

**PLANNING COMMISSION AGENDA
CITY OF PRAIRIE VILLAGE
TUESDAY, APRIL 1, 2014
7700 MISSION ROAD
7:00 P.M.**

- I. ROLL CALL
- II. APPROVAL OF PC MINUTES - MARCH 4, 2014
- III. PUBLIC HEARINGS
- IV. NON-PUBLIC HEARINGS
 - PC2014-02 Site Plan Approval for Global Montessori Academy
7457 Cherokee Drive
Zoning: R-1a
Applicant: Jodie Nolen, Global Montessori Academy
 - PC2014-109 Site Plan Approval for exterior seating - Einstein Brothers Bagels
6970 Mission Road
Applicant: Kylie Stock, Lega C Properties
- V. OTHER BUSINESS
Information presented to the City Council on permitted uses in R-1a
- VI. ADJOURNMENT

Plans available at City Hall if applicable
If you cannot be present, comments can be made by e-mail to
Cityclerk@Pvkansas.com

***Any Commission members having a conflict of interest, shall acknowledge that conflict prior to the hearing of an application, shall not participate in the hearing or discussion, shall not vote on the issue and shall vacate their position at the table until the conclusion of the hearing.**

PLANNING COMMISSION MINUTES
March 4, 2014

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, March 4, 2014, in the Municipal Building Council Chambers at 7700 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:00 p.m. with the following members present: Nancy Wallerstein, Bob Lindeblad, Gregory Wolf; Randy Kronblad and Nancy Vennard.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, City Planning Consultant; Kate Gunja, Assistant City Administrator; Jim Brown, Building Official and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Nancy Wallerstein moved the approval of the Planning Commission minutes of February 10, 2014. The motion was seconded by Nancy Vennard and passed by a 5 to 0 vote with Bob Lindeblad abstaining.

PUBLIC HEARINGS

Chairman Ken Vaughn reviewed the procedure for the public hearings and reported the hearing had been duly published on February 11, 2014.

**PC2014-01 Proposed Revisions to Chapter 19.54 and 19.28 to add
A Reapplication Waiting Period**

Ron Williamson stated at the January 7th meeting of the Commission, staff was directed to prepare for public hearing proposed revisions adding to the city's zoning regulations a reapplication waiting period for Special Use Permit and Rezoning Applications at the recommendation of the Governing Body.

Ron Williamson reviewed the regulations regarding this issue from other cities.

LEAWOOD:

16-5-5.3 Reapplication after Denial

In the case of denial of an application by the Planning Commission or Governing Body, the applicant must wait a period of 6 months before reapplying for approval or a new development plan or zoning change on the same property, unless approved by the Governing Body upon a showing of changed circumstances.

Mr. Williamson noted in talking with the Leawood Planning Staff, they stated that this regulation has not been used for sure in the past five (5) years and perhaps, not in the past 15 years.

OLATHE:

18.12.015 Resubmitting Applications for Plats, Rezoning and Special Use Permits

When a proposed application for rezoning, special use permit or plat has been withdrawn by the applicant or denied by the Planning Commission or the Governing Body, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial. However, an application for a different zoning classification or special use permit request can be submitted at any time. In addition, a new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

Mr. Williamson noted that as with the City of Leawood, the Olathe Planning Staff stated that this regulation has not been used since Staff can remember. They do feel it is a good safeguard and may encourage applicants to initially submit a better project.

OVERLAND PARK:

18.140.460 Limitation on successive rezoning applications by landowner

- A. No application for rezoning by a landowner or a landowner's agent shall be accepted if any application for substantially the same property has been filed and advertised for public hearing within the preceding 6 months.
- B. For purposes of subsection A, the preceding 6-month period shall be determined as follows:
 - 1. If there was a final action (either approval or denial) on the prior application, the 6-month period shall run from the date of such action.
 - 2. If the prior application was withdrawn after being advertised for public hearing, the 6-month period shall run from the date the application was withdrawn.
- C. The Director of Planning and Development Services shall determine if an application concerns "substantially the same property" as a prior application. The landowner may appeal any such determination to the Planning Commission.
- D. The Governing Body may waive the limitation in this section for good cause shown.

In conversation with the Overland Park Planning Staff, it was reported that this regulation may have been used two (2) or three (3) times in the past 20 years.

LENEXA:

H. Waiting Period for Re-Application:

In the event that the Governing Body denies an application for amendment to the Zoning Map, such application shall not be resubmitted for 1 year. The Community Development Director may, by separate action, waive the 1-year waiting period, upon petition by the applicant, if the Planning Commission finds that:

- 1. There have been significant physical, economic, land use or other changes in the area that affect the appropriateness of the zoning of property in the area in general; or

2. There has been a significant and pertinent change to the text of the Zoning Ordinance; or
3. The new application is for a more restrictive use than the original.

As with other cities, the Lenexa Planning Staff reported that this regulation has not been used in the past 13 years. Applicants typically revise the application to something that is more acceptable before reapplying.

MISSION:

440.360: LIMITATION ON SUCCESSIVE REZONING APPLICATIONS BY LANDOWNER

- A. No application for rezoning by a landowner or agent will be accepted if any application for substantially the same property and substantially the same development or land use has been filed and advertised for public hearing within the preceding six (6) months.
- B. For purposes of Subsection (A), the preceding six (6) month period shall be determined as follows:
 1. If there was a final action (either approval or denial) on the prior application, the six (6) month period shall run from the date of such action.
 2. If the prior application was withdrawn after being advertised for public hearing, the six (6) month period shall run from the date the application was withdrawn.
- C. The Public Works Director shall determine if an application concerns "substantially the same" property, development and land use as a prior application. The landowner may appeal any such determination to the Planning Commission.
- D. The City Council may waive the limitation in this Section for good cause shown. (Ord. No. 1007 §16-203A.400, 1-24-01)

Mission Planning Staff do not recall this regulation ever being used.

The concern with having no waiting period is that controversial applications require significant Staff, Planning Commission, and City Council time, as well as, numerous meetings for interested or affected citizens. Prairie Village has a small staff and repetitive applications take staff away from other responsibilities. It was also noted that if a lawsuit is filed, a waiting period might allow adequate time for the courts to decide an issue before a new application is considered. It appears that the most common waiting period is six (6) months. Another question is whether the reapplication waiting period applies to the same Special Use Permit or Rezoning, or if a different request is made should the waiting period not apply.

The general consensus from the five cities is that an applicant rarely reapplies for the same request. Usually the plan changes, the land use changes, or the legal description changes making it a new application. There is no compiled data to suggest it, but it could be concluded that the applicant thinks through the project more carefully and submits a better application the first time.

Mr. Williamson noted that none of the ordinances would have prevented the immediate reapplication of Mission Chateau. The legal description and land use changed substantially, which would allow an immediate reapplication.

Staff has drafted the following proposed revisions for consideration:

For rezoning, a new Section 19.52.055 Reapplication Waiting Period would be added to Chapter 19.52 PROCEDURAL PROVISIONS. Suggested wording is as follows:

19.52.055 Reapplication Waiting Period

In the case of denial of an application by the Governing Body, the applicant must wait a period of six (6) months from the date of denial before reapplying for approval of a new development plan or zoning change unless the legal description of the property has substantially changed or the application is for a more restrictive zoning district than the original.

The Governing Body may waive the waiting period for good cause shown.

Fewer cities have a reapplication waiting period for Special Use Permits. Since case law has determined that Special Use Permits are a change in land use and are subject to the "Golden Criteria", it would appear logical to treat them the same as rezoning.

A new Section 19.28.075 Reapplication Waiting Period would be added to Chapter 19.28 SPECIAL USE PERMITS. Suggested wording is as follows:

19.28.075 Reapplication Waiting Period

In the case of denial of an application by the Governing Body, the applicant must wait a period of six (6) months from the date of denial before reapplying for approval of a Special Use Permit unless the legal description of the property has substantially changed or the new application is for a Special Use Permit that is a different use than the original.

The Governing Body may waive the waiting period for good cause shown.

Bob Lindeblad felt the regulations needed to state that makes the determination on whether the legal description or the application has changed substantially. He suggested language used by the City of Overland Park with the appeal going to the Planning Commission. Although the city does not have a Director of Planning and Development, he feels that a specific individual or position needs to be stated.

Mr. Williamson suggested that the "City Administrator or his/her designee" be given as the individual making the determination.

Randy Kronblad confirmed the language found in #C of Overland Park's regulations with the City Administrator identified would be added to both sections as follows:

The City Administrator or his/her designee shall determine if an application concerns "substantially the same" property, development and land use as a prior application. The landowner may appeal any such determination to the Planning Commission.

The Governing Body may waive the waiting period for good cause shown.

Ken Vaughn noted it would probably be a rare application that would fall under these regulations, but feels the proactive step to have identified the process is good.

Chairman Ken Vaughn opened the public hearing on PC2014-01. No one was present to address the Commission on this application and the public hearing was closed.

Bob Lindeblad moved the Planning Commission recommend the Governing Body adopt the proposed amendments to Chapter 19.52 and Chapter 19.28 with the changes recommended by the Commission. The motion was seconded by Randy Kronblad and passed unanimously.

PC2014-02 Request for Special Use Permit for Private School 7457 Cherokee

Ben Randell, Project Manager for Global Montessori Academy, 707 West 47th Street, Kansas City, stated Global Montessori Academy (GMA) is requesting a Special Use Permit to establish a Montessori School in a building previously occupied by the Cherokee Christian Church on the northwest corner of 75th Street and Blinder Avenue. They have purchased the property and plan to use the classroom area for the Montessori School and rent the sanctuary for Sunday Worship. The sanctuary has a seating capacity of 299.

Global Montessori Academy has been in operation for over 30 years. They are currently located in the Unity Temple on the Plaza and have outgrown the location. The school currently has 90 students, ages 2 - 9 years old, and is expecting 110 students for the 2014-2015 school year. The projected capacity of the proposed site would accommodate 150 students. The school hours are from 8:30 am to 3:30 pm, but the school drop-off starts at 7:30 am and the pick-up extends to 6:00 pm. The GMA was founded as a nonprofit in 1990; however, it has been in operation since 1984. The school will accommodate preschool to sixth grade students in six classrooms initially, but seven classrooms ultimately.

The existing fenced area on the south side of the building will provide outdoor activity space for the 2 - 6 year age group. The northwest corner of the parking lot will be partitioned off with movable barriers for an outdoor play area for the elementary students.

A neighborhood meeting on February 18, 2014, in accordance with the Planning Commission Citizen Participation Policy and two people attended. No concerns expressed were about the use.

Ron Williamson stated that the staff recommends the Commission act favorably on the application and forward it to the Governing Body for approval. However, he noted there are two issues that need to be addressed on the site plan approval and would recommend that site plan approval be continued. He noted the next Planning Commission meeting is prior to the City Council meet where the Special Use Permit would be considered. Staff is requesting more information on the development of the east side of the property. There is currently a traffic back-up situation on Cherokee due to Belinder Elementary School traffic and traffic from the Montessori school across 75th Street. The applicant has been asked to provide a traffic study for review with the site plan approval.

Mr. Randell stated a firm has been hired to do the study and it will be available by the April 1st meeting of the Commission.

Randy Kronblad asked if the asphalt will be replaced with a soft material for the play area. Mr. Randelle stated at this time the asphalt area will remain. This will allow for it to be used for parking during Sunday services.

Nancy Vennard thanked Mr. Randell for their allowing the community garden to remain on this site.

Ron Williamson noted that it has been the practice of the Commission to grant five year permits for the initial Special Use Permit. He noted that the applicant is purchasing the property and making a substantial investment.

Bob Lindeblad stated that as long as the applicant meets the conditions of approval he does not see the need to limit the permit to five years. Ken Vaughn agreed that with their purchase of the property an indefinite special use permit would be appropriate.

Chairman Ken Vaughn opened the public hearing on PC2014-02. No one was present to address the Commission on this application and the public hearing was closed.

Chairman Ken Vaughn led the Commission through the following review of the factors for consideration of the requested special use permit:

- 1. The proposed special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations, and use limitations.**

The proposed Montessori School classrooms will be contained within the existing building which is in compliance with the zoning regulations. The fenced play area on the south was approved as part of the day care center. The outdoor classroom area on the

east side of the building adjacent to Belinder Avenue needs to be better defined, specifically regarding fencing, paved areas, equipment, etc.

2. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.

The proposed Montessori School will use the existing building and site for its use with few external changes. Access to the school will be from the north parking lot which is adequate in size to provide for standing and parking vehicles.

3. The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

The proposed Montessori School will be using the building and site currently occupied by the church. There will be additional noise created by children using the outdoor play area on the northwest corner of the site. This may create some inconvenience for the residents to the west and north, but will be no different from other elementary schools that are located in residential neighborhoods throughout the city.

4. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it, are such that this special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to: a) the location, size and nature of the height of the building, structures, walls and fences on the site; and b) the nature and extent of landscaping and screening on the site.

The proposed Montessori School will accommodate approximately 150 students and will operate during normal working hours. It will use the existing building and will not have a dominant effect on the neighborhood. It is a good reuse of a church facility that is no longer viable.

5. Off-street parking and loading areas will be provided in accordance with standards set forth in these regulations and said areas shall be screened from adjoining residential uses and located so as to protect such residential uses from any injurious affect.

The Montessori School will use 56 spaces in the north lot, which should be more than adequate since pick-up and drop-off times vary significantly. The sanctuary has a capacity of 299 seats which requires 75 parking spaces. There are a total of 101 parking spaces on the site so it can accommodate the sanctuary at full capacity. This will require the elementary play area to be made available for parking on church meeting days.

6. Adequate utility, drainage and other necessary utilities have been or will be provided.

Utilities are available for the proposed use. If more impervious area is created on the east side of the building, some storm drainage improvements may be needed.

- 7. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent hazards and to minimize traffic congestion in public streets and alleys.**

All access to the Montessori School will be off Belinder Avenue into the north parking lot. Entrance will be through the north driveway and exit will be through the south driveway. Currently, Belinder Avenue has some congestion problems at the 75th Street intersection during the morning peak. This probably is due to the Belinder Elementary School to the north, and the Montessori School and Day Care Center on the southeast corner of the intersection. Staff has requested the applicant to have a traffic study performed in order to analyze existing and future traffic congestion.

- 8. Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors, or unnecessary intrusive noises.**

The proposed use will not have any hazardous or toxic materials, or obnoxious odors; however, some additional noise will be created by children using the outdoor play area in the northwest corner of the site.

- 9. Architectural style and exterior materials are compatible with such styles and materials used in the neighborhood in which the proposed structure is to be built or located.**

The proposed use will not require any significant changes in the exterior architecture of the existing building. The fire escape on the north end will be modified and some additional doors will be added on the east side of the building to meet code requirements.

GOLDEN FACTORS FOR CONSIDERATION:

- 1. The character of the neighborhood;**

The neighborhood is predominantly single-family dwellings to the north, south, east, and west. The existing property is a church and another church is located on the southeast corner of Belinder Avenue and 75th Street. Two blocks east of the site is a large office building along with other office buildings on the north side of 75th Street to State Line Road. The character of the immediate neighborhood is primarily residential with single-family dwellings and churches.

- 2. The zoning and uses of property nearby;**

North: R-1B Single-Family District - Single Family Dwellings
East: R-1B Single-Family District - Single Family Dwellings
South: R-1A Single-Family District - Single Family Dwellings
West: R-1B Single-Family District - Single Family Dwellings

- 3. The suitability of the property for the uses to which it has been restricted under its existing zoning;**

The property is zoned R-1B Single-Family Residential District which permits single-family dwellings, churches, schools, public building, parks, group homes and other uses that may be permitted either as a conditional use or special use. The property has a

variety of uses available and the building can be modified to easily accommodate the proposed school. The proposed repurposing of the church for a school is a good reuse of an existing facility.

4. The extent that a change will detrimentally affect neighboring property;

The site has been used as a church since it was built in 1957 and was a quasi-public use; the proposal is to change it to another quasi-public use. Very little change is proposed to the building and site so the appearance will remain essentially as it is now. Additional traffic on Belinder Avenue may have some adverse effects on the neighborhood, particularly between 7:30 am and 8:30 am.

5. The length of time of any vacancy of the property;

The church was built in 1957 and has been occupied by a Cherokee Christian Church who will terminate their use in June.

6. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners;

The proposed use will be within an existing building that will have minor exterior modifications; however, there will be some site improvements. The applicant will be able to better utilize the property and no hardship will be created for adjacent property owners.

7. City staff recommendations;

The use will be within an existing building with minimal exterior changes; the use will have minimal impact on the neighborhood; and the use will provide a needed service for children that is in demand in Prairie Village. It is the opinion of Staff that this is a good reuse of an existing church facility.

8. Conformance with the Comprehensive Plan.

One of the primary objectives of Village Vision is to encourage reinvestment in the community to maintain the quality of life in Prairie Village. The proposed Montessori School is an amenity that sets Prairie Village apart from other competing communities in the metropolitan area. This application for approval of the Global Montessori Academy is consistent with Village Vision in encouraging reinvestment; providing multiple uses in existing buildings and making better use of underutilized facilities.

Randy Kronblad moved the Planning Commission find favorably on both sets of factors and recommend approval of the Global Montessori Academy Special Use Permit to the Governing Body subject to the following conditions:

1. That the Montessori School be approved for a maximum of 7 classrooms and 150 children between the ages of 2 and 9.
2. That the School be permitted to operate year round from 7:30 a.m. to 6:00 p.m. subject to the requirements of the State of Kansas
3. That drop-off and pick-up of students occur in the north parking lot.

4. That the School meets all requirements of the building and fire codes, and the State Fire Marshall.
5. That the site complies with ADA requirements.
6. If this use is found not to be in compliance with the terms of the approval of the Special Use Permit, it will become null and void within 90 days of notification of noncompliance unless noncompliance is corrected.
7. That the Special Use Permit be issued for the Montessori School for an indefinite period.
8. That the applicant has a traffic analysis performed and if any changes are necessary they be incorporated in the Site Plan Approval.

The motion was seconded by Bob Lindeblad and passed unanimously.

Ron Williamson stated the applicant would return at the April 1st Planning Commission meeting for Site Plan Approval.

NON PUBLIC HEARINGS

PC2014-105 Request for Lot Split Approval 5015 West 67th Street

James Porter, 5015 West 67th Street, stated he owns a large corner lot that faces on 67th Street and sides on Fonticello Street; and is proposing a lot split to sell off the south 100 ft. of the original lot. The proposed lot is only 108.9 ft. deep, where the ordinance requires a depth of 125 ft. The Board of Zoning Appeals earlier granted a variance for the rear yard depth from 125 feet to 108.9 feet.

Mr. Williamson noted that several of the large lots along Fonticello Street, between 67th Street and 69th Street, have either been replatted or have used the lot split procedure.

The proposed lot will be 100 ft. in width, 108.9 ft. in depth and will have 10,890 sq. ft., which is greater than the minimum of 10,000 sq. ft. required by the Zoning Ordinance. The two lots across the street are 15,000 sq. ft. each. It should be pointed out that two lots on the west side of Fonticello Street, between 68th Terrace and 69th Street, are only 10,160 sq. ft. which is slightly smaller than this lot.

Initially the applicant proposed a wider frontage on Fonticello Street, but there is a sanitary sewer line crossing the lot approximately 95 ft. north of the south property line. Also, the existing house sets back approximately 70 ft. from 67th Street and the depth of the house, the garage, and the driveway would not leave much area for a back yard.

Mr. Williamson stated the applicant will need to submit the required certificate of survey for Staff review and approval based upon the final decisions of both bodies.

State statutes require that subdivision regulations provide for the issuance of building permits on platted lots divided into not more than two tracts without having to replat such

lots. The subdivision regulations contain a lot split procedure and the lot split must be approved by the Planning Commission.

Nancy Wallerstein moved the Planning Commission approve the requested lot split of 5015 West 67th Street subject to the following conditions:

1. That the applicant submit a certificate of survey to Staff for their review and approval containing the following information:
 - a. The location of existing buildings on the site.
 - b. The dimension and location of the lots, including a metes and bounds description of each lot.
 - c. The location and character of all proposed and existing public utility lines, including sewers (storm and sanitary), water, gas, telecommunications, cable TV, power lines, and any existing utility easements.
 - d. Any platted building setback lines with dimensions.
 - e. Indication of location of proposed or existing streets and driveways providing access to said lots.
 - f. Topography (unless specifically waived by the City Planning Commission) with contour intervals not more than five feet, and including the locations of water courses, ravines, and proposed drainage systems. (Staff recommends waiver of topography)
 - g. Said certificate of survey shall include the certification by a registered engineer or surveyor that the details contained on the survey are correct.
2. That the applicant records the approved lot split with the register of deeds and provide a copy of the recorded document to the Secretary of the Planning Commission.
3. That the applicant submits a certificate showing all taxes and special assessments due and payable have been paid in full.

The motion was seconded by Gregory Wolf and passed unanimously.

**PC2014-107 Site Plan Approval with wireless antenna
7700 Mission Road**

Chris Ross, with Black & Veatch, representing AT&T stated that AT&T is proposing to replace three antennas and add a cable to its platform on the tower behind City Hall. The proposed antennas are to serve AT&T's LTE, Long Term Evolution Network. The existing antennas are approximately 72" in length and the new antennas will be approximately 96" in length. Each replacement antenna will add approximately 10 lbs. to the tower. The cable will be located inside the tower.

Ron Williamson noted that Verizon is planning to add three antennas to its installation on the tower and Sprint is also planning upgrades. A structural report was prepared that included the AT&T and Verizon upgrades. The tower and base are adequate to accommodate those improvements. Sprint was not far enough along in its planning to include its improvements in the structural analysis, so a structural update will be required when Sprint submits its application.

AT&T added three antennas and an emergency generator in 2011. In October 2009, the Planning Commission approved the Special Use Permit Renewal for this tower and the approval was based on the new Wireless Communications Ordinance. Changes in the installation for carriers are required to be submitted to the Planning Commission for site plan review and approval.

Since no neighbors have appeared at previous neighborhood meetings and the changes were not major, the applicant was not required to hold a neighborhood meeting.

Chairman Ken Vaughn led the Planning Commission in consideration of the following criteria:

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

The proposed improvements will occur on the existing tower which is adequate to accommodate the proposed improvements.

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

Adequate utilities are available to serve this location.

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

No additional impervious area will be created because all improvements will be on the tower.

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

The site utilizes the existing driveway and parking lot for circulation that currently serves it and no changes are proposed.

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

The applicant has prepared a structural analysis and the tower is sufficient to carry the additional load.

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

The tower has been at this location for more than twenty years and the proposed installation consist of replacing three antennas, which is a minor improvement compared to the size of the tower. The tower is located in the Municipal Complex and has very little impact on surrounding residential areas.

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

Wireless communications are not specifically addressed in Village Vision. Generally it falls into maintaining and improving infrastructure.

Gregory Wolf moved the Planning Commission approve PC2014-107 for site plan approval for the installation of wireless antenna on the communications tower at 7700 Mission Road subject to the following conditions:

1. That the antennas be installed as shown on the proposed site plan.
2. That all wiring be contained inside the tower.

The motion was seconded by Nancy Vennard and passed unanimously.

**PC2014-108 Site Plan Approval with wireless antenna
7700 Mission Road**

Tommy Beeler, with Selective Site Consultants presented the application on behalf of Verizon Wireless who is proposing to add three antennas to its installation on the tower behind City Hall. These antennas are approximately 72" in length and, with the support equipment, weigh about 65 pounds each. The purpose of these antennas is to provide service for the Advanced Wireless System (AWS), which is high volume data, video streaming, etc. A new fiber optic line will also be installed within the tower to service these antennas.

A structural analysis has been prepared and states that the monopole or tower is structurally capable of supporting the existing and proposed antennas, their mounting equipment, and the coaxial and fiber optic cable inside the tower.

Ron Williamson noted that in October 2009, the Planning Commission approved the Special Use Permit Renewal for this tower and the approval was based on the new Wireless Communications Ordinance. Changes in the installation for carriers are required to be submitted to the Planning Commission for site plan review and approval.

Since no neighbors have appeared at previous neighborhood meetings and the changes were not major, the applicant was not required to hold a neighborhood meeting.

Chairman Ken Vaughn led the Planning Commission in consideration of the following criteria:

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

The proposed improvements will occur on the existing tower which is adequate to accommodate the proposed improvements.

B. Utilities are available with adequate capacity to serve the proposed development.
Adequate utilities are available to serve this location.

C. The plan provides for adequate management of stormwater runoff.
No additional impervious area will be created because all improvements will be on the tower.

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

The site utilizes the existing driveway and parking lot for circulation that currently serves it and no changes are proposed.

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

The applicant has prepared a structural analysis and the tower is sufficient to carry the additional load.

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

The tower has been at this location for more than twenty years and the proposed installation consist of adding three antennas, which is a minor improvement compared to the size of the tower. The tower is located in the Municipal Complex and has very little impact on surrounding residential areas.

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

Wireless communications are not specifically addressed in Village Vision. Generally it falls into maintaining and improving infrastructure.

Gregory Wolf moved the Planning Commission approve PC2014-107 for site plan approval for the installation of wireless antenna on the communications tower at 7700 Mission Road subject to the following conditions:

1. That the antennas be installed as shown on the proposed site plan.
2. That all wiring be contained inside the tower.

The motion was seconded by Randy Kronblad and passed unanimously.

**PC2012-109 Sign Standards Approval
2220 West 75th Street**

Ron Williamson noted this is an application that has been on the shelf for a while and needs a resolution. The original monument sign was approved by the Planning Commission in October 2005, shortly after the building was renovated. No other signs were requested at that time.

In 2007, the owner requested approval of sign standards for the building. In Prairie Village, approval of Sign Standards is required for multi-tenant buildings. The owner requested signs that did not meet the sign ordinance. The owner then requested three lines of text on the monument sign and no building façade signs and the Planning Commission approved this on March 4, 2008.

The orientation of the building creates a problem with signage in relation to the entrances to the building. The building parallels 75th Street and the entrances are located on the east and west facades of the building. There is one tenant on the west end and two tenant spaces on the east end. The applicant has wanted better signage to identify where the tenants are located.

On June 5, 2012, the owner requested approval of two blade signs for the east end of the building. These blade signs are pole signs as defined in the sign ordinance and are not permitted. The signs were installed without a permit and are illegal. At that meeting, the Planning Commission directed Staff to work with the applicant and bring back some alternative proposals to the Commission.

Michael Schmidt, with Star Signs, LLC, presented the proposed signage for the three tenants. The signs are individual flat-cut aluminum letters and will not be lighted. The sign on the west end will not exceed 28 sq. ft. and the two signs on the east end will not exceed 13 square feet and 10 square feet.

Ken Vaughn asked if the current blade signs have been removed. Mr. Schmidt responded that he was not responsible for them, but that they would be removed.

Nancy Wallerstein confirmed there would not be any ground lighting on the signs.

Randy Kronblad moved the Planning Commission approved proposed signage for 2200 West 75th Street subject to the following conditions:

1. That the square footage for each sign not exceeds the size that is shown on the attached drawing.
2. That the size of the sign letters be as shown on the drawing.
3. That not more than the three wall signs be permitted.
4. That no wall signs be permitted on the east, west and north facades of the building.
5. That the wall signs not be lit.
6. That the applicant revises the sign standard text and submits it to the City prior to obtaining a sign permit.
7. That the existing blade sign(s) be removed.

The motion was seconded by Bob Lindeblad and passed unanimously.

PC2012-113 Revised Site Plan for PV Shopping Center NW Corner 71st & Mission Road

Kylie Stock with LegaC Properties stated the Hen House at the PV Shopping Center has decided not to expand, although exterior improvements are being discussed. This changes the site plan that was approved by the Planning Commission on November 6, 2012. Ms Stock noted that Starbucks has received a building permit for their tenant finishes to the new retail building and should be open by late spring.

They would like to begin work on Mission Lane Improvements as soon as the weather allows and appreciate the Planning Commission willingness to consider the new site plan on short notice. They are hoping to begin work on the improvements in April. The most significant changes will be to the parking lot near Bruce Smith Drugs.

The proposed changes are as follows:

1. The footprint for the Hen House expansion will be removed and parking will remain on the north side of the store. The number of parking spaces in that lot will increase by 39.
2. The crosswalk will be moved south to the existing Hen House entrance.

3. The entrance and exit drives to the parking lot south of 69th Terrace will change back to where they are now. The Site Plan proposed to close the drive from Mission Lane and replace it with access to 69th Terrace. This reconfiguration will result in the loss of 12 parking spaces which results in a net increase of 27 parking spaces for the Center.
4. The applicants are also relocating several trash bin enclosures. The new trash bin locations will be screened with brick walls that match the brick in the Center.

Kylie Stock reviewed the relocation of the trash bin enclosures and additional enclosures that have been added.

Ron Williamson noted the applicant has revised the off-street parking requirements table and the counts by lot on the Parking Analysis drawing; however, there may need to be additional revisions after Staff reviews the information in more detail. The revised Site Plan will also change the landscape plan. The revised landscape plan needs to be submitted to the Tree Board for review and approval.

Nancy Wallerstein asked for clarification on the location of the 8' trail. It was noted that the trail has been preserved as approved. Mr. Vaughn noted the area in front of the new retail building will be walkable but will be somewhat narrower.

Nancy Wallerstein confirmed the plan maintains the crossover area between Hen House and south parking lot.

Nancy Wallerstein moved the Planning Commission approve the revised site plan for Prairie Village Shops removing the Hen House expansion and reconfiguring the parking lots will improve the traffic circulation and parking, and recommends approval subject to the following conditions:

1. That the applicant work with Staff to revise the off-street parking table and drawings for the Center, if necessary.
2. That the applicant submit the revised landscape plan to the Tree Board for review and approval.
3. That the applicant submit three revised sets of the approved site plan to the city staff.

The motion was seconded by Randy Kronblad and passed unanimously.

OTHER BUSINESS

Discussion of possible changes to RV regulations

Kate Gunja stated the City adopted its current Recreational Vehicle ordinance in September, 1994. In working with the Police Department, who enforces the code, during non-business hours, they have requested that the code be moved from the zoning regulations to the municipal code in the traffic section.

The Planning Commission members supported the move to the municipal code.

Mrs. Gunja confirmed the Planning Commission's earlier recommended change to extend the time limit increasing the time allowed to 7 days within a 30 day period. The Commission members felt the illustrations provided were good. They want to see the requirement for parking on a hard surface on private property retained.

Kate Gunja stated there will need to be a public hearing to remove the language from the zoning regulations. She would provide the Commission with the language that the Council is considering for their input.

Gregory Wolf confirmed that there would not be a break in enforcement between the removal of the regulations from the zoning code to its adoption in the municipal code.

JOINT MEETING

Kate Gunja advised the Commission that in discussing the joint meeting with the City Council, the Council felt that more time was needed that allowed by meeting prior to a City Council meeting. An alternate Monday evening date will be determined after the general election.

NEXT MEETING

No new applications have been filed for the April 1st meeting. The agenda will contain the continued items of the revised site plan for the Global Montessori Academy; possible final plat for Chadwick Court and discussion of possible code changes addressing sign standards and off-street parking.

There will not be a Board of Zoning Appeals meeting.

ADJOURNMENT

With no further business to come before the Commission, Chairman Ken Vaughn adjourned the meeting at 8:00 p.m.

Ken Vaughn
Chairman

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Ron Williamson, FAICP, Lochner, Planning Consultant
DATE: April 1, 2014, Planning Commission Meeting

Project # 000009686

Application: PC 2014-02

Request: Site Plan Approval for Montessori School

Property Address: 7456 Cherokee Drive

Applicant: Global Montessori Academy

Current Zoning and Land Use: R-1B Church

Surrounding Zoning and Land Use: North: R-1B Single-Family District – Single Family Dwellings
East: R-1B Single-Family District – Single Family Dwellings
South: R-1A Single-Family District – Single Family Dwellings
West: R-1B Single-Family District – Single Family Dwellings

Legal Description: Lot 21 BLK 10 Prairie Hills

Property Area: 2.84 acres

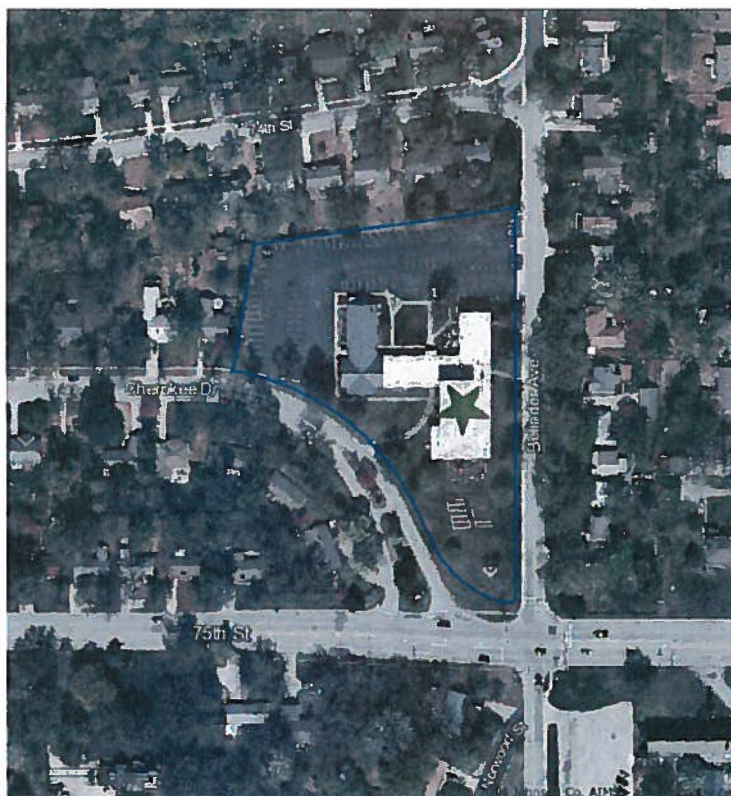
Related Case Files: PC 2003-109 Temporary Use Permit for Summer Day Care Program
PC 2002-105 Temporary Use Permit for Summer Day Care Program
PC 1997-07 Special Use Permit for Child Care Programs
PC 1992-05 Special Use Permit for Child Care Programs
PC 1989-06 Special Use Permit for Child Care Programs

Attachments: Application, Site Plan, Photos

General Location Map



Aerial Map



COMMENTS:

The Planning Commission recommended approval of the Special Use Permit for the Global Montessori Academy (GMA) at the March 4, 2014 meeting. The Site Plan was continued until the April 1st meeting in order for the applicant to have a Traffic Impact Study prepared. There are several schools in the area and traffic backs up on southbound Belinder Avenue. The applicant has prepared a Traffic Impact Study which concludes that trips generated by GMA will not significantly impact the intersection.

The trip generation for private schools was taken from the ITE Manual. Private schools generate a high volume of traffic and because this school is relocating from the Plaza, it may generate more trips than a typical private school. Therefore, Staff recommends that the Site Plan be approved with a condition that the operation will be evaluated during the school year and adjustments may be required to accommodate the traffic. This could include the dedication of right-of-way on Belinder Avenue to construct a turn lane. Also, GMA needs to work with the Police Department to prepare a traffic flow plan that will be communicated to the parents.

The applicant proposed to install moveable barriers on the east and south boundaries of the elementary school play area. It is important that the barriers remain moveable in the event traffic needs to use Cherokee Drive for access.

The applicant submitted a Site Plan for approval by the Planning Commission. Since the proposed use is within an existing building, a detailed Site Plan was not required; however, the applicant needs to submit more detail for the proposed outdoor classroom area on the east side of the building. In its consideration of the Site Plan, the Planning Commission shall address the following criteria:

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

The proposed Montessori School will be within an existing structure and parking and access will be accommodated within the existing north parking lot.

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

This site is currently served by utilities and they should be adequate to serve the proposed use.

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

No changes in the existing site are proposed and therefore stormwater runoff will not be affected.

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

The existing parking area on the north side will provide adequate ingress/egress for the proposed use. Currently the parents park and walk children in, at drop-off, and out, at pick-up. GMA plans to continue this procedure. Belinder Avenue currently backs up at 75th Street in the morning rush hour and this use will further aggravate that problem. A Traffic Impact Study has been prepared to address this issue.

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

The site is consistent with good land planning and design.

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

It is not proposed to change the external appearance of the building except for some minor items; however, some site changes are proposed.

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

One of the primary objectives of Village Vision is to encourage reinvestment in the community to maintain the quality of life in Prairie Village. The proposed Montessori School is an amenity that sets Prairie Village apart from other competing communities in the metropolitan area. This application for approval of the Montessori School is consistent with Village Vision in encouraging reinvestment; providing multiple uses in existing buildings and making better use of underutilized facilities.

RECOMMENDATION:

It is the recommendation of Staff that the Planning Commission approve the Site Plan subject to the following conditions:

1. That any outdoor lighting installed shall be in accordance with the lighting ordinance.
 2. That the applicant meet all requirements of the building and fire codes.
 3. That the applicant submit a more detailed Site Plan for the proposed outdoor classroom to be reviewed and approved by Staff.
 4. That any proposed modifications to the exterior of the building, including doors, etc., be subject to the review and approval of Staff for architectural compatibility.
 5. That the conclusions and recommendations of the Traffic Impact Study be accepted at this time which states that the proposed school will not significantly impact the intersections. However, traffic will be monitored by the Police and Public Works Departments during the school year and if traffic does become an issue, the applicant will work with City Staff to implement a solution. One possibility may be the dedication of additional right-of-way for Belinder Avenue to construct a turn lane at the 75th Street intersection.
 6. That the barriers for the elementary school play area be moveable in case access is needed from Cherokee Drive.
 7. That the applicant work with the Police Department to prepare a traffic flow plan to be communicated to the people that will be dropping off and picking up students.
-



East Side

Global Montessori Academy Traffic Impact Study
Prairie Village, Kansas

March 28, 2014

DRAFT

Prepared by:



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INTRODUCTION

The purpose of this traffic impact study is to assess the potential impact to traffic of the addition of the Global Montessori School. The school will be located at the northwest corner of 75th Street and Belinder Avenue in Prairie Village, Kansas in the Cherokee Church Building. The location of the development in relation to the street network is shown in Figure 1. The site plan for the development is shown in Figure 2.

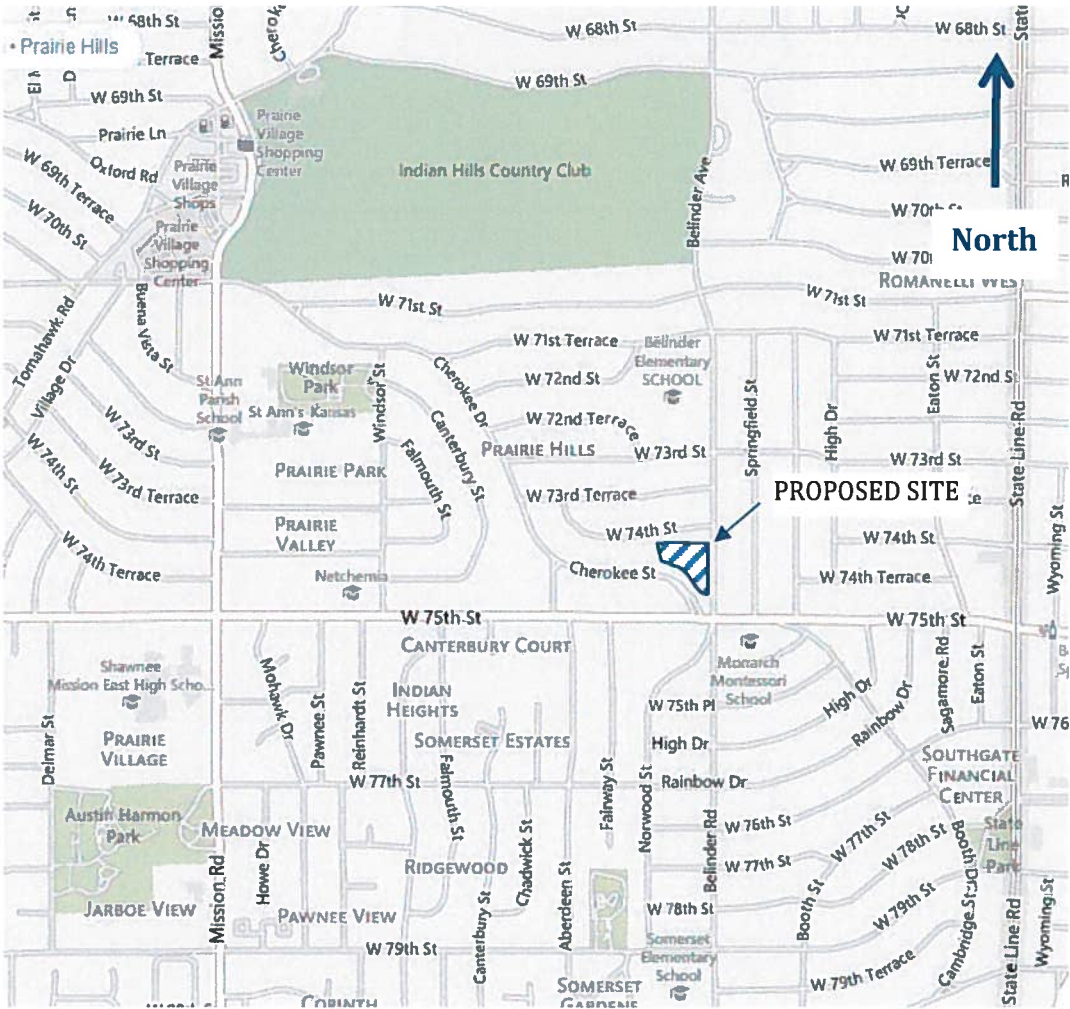


Figure 1 – Development Location

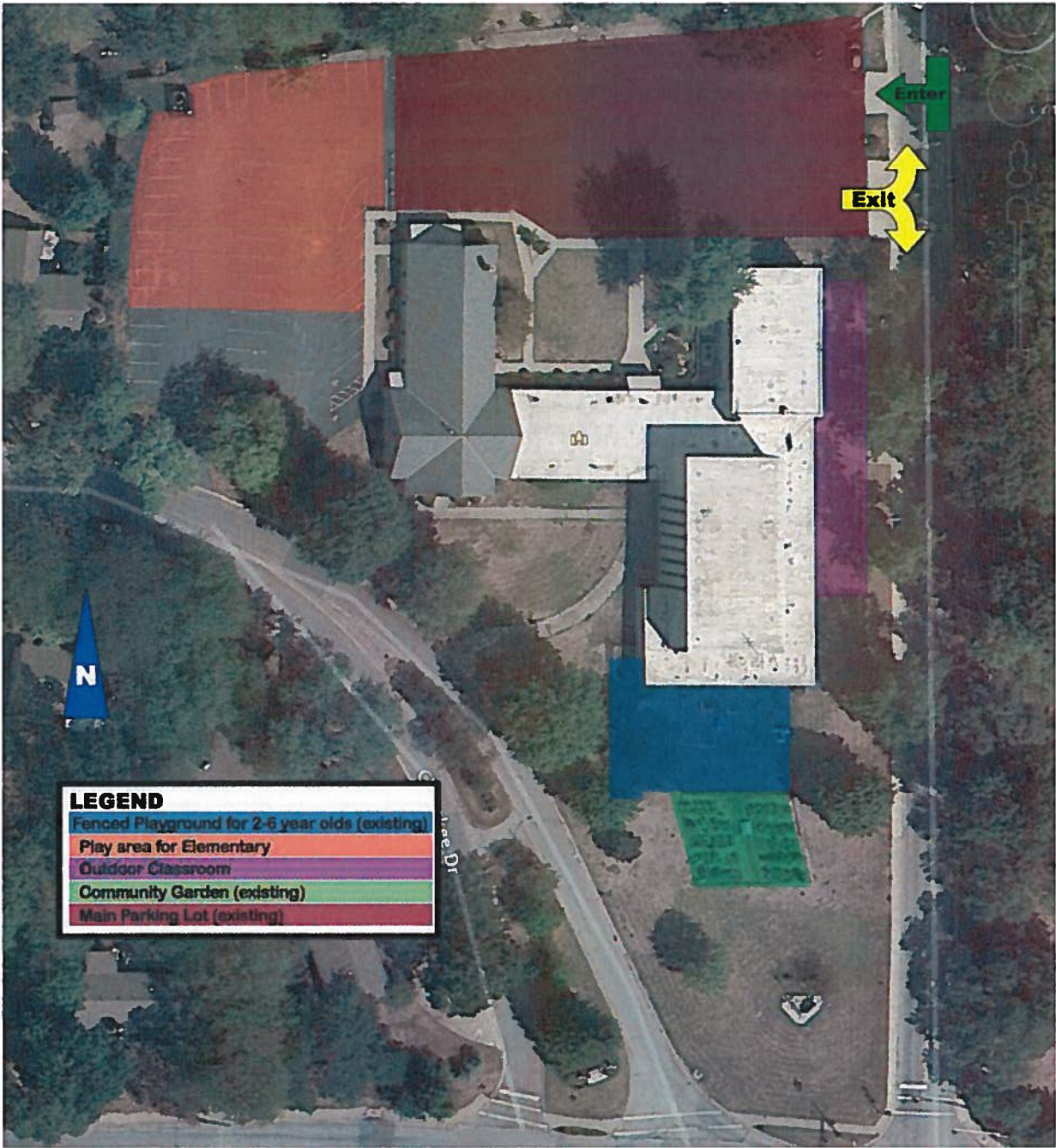


Figure 2 – Site Plan

EXISTING CONDITIONS

Global Montessori School will be located inside the existing Cherokee Christian Church building at 75th Street and Belinder Avenue. The land use surrounding the site is low-density residential. Belinder Elementary School is located four blocks to the north on Belinder Avenue and another church/school is located near to the proposed site on the southeast corner of 75th Street and Belinder Avenue.

Belinder Elementary School is a public elementary school in the Shawnee Mission School District, it serves grades Kindergarten through 6th grade. The hours for class are 8:10 a.m. until 3:10 p.m. with before and afterschool care available.

Monarch Montessori School is located in the REACH Church building located south of 75th Street.

Street Network and Traffic Control

Cherokee Christian Church is bordered to the south by 75th Street and has access onto Belinder Avenue from the east and Cherokee Drive to the west. 75th Street is an east-west four-lane undivided roadway with a posted speed limit of 35 miles per hour. Belinder Avenue is a two-lane collector road and Cherokee Drive is a two-lane residential road. Both have a posted speed limit of 25 miles per hour. Cherokee Drive tees into 75th Street and is stop controlled. Belinder Avenue and 75th Street is a signalized intersection with left turn lanes on 75th Street and protected/permitted phasing for north-south left turns.

Cherokee Christian Church currently has access to both Belinder Avenue and Cherokee Drive from the parking lot located behind the church building.

Traffic Volumes

Turning movement traffic counts for the intersection of 75th Street and Belinder Avenue were collected on Thursday, March 6th between 7:15 a.m. and 8:30 a.m. during the morning commuter peak period. The existing morning peak period for the study area was determined to be between 7:30 a.m. and 8:30 a.m. based on these traffic counts. Afternoon traffic counts were conducted from 2:15 p.m. to 3:45 p.m. to capture the dismissal times of Belinder Elementary School, Monarch Montessori School, and the dismissal time of the proposed Global Montessori Academy. The peak period for the afternoon was determined to be 2:45 p.m. until 3:45 p.m.

The existing traffic volumes for the morning and afternoon are shown on Figure 3.

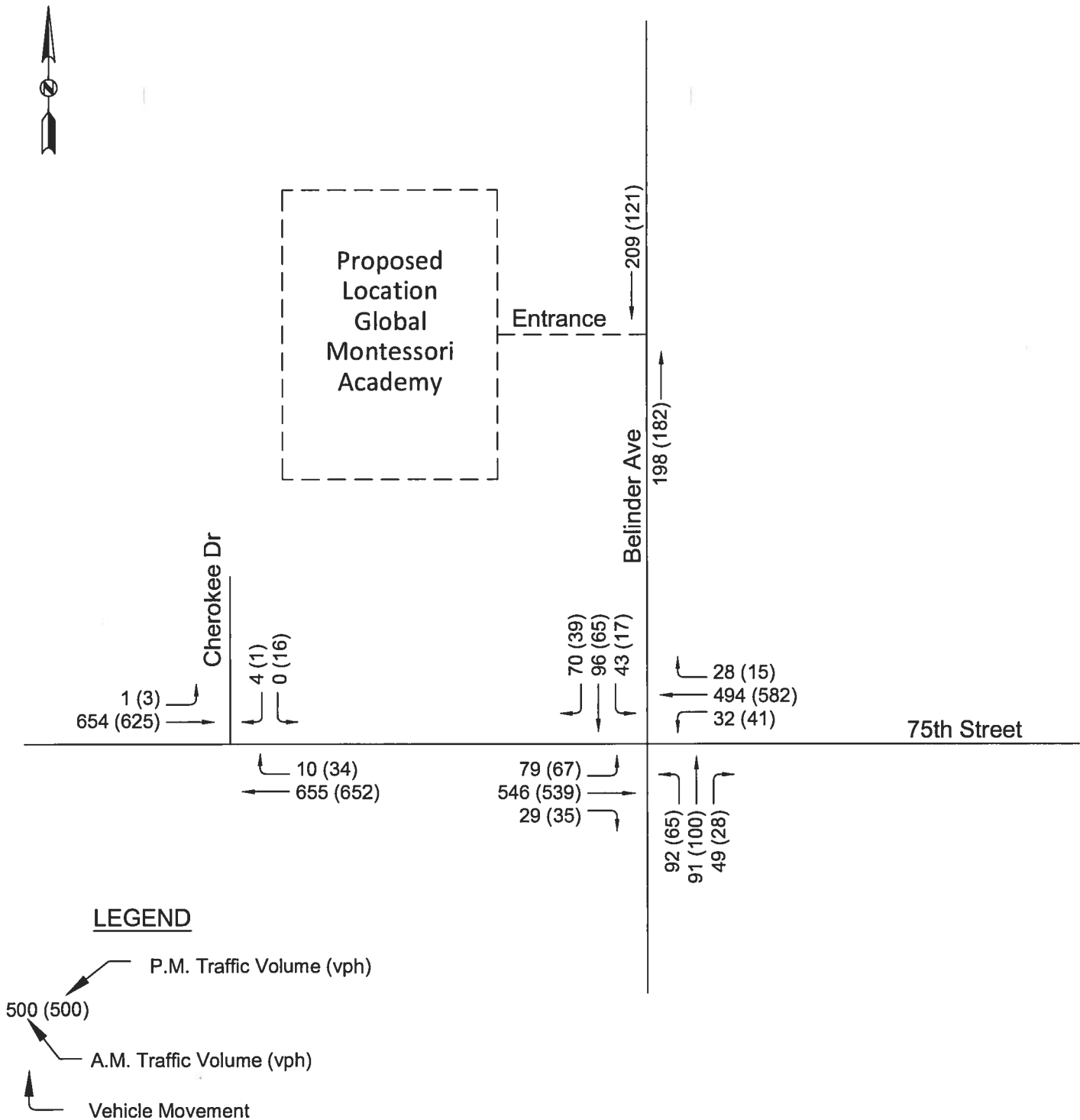


Figure 3 - Existing Traffic Volumes

PROPOSED CONDITIONS

Global Montessori School is relocating from a Plaza location in Kansas City, Missouri to the existing Cherokee Christian Church building located on the northwest corner of 75th Street and Belinder Avenue in Prairie Village, Kansas. The school will have classes for pre-K through 6th grade and school hours will be 8:15 a.m. until 3:30 p.m. Before and afterschool care will be available at the facility.

Access Plan

The site will be accessed via the two existing driveways from Belinder Avenue and Cherokee Drive.

Trip Generation

The expected trip generation for the Global Montessori School was estimated based on 9th Edition of the Trip Generation Handbook published by the Institute of Transportation Engineers. The school is expected to open with approximately 90 students, expand to 110 students, and then finally expand to the maximum enrollment of 150 students. The trip generation is based on the expected school population of 150 students to be conservative.

Estimates for the expected trips generated by the school are provided in Table 1 below.

Table 1 – Trip Generation					
ITE Land Use Code	Units	A.M.		P.M.	
		Trips In (vph)	Trips Out (vph)	Trips In (vph)	Trips Out (vph)
534 K-8 Private School	150 students	76	62	41	46

Trip Distribution

The trip distribution pattern was determined for the site based on the existing directional traffic pattern of the peak period and based on a general analysis of the surrounding area. The detailed distribution patterns can be found in the appendix. Based on the existing traffic patterns the new trips were assigned onto the roadway network as shown below for the morning and afternoon periods.

Trip distribution during the A.M. morning commuter period:

- 50% to/from the north on Belinder Avenue
- 20% to/from the south on Belinder Avenue
- 20% to/from the west on 75th Street
- 10% to/from the east on 75th Street

Trip distribution during the school's P.M. afternoon peak period:

- 40% to/from the north on Belinder Avenue
- 35% to/from the south on Belinder Avenue
- 20% to/from the west on 75th Street
- 5% to/from the east on 75th Street

The trips are shown utilizing the driveway access off of Belinder Avenue. It is expected that a negligible amount of traffic will use the Cherokee Drive access point.

Existing Plus Site Traffic Volumes

The expected site-generated traffic volumes for the Global Montessori School were added to the existing traffic volumes at the study intersections. The existing plus site-generated traffic volumes for the morning commuter period and for the school's afternoon peak period are shown on Figure 4 and Figure 5.

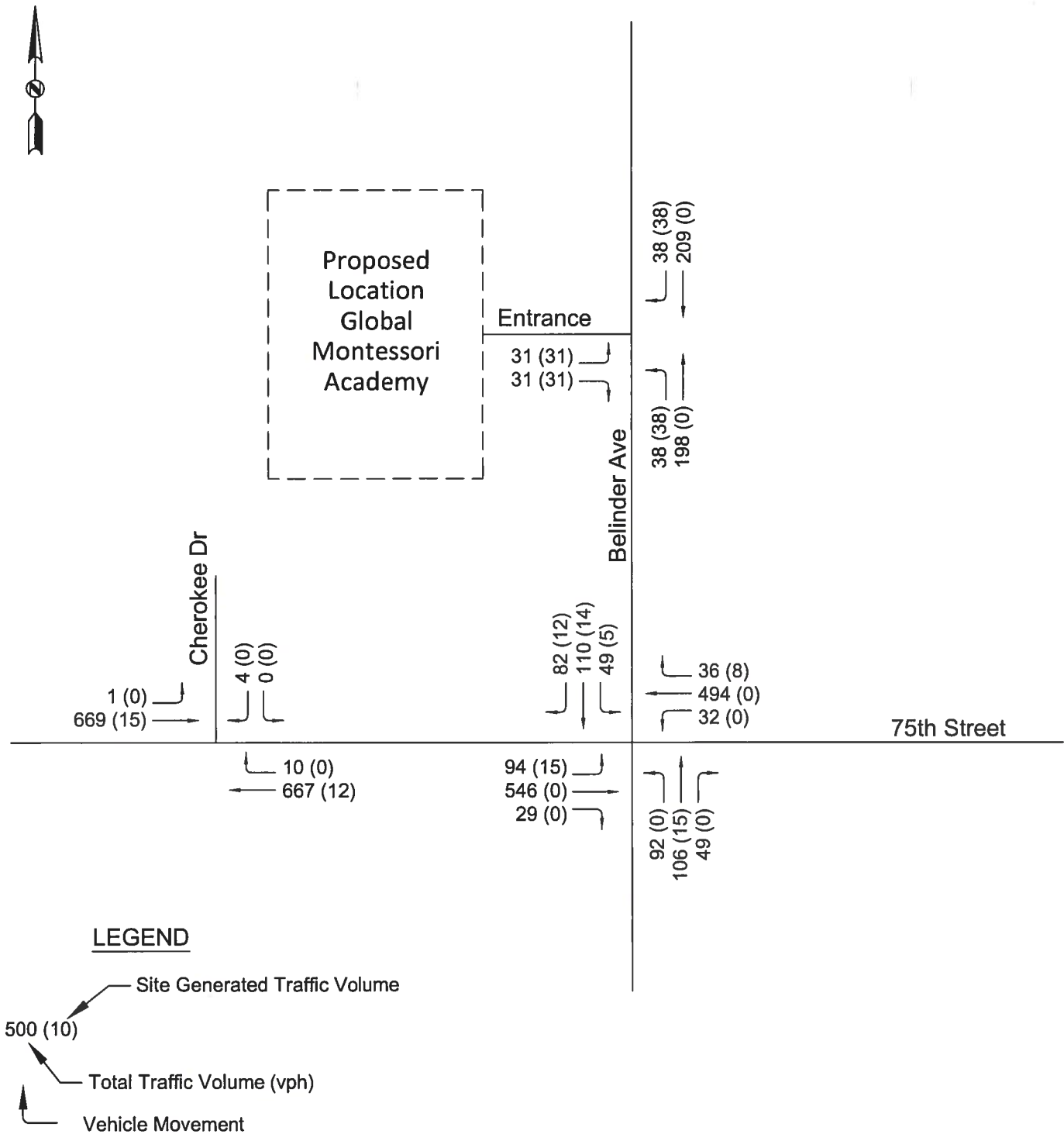


Figure 4 - A.M. Existing Plus Site Traffic Volumes

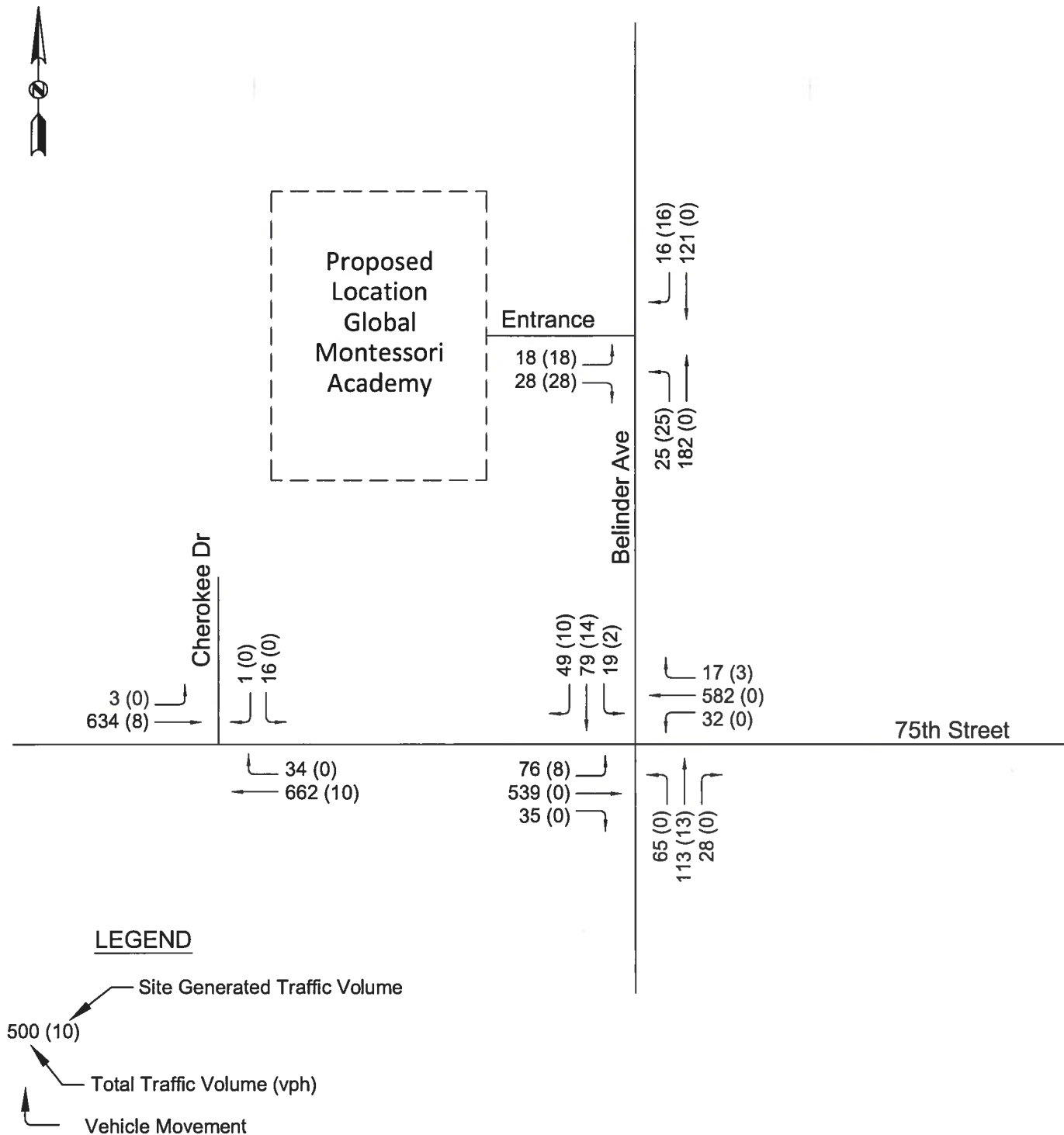


Figure 5 - P.M. Existing Plus Site Traffic Volumes

CAPACITY

The capacity analysis for the study intersections was completed using the methodology outlined in the Highway Capacity Manual, 2000 Edition. The volume and capacity analysis was completed using Trafficware SYNCHRO software (latest version - 8.0). The criteria for determining Level of Service (LOS) of the signalized and unsignalized study intersections and access point is based on the average vehicle delay and is outlined in Table 2 below. Level of Service is defined as the measure of the quality of traffic flow and is graded from “A” to “F” – with “A” being the best situation and “F” being the worst.

Table 2 – Intersection Level of Service		
Level of Service (LOS)	Average Control Delay (sec/veh)	
	Unsignalized	Signalized
A	< 10	< 10
B	< 15	< 20
C	< 25	< 35
D	< 35	< 55
E	< 50	< 80
F	≥ 50	≥ 80

Existing Conditions

All individual movements for the existing morning and afternoon peak hours operate at least at a LOS B or better with the exception of the southbound left-turn onto 75th Street from Cherokee Drive, which operates at a LOS C. A LOS C is considered near free flow and is an acceptable condition. The results of the capacity analysis for the existing morning and afternoon peak hour conditions along with lane configuration and queue lengths are shown on Figures 6 and 7.

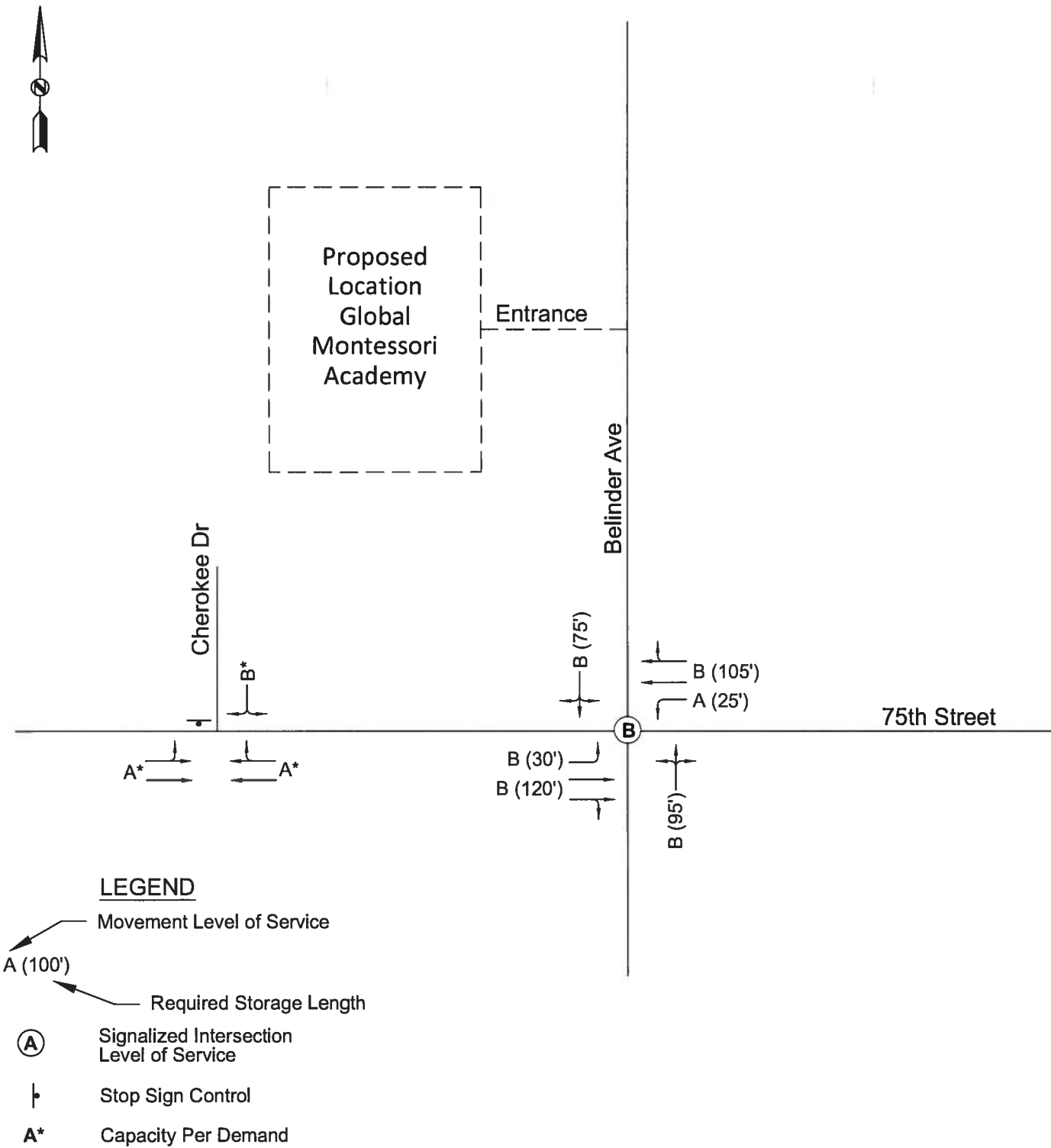


Figure 6 - A.M. Existing Levels of Service

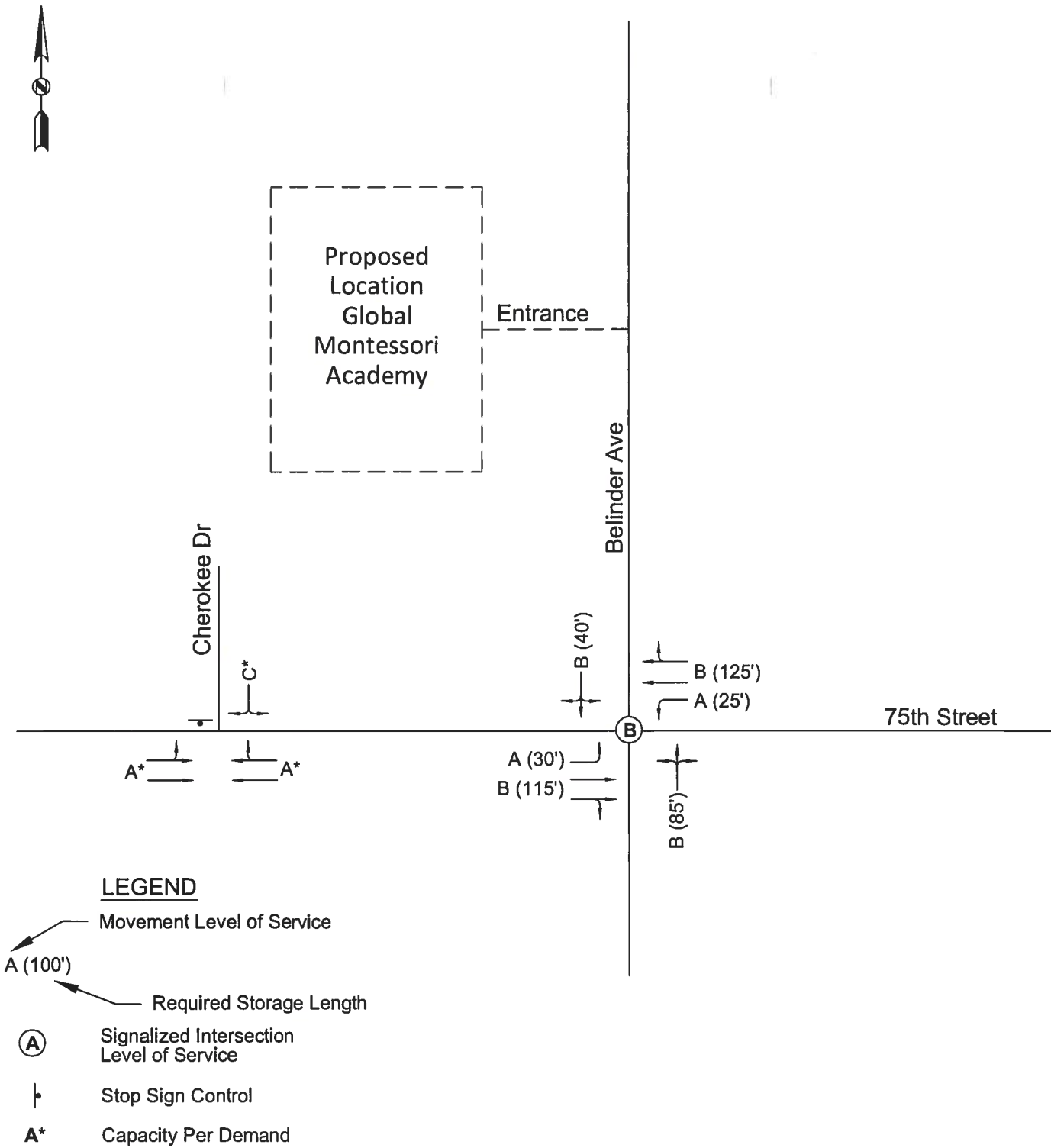


Figure 7 - P.M. Existing Levels of Service

Existing Plus Site Conditions

The intersections within the study area continue to operate well with the addition of the traffic from Global Montessori School and there is no indication that Global Montessori School will cause significant impacts to the existing roadway network. Some individual movements may decline slightly with the additional traffic; however the overall Level of Service is expected to be the same at the intersection of 75th Street and Belinder Avenue.

All three schools located along the Belinder Avenue have staggered afternoon release times and this helps distribute the afternoon peak hour traffic over a greater time period.

The results of the Existing plus Site analysis is shown for the morning and afternoon peak hour conditions along with lane configuration and queue lengths in Figures 8 and 9.

RECOMMENDATIONS AND CONCLUSION

This study documents the findings of the traffic analysis of the expected traffic for the Global Montessori School to be located in the existing Cherokee Christian Church on the northwest corner of 75th Street and Belinder Avenue. The study includes both analysis of the existing conditions and analysis with the addition of the school. The results of the analysis show that the trips generated by the proposed project would not significantly impact the study intersections.

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Ron Williamson, FAICP, Lochner, Planning Consultant
DATE: April 1, 2014, Planning Commission Meeting

Project # 000009686

Application: PC 2014-109

Request: Approval of Site Plan for Einstein Bagel

Property Address: West side of Mission Road; North of 71st Street

Applicant: Einstein and Noah Corp.

Current Zoning and Land Use: C-2 General Commercial District – Shopping Center

Surrounding Zoning and Land Use: North: R-1B Single-Family District – Single Family Dwellings
East: C-0 Office Building District – Church
C-2 General Commercial District – Shopping Center
South: R-1B Single-Family District – Single Family Dwellings
West: R-1B Single-Family District – Single Family Dwellings

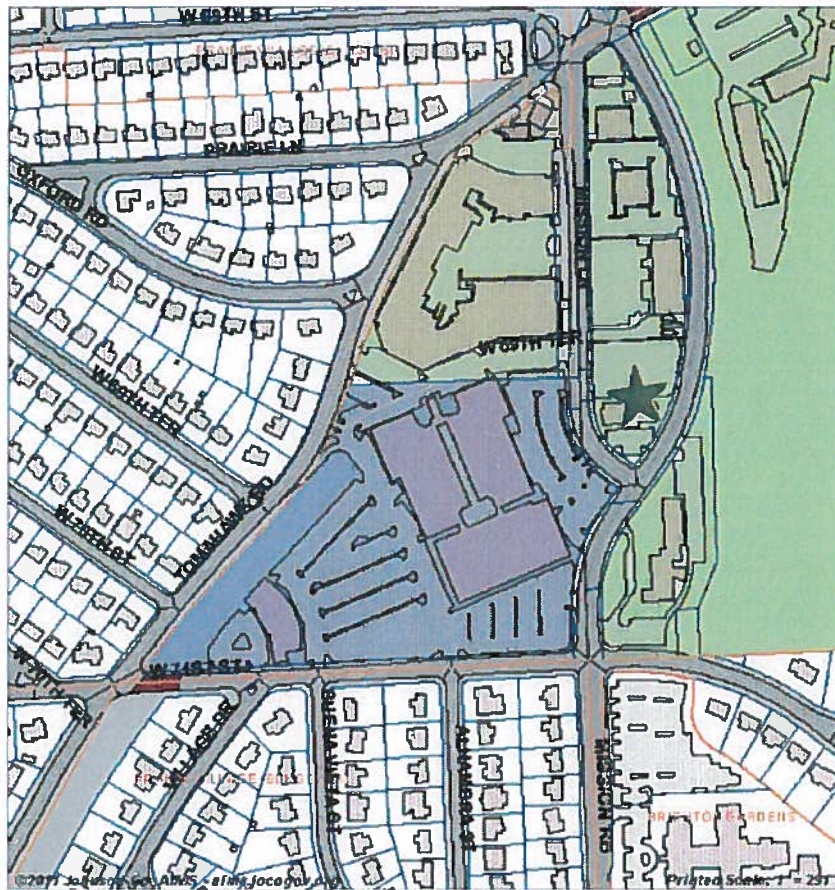
Legal Description: Metes and Bounds

Property Area: 17.4 Acres

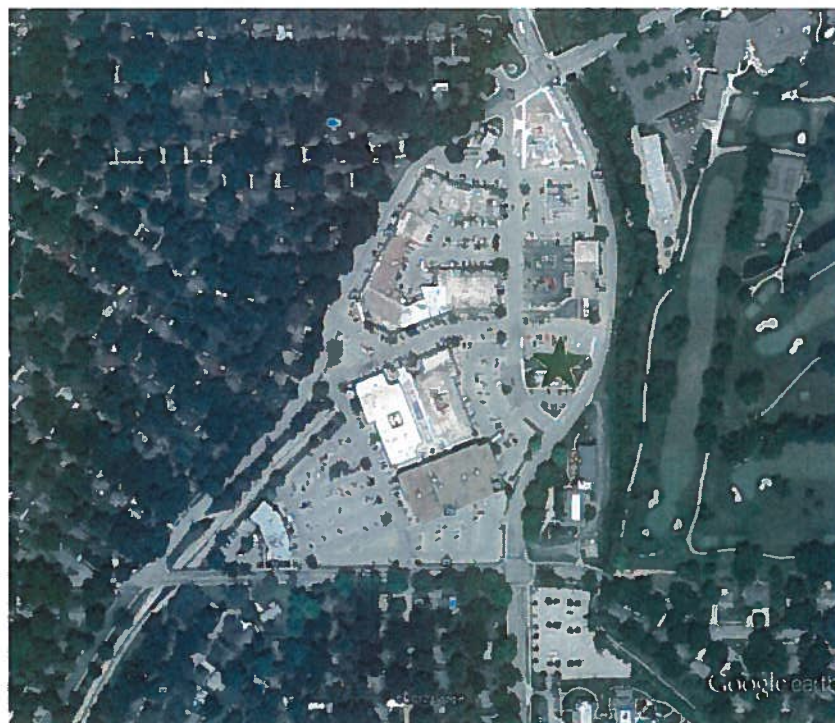
Related Case Files: PC 2013-119 Approval of Site Plan for Dolce Bakery
PC 2013-116 Approval of Site Plan for Live Blue
PC 2013-113 Approval of Sign Standards
PC 2012-119 Site Plan Approval for Standees
PC 2012-08 CUP for Drive-Thru
PC 2012-114 Preliminary and Final Plat
PC 2012-113 Site Plan Approval Mission Lane
PC 2011-115 Site Plan Approval Story Restaurant
PC 2007-112 Site Plan Approval Cactus Grill
PC 2006-108 Amendment to Sign Standards for Macy's
PC 2000-107 Approval of Revised Sign Standards
PC 1999-105 Site Plan Approval for Bank and Restaurant

Attachments: Application, Site Plan Drawings, Photos

General Location Map



Aerial Map



STAFF COMMENTS:

Einstein Bagel is locating in the space previously occupied by Dolce Bakery and Starbucks, and proposes to have an outdoor seating area which requires Planning Commission approval.

The proposed outdoor seating area includes three four-top tables under the canopy and one four-top table on each end of the canopy. This is approximately 300 sq. ft. The distance between the columns and the curb is 60". In order to meet ADA accessibility through this area, an unobstructed walkway of 48" must be maintained and the distance between the face of the wall and the columns is 12'. Vehicle overhang could be 24" which reduces the accessible walkway to 36". The applicant proposes to place the tables closer to the building and maintain a 36" wide walkway adjacent to the columns. This would increase the outdoor space in the Center from 7,780 sq. ft. to 8,080 sq. ft. and would increase the Center sq. ft. from 301,886 to 302,186.

The square footage of Village Center has been agreed upon between the City and the owners. The off-street parking requirement for mixed office/commercial centers over 300,000 square feet is 3.5 spaces per 1,000 square feet. The addition of 300 sq. ft. for the outdoor seating area will increase the required parking from 1,057 spaces to 1,058 spaces. The Center provides 1,160 spaces and has an excess of 102 spaces. Based on the agreed upon parking calculation method, the applicant will need to submit a floor plan indicating the amount of area designated as storage and the Center will need to update the square footage chart, indicating the change in storage area and patio area.

The Handicap Parking sign will need to be relocated because it is within the 36" walkway. It could easily be moved to the brick column. Also, the two existing planters will need to be located where they do not encroach into the 36" walkway on either side of the column.

The Planning Commission shall give consideration to the following criteria in approving or disapproving a site plan:

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

The site is capable of accommodating the seating area provided an ADA accessible walkway is available. The walkway between the curb and the building columns is only 60" and with vehicle overhang it would be reduced to 36". The 48" width allows for a wheelchair and a pedestrian to pass. The applicant is proposing a minimum 36" walkway width on the north side of the columns and will meet the requirement.

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

Utilities are currently in place serving the Prairie Village Center and are adequate to serve this minor expansion for outdoor seating.

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

There will be no increase in impervious surface so stormwater is not an issue.

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

The proposed site will utilize existing driveways and the general circulation of the Center will not be changed. Adequate pedestrian accessibility will need to be maintained between the columns and the parking lot, and the columns and the building façade.

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

The addition of outdoor seating will help create a more vibrant atmosphere for the Center and is consistent with good land planning practices. The primary site design issue is the need to maintain a minimum 36" walkway for ADA accessibility on both sides of the columns.

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

No changes are proposed to the building façade. The brick columns and other features will remain as they are now.

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

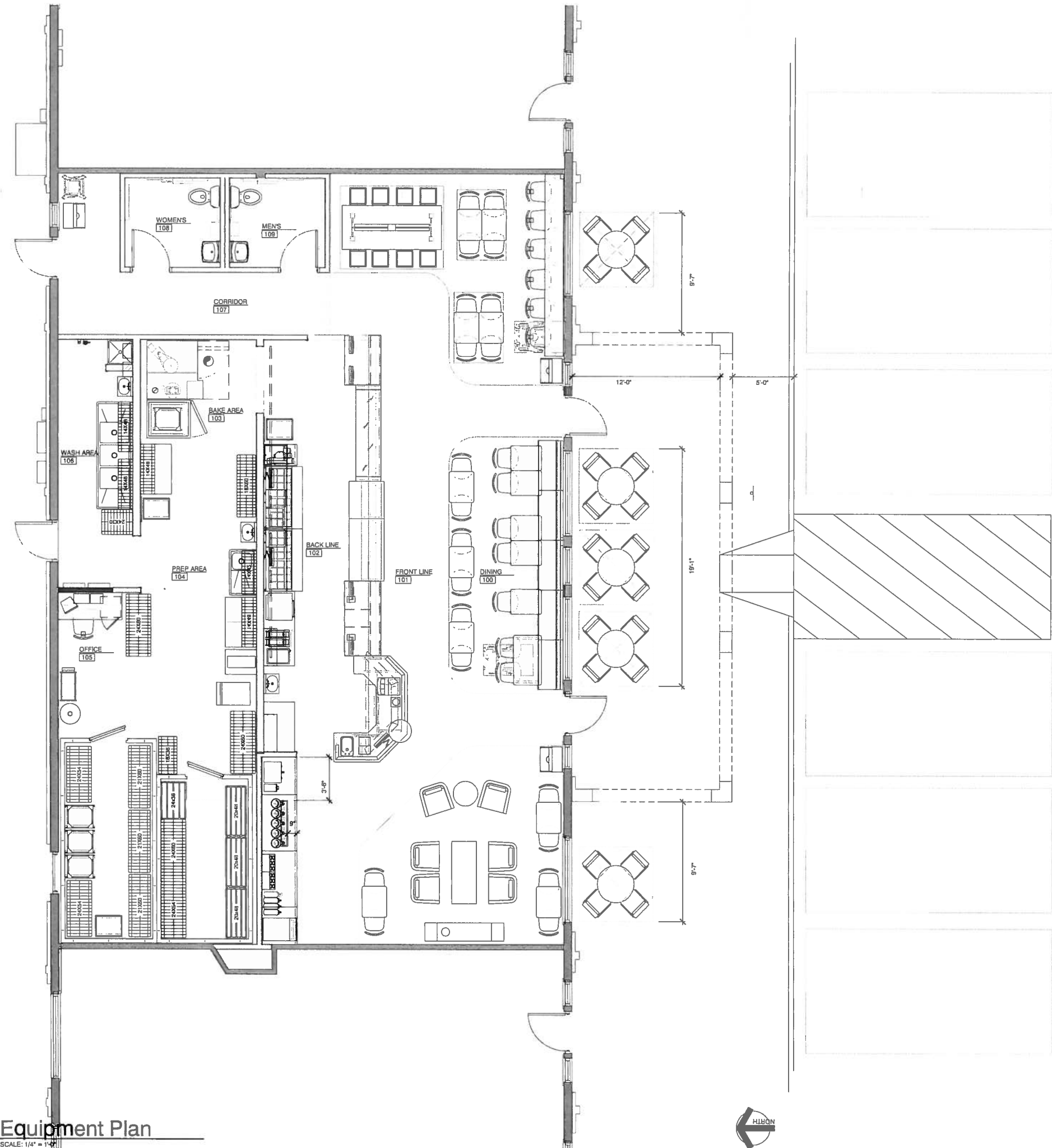
One of the principles of the Village Vision was to focus on redevelopment and reinvestment in the community. These issues have become primary goals for the City and this project represents a step in that direction. This is the opportunity to enhance and intensify the use of the building that will generate additional revenues for the City.

RECOMMENDATION:

It is the recommendation of Staff that the Planning Commission approve the proposed site plan for Einstein Bagel's outdoor seating area subject to the following conditions:


1. That all lighting used to illuminate the outdoor area be installed in such a way as to not create any glare off the site and be in conjunction with the outdoor lighting regulations.
2. That a minimum 36" wide accessible walkway be maintained on both sides of the columns.
3. That the Handicap Parking sign be relocated and the planters be moved so that they do not encroach into the 36" walkway.
4. That the square footage chart and drawings for Prairie Village Center be updated and submitted to the City in order to determine the appropriate square footage for the parking requirement.






01 Equipment Plan
SCALE: 1/4" = 1'-0"

PROJECT: LUOPUNA (LV DESIGN CONSULTANT)



idGROUP
2641 IRVING BLVD.
DALLAS, TEXAS 75207
TEL: 214-638-6800

ARCHITECT/ENGINEER




01/22/14

SEAL

ARCHITECTURAL PROJECT NO: 142-188
DRAWN BY: CT
CHECKED BY: RO

EINSTEIN BROS. BAGELS
STORE # 0748



6970 MISSION RD
PRAIRIE VILLAGE, KS

NO.	REVISIONS	DATE

OWNER REVIEW ISSUE DATE: 01-15-2014
LANDLORD REVIEW ISSUE DATE: 01-22-2014
BID ISSUE DATE: 01-22-2014
HEALTH DEPT. REVIEW ISSUE DATE: 01-22-2014
BUILDING REVIEW ISSUE DATE: 01-22-2014
CONSTRUCTION ISSUE DATE: 01-XX-2014

DRAWING TITLE:
**FURNITURE / FIXTURE /
EQUIPMENT PLAN & SCHEDULE**

DRAWING NUMBER:
A2.7

MEMORANDUM

TO: Prairie Village Planning Commission
FROM: Ron Williamson, FAICP, Lochner, Planning Consultant
SUBJECT: PERMITTED USES IN R-1 RESIDENTIAL DISTRICT, SPECIAL USE PERMITS,
CONDITIONAL USE PERMITS, AND MXD PLANNED MIXED USE DISTRICT
DATE: April 1, 2014 Project # 000009686

The attached Memorandum was prepared at the request of the City Council and discussed with them at their meeting on March 3, 2014. The Council was interested in what Prairie Village includes in the R-1 Residential District, Special Use Permits and Conditional Use Permits compared to other Johnson County cities. The intent is to determine whether uses should be removed from the lists and moved to a different process.

The MXD Planned Mixed Use District was discussed to primarily determine if it addresses the needs for the future. .

When the Conditional Use Permit was included in the State Statutes, it was envisioned to be a separate procedure from Special Use Permits. However, in discussions with the City Attorney, case law has determined over the years that Conditional Use Permits and Special Use Permits are used interchangeably and should follow the same procedures. Therefore, at the conclusion of this analysis, the Conditional Use Chapter should be eliminated and the list of uses either transferred to Special Use Permits, Site Plan review or Staff review.

This is background information to familiarize the Planning Commission with potential changes that may occur in the future. No action is needed at this time.

LOCHNER

MEMORANDUM

TO: Prairie Village City Council
FROM: Ron Williamson, FAICP, Lochner, Planning Consultant
SUBJECT: PERMITTED USES IN R-1 RESIDENTIAL DISTRICT, SPECIAL USE PERMITS, CONDITIONAL USE PERMITS, AND MXD PLANNED MIXED USE DISTRICT
DATE: March 3, 2014 Project # 000009686

GENERAL COMMENTS:

It has been requested by the Council to address uses permitted in R-1 and Special Use Permits permitted in R-1. It is also suggested that the Council review the list of uses listed as Conditional Use Permits and determine if any of those should be moved to the Special Use Permit chapter. To clarify, briefly, Special Use Permits require a public hearing by the Planning Commission and a recommendation to the Governing Body. The Governing Body makes the final decision. Conditional Use Permits require a public hearing, but the final decision is made by the Planning Commission. When the Zoning Ordinance was revised in 1995, the Council determined that some uses needed to be reviewed by a public body, but they were considered to be minor uses and the decision was delegated to the Planning Commission. Another factor that concerned the Council at that time was that it was taking too long for applicants to get a decision and it was costing applicants too much for minor items.

Staff has reviewed the zoning ordinances for the cities of Leawood, Lenexa, Mission, Olathe, Overland Park, and Shawnee and summarized them as compared to Prairie Village. The ordinances are quite different. Some use the traditional format similar to Prairie Village, while others use the Unified Development Code format. It should also be noted that the terminology for a specific use may vary from one city to another.

USES PERMITTED IN R-1 SINGLE-FAMILY RESIDENTIAL DISTRICTS

A comparison was made between Prairie Village and other cities in Johnson County relative to what uses are permitted by right in single-family residential districts. Table A at the end of this document is the actual listing of the uses as they appear in each city ordinance. Some have restrictions or limitations that are too long to place in the table. The following is a more detailed listing of the uses in the R-1 District in Prairie Village, along with those in Leawood, Lenexa, Mission, Olathe, Overland Park, and Shawnee.

> City of Prairie Village

19.06.010 Use Regulations

In District R-1A, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, altered or converted except for one or more of the following uses:

- A. Single family dwellings;
- B. Golf courses, except miniature golf and commercial driving ranges;
- C. Publicly owned parks and recreation areas;
- D. Churches and synagogues;
- E. City Hall, police, fire stations;
- F. Publicly owned libraries, museums, art galleries;
- G. Public schools, college and university educational centers operated by a local district or state agency;
- H. Group Homes;
- I. Residential design manufactured homes;
- J. Accessory uses as provided for and regulated in Chapter 19.34;
- K. Conditional Use Permits as provided for and regulated in Chapter 19.30;
- L. Special Use Permits as provided for and regulated in Chapter 19.28.

➤ City of Leawood

Leawood uses a Table of Uses and the following uses were taken from that listing:

1. Group Homes
2. Single-Family Residential (Detached)
3. Public Uses/Government Uses

➤ City of Lenexa

List of uses permitted in R-1 Residential Single-Family District:

1. Single-Family Dwellings
2. Manufactured Home
3. Church or Place of Worship
4. Daycare limited
5. Group Home limited
6. Public Park
7. Golf Course

➤ City of Mission

List of uses permitted in R-1 Residential Single-Family District:

- A. In District "R-1", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for one (1) or more of the following uses:
 1. Dwellings, one-family, except for residential-designed manufactured homes.
 2. Publicly owned parks and recreational areas.
 3. Churches, synagogues, community centers, public libraries, public museums, public art galleries, public schools, elementary and high and private schools with curriculum equal to that of a public school and institutions of higher learning, all subject to the following conditions:
 - a. There shall be a side yard of at least twenty-five (25) feet for any principal or accessory building.
 - b. Off-street parking shall be set back at least seven (7) feet from any property line and shall be suitably screened by walls, berms or landscaping.
 - c. The location of the use shall be in accordance with at least one (1) of the following situations:
 - (1) On a corner lot immediately adjacent to or across the street from a public park or public recreational area or any other purpose listed in Subsection (A) (3) above.
 - (2) On a parcel or tract of land entirely surrounded by a combination of highways, streets or alleys.
 - (3) A lot or parcel of land immediately adjoining "R-2" to "C-2" District inclusive: or on a corner lot immediately opposite on the other side of the street in any "R-2" to "C-2" District.
 - (4) On a lot approved by the City Council after a public hearing held by the Planning Commission, provided it is found that the use does not materially damage or curtail the appropriate use of neighboring property and the use conforms to the applicable district regulations and is compatible and does not violate the general spirit and intent of the zoning ordinance.
 4. Group home, as defined by K.S.A. 12-736 and amendments thereto, located in single-family dwelling.
 5. The following accessory uses are permitted when located on the same tract, lot or parcel with the above uses:
 - a. Home occupations.
 - b. Non-commercial greenhouses.
 - c. One (1) accessory building of a maximum of one hundred twenty (120) square feet by eight (8) feet maximum height may be allowed in the rear yard only with a minimum of a five (5) foot setback from the side yard or rear yard setback lines. Such accessory building shall be properly anchored to resist wind forces.

- d. Private swimming pools when complying with regulations.
- e. Recreation and service buildings, dining halls, dormitories and the like in connection with Subsection (A)(3) above.
- f. Temporary real estate offices, contractors' construction offices and the like character during construction; removed on completion.
- g. Private attached garages for passenger cars and other vehicles. Also see Accessory Uses (Chapter 420, Article I), Detached Garages (Section 420.010) and Prohibited Uses (Chapter 420, Article II, Section 420.020 et seq.).
- h. All non-residential uses proposed in this district shall be subject to the approval of procedures set forth in Section 440.170(c).
- i. For other accessory uses, see Chapter 420, Article I.

➤ City of Olathe

Uses permitted by right in the R-1 Single-Family Residential District:

1. Single-family residences
2. Residential design manufactured homes.

➤ City of Overland Park

Permitted uses in the R-1 Single-Family Residential District:

18.180.020 Permitted uses

No building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses, subject to the development and performance standards set forth in Section 18.180.070:

- A. Dwellings, one-family;
- B. Residential-design manufactured homes;
- C. Churches and publicly-owned and operated community buildings, museums and libraries;
- D. Public parks and playgrounds, including public recreation or service buildings and publicly-owned swimming pools;
- E. Private parks, playgrounds, swimming pools, tennis courts, clubhouses and other recreational facilities within a subdivision for the use of subdivision residents;
- F. Public schools, and private schools with a curriculum equivalent to that of a public school, and institutions of higher learning, including stadiums and dormitories in conjunction therewith, if located on the campus;
- G. Golf courses and clubhouses appurtenant thereto (except miniature golf courses, driving ranges and other similar activities operated as a business);
- H. Agricultural uses;
- I. Residential real estate sales offices;
- J. Accessory uses as provided in Chapter 18,390;
- K. Communication towers designed as an architecturally compatible element to an existing non-residential use such as schools, churches, etc. and communication antennas mounted on existing non-residential structures and non-residential buildings;
- L. Utility structures;
- M. Roof-mounted wind turbine(s) on non-residential structures and non-residential buildings and wind turbines mounted on parking lot light poles located on property developed with a non-residential use.

➤ City of Shawnee

List of permitted uses in the R-1 Residential Single-Family District from the Table of Uses is as follows:

1. Cemeteries – no chapel
2. Cemetery offices
3. Churches, temples and synagogues
4. Civil defensive activities
5. Country clubs *
6. Day care homes (adult/children) *

7. Dwellings – single-family detached
8. Electronic vehicle recharging stations *
9. Fire protection services
10. Golf courses *
11. Group homes (adult/children) *
12. Historic and monument sites
13. Libraries
14. Mausoleums *
15. Parks – private
16. Parks – public
17. Playgrounds, play lots
18. Police protection – municipal
19. Schools – primary
20. Schools – secondary
21. Wind energy conversion systems (WECS) *

*Those uses marked with an asterisk have general special conditions with which they must comply.

SPECIAL USE PERMITS

The approach used in Prairie Village is to provide a list of Special Use Permits that may be allowed in any zoning district, unless otherwise noted, subject to approval of the Planning Commission and Governing Body based upon favorable findings of fact. Table B at the end of this document is a list of the Special Use Permits included in Prairie Village, along with neighboring communities, as they appear in each city ordinance. Below is a more detailed listing of the Special Use Permits as contained in each city's city ordinance.

➤ City of Prairie Village

19.28.070 Specifically Listed Special Use Permits

Any of the following uses may be located in any district by Special Use Permit in accordance with Section 19.28.005; unless otherwise noted:

- A. Country clubs, or private clubs or clubs which serve food and alcoholic, wine and cereal malt, beverages;
- B. Cemeteries;
- C. Columbariums;
- D. Hospitals;
- E. Nursery sales office, building, greenhouse, or area (wholesale or retail);
- F. Nursing and convalescent homes as defined by state statutes; but not including group homes;
- G. Buildings, structures, towers and premises for public utility services or public service corporations whether located in public right-of-way or on easements on private property except that the following shall be specifically excluded from the Special Use Permit requirements: utility poles, utility boxes; and underground utility lines. (Ord. 2029, Sec. II, 2002);
- H. Assembly halls;
- I. Dwellings for senior adults, as defined herein, and including handicapped adults. Dwellings may be in the form of townhouses, apartments or congregate type living quarters. Nursing care or continuous health care services may be provided on the premises as a subordinate accessory use. Not less than seven hundred square feet of land shall be provided for each occupant in an apartment or congregate dwelling unit and not less than five hundred square feet of land shall be provided for each bed in a nursing or continuous care facility. Not less than three off-street parking spaces shall be provided on the premises for every four apartments or congregate living units, one space shall be provided for every five beds in any nursing facility, and not less than one space shall be provided for each employee on the premises on the maximum shift, provided, however, that this section shall not apply to group homes; Standards for height and setback of buildings applicable to such dwellings shall be those permitted in residential zoning districts R-1 through R-4;
- J. Service stations in C-1, C-2 & C-3 Districts only; not including automatic car wash; provided that all gasoline storage tanks shall be located below the surface of the ground. Display and service

- racks for new stock normally carried by fillings stations, including oils and tires, may be placed outside the building during business hours;
- K. Automatic and semiautomatic car washes, continuous line car washes, self-service car washes, manual car washes and all other car washing facilities located separately or in relation to the operation of a service station in C-1, C-2 & C-3 Districts only;
 - L. Skating rinks, arcades and similar commercial recreation facilities in C-1, C-2 & C-3 Districts only provided such use shall be not less than two hundred feet from any existing clinic, hospital, school, church or district R-1 to R-4 inclusive, unless approved by the Governing Body under such restrictions as seem appropriate after consideration of noise and other detrimental factors incidental to such use;
 - M. Mortuaries and funeral homes – C-0, C-1, C-2 & C-3 Districts only;
 - N. Day care centers in residential district;
 - O. Drinking establishments – bar or night club - C-1, C-2 & C-3 Districts only:
 - a. The initial approval shall be for a period of three years;
 - b. Subsequent renewals may be for periods up to ten years but shall not be in excess of the lease term or options thereof;
 - P. Accessory uses to motels includes, but not limited to, restaurants, banquet rooms, liquor, notions and magazine counters, vending machines, beauty and barbershops, flower and gift shops; provided all are within the main building and designed to serve primarily the occupants and patrons of the motel or hotel;
 - Q. Accessory uses to hospitals including, but not limited to, residential quarters for staff and employees, nursing or convalescent quarters, storage and utility buildings, food service and vending machines, laundry and other similar services for hospital personnel, visitors and patients;
 - R. Utility or storage buildings: Detached storage or utility buildings for nonresidential uses.
 - S. DELETED. (Ord. 1909, Sec. II, 1997; Ord. 2190, Sec. III, 2009)
 - T. Private schools, colleges and university education centers (Ord. 1919, Sec. I, 1997).

Wireless communications facilities are also approved as a Special Use Permit but are in a separate Chapter of the Zoning Ordinance, Chapter 19.33, Wireless Communications Facilities addresses this use.

➤ City of Leawood

The City of Leawood handles Special Use Permits similar to Prairie Village. The procedure is handled like a zoning change with a public hearing by the Planning Commission and final approval by the Governing Body. The City of Leawood has a Table of Uses and designates permitted and Special Use Permits by Zoning District. The R-1 Zoning District lists the following Special Use Permits:

1. Assisted living, independent, skilled nursing
2. Aviation fields or airports
3. Bed and breakfast
4. Campgrounds, picnic groves and fishing lakes
5. Cemeteries, mausoleums or crematories
6. Churches, synagogues, other places of worship
7. Club, private
8. Off-street parking lots
9. Public uses/Government uses
10. Reservoirs, water towers, filter beds or water treatment plants
11. School, public and private, Elementary, Middle, High
12. School, business/secretarial
13. Television and amateur radio antennae, exceeding district height limitations
14. Towers, radio, television and microwave
15. Waste water treatment plant
16. Wireless communications facilities and antennae

Special Uses 1, 5, 7, 9 and 16 are similar to Prairie Village as well as private school as contained in number 11.

➤ City of Lenexa

The City of Lenexa has a Unified Development Code (UDC) that combines zoning, subdivisions and development standards. The UDC does provide for Special Use Permits in a table format and they are as follows in the R-1 District:

1. Cemeteries
2. Cultural services
3. Daycare general
4. Large WECS – Wind Energy Conversion Systems
5. Public safety services
6. School, elementary and secondary
7. Utility
8. Wireless communications towers
9. Commercial use of residential property

Lenexa has a much shorter list of uses but those listed are similar to those in Prairie Village.

➤ City of Mission

The City of Mission uses Special Use Permits and allows the following to be considered in the R-1 Single-Family Residential District:

1. Cemeteries
2. Dog kennel – veterinary
3. Electric power substations
4. Nursing homes
5. Radio, television and microwave towers and antennae
6. Reservoirs – underground
7. Sewage pumping stations
8. Water tanks
9. Temporary use of land or building for a use not otherwise permitted.
10. The Planning Commission and City Council may designate such other uses as appropriate for a Special Use Permit upon finding that the use is appropriate in a certain location, but is not listed as allowed in any District or is only allowed in a district which contains other uses that would be appropriate in this location.

The procedure and criteria for approving a Special Use Permit is the same as for a zoning change.

➤ City of Olathe

The City of Olathe allows Special Use Permits to be considered for the R-1 Single-Family Residential District and the list is as follows:

1. Adult day-care.
 2. Air transportation facilities (including helicopter pads)
 3. Amusement and recreation services
 4. Animals kept on less than three (3) acres
 5. Assembly halls, convention centers and conference facilities
 6. Automobile parking lots and structures (freestanding)
 7. Bus, taxi, train or light rail depots, stations or dispatch facilities
 8. Cemeteries, funeral services, mortuaries and crematories
 9. Child-care centers
 10. Communication services, not elsewhere classified
 11. Flag poles over sixty (60) feet in height
 12. Government facilities, other than offices
 13. Government offices
 14. Group day-care homes
 15. Hospitals
 16. Hotels, motels, rooming houses, camps and other lodging places
 17. Membership (service) organizations
-

18. Mining and quarrying of nonmetallic minerals, except fuels (includes topsoil removal)
19. Museums and art galleries
20. Nursing and personal care facilities
21. Preschools
22. Residential care facilities
23. Storage lots for recreational vehicles, trailers, boats, etc.
24. Telecommunications facilities: Disguised (stealth) telecommunication facilities as described in Chapter 18.57
25. Telecommunications facilities: New support structures as described in Chapter 18.57
26. Television and AM/FM radio broadcast towers and associated facilities exceeding sixty (60) feet in height, unless located on or within a structure and entirely screened from view
27. U.S. Post Offices

Olathe appears to use Special Use Permits more extensively than most other cities. The approval process is the same as a rezoning.

➤ City of Overland Park

The City of Overland Park also has an extensive listing of Special Use Permits. Those that have an asterisk have special conditions set out in the ordinance. Additional conditions may be attached to the approval. The list is as follows:

1. Airports or aviation fields, heliports and helicopter landing pads *
2. Asphalt plants, concrete plants and foundries
3. Assembly halls, community centers or convention centers
4. Utility structures including outdoor storage areas accessory to a utility maintenance facility
5. Cemeteries, mausoleums or crematories for the disposal of the dead
6. Clubs and drinking establishments *
7. Day care homes, group day care homes, child care centers, preschools, or Mother's Day Out programs (which are not otherwise permitted as an accessory use or as a permitted use) *
8. Drive-in theaters
9. Group boarding homes for minors or group boarding homes for adults
10. Hospitals, nursing or convalescent homes, and continuing care communities
11. Hotels, motor hotels or motels
12. Keeping of farm animals such as horses, ponies, cows and chickens on a lot or tract of less than three acres in size
13. Animal hospitals, large animal veterinarians, or animal kennels *
14. Mines or quarries (including the removing, screening, crushing, washing or storage of ore, sand, clay, stone, gravel or similar materials) *
15. Nurseries, greenhouses and buildings or areas for the wholesale or retail sale of landscaping supplies, plant materials or landscape maintenance services
16. Off-street parking lots/structures of a temporary or permanent nature
17. Oil or gas drilling or production *
18. Penal or correctional institutions
19. Radio, television, microwave
20. Communications facilities, towers and antennas *
21. Reservoirs, towers, filter beds or water treatment plants
22. Residential real estate sales offices *
23. Sales and display areas for manufactured homes, mobile homes or modular housing
24. Solid waste disposal facilities or sanitary sewage plants
25. Sports or recreation facilities of all types, private
26. Taverns and dance facilities
27. Amusement centers and arcades *
28. Temporary use of land for commercial or industrial purposes *
29. Churches, elementary and secondary schools, and publicly-owned and operated community buildings, museums and libraries.
30. Transportation facilities for public agencies (including, but not limited to, school districts, municipal or public transportation agencies, and public utilities) *
31. Wind turbine(s) *

32. Municipal facilities

The procedure for approval of Special Use Permits is the same as rezoning and, like Olathe, the list is extensive.

➤ City of Shawnee

The following is a list of Special Use Permits that may be allowed in an R-1 Single-Family Residential District:

1. Botanical gardens/arboretums *
2. Convents *
3. Electric substations
4. Family day care homes
5. Gas pressure control stations
6. Group day care homes *
7. Marinas
8. Monasteries *
9. Museums *
10. Rectories *
11. Schools – Community College
12. Schools – Technical
13. Schools – Universities
14. Sewage pressure stations
15. Swimming clubs *
16. Tennis clubs *
17. Water pressure stations
18. Water storage

*Those marked with an asterisk are subject General Special Conditions.

There are some similarities in uses that are listed in the Special Use Permit section for each city, but for the most part, the list of uses permitted by Special Use Permit is unique to that city for reasons that are unknown. In reviewing the lists it appears that Prairie Village and Leawood are most similar in the listed uses. Nursing homes are listed in Prairie Village, Leawood, Mission, Olathe and Overland Park. Leawood, Olathe, Overland Park and Prairie Village are the only cities that list senior housing as a Special Use Permit.

In terms of procedure all the cities treat Special Use Permits the same as a rezoning and require the Planning Commission and Governing Body to make findings of fact based on the Golden Factors plus any other factors they deem appropriate.

CONDITIONAL USE PERMITS

Only Prairie Village and Olathe use Conditional Use Permits. Table C at the end of this memo sets out the listing for each city and a more detailed listing of each ordinance is below.

➤ City of Prairie Village

19.30.055 Specifically Listed Conditional Uses

The following uses may be permitted by conditional use permit:

- A. Temporary use of land for commercial or industrial purposes; provided that any building or structure constructed thereon which is not otherwise permitted in the district in which such land is situated, and any stored equipment or material shall be removed upon the date of expiration of the conditional use permit, which permit shall be valid for not more than two years, but may be renewable after public hearing;
- B. Off-street parking lots and parking structures;
- C. Drive-up, drive-through or drive-in services in the C-0, C-1, and C-2 Districts. Such permit shall not be approved unless the following conditions and procedures are met:

- a. The access, circulation and stacking pattern of vehicles using such facility shall be reviewed and approved by the city's traffic engineers prior to Planning Commission approval of plans.
- b. Alcoholic or cereal malt beverages shall not be sold or otherwise dispensed at such facility.
- c. A conditional use permit for drive-up, drive-through or drive-in food services shall be approved only for premises located in Districts C-1 and C-2;
- D. Satellite dish antennas, with a diameter of one meter or greater and those not permitted in Section 19.34.040 (D); and non-commercial transmitting and receiving antennas and towers; (Ord. 1899, Sec. I, 1996; Ord. 1909, Sec. I, 1997; Ord. 2249, Sec. III, 2012)
- E. Property maintenance facilities. Buildings, structures and premises for property maintenance facilities, and uses;
- F. Portable carts, booths and stands or other similar facilities used for retail sales of merchandise;
- G. Utility boxes that have a footprint larger than twelve (12) square feet in area, a pad greater than 2.5 times the area of the utility box footprint or greater than 32 square feet; or have a height of more than fifty-six (56) inches. (Ord. 2029 Sec. IV, 2002; Ord. 2225, Sec. III, 2010)

The procedure for considering these uses is notification of property owners within 200 feet; a neighborhood meeting is required; a public hearing is held; and the Planning Commission makes the final decision.

The list of uses that are included in the conditional use permit were determined by the Planning Commission and City Council when the zoning regulations were updated in 1995. That process can be used again and some or all of the items listed as conditional uses could be moved to the Special Use Permit list. This is totally up to the discretion of the City. In 1995, the Council was concerned that it was taking too long to approve or deny requests for minor items and procedural changes needed to be made to speed up the process. Since the Council does not act on these, there is no protest petition.

➤ City of Olathe

The only other city that uses conditional uses is Olathe and they are set out in each district. The approval of conditionally permitted uses in Olathe is an administrative procedure handled by Staff. The following is included in the R-1 Single-Family Residential District:

Conditionally permitted uses: The following uses shall be permitted, subject to compliance with applicable conditions:

1. Accessory uses, subject to the provisions of Chapter 18.56.
2. The following uses may be permitted, subject to approval of preliminary and final development plans pursuant to Chapter 18.12, Applications and Procedures:
 - a. Colleges, universities, professional schools and junior colleges (public or private).
 - b. Elementary and secondary schools, public and private.
 - c. Golf courses and clubhouses, public and private (except miniature golf, driving ranges, etc.).
 - d. Libraries.
 - e. Parks and recreation facilities, public or private (non-commercial).
 - f. Religious organizations.
 - g. Residential real estate sales offices in model homes.
 - h. Wind generation towers.
3. Nonresidential uses which are proposed for the benefit of or as an amenity to a particular development and not for the use by the general public, i.e., neighborhood pools, clubhouses, etc., subject to approval by the City Planner.

CONCLUSION:

The Kansas Planning Statutes are very general and give the cities the right to structure their zoning ordinances in a manner that best suits the city. Each city has a lot of flexibility in how it regulates, however, the statutes are specific in the procedures of how rezoning occur and how the regulations can be amended. Statutes are silent on the procedures for considering Special Use Permits and Conditional Use Permits; however, case law has determined that Special Use Permits must follow the rezoning procedure. As can be seen, the ordinances of the six cities referenced are different and unique to their needs. It is wise to see what others are doing, but the bottom line is what is best for Prairie Village.

A. R-1 Single-Family Dwelling Districts:

The uses listed in R-1A in Prairie Village are similar to those listed in the other comparable cities. Depending upon how the ordinance is structured some ordinances have a much longer list than others. For example, Prairie Village has a separate chapter on accessory uses while the City of Mission lists them in the District. The City Council may want to add or delete uses from this list.

B. Special Use Permits:

Prairie Village has a long list of uses but is not as long as other communities. The Council may want to review the list and recommend adding uses or removing uses and placing them in specific districts. For example, the City of Mission has a specific district called Senior Adult Residential District. To implement changes the City Council would need to authorize the Planning Commission to hold a public hearing to amend the Zoning Ordinance.

C. Conditional Use Permits:

This procedure is not used extensively in Johnson County. The City Council may retain it as is; place some or all of the uses in the Special Use Permit list; or delegate some of the reviews to Staff. To implement changes the City Council would need to authorize the Planning Commission to hold a public hearing.

MXD PLANNED MIXED USE DISTRICT

Council members have asked about the MXD District and a copy is attached, Attachment A. Staff will discuss the purpose and application of the district and respond to questions of the Council.

Table A

USES PERMITTED BY RIGHT IN R-1 SINGLE FAMILY RESIDENTIAL DISTRICTS ARE INDICATED BY A "•"

	CITY						
	Prairie Village	Leawood	Lenexa	Mission	Olathe	Overland Park	Shawnee
Single-Family Dwellings	•	detached	•	•	•	•	detached
Golf Courses	1		•			1	*
Publicly-Owned Parks/Recreation Areas	•		•	•		4	•
Churches/Synagogues	•		Places of Worship	restricted		•	6
City Hall/Police & Fire Stations	•						•
Publicly-Owned Libraries/Museums/Art Galleries	•			restricted		•	ONLY Libraries
Public Schools/ Colleges/University Educational Centers	2			restricted		5	ONLY Primary & Secondary
Group Homes	•	•	limited	3			* adult & children
Residential Design Manufactured Homes	•		•	NO	•	•	
Accessory Uses	Chapter 19.34	•	•	restricted	•	•	•
Conditional Use Permits	Chapter 19.30						
Special Use Permits	Chapter 19.28						
Daycare			limited				* adult & children
Private Parks/Playgrounds						6	•
Agricultural Uses						•	
Residential Real Estate Sales Offices						•	
Stealth Communication Towers						restricted	
Utility Structures						•	
Cemeteries-no chapel/Mausoleums & Cemetery Offices							•
Civil Defensive Activities							•
Country Clubs							*
Electronic Vehicle Recharging Stations							*
Historic & Monument Sites							•
Wind Energy Conversion Systems (WECS)/Wind Turbines						restricted	*
Public Uses/Government		8					
Private Schools				•		•	

U
S
E

¹ excludes miniature golf and commercial driving ranges

² operated by a local district or state agency

³ located in a single-family dwelling

⁴ includes public recreation and service buildings and publicly-owned swimming pools

⁵ includes stadiums and dormitories located on campus

⁶ includes swimming pools, tennis courts, clubhouses and other recreational facilities within a subdivision for subdivision's use

⁷ includes temples and mausoleums*

⁸ Public Uses - All municipal uses and facilities. This use does not include Public Utility Facilities. All public uses are subject to development plan review prior to approval by the City.

* special conditions apply in Shawnee

Table B

SPECIAL USE PERMITS
USES INDICATED BY A "•" ARE PERMITTED IN SINGLE-FAMILY DISTRICTS

	CITY						
	Prairie Village	Leawood	Lenexa	Mission	Olathe	Overland Park	Shawnee
Country Clubs/Private Clubs or Clubs Serving Food/Alcohol*	•	Private Club					
Cemeteries	•	9	•	•	•	9	
Columbariums	•						
Hospitals	•				•	•	
Nursery Sales Offices/Buildings	1					1	
Nursing/Convalescent Homes	2	•		•	•	•	
Public Utility Services/Public Service Corporations	3 restricted	•			11		
Assembly Halls/Community Centers	•				•	•	
Senior Adult Dwellings**	restricted	•			•	•	
Service Stations - Commercial Districts	4						
Automatic/Semiautomatic Car Washes - Commercial Districts	5						
Skating Rinks/Arcades - Commercial Districts	6 restricted				6	6 ***	
Mortuaries/Funeral Homes	7				•		
Daycare Centers/Homes	Residential		general		adult & children	children ***	Residential
Drinking Establishments - Bar/Night Club - Commercial Districts	8 restricted					***	
Accessory Uses - Motels	limited						
Accessory Uses - Hospitals	limited						
Utility/Storage Buildings	detached / non-res		•			•	
Schools/Colleges/University Education Centers	Private	Public & Private	Elementary Secondary		ONLY Preschool	Mom's Day Out Preschool Elementary Secondary ***	Community College Technical Universities
Wireless Communications Facilities	Chapter 19.33	•	•				
Aviation Fields/Airports		•			12	12 ***	
Bed and Breakfasts		•					
Campgrounds/Picnic Groves/Fishing Lakes		•					
Churches/Synagogues/Places of Worship		•				•	
Off-Street Parking Lots		•			13	13	
Reservoirs/Water Towers/Filter Beds/Water Treatment Plants		•		10		•	Water Storage
Television/Amateur Radio Antennae		•				•	
Towers/Radio/Television/ Microwave		•		•	•	•	
Waste Water Treatment Plants		•		•		16	
Cultural Services			•		Museums/Art Galleries	•	*** Museums
Large Wind Energy Conversion Systems (WECS)/Wind Turbines			•			***	
Public Safety Services			•				
Commercial Uses of Residential Property			•				
Animal Hospitals/Large Animal Veterinarians/Animal Kennels				ONLY Dog Kennels		***	
Electric Power Substations				•			•
Temporary Use of Land/Building				•		***	

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Table B (continued)

SPECIAL USE PERMITS
USES INDICATED BY A "•" ARE PERMITTED IN SINGLE-FAMILY DISTRICTS

	CITY						
	Prairie Village	Leawood	Lenexa	Mission	Olathe	Overland Park	Shawnee
Animals on <3 acres					•	•	
Transportation/Dispatch Facilities					•	17 ***	
Flag Poles > 60' in height					•		
Government Facilities					•		
Government Offices					14		
Hotels/Motels/Rooming Houses/Camps & Other Lodging Places					•	•	
Membership/Service Organizations					•		
Mining/Quarrying Nonmetallic Minerals					15	15 ***	
Asphalt & Concrete Plants/Foundries						•	
Drive-In Theaters						•	
Group Boarding/Homes					•	minors & adults ***	***
Oil/Gas Drilling/Production						***	
Penal/Correctional Institutions						•	
Residential Real Estate Sales Offices						***	
Sales/Display Areas - Manufactured/Mobile/Modular Housing						•	
Municipal Facilities						•	
Botanical Gardens/Arboretums/Marinas							***
Convents/Monasteries/ Rectories							***
Gas/Sewage/Water Pressure Stations							•
Swimming Clubs/Tennis Clubs							***

* including wine and cereal malt beverages

** including handicapped adults, assisted, independent, and skilled nursing facilities

*** special conditions apply in Overland Park & Shawnee

¹ includes greenhouses or areas (wholesale or retail)

² as defined by state statutes; not including group homes

³ includes buildings, structures, towers and premises; excludes utility poles, utility boxes; and underground utility lines

⁴ C-1, C-2 & C-3 Districts only; excludes automatic car washes

⁵ includes continuous line, self-service, manual, and all other car washing facilities

⁶ includes similar commercial recreation facilities in C-1, C-2 & C-3 Districts only

⁷ C-0, C-1, C-2 & C-3 Districts only

⁸ C-1, C-2 & C-3 Districts only

⁹ includes mausoleums and crematories

¹⁰ specifically underground reservoirs and water tanks

¹¹ includes communication and telecommunication (including stealth)

¹² includes helicopter pads

¹³ includes free-standing structures and storage lots for recreational vehicles, trailers, boats, etc.

¹⁴ includes U.S. Post Offices

¹⁵ includes topsoil removal; excludes fuels

¹⁶ includes solid waste and sanitary sewage plants

¹⁷ includes public agencies, public utilities, school districts, etc.

Table C

**CONDITIONAL USE PERMITS
USES INDICATED BY A "•" ARE PERMITTED IN SINGLE-FAMILY DISTRICTS**

		CITY	
		Prairie Village	Olathe
U S E	Temporary Use of Land for Commercial/Industrial Purposes	restricted	
	Off-Street Parking Lots/Structures	•	
	Drive-Up/Drive-Through/Drive-In Services	restricted	
	Satellite Dish Antennas w/diameter of 1 meter or greater; and Non-Property Maintenance Facilities-Buildings/Structures/Premises & Uses	•	
	Portable Carts/Booths/Stands or Other Similar Facilities for Retail Sale	•	
	Utility Boxes w/footprint larger than 12 sq. ft. in area; pad greater than 2.5 times the area of the footprint or greater than 32 sq. ft.; or have a height of more than 56"	•	
	Accessory Uses		Chapter 18.56
	Colleges/Universities/Professional Schools & Junior Colleges (Public or Private)		•
	Elementary/Secondary Schools (Public & Private)		•
	Golf Courses & Clubhouses (Public & Private); except miniature golf, driving ranges, etc.		•
	Libraries		•
	Parks/Recreation Facilities (Public or Private); Non-Commercial		•
	Religious Organizations		•
	Residential Real Estate Sales Offices in Model Homes		•
	Wind Generation Towers		•
Nonresidential Uses for the Benefit of a Particular Development and Not for use by the General Public		•	

CHAPTER 19.23 – “MXD” PLANNED MIXED USE DISTRICT

Sections:

19.23.005	Purpose and Intent.
19.23.010	Use Regulations.
19.23.015	Building Height.
19.23.020	Front Yard.
19.23.025	Side Yard.
19.23.030	Rear Yard.
19.23.035	Preliminary Development Plan Submittal.
19.23.040	Public Improvements.
19.23.045	Planning Commission Action.
19.23.050	City Council Action.
19.23.055	Final Development Plan Generally.
19.23.060	Final Development Plan Submittal.
19.23.065	Recording of Approved Plan
19.23.070	Publishing of Ordinance Changing the Zoning

19.23.005 Purpose and Intent

The zoning of property to the MXD, Planned Mixed Use District, is intended to encourage a variety of land uses in closer proximity to one another than would be possible with more conventional zoning districts, to promote sustainable development with projects that achieve a high level of environmental sensitivity and energy efficiency, to encourage design and construction using Leadership in Energy and Environmental Design “LEED” principles and practices; and to encourage building configurations that create a distinctive and memorable sense of place. Developments in this district are allowed and expected to have a mixture of residential, office and retail uses in a single structure or multiple structures along with public spaces, entertainment uses, and other specialty facilities that are compatible in both character and function and incorporate a coordinated consistent theme throughout the development. Developments are also expected to utilize shared parking facilities linked to multiple buildings and uses by an attractive and logical pedestrian network that places more emphasis on the quality of the pedestrian experience than is generally found in typical suburban development. Buildings are intended to be primarily multi-story structures with differing uses organized vertically rather than the horizontal separation of uses that commonly results from conventional zoning districts.

19.23.010 Use Regulations.

Permitted uses shall be established in the conditions of the Ordinance governing the particular Mixed Use Development. Permitted uses may include any uses permitted in any district, uses listed as Special Use Permits, uses listed as Conditional Use Permits, or other uses otherwise not listed that may be compatible with the development. Each planned mixed use district is encouraged to include a mix of residential, office and commercial uses and those uses shall be listed on the development plan. After approval of the “MXD” District, uses may be added, changed or deleted by amendment. The procedure for considering an amendment shall be the same as for the original adoption;

Chapter 19.23 – “MXD” Planned Mixed Use District

19.23.015 Building Height.

- A. No maximum height; the height of buildings shall be as determined by the plan;
- B. At least fifty percent (50%) of the total floor area, except for auditoriums, conference facilities, theaters, and other similar uses, shall be located above the ground floor.

19.23.020 Front Yard.

No minimum requirement. The front yard setback shall be established as shown on the plans.

19.23.025 Side Yard.

No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district in which the MXD District abuts.

19.23.030 Rear Yard.

No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district in which the MXD District abuts.

19.23.035 Preliminary Development Plan Submittal.

A tract of land may be zoned “MXD” only upon approval of a Preliminary Development Plan which shall include the following information:

- A. Name of the project, address, boundaries, date, north arrow and scale of the plan;
- B. Name and address of the owner of record, developer, and name, address and phone number of preparers;
- C. All existing lot lines, easements, rights-of-way including area in acres or square feet;
- D. The location and use of all existing and proposed buildings and structures within the development. The number and types of dwellings and square footage or floor area for office and commercial uses. All dimensions of height and floor area, all exterior entrances and all anticipated future additions and alterations. Preliminary sketches depicting the general style, design, size and exterior materials and colors of existing buildings to be retained and new buildings to be constructed. Said sketches shall include building elevations, but detailed drawings are not required.
- E. The location of all existing and proposed public and private ways, driveways, sidewalks, ramps, curbs and fences; specific emphasis shall be placed on connectivity and walkability with and adjacent to the project;
- F. Location of required parking areas including parking stalls, setbacks and loading and service areas and the type of pavement proposed;
- G. A preliminary outdoor lighting plan in accordance with outdoor lighting regulations of the Zoning Ordinance plus a plan for the proposed lighting of public and private streets;
- H. Sign Standards including the location, height, size, materials and design of all proposed monument and structure mounted signage;
- I. Location, type and screening details for all waste disposal containers;
- J. Location, size and screening details for all external HVAC units antennas and other equipment;
- K. A preliminary landscape plan showing all existing open space and trees to be retained, all proposed changes to these features including the location, size and type of proposed plant material, and any proposed screening for adjacent properties which may include solid or semi-solid, fencing, walls or hedges or a combination thereof;
- L. The location and size of all existing and proposed utility systems including:

1. sewer lines and manholes;
 2. water lines and fire hydrants;
 3. telephone, cable and electrical systems;
 4. storm drainage system including drain pipes, culverts, catch basins, headwalls, endwalls, manholes, and drainage swales/ditches; and
 5. structure mounted telecommunications equipment (satellite dishes, antennas, etc.).
- M. A stormwater management plan including plans to prevent: (a) the pollution of surface or groundwater; (b) the erosion of soil both during and after construction; (c) excessive run-off-, (d) and flooding of other properties, as applicable. Said plans shall include stormwater run-off calculations and shall provide for on-site stormwater management in accordance with Stormwater Management Regulations of the City Code;
- N. Existing and proposed topography shown at not more than two-foot contour intervals and the location of flood plains. All elevations shall refer to U. S. G. S. datum and shall be compatible with Johnson County datum;
- O. Zoning districts adjacent to the site;
- P. Traffic flow patterns within the site including, entrances and exits, emergency access, loading and unloading areas, and curb cuts and street patterns within 200 feet of the site;
- Q. The Planning Commission may require a detailed traffic impact study for large uses, mixed use and multi-tenant developments, or for developments in heavy traffic areas to include:
1. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 2. The projected traffic flow pattern within 1000 feet of the site including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
 3. The impact of this traffic upon existing, abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall also be given.
 4. The satisfying of traffic warrants for traffic signals and signs in accordance with MUTCD within 1000 feet of the site.
- R. A list of the uses proposed for the “MXD” District.
- S. Off-street parking and loading shall be provided on the premises in accordance with the requirements for each type of use permitted, as set out in the off-street Parking and Loading Regulations of the Zoning Ordinance except as follows:
1. The Planning Commission may reduce the required parking after considering documentation and/or study provided by the applicant, staff’s recommendation and giving decisive weight to all relevant facts, including but not limited to the following factors: availability and accessibility of alternative parking; impact on adjacent properties and uses neighborhoods; existing or potential shared parking arrangements; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.
 2. Parking spaces on public and private streets may be counted towards the minimum requirements as set forth above; provided the on-street spaces are located on an adjacent or internal street that allows on-street parking. On-street parking spaces being counted towards the credit must be identified on plans at time of submittal to the City.
 3. No open parking areas shall be located closer than fifteen (15) feet to a public street, or no closer than eight (8) feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six (6)

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feet above the finished grade, shall comply with the setback regulations of the main building. Such parking setback and other open areas shall be brought to finish grade and planted with grass, shrubs and trees, and maintained to at least the average level of maintenance of the other developed property within the immediate neighborhood.

- T. Preservation of Natural Features: Mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. Abrupt changes in natural slope shall be avoided. Preservation shall be directed toward:
 - 1. Enhancing the quality of new development;
 - 2. Protecting the natural environment;
 - 3. Providing buffering between new development and surrounding properties;
 - 4. Preserving the character of existing neighborhoods;
 - 5. Handling of stormwater flows in natural channels;
 - 6. Maintaining existing vegetation along stream corridors as water quality filters; and
 - 7. Creation of rain gardens.
- U. Submission of all easement and preliminary covenant documents that will be filed with the County.
- V. A phasing plan if the project is not going to be constructed at one time.

19.23.040 Public Improvements.

The Planning Commission may recommend and the City Council may require the applicant to construct or install infrastructure improvements such as sidewalks, traffic signals, street lighting, pedestrian lighting, street widening and channelization, acceleration and deceleration lanes, waterlines, sewer lines, storm drainage improvements and other similar improvements that are related to the proposed project.

19.23.045 Planning Commission Action.

The Planning Commission shall hold one or more public hearings on the preliminary development and rezoning. Upon conclusion of the public hearing or hearings, the Planning Commission, by a majority of members present and voting, shall make a recommendation to the City Council to approve the proposal as submitted, to approve the proposal subject to conditions, or to deny the proposal.

19.23.050 City Council Action.

Upon approval of the preliminary development plan and the rezoning of the property by the City Council, a final development plan for the project shall be prepared and submitted to the Planning Commission for final approval. Permits for construction shall not be issued until final plans have been reviewed and approved by the Planning Commission. It is the intent of this chapter that the project as constructed shall conform closely to the preliminary plans reviewed and approved at the time of the public hearing.

19.23.055 Final Development of Plan Generally.

Final plan for a project or a portion thereof shall not be approved if one or more of the following conditions, in the judgment of the Commission, exist:

- A. Final plans vary substantially from the concept of the development plan presented and agreed to at the time of rezoning;
- B. The final plans would increase the density (number of units per acre) or intensity (concentration of development) of residential uses more than five percent;
- C. The final plans would increase the floor area of nonresidential buildings by more than ten percent;

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- D. The final plans would increase by more than ten percent the ground covered by buildings or paved areas;
- E. The final plans would increase the height of a building by one or more stories or four or more feet;
- F. The final plans involve changes in ownership patterns or stages of construction that will lead to a different development concept, less architectural harmony or quality, or impose substantially greater loads on streets and neighborhood facilities;
- G. The final plans vary from specific development or design criteria including traffic impact and stormwater management that may have been adopted by the Planning Commission or City Council at the time the preliminary development plan and rezoning were approved.

Variations between the preliminary and final plans, which do not, in the judgment of the Planning Commission, violate or exceed the above seven criteria, shall be approved by the Planning Commission in its administrative role and no public hearing shall be required. If, however, variations and departures from the approved preliminary plan exceed the above criteria or are sought by the developer or other party at the time of final plan review or building permit application, the applicant shall request an amendment to the plan which shall be handled in the same manner as the approval of the original preliminary plan.

19.23.060 Final Development Plan Submittal.

- A. A detailed site plan showing the physical layout and design of all streets, easements, rights-of-way, lots, sidewalks, parking, blocks, greenspace, structures and uses.
- B. Preliminary building plans, including floor plans, gross floor area of office and commercial uses and exterior elevations.
- C. Final landscaping plans.
- D. Copies of any easements and restrictive covenants and proof of recording of the same.
- E. Proof of the establishment and activation of any entity that is to be responsible for the management and maintenance of any common open space.
- F. Evidence that no lots, parcels, tracts or dwelling units in such development have been conveyed or leased prior to the recording of any restrictive covenants applicable to such planned development.
- G. Such bonds and other documents that may have been required to guarantee the installation of required public improvements.
- H. Drawings showing size, type and location of all monument and wall mounted signs.
- I. Final lighting plan.
- J. Final stormwater control plan.
- K. Bond for public improvements and agreement to pay for City inspection services.

19.23.065 Recording of Approved Plan.

After rezoning to a “MXD” district has been approved and the final plan has been approved by the Planning Commission there shall be filed with the Register of Deeds a statement that a development plan for the area has been approved. The statement shall specify the nature of the plan, the proposed density or intensity of land uses and other pertinent information sufficient to notify any prospective purchasers or users of land of the existence of such plan and any constraints thereon. The landowner shall submit this statement to the City Clerk with the appropriate recording fee and the City shall be responsible for recording the statement.

19.23.70 Publishing of Ordinance Changing the Zoning

The ordinance effectuating the zone change shall not be published until such time as the Zoning and Preliminary Development Plan have been approved by the City Council.