

PLANNING COMMISSION MINUTES

January 8, 2013

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, January 8, 2013, in the Multi-Purpose Room, 7700 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:00 p.m. with the following members present: Randy Kronblad, Bob Lindeblad, Dirk Schafer, Nancy Wallerstein, Gregory Wolf and Nancy Vennard.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, City Planning Consultant; Dennis Enslinger, Assistant City Administrator; Jim Brown, Building Official, Keith Bredehoeft, Public Works Project Manager, Ted Odell, Council Liaison and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Randy Kronblad moved the minutes of the December 4, 2012 be approved as written. The motion was seconded by Nancy Vennard and passed by a vote of 6 to 0 with Gregory Wolf abstaining.

PUBLIC HEARINGS

PC2013-01 Proposed Amendment to Chapter 19.28 "Special Use Permits" to incorporate a protest process

Ron Williamson noted the City Council established a 90 day moratorium on Special Use Permits at their meeting on November 5, 2012, to allow for the consideration of incorporating a protest process currently found in the rezoning process to the special use permit process. The City of Prairie Village has used the Special Use Permit provision for forty years or more, but a protest provision has never been a part of the approval process.

The special use permit regulations include several provisions that build in protection, such as, the ability to impose conditions, safeguards and restrictions upon the premises benefited by the special use as may be necessary to reduce or minimize any potentially injurious effect upon other property in the neighborhood. All special use permits are valid for a specified time period and cannot be transferred or assigned without acceptance of the terms or conditions of the original approval. Special use permits may be revoked by the Governing Body for violation of the ordinances of the City, for violation of district regulations or non-compliance with the conditions, limitations or requirements contained in the special use permit. With these built in protections, a protest process was not included in the original drafting of the zoning regulations.

Staff has verified that the Cities of Overland Park, Olathe, Lenexa, Mission, Fairway, Westwood, Roeland Park, Shawnee, Bonner Springs, Gardner and Leawood all have protest petitions for Special Use Permits. The Cities of Springhill and Edgerton do not

use Special Use Permits, but use Conditional Use Permits instead and have protest petitions. Johnson County also has a protest petition for Special Use Permits.

Mr. Williamson noted that by adding the protest petition provision the application will be presented to the Governing Body at their first meeting of the month rather than the next Council meeting after the Planning Commission meeting. The opponents of a Special Use Permit will have 14 days after the conclusion of the Planning Commission public hearing to file valid protest petitions. There are only 13 days between a regular Planning Commission meeting (2nd Tuesday of the month) and a Governing Body meeting (3rd Monday of the month). Therefore, the application will normally be considered by the Governing Body at its first meeting of the month (1st Monday of the month). This will add two to three weeks to the approval process.

In reviewing the ordinances from other cities, several clarify what is a “valid” protest petition and some language has been added for clarification.

The proposed amendment is as follows:

Add the following Section to Chapter 19.28 Special Use Permits:

19.28.041 Protest

Regardless of whether or not the Planning Commission recommends approval or disapproval of a Special Use Permit, if a valid protest petition against such Special Use Permit is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing, signed by the owners of record of 20% or more of the total area required to be notified of the proposed Special Use Permit, excluding streets and public ways, such Special Use Permit shall not be passed except by at least a 3/4 vote (10 votes) of all members of the Governing Body.

Valid Protest Petitions must be signed and acknowledged by each and every owner(s) of property protesting a given action. The word “owner(s)” for purposes of protest petitions shall include all those individuals that may have ownership in subject real property or property within the notification area. If the property is owned by joint tenancy, all such owners must sign the petition by their own hand to be valid, unless the petition itself clearly indicates that one tenant has the legal authority to sign for and on behalf of the other. In the event a corporation, partnership or other organization meets the requirements to protest an action and desires to sign a petition, the following must appear on the petitions for such an organization to be counted with the petition: a) the proper name in which title to their property is held; and b) the address of their property; and c) the name of the individual signing on behalf of the corporation, partnership or other organization; and d) some indication of capacity or authorization of the individuals to sign on behalf of the corporation, partnership or organization.

To be a valid protest petition, the signature of each owner(s) signing the petition must be properly notarized.

Chairman Ken Vaughn reviewed the process to be followed for the public hearing asking speakers to identify themselves and asking those present to remain quiet during the comments to allow for all to be heard. He asked those speaking to keep their comments brief and not to repeat things previously stated.

Neil Shortlidge, attorney for the Mission Valley Neighborhood Association, addressed the Commission in support of the proposed language. He noted special use permits normally are a change in land use which may have a negative impact on the underlying zoning and noted this is why many cities allow for the protest of special use permits, as well as, rezoning. Mr. Shortlidge referenced case law regarding the interpretation and treatment of special use permits and zoning applications and the applicability of the "Golden Factors" to special use permits as well as in rezoning. He noted the KS Supreme Court ruled in at least 4 cases on the validity of the protest process for special use permits recognizing the neighboring property owners' right to be heard.

Mr. Shortlidge noted that protest petitions are allowed by state statutes and if the city fails to add the protest process, he feels its actions would be against state statutes and could be effectively challenged. Gregory Wolf asked if he was saying the current process followed by the city is flawed by Kansas law requirements. Mr. Shortlidge responded that it is his interpretation that it is.

Craig Satterlee, 8600 Mission Road, spoke in support of the proposed revision addressing the potential of in-fill development to negatively impact the existing neighborhood character and property values and the need to grant residents due process in consideration of the requested special use permit as well as in rezoning. .

Brian Doerr, 4000 West 86th Street, spoke in support of the proposed amendment noting that a land use change is a land use change whether it be by the rezoning of property or the allowance of a special use permit and a protest petition process should be available to residents in both scenarios to ensure their due process rights.

Mr. Doerr noted the extensive community input and involvement sought in the development of Village Vision and the Parks Master Plan. He stated a recent example of the city's support of its residents and neighborhoods is the recent approval of the establishment of neighborhood conservation districts giving residents a greater voice in the development and preservation of their community. The addition of the protest petition process for special use permits is another opportunity for the City to facilitate greater participation by its residents. There is no reason to not approve the proposed amendment.

Whitney Kerr, 4020 West 86th Street, spoke in support of the amendment. He referenced the lack of communication during the initial Mission Road & 84th Street development proposal and between the developer and the residents. He feels the protest petition is needed to get the maximum communication between developers, residents and the City. He believes that without the protest petition process, it is easier for developers to strong-arm their plans through the process.

Jori Nelson, 4802 West 69th Terrace, spoke in support of the amendment as she believes residents should have a voice in the development of property surrounding their property. She noted that Prairie Village is one of very few cities that do not already allow for this process in the consideration of special use permits. She feels this process will encourage a more open line of communication between the developer, the City and the residents. Ms. Nelson stated that when residents become involved the outcome is better development and urged the Commission to vote to recommend the adoption of the proposed language.

Larry Dollar, 4112 West 91st Street, spoke in support of the amendment which affords neighbors a larger voice in the development of surrounding property. He feels this will improve communication between the city, community and developer. He noted getting neighborhoods involved is the role of government. The amendment will give Prairie Village residents the same rights given to most other Johnson County residents.

David Lillard, 3607 West 84th Terrace, a long-time resident of the city spoke in support of the proposed amendment and urged the City to join other cities by adopting the proposed amendment as others have. He believes the best results are achieved when all stakeholders have a voice and referenced his involvement in the development of property by Village Church along Mission Road and 94th Street in which the original application was challenged and through work with the neighboring residents a better project design and layout was created. It is important to give the community the opportunity to participate as full-fledged stakeholders in the development of land surrounding their properties.

With no one else wishing to address the Commission, Chairman Vaughn closed public participation at 7:35 p.m.

Gregory Wolf confirmed the City Attorney is aware of and will review the proposed amendment.

A resident in the audience confirmed that the protest petition applies to all property owners within 200' of the property and requires signatures of 20% of the landowners to be valid. If the protest petition is valid, Mr. Williamson stated the Governing Body will be required to have a supermajority (10 votes) to approve the requested special use permit.

Nancy Vennard stated she agreed with the concept of the protest petition process, but questioned the required 20% criteria. She felt that level potentially placed a lot of power with the contiguous property owners which may not represent the feelings of the entire neighborhood.

Bob Lindeblad noted that at the public hearing anyone is allowed to speak. The 20% criteria is established by state statute for rezoning applications. Mrs. Vennard felt that 30% would provide a better representation. Ron Williamson stated he felt it was better to stay with the 20% stipulated by the state for rezoning applications, noting that to increase it would be breaking new ground and would be more likely to be challenged. Ken Vaughn noted Mrs. Vennard raises a good point. Mrs. Vennard stated she does not want to see a protest based on a few opposing residents.

Nancy Wallerstein stated the need to be very clear on the number of votes - clarifying that a $\frac{3}{4}$ majority is 10 votes. Mr. Williamson responded the Governing Body includes the Mayor and would be 10 votes.

Mr. Williamson reviewed the process that would be followed in that a certified list of property owners would need to be acquired from the County of all property owners within 200 feet of the affected property. The signatures on the petition will need to be notarized with all property owners signing. Once submitted City staff will verify the petition.

Bob Lindeblad moved the Planning Commission recommend the Governing Body adopt the proposed amendment as written. The motion was seconded by Randy Kronblad and passed by a vote of 7 - 0.

Bob Lindeblad moved the Planning Commission recommend that the last two paragraphs of the amendment be added to Section 19.52.045, the protest petition for zoning amendments after the appropriate publication and public hearing. The motion was seconded by Dirk Schafer and passed by a 7-0 vote.

NON-PUBLIC HEARINGS

**PC2013-101 Site Plan Approval - Roe 89 Shops
8825 & 8839 Roe Avenue**

Dennis Enslinger stated the applicant has requested that this item be continue to the February 5th meeting of the Planning Commission.

Randy Kronblad moved that PC2013-101 be continued to the February 5, 2013 meeting of the Planning Commission. The motion was seconded by Dirk Schafer and passed by a 7 - 0 vote.

**PC2013-102 Site Plan Approval - St. Ann's
7231 Mission Road**

Arnie Tulloch, with Shafer, Kline & Warren, stated St. Ann Catholic Church and School are proposing a number of changes to their campus. They will be done in four phases. He noted revised plans were distributed at the meeting to address the addition of five feet to the north end of the school building.

Phase 1 changes include the demolition of the existing portion of the building north of the cell tower equipment room. This will be replaced by a smaller addition that will include a chapel and administrative offices. The main entrance to the church will be relocated to the lower level off the parking lot on the east side. A new lobby area will be built including an elevator for ADA accessibility.

Eight new classrooms are proposed to be added to the north end of the classroom wing. These classrooms will be on two levels with four on each level. An elevator will also be added to provide ADA access.

Phase 1 also includes relocation of utility lines as needed to accommodate expansion, as well as construction of a new driveway in front of the church parallel to Mission Road and a row of parking on the east side of the gym. The proposed driveway with five new parking spaces will provide additional access for those with disabilities, but also will provide access for hearses and limousines used for funerals. This provides direct access to the Nave while the new lobby and entrance will be at a lower level which would be more difficult to accommodate funerals.

Phase 2 will be a small addition of offices and hallway to the new chapel area.

Bob Lindeblad confirmed the latest revisions to the the north side of the school building was five feet.

Ron Williamson noted that in 1997 the Zoning Ordinance was amended to require private schools to obtain a Special Use Permit. St. Ann School is a private school and a Special Use Permit has not been approved for it. Since it was in existence prior to 1997, it is a legal nonconforming use, but cannot enlarge or expand until a Special Use Permit is approved. This application will only address the Site Plan for the Church and School expansion, but a permit for the school construction cannot be issued until the Special Use Permit is approved. Assuming the Planning Commission makes a recommendation on the protest petition amendment for Special Use Permits at the January meeting, the amendment will be considered by the Governing Body at its meeting on January 22nd. The Special Use Permit application could then be on the March Planning Commission Agenda and then the April 1st City Council meeting.

This property is unplatted and the applicant will submit a plat for consideration by the Commission at its February meeting.

A neighborhood meeting was held on December 19, 2012 in accordance with the Planning Commission Citizen Participation Policy. One family attended and the questions primarily dealt with the interior of the facility.

Ken Vaughn led the Planning Commission in the following review of the site plan criteria:

A. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The site is approximately 10.6 acres and the east five acres are primarily ball diamonds and play area which is open space. The new chapel and office addition will be a smaller building than what exists which will provide more green space between the church and the north access drive. The applicant is providing 21 new parking spaces on the east side of the gym. When the project is complete, there will be 305 off-street parking spaces and the ordinance requires 239 off-street parking spaces.

The applicant has submitted a landscape plan to replace plantings that will be destroyed during construction. It will need to be submitted to the Tree Board for approval.

The internal parking lot is a large mass of asphalt and some landscape islands are needed to soften the hardscape. The internal trafficway needs to be better defined to facilitate traffic flow.

B. Utilities are available with adequate capacity to serve the proposed development.

The property is currently served with all utilities and the proposed improvements should not create the demand for additional utilities. No additional needs are contemplated for water and sewer services.

C. The plan provides for adequate management of stormwater runoff.

The applicant has proposed a small detention pond east of the new parking area. No calculations have been provided regarding the current impervious area versus the amount of impervious area after the project is complete. The applicant will need to prepare a stormwater management plan for submittal to and approval by the Public Works Department.

D. The plan provides for safe and easy ingress, egress and internal traffic circulation.

The ingress, egress and internal circulation will be essentially as it is now. Ingress is from the north drive off Mission Road and from Windsor Street to the east. Egress to Mission Road is available from both driveways and egress is also available to Windsor Street.

The new driveway does raise a concern. It will be one-way and accessed from the south. This means that vehicles will either enter the site from Windsor Street or enter from the north drive on Mission Road and drive completely around the entire complex to enter this drive. It is proposed that no left turns will be permitted from this drive to Mission Road. The plans on some sheets show that a left turn to access Mission Road will be allowed while other sheets show a curb that will prevent that movement. If left turns to Mission Road are permitted it could create cross traffic problems when people are arriving or leaving a service. On the other hand, prohibiting a left turn may create problems for exiting traffic during funerals.

E. The plan is consistent with good land planning and good site engineering design principles.

The location of the proposed improvements work well with the existing development of the site. The applicant has attempted to retain as much of the existing vegetation on the property as possible and to supplement it with new plantings. The overall plan appears to be adequate and is consistent with good planning and site engineering design principles. The details of the storm water management plan need to be worked out with Public Works. The plans have not addressed outdoor lighting and, if outdoor lighting will be added or changed, it will need to conform to the City's new outdoor lighting regulation.

It appears that the two monument signs on Mission Road will be relocated as a part of this project. This will need to be coordinated with Staff to ensure that the signs will be in compliance with the sign ordinance.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

The applicant has submitted color renderings of the proposed additions and it appears in general that the new improvements will be compatible with the existing buildings on the site. The applicant will need to identify the materials being used on the new addition and provide a materials board showing what materials will be used.

It also should be noted that any new mechanical units will need to be screened from the streets and adjacent property.

G. The plan represents an overall development pattern that is consistent with the comprehensive plan and other adopted planning policies.

One of the goals of the Village Vision is to support a high quality educational and cultural environment for the residents of Prairie Village which includes investment and upgrading of facilities. It is fortunate that the site is adequate to accommodate the proposed expansion. The proposed project is very consistent with the Comprehensive Plan.

Randy Kronblad confirmed there will be sufficient parking on-site with the proposed additions.

Nancy Vennard confirmed the Commission is only approving Phase 1 and 2 at this time.

Arnie Tulloch explained the scheduling to allow for the school addition to be completed for the second semester of the 2013-2014 school year.

Randy Kronblad noted the submitted floor plan does not reflect the Phase 2 addition but noted it is reflected in the elevations and on the site plan. Gordon Kimble, architect on the project, drew the proposed work, an L-shaped addition to the north side of the building, on a floor plan and presented it to the Commissioners. Mr. Kronblad confirmed the building materials will be submitted to staff for review and approval. Ron Williamson added the staff will also review the outdoor lighting plan prior to the issuance of a building permit.

Randy Kronblad moved the Planning Commission approve the revised site plan as presented for Phases 1 & 2 for St. Ann's Church and School additions subject to the following conditions:

1. That the applicant works with Public Works for approval of the storm water management plan.
2. That new drives along Mission Road be designed to prohibit left turns and the design is approved by Public Works.
3. That the applicant use materials similar to those being used on the existing building and submit a material palette to Staff for approval.
4. That an outdoor lighting plan be submitted in accordance with Section 19.34.050 Outdoor Lighting of the Zoning Ordinance if applicable.
5. That the monument sign relocation plans be submitted to Staff for review and approval.
6. That the landscape plan be submitted to the Tree Board for review and approval prior to installation.
7. That all new mechanical units be screened from adjacent streets and properties.
8. That landscape islands be provided in the large parking area subject to review and approval of Staff.
9. That the applicant plat the property and that the plat be completed prior to occupancy of the new expansion.
10. That the site plan for the school expansion is approved subject to the approval of the Special Use Permit for the school. If the Special Use Permit is not approved by the Governing Body, the site plan shall be redrawn and resubmitted to the City removing the proposed school expansion.

The motion was seconded by Nancy Wallerstein and passed by a 7 - 0 vote.

**PC2013-103 Monument Sign Approval - First National Bank
4200 West 83rd Street**

Fred Stieg, with Luminous Neon, addressed the Commission presenting First National Bank located on the northeast corner of the 83rd and Somerset. This property was previously part of Corinth Square, Shopping Center, but is now under new ownership. The new owner is seeking approval for a monument sign and revised sign standards. A new monument sign was distributed to the Commission at the beginning of the meeting without the time & temperature feature on the original submittal. Mr. Steig stated the applicant has reviewed and accepts the staff comments and recommendation.

Nancy Vennard asked how far the proposed monument sign was from the intersection. Ron Williamson replied the plan is not clear and needs to be revised indicating that the sign will be setback 12 feet from the back of the curb from both 83rd Street and Somerset. It also must be on private property.

The proposed sign will be placed diagonally at the corner of 83rd and Somerset Drive and will be double faced. The sign will be five feet in height. The sign face will be 104" x 26" which is 19.5 square feet meeting the city's code. The base of the sign will be made of the same stone as used on the building and the sign will be an aluminum cabinet with the sign base widened so that it matches the edges of the sign. The sign will be internally illuminated.

Nancy Wallerstein asked if there were other monument signs in the City that were back lit. Staff replied there are internally lit signs for UMB, Missouri Bank, Corinth Square and elsewhere.

Ron Williamson noted the temporary sign at this location will need to be removed. The applicant has submitted a landscape plan for the base of the sign identifying specific plant material and that condition #4 of the staff recommendation should be removed. The Commission members acknowledged the colorful landscape plan presented.

Bob Lindeblad moved the Planning Commission approve the revised monument sign presented subject to the following conditions:

1. That the site plan be clarified that the sign will setback 12' from the back of the curb of both 83rd Street and Somerset Drive.
2. That the base of the sign be widened to the same width of the sign.
3. That the applicant remove the temporary sign when the monument sign installation is complete.

The motion was seconded by Gregory Wolf and passed by a 7 - 0 vote.

Ron Williamson noted this property is still operating under the sign standards for the Corinth Square Shopping Center which it was previously part of. New sign standards have been submitted for the building which will be used for a bank and offices.

The Planning Commission may, in the process of approving sign standards, approve deviations for the standard requirements as follows, provided said deviations will provide an equal or better development, adjacent properties will not be adversely impacted, and the spirit and intent of regulation will not be violated by granting of the deviation:

1. One sign may be permitted per façade with no requirement that the tenant has direct outside entrance or that the sign be adjacent to its space.
2. That text not be restricted on monument signs provided the sign is designed and built primarily of brick, stone and masonry, complements the building and does not include a case or enclosed cabinet design.

PROPOSED BUILDING SIGNAGE

In paragraph 2, only one sign is permitted per facade by ordinance, not one sign per tenant. The word fascia should be changed to facade to be compatible with the Sign Ordinance. One facade sign would be permitted on each facade of the building.

In paragraph 3, the maximum size of the sign permitted is 5% of the area of the facade but shall not exceed 50 square feet.

In paragraph 5, only one sign is permitted per facade not per tenant.

The building does not have a sign band and the drawings need to be submitted to identify where the signs will be placed on the building.

MONUMENT SIGNS

In paragraph 1, four wall signs are permitted. In the second sentence, it should state, "The area of the monument sign...."

In the second paragraph, the electronic time and temperature display needs to be deleted because the ordinance only permits a time and temperature display on the wall of the building.

Bob Lindeblad moved the Planning Commission approve the revised sign standards with the following changes recommended by staff:

1. Building Signage Section
 - a. Change the text to one sign per facade.
 - b. Change the word fascia to facade.
 - c. Change the maximum size of the sign to 5% of the area of the facade but not exceeding 50 square feet.
 - d. Submit drawings identifying where the signs will be placed on the building.
2. Monument Signs Section
 - a. Paragraph 1, four wall signs are permitted. Add "the area of".
 - b. Delete the second paragraph.

Subject to the review and approval by staff. The motion was seconded by Dirk Schafer and passed by a 7 - 0 vote.

OTHER BUSINESS

Direction from City Council to set a Public Hearing on Countryside East Conservation Overlay District

Dennis Enslinger stated the City Council adopted the proposed ordinance revision (Chapter 19.25) allowing for the establishing of Neighborhood Conservation Overlay Districts at its meeting on Monday, December 17, 2012. At that meeting they also directed the Planning Commission to set a public hearing for the consideration of the establishment of the Countryside East Neighborhood Overlay District.

Mr. Enslinger distributed the proposed Countryside East Neighborhood Overlay District final proposal to the Commission noting the only difference from the previous information given to the Commission was the inclusion of the legal description of all the properties within the district and a map.

Nancy Wallerstein moved the Planning Commission authorize a public hearing on Tuesday, February 5th for consideration of the establishment of the Countryside East Neighborhood Overlay District pursuant to Chapter 19.25 of the Prairie Village Municipal Code. The motion was seconded by Gregory Wolf and passed by a 7 - 0 vote.

Next Meeting

The February 5th meeting of the Planning Commission will be held at the Indian Hills Middle School. The agenda items will include the public hearing for the Country East Neighborhood Overlay District, the continued application PC2013-101 for site plan approval at 8825 & 8839 Roe Avenue and approval of a plat for the St. Ann's Church and School property. The meeting will be followed by a worksession with the development team for the former Mission Valley School property. This will be a worksession after the conclusion of the Commission meeting between the Commissioners and the development team. No public comment will be accepted.

Dennis Enslinger noted that the developer is holding a public information meeting on January 24th from 6:30 to 9:30 p.m. at Shawnee Mission East. He advised staff currently has pre-submittal plans that they intend to place on the city's website project page in the next few weeks.

ADJOURNMENT

With no further business to come before the Planning Commission, Chairman Ken Vaughn adjourned the meeting at 8:25 p.m.

Ken Vaughn
Chairman