emphasis for the facility will be rehabilitation with short-term and long-term care (see attached summary). The proposed health service is a permitted use in BP districts.

The remainder of the preliminary site plan consists of office/warehouse buildings. The car wash and day care building have been eliminated from the preliminary development plan. The number of buildings and total floor area has decreased compared to the original plan.

B. History:

The property was rezoned from C-2 to BP (RZ-07-004) in 2007. The approved preliminary development plan included 9 office/warehouse buildings, a car wash and daycare building. The original plan for the business park is attached.

A zoning amendment for the BP district (RZ-10-011) was submitted last year for a similar nursing facility on another site at the corner of 133rd Street and Greenwood Street. This application was withdrawn by the applicant prior to consideration by the Planning Commission.

C. Neighborhood Meeting:

The owner held a neighborhood meeting for the proposed development on August 22, 2011 (see attached minutes). There were questions regarding emergency vehicles, access to the site and lighting. The applicant explained that this was not an emergency care facility and rather would be focused on rehabilitation. The north-south drive from 133rd Street will not be built with this phase and lighting for the development shall comply with *Unified Development Ordinance (UDO)* requirements.

According to the applicant, the residents who attended the meeting were supportive of the project and appreciated the fact that the access for the business park was consistent with the original plan.

II. PRELIMINARY DEVELOPMENT PLAN

A. Utilities/Municipal Services:

The property is located in the City of Olathe water service area and Johnson County Wastewater area. Utilities are available to the site.

B. Access/Traffic:

The proposed nursing facility will have one access drive on Greenwood Street and two access drives on 134th Place. The eastern drive will eventually become a shared drive for future office buildings to the east of the site. The revised preliminary site plan shows one drive on 133rd Street which is consistent with the original plan for the BP district.

The applicant submitted a traffic analysis for the revised development plan. The study indicates that the proposed development generates approximately 20 percent fewer vehicle trips for both AM and PM peak hours compared to the original plan. The decrease in traffic volume is due to the elimination of the car wash, day care and reduction of office/warehouse buildings.

The number and locations of driveways are similar to the original development plan for the business park. The proposed access drives meet the City's Access Management Plan requirements.

C. Drainage:

A preliminary stormwater report was submitted with the original rezoning. Two detention basins have already been constructed to accommodate stormwater for the entire business park.

The applicant has performed an analysis to determine if any additional stormwater controls are required. The revised development plan shows a decrease in impervious area compared to the original plan. The analysis does not recommend any stormwater Best Management Practices (BMPs) to be constructed for the proposed development area.

Public Works has indicated that the preliminary development plan complies with the City's stormwater ordinance. A final drainage plan and stormwater calculations shall be submitted with the final development plans.

D. Parking:

The site plan indicates 92 parking spaces for the nursing facility and 432 spaces for the proposed office/warehouse buildings. All of the sites exceed minimum parking requirements. The requirement for medical buildings is one (1) space for each four (4) beds and one (1) space for each staff member. Based on the total of 80 beds and maximum of 50 staff members on the largest shift, the minimum number of parking spaces for the nursing facility is 70.

The final site development plans for all buildings shall identify the minimum number of accessible spaces for disabled people per *UDO*

requirements. In addition, photometric plans for parking lot lighting shall be submitted with the final development plans.

E. Pedestrian Access:

The preliminary site plan identifies sidewalks on all surrounding streets and along the primary access drives for the business park.

F. Landscaping:

The preliminary site plan identifies a variety of deciduous and evergreen trees throughout the business park. The majority of landscaping around the detention basins are located to the side or rear of the basins. Additional shade trees, evergreen trees and ornamental trees are required on the north property lines per *UDO* requirements. This area is especially critical since existing single family residential properties are located across 133rd Street.

Ornamental trees are required along all property lines fronting a street. Screening (berms or shrubs) is also required across 100 percent of all parking and vehicular areas facing streets to a minimum height of three (3) feet from the grade of parking or paved area.

The landscape plan indicates fencing around the detention basins. The fencing shall consist of ornamental steel or aluminum fencing with masonry columns.

G. Architecture/Design:

The proposed nursing facility is a one-story building with a two-story element with storefront windows through the center of the facility. The proposed roofing includes composition shingles. This type of shingle has more of a residential look and is not typically recommended for non-residential structures. However, staff supports this type of roofing in this location since it provides an appropriate transition to the residential properties to the north. The exterior materials consist of stone veneer, brick and EIFS.

The applicant has submitted color renderings for the proposed building. Additional features, including dormers, have been provided on the south elevation to help break up the symmetrical appearance on either side of the building. These features do not appear on the black and white elevations and these drawings will need to be updated with the final site development plans.

The applicant submitted typical building elevations for the multi-tenant office/warehouse buildings with the original site plan in 2007. The building materials consist of brick veneer and tilt-up concrete on all sides of the building. There are no changes for the design and materials of the future office/warehouse buildings.

III. ANALYSIS

The following are criteria for considering applications as listed in *Unified Development Ordinance (UDO) Section 18.12.140* and staff findings for each item:

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 this area as a “Commercial Corridor”. This corridor is intended to accommodate a full range of commercial uses, including auto-oriented uses, but has the opportunity to be transformed over time into a corridor that is more walkable and incorporates other types of uses.

The proposed nursing facility and office/warehouse buildings are permitted in BP districts and are consistent with the *Comprehensive Plan*.

- **Principle LUCC-8.1:** *“Mixture of Complementary Land Uses. Encourage and enable a mixture of complementary land uses in major new developments. Whenever land uses are mixed, careful design will be required in order to ensure compatibility, accessibility and appropriate transitions between land uses that vary in intensity and scale.”*

The proposed nursing facility is an appropriate land use in the Greenwood Business Center since it provides a good transition between the commercial uses along 135th Street and residential properties to the north. The proposed site layout and access is generally consistent with the original development plan for the business park.

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 residential uses, schools, and undeveloped property. The proposed nursing facility is relatively large in size and scale but the proposed building design and materials have a similar appearance to the single family homes in the area.

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 commercial properties to the south and west of the subject property are zoned C-2 and CP-2. The schools and residential properties to the north and east are zoned R-1. The BP zoning and proposed nursing facility and office/warehouse buildings offer appropriate transitional uses.

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

The proposed development should not detrimentally affect surrounding properties since the BP uses provide a good transition between commercial and residential uses.

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 changes from a car wash and day care to a nursing facility will reduce overall traffic volume for the business park and the proposed access is consistent with the original plan.

The proposed development exceeds the minimum required parking for medical and office/warehouse buildings.

F. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

Staff is not aware of any potential for unlawful levels of air, water or noise pollution with the proposed development. The site includes proper stormwater drainage and detention. The applicant has indicated that the nursing facility will not include an emergency care center so there should not be any excessive noise from ambulances.

G. The economic impact of the proposed use on the community.

The proposed change from a car wash and day care to a nursing facility will have a minimal impact for economic development in the business park. The nursing facility will employ a staff of approximately 80-100 people. In addition, the nursing facility provides additional health care opportunities for residents in this area.

IV. STAFF RECOMMENDATIONS

A. Staff recommends approval of RZ-11-010 for the following reasons:

- (1) The proposed development complies with the Goals, Objectives and Policies of the *Comprehensive Plan*.
- (2) The zoning amendment for BP district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
- (3) The proposed development meets the height and area requirements for BP zoning districts.

B. Staff recommends approval of RZ-11-010 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)*.
 - (2) Final site development plans shall be approved prior to construction and said plans shall be consistent with the approved preliminary development plan and zoning stipulations.
 - (3) Final plats shall be approved and recorded for the subject properties prior to issuance of building permits.
 - (4) Outdoor storage and display of materials, products or equipment shall be prohibited. A limited number of work vehicles may be allowed in the parking lots.
 - (5) Loading docks shall be prohibited on all buildings.
- C. Staff recommends approval of the preliminary development plan with the following stipulations to be completed with the final site development plans:
- (1) Final drainage plans and stormwater calculations shall be submitted and approved by Public Works with the final site development plans.
 - (2) The detention basins shall include ornamental steel or aluminum fencing and masonry columns.
 - (3) The final site development plans shall show required vehicle turning templates for all access drives and trash enclosures per Public Works requirements.
 - (4) The final site development plans shall identify the minimum number of accessible spaces for disabled people per *UDO* requirements.
 - (5) Parking lot lighting plans, in accordance with *UDO* requirements, shall be submitted and approved with the final site development plans.
 - (6) Additional shade trees, evergreen trees and ornamental trees are required on the north property lines of Lots 2, 3 and 4 to provide adequate screening for the detention basins and to comply with *UDO* requirements for landscaping on properties facing residential properties.
 - (7) Street trees shall be provided within the right-of-way for 133rd Place and Greenwood Street per *UDO* requirements.

- (8) Ornamental trees are required along all property lines fronting a street.
- (9) Screening (berms/shrubs) is required across one hundred (100) percent of all parking and vehicular areas facing streets to a minimum height of three (3) feet from the grade of parking or paved area.
- (10) All landscaped areas shall be irrigated.
- (11) 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.
- (12) 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.
- (13) All on-site wiring and cables shall be placed underground.

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

Comm. Ling: Mr. Pendley, when this item was before us in 2007 for the original zoning, were there stipulations associated with anything that we didn't carry over here?

Mr. Pendley: No. All of those stipulations are the same, with the exception that there were some stipulations regarding the carwash, which have been removed. Otherwise, I believe all of the same stipulations have carried, including outdoor storage, office warehouse uses, etc. And there were very specific stipulations at that time for access. There had to be certain streets constructed prior to certain phases. All of those surrounding streets including Greenwood and the extension of 133rd Place have been completed with a benefit district in the last two years, so those stipulations are removed. Otherwise, all of the same stipulations apply.

Comm. Ling: I appreciate that because I know we spent a lot of time on that back in 2007. One item that you didn't mention was, I thought we had a discussion of warehouse loading and unloading doors. I'm looking at the old site plan, I guess you call it, and it looks like the buildings were laid out so as to not have street view of any loading/unloading doors. Is that consistent with this new layout? I'm having a hard time viewing where the loading doors are.

Mr. Pendley: The updated drawing is really more of a conceptual drawing. The applicant will tell you they do not have any identified users for any of the other lots, with the exception of maybe Lot 6 that fronts 134th Street. All of the other ones are really more generic in nature compared to the last one. I think on the

last one they were trying to show that any one of them could potentially have loading docks. But you're right. With this change, especially with Lots 2 and 3, they look very open-ended as to what they could be used for. That may be appropriate to include a stipulation for, if there are loading docks on any of the lots facing a street or residential property, that they be located on the interior.

Chairman Campbell: Stipulation B(5) says you prohibit all loading docks on all buildings.

Mr. Pendley: Loading docks – I'm sorry – but even overhead doors. A loading dock would be more like an elevated dock, so that was prohibited, you're right. But in terms of overhead doors, if you do want to restrict that, we probably should add another stipulation. The applicant may address that.

Comm. Ling: I'd like the applicant to address it when they come up. As I recall, we had discussion of that back in 2007. I'm looking at the building arrangement from the 2007 site plan and I think it accomplishes that. Thank you.

Chairman Campbell: Any other questions for staff? Can we hear from the applicant?

Joel Riggs, Shafer, Kline and Warren, 11250 Corporate Avenue, Lenexa, appeared before the Planning Commission and made the following comments:

Mr. Riggs: We are in agreement with the staff report. I will address the stipulations in a second. I agree with how Sean presented the project. This commission actually recommended approval of the previous plan. Traffic came up as an item after the fact. We had one concerned resident. Myself and my client met with the school districts, and actually, the concerns were more of an internal school district issue with how they are stacking their cars. The district has since made changes. All that being said, we have relocated the project to the south side of the project so our access points will not change.

This is the same operator that presented this application a year ago. Different developer, but same operator, so those concerns are pretty much the same as what we had back then. We have the same approach.

In terms of the roof, I know this is a preliminary plan, but as Sean indicated, we will be bringing before you a final development plan next month, and I want to make sure I point this out. The roof itself is not a three tab architectural shingle, it's a three layer architectural shingle. This is actually the same building product approved by Bass Pro, which is on I-35, and Renner, and 119th Street, one of the most visible intersections that we have in Olathe, and it is the same building material that is approved by Bass Pro. So, you have this in a commercial district. We think it is a strong upgrade. Quite frankly, we did look at the slate approach. That is one of the reasons that the previous project died, because it was over budget significantly. This would have added significant dollar amount of cost to the project to the tune of around \$300,000. So, we think this is a fair compromise. Our material provider has indicated that Bass Pro is the only one he knows of in Olathe, but as recently as three years ago this was used in a commercial district. That being said, we agree with staff. We think this is a good transitional land use in that more of a residential feel is appropriate for this.

We would have no issues whatsoever keeping the stipulations that were approved in 2007. We would not like to add any additional stipulations. Sean is also correct – The plan outside of the skilled nursing facility is conceptual right

now, but we would not want to limit or take away our ability to have overhead doors in the future, given the fact that we very well may have a project that would come back before this body for a future approval. It was approved with the ability to have overhead doors. We would like to maintain that. We would not like to have a stipulation added that would remove that possibility. If that does come, it would come back before this body and you could look at the full architectural plans and layout, but right now, this is conceptual, at best.

With that, I'd be happy to any questions that you may have. We thank you for the opportunity to review this plan.

Chairman Campbell: Thank you. Any questions for Mr. Riggs? Let me follow up a little bit with what Mr. Ling was talking about. One of the things that was stated before, and the layout did indicate, that those overhead doors would be hidden from view. We worked real hard on that. Do you think this new potential layout, even though it's potential and future, is that possible here?

Mr. Riggs: It's very much possible, to a point. What we had in the 2007 plan was somewhat of a cross-dock scenario, not internal building cross dock, but where you would have docks facing each other, much like you would see at College Crossing at I-35 and Strangline. It's actually a Lenexa project but it's the best example I have of something in this area. We would make every effort, but as you can see, at least these buildings right now are more set up from an office standpoint, not a flex. However, we could very well bring back a flex plan and I would not want to limit the ability to bring that back before you. But absolutely you will have a say – and staff will as well – as to what comes back. I will make every effort, but I can't promise what that will be.

Chairman Campbell: Talk a little bit about phasing. This is the first portion. Is the plan to put in all the infrastructure?

Mr. Riggs: Not right now. The plan is to put in the necessary infrastructure for the skilled nursing facility, and quite frankly, that's very limited in terms of what we need. There is no plan to build the center drive lane through from 134th to 133rd at this time, although we've set it up so it can be. Really, the only infrastructure that we will be extending at all would be sanitary sewer service to the skilled nursing facility. Everything else is actually in place today.

Chairman Campbell: I'm going to pick on one of the other applicants. Would you explain to us, you're brand-new to the community, so you get your 30-second commercial. Who is your client? What are you looking at here?

Mr. Riggs: Physicians Development Group is a developer out of Wichita. They have facilities in Wichita and Derby. They are owner-operators of these facilities. They are owned by physicians and investors, but their doctors are actually owners of the building. This is a new business that is coming in. The operator has a facility in Shawnee, but the operator and the Physicians Development Group have come together to form this team. As I said previously, there was a former developer that was with the operator. This is a new developer, but the difference is that the developer are also the owners of the facility. They are long term investors in the community, pay very high wages to their staff that come into a community, provide phenomenal care, and they have had wonderful occupancy rates in facilities that they have in other locations. Olathe is one of several that they have looked at. They like the community. We're looking at other potential

locations in the state of Kansas. This is a growing business. They've done very well in the communities they've been in already and they have been a wonderful addition to the communities that they are now in.

Chairman Campbell: Who is the customer here?

Mr. Riggs: This is a skilled nursing facility, so this is a rehabilitation facility. They have doctors and nurses on staff full time. The focal point is for individuals who maybe have had a stroke, or an operation, and they are not going to be in the hospital long term. They are going to come into this facility and have rehabilitation to get them back into the workplace. Hospitals want to kick their clients out as quickly as they can; my clients love the fact that they can stay with them and get rehabilitated.

Chairman Campbell: Is this purely rehabilitation or is there long-term care as well?

Mr. Riggs: It's difficult to say. Obviously, in a rehabilitation center, there can be stays that are upwards of 100 days, but their general focus is 23 days, in and out. So, rehabilitation is the primary focus.

Chairman Marsh: Any other questions or comments for the applicant? This is a public hearing. Is there anyone else here who would like to speak in favor of this item? Is there anyone who would like to speak in opposition to this item? Any other questions or comments, or is there a motion?

Comm. Ling: I have a comment. I think I would not be honoring the 2007 Planning Commission that worked diligently to make sure that the overhead doors weren't facing the streets. I would not be supportive of this application moving forward without the stipulation that there would be no overhead doors on building elevations facing public streets.

Chairman Campbell: Any other questions or comments?

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

Motion carries 5-0.

Motion by Commissioner Ling, seconded by Commissioner Locke, to recommend approval of RZ-11-010, for the following reasons:

- (1) The proposed development complies with the Goals, Objectives and Policies of the *Comprehensive Plan*.
- (2) The zoning amendment for BP district meets the *Unified Development Ordinance (UDO)* criteria for considering zoning applications.
- (3) The proposed development meets the height and area requirements for BP zoning districts.

Commissioner Ling'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)*.
- (2) Final site development plans shall be approved prior to construction and said plans shall be consistent with the approved preliminary development plan and zoning stipulations.
- (3) Final plats shall be approved and recorded for the subject properties prior to issuance of building permits.
- (4) Outdoor storage and display of materials, products or equipment shall be prohibited. A limited number of work vehicles may be allowed in the parking lots.
- (5) Loading docks shall be prohibited on all buildings.
- (6) Overhead doors shall not be allowed on building elevations facing streets.

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

- (1) Final drainage plans and stormwater calculations shall be submitted and approved by Public Works with the final site development plans.
- (2) The detention basins shall include ornamental steel or aluminum fencing and masonry columns.
- (3) The final site development plans shall show required vehicle turning templates for all access drives and trash enclosures per Public Works requirements.
- (4) The final site development plans shall identify the minimum number of accessible spaces for disabled people per *UDO* requirements.
- (5) Parking lot lighting plans, in accordance with *UDO* requirements, shall be submitted and approved with the final site development plans.
- (6) Additional shade trees, evergreen trees and ornamental trees are required on the north property lines of Lots 2, 3 and

- 4 to provide adequate screening for the detention basins and to comply with *UDO* requirements for landscaping on properties facing residential properties.
- (7) Street trees shall be provided within the right-of-way for 133rd Place and Greenwood Street per *UDO* requirements.
 - (8) Ornamental trees are required along all property lines fronting a street.
 - (9) Screening (berms/shrubs) is required across one hundred (100) percent of all parking and vehicular areas facing streets to a minimum height of three (3) feet from the grade of parking or paved area.
 - (10) All landscaped areas shall be irrigated.
 - (11) 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.
 - (12) 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.
 - (13) All on-site wiring and cables shall be placed underground.

Motion carries 5-0.

Other Matters from September 12, 2011

Mr. Clements: Looking forward to our next meeting on September 26th, we have three public hearings.

Chairman Campbell: Thank you. We are adjourned.