

**PLANNING COMMISSION MINUTES**  
**January 6, 2015**

**ROLL CALL**

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, January 6, 2015, in the Municipal Building Council Chambers at 7700 Mission Road. Chairman Bob Lindeblad called the meeting to order at 7:00 p.m. with the following members present: Nancy Vennard, Nancy Wallerstein, Larry Levy, James Breneman and Randy Kronblad.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, City Planning Consultant; Kate Gunja, Assistant City Administrator; Keith Bredehoeft, Director of Public Works; Terrence Gallagher, Council Liaison; Mitch Dringman, Building Official and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary.

**APPROVAL OF MINUTES**

Nancy Wallerstein moved for the approval of the minutes of December 2, 2014 as submitted. The motion was seconded by Jim Breneman and passed by a vote of 5 to 0 with Randy Kronblad abstaining.

**PUBLIC HEARINGS**

**PC2015-01      Request for Renewal of Special Use Permit for Service Station  
3901 Tomahawk Road  
Zoning: C-2  
Applicant: Jeff Greene, Sunshine Fuel, LLC**

**PC2015-02      Request for Renewal of Special Use Permit for Service Station &  
Car Wash at 8120 Mission Road  
Zoning: C-2  
Applicant: Jeff Greene, Sunshine Fuel, LLC**

Kate Gunja stated that the posting of the signage was not done correctly and these two items will need to be continued to the February 3<sup>rd</sup> meeting to allow for proper posting.

Chairman Bob Lindeblad asked if anyone was present to speak on these applications. No one was in attendance.

Randy Kronblad moved to continue PC2015-01 for the renewal of a Special Use Permit at 3901 Tomahawk Road to the February 3, 2015 meeting of the Planning Commission so that the property may be properly posted. The motion was seconded by Jim Breneman and passed unanimously.

Jim Breneman moved to continue PC2015-02 for the renewal of a Special Use Permit at 8120 Mission Road to the February 3, 2015 meeting of the Planning Commission so that the property may be properly posted. The motion was seconded by Nancy Vennard and passed unanimously.

## **NON-PUBLIC HEARINGS**

**PC2015-101            Request for Front Yard Platted Building Line Modification  
From 75 feet to 65 feet  
4021 West 86<sup>th</sup> Street**

Sohail and Ivett Shah, 4021 West 86<sup>th</sup> Street, presented their request for a building line modification decreasing the platted front setback from 75 feet to 65 feet to provide more distance from adjacent rear yards and to try to preserve an existing mature red oak tree.

Ron Williamson explained that the Commission, as it approves plats, has the ability to approve a modification to a platted setback that is in excess of the setback required by zoning regulations. He noted this is a unique cul-de-sac. The lot is located on the southwest corner of a cul-de-sac on the west side of Mission Road. The two lots to the left front on Delmar with their rear yards abutting this property. This lot is located in Town and Country Estates which is a subdivision having lots of 30,000 square feet or larger and a front platted setback of 75 feet.

Mr. Williamson noted that in 2003 the Planning Commission approved a Front Building Line Modification for the expansion of a garage on the lot immediately adjacent to the east from 75 feet to 68 feet.

Mr. Shah presented letters of support from the adjacent property owners to the west. He stated there was a neighborhood meeting on the site on November 15<sup>th</sup> with the proposed house staked out. There was no opposition expressed at that meeting, but overwhelming support given by those attending. He had asked the homes association, which has approved the plans for the house for a letter of support. He received a response stating that the Board does not take positions on matters to be determined by the City, but noted they would support the modification if granted. Mr. Shah also presented a letter from an arborist stating that the proposed location would provide the tree with a better chance of surviving.

Chairman Bob Lindeblad noted that this is not a public hearing, but that he had received a request from a neighbor to address the Commission and would allow comments.

Shelley Guin, 4001 West 86<sup>th</sup> Street, the property immediately to the east addressed the Commission with concerns that due process was not followed. She stated that she did not receive notice of this hearing or of a neighborhood meeting. The meeting noted by Mr. Shah on November 15 was required by the Homes Association and was a stake walk thru. It does not fall within the requirements of the code for a meeting within two weeks of filing this application.

Ms Guin distributed to the Commission two site plans - one dated 11/13/2014 and one dated 11/17/2014. She noted the initial plan falls within all the requirements of the homes association, within the overlay guidelines and within the platted setback. This is the plan that was staked out at the November 15<sup>th</sup> meeting. She was at that meeting and stated that no consensus of approval was given. She noted the Board's refusal to submit a letter supporting this requested building line modification.

Ms Guin reviewed the three criteria for approval of a building line modification noting that the suggestion to move the house forward was given by the neighboring property owners to provide more distance between homes - not because of special circumstances or conditions affecting the property. In response to the statement that the relocation is being done to save existing trees, Ms Guin stated she had a statement from an arborist stating the Pin Oak Tree cannot be saved and the Red Oak should be fenced for protection.

The second criteria that the building line modification is necessary for reasonable and acceptable development of the property is not present noting that the original site plan dated 11/13/2014 shows reasonable and acceptable development of the property within the platted setback line.

She feels the granting of the building line modification will be detrimental and adversely affect her property. She noted the proposed house will be 15 feet from her driveway. With this close location, she feels her home will be overwhelmed by the much larger size of the proposed home. Ms Guin presented a letter from her real estate agent stating that he believes the granting of this modification will be detrimental to the property value of Ms Guin's property.

Ms Guin acknowledged that her property has been granted a building line modification from 75 feet to 68 feet, but noted that appropriate notice and procedures were followed in that application and that it is only for the corner of her garage.

Ms Guin asked that the request be denied or at least continued so proper notice can be given.

Mrs. Shah responded she felt appropriate notice had been given by the November 15<sup>th</sup> meeting. She noted the request is being modeled after the modification given for Ms Guin's property and was suggested by the Homes Association.

Bob Lindeblad questioned what notice is required. Staff responded, unlike variances and rezoning/Special Use Permits, certified return receipt notice is not required. The code states "the applicant shall send a notice to property owners within 200 feet"

Mr. Lindeblad expressed concern with the Commission taking action on this now with the possibility of a legal challenge. He would prefer to continue the application to the February meeting.

Mr. Shah asked if the Commission could provide any feedback the on the request getting approved to help him determine if he wants to go forward. He noted the request would have his home in alignment with the Guin home instead of 10 feet behind it.

Nancy Vennard asked for clarification of the changes from the first site plan to the revised site plan. It was noted that the house is being moved parallel. The maximum encroachment will be 10 feet on the west with much of the remaining house remaining behind the 75' platted setback line or having minimal encroachment. There is only the one corner that extends to the requested 75 feet.

Bob Lindeblad stated he has problems viewing a 95' rear yard as not being large enough. Mr. Shah responded the forward movement is at the request of the neighboring property owners and to attempt to save the mature existing oak tree. If the building were not moved forward it would encroach on the tree. Randy Kronblad noted he shared Mr. Lindeblad's concerns.

Nancy Vennard noted that 5400 square feet is a large home for this area and will have a large presence in this neighborhood. She asked if the corners could be cut back some to save the tree.

Nancy Wallerstein and Larry Levy stated they have no problem approving a building line modification as was approved for the Guin property.

Jim Breneman noted his reason for approval would be to save the tree but that is not guaranteed. However, by not moving the home the tree would die.

Nancy Vennard moved to continue PC2015-101 to the February 3<sup>rd</sup> meeting of the Planning Commission. The motion was seconded by Jim Breneman and passed unanimously.

Nancy Wallerstein asked staff to review applications to note more clearly the required written notification.

**PC2014-116 Site Plan Amendment for Communication Tower Changes  
7700 Mission Road  
Applicant: AT&T**

Wayne Medlin, with Black & Veatch, was present to address any questions of the Commission on the requested site plan amendment for the communications tower at 7700 Mission.

Ron Williamson noted at its regular meeting on September 9, 2014, the Planning Commission approved a site plan for AT&T to add three new antennas to the tower behind City Hall. The applicant submitted a structural analysis as requested and the conclusion was that the tower would be at a capacity of 100.3%. Because of the safety

factors built into the structural formula and the tendency to overestimate the weight of the equipment on the tower, the structural engineer rated the tower as acceptable. This was pointed out in the Staff Report and Staff expressed concern about the capacity of the tower for any future equipment additions. The three new antennas approved for AT&T have not been installed.

AT&T has requested to improve the capacity of the tower shaft at this time prior to installing the new antennas. The proposal is to bolt and weld galvanized reinforcement plates and splice plates on the tower shaft, galvanize the welds and repair the galvanizing coating where ever it is damaged. Initially, the new galvanizing will be noticeable, but as it weathers it should blend with the rest of the tower surface.

The structural reinforcement will bring the maximum capacity of the tower down to 92.9% from 100.3 %. The foundation capacity is rated at 60.9% compared to 93.7% before.

Jim Breneman questioned how the proposed changes could increase the foundation capacity by more than 30 percent. Mr. Medlin reviewed the changes and Mr. Williamson added that some of the change may be the result of a more complete analysis than done earlier.

Nancy Vennard moved the Planning Commission approve the amended site plan for the proposed tower shaft reinforcement subject to the following conditions:

1. That the structural reinforcement be completed prior to the installation of the three new antennas.
2. That all reinforcement plates and splice plates be galvanized.
3. That the welds and all areas of the tower affected by the project be coated or repaired with the galvanized coating.
4. That the galvanized coating of the plates, welds and affected areas be maintained in a condition that is compatible with the rest of the tower shaft.

The motion was seconded by Nancy Wallerstein and passed unanimously.

## **OTHER BUSINESS**

Ron Williamson advised the Commission that the City Council at their meeting on January 5<sup>th</sup> received a request from the applicant to define "when construction has begun." This will be discussed by the Council at their January 20<sup>th</sup> meeting as it relates to condition 4 of the approval of the Special Use Permit for Mission Chateau which reads:

"That the Special Use Permit not have a termination or expiration time established for it; however, if construction has not begun within twenty-four (24) months from the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to the expiration."

Kate Gunja stated the Council is not looking for a recommendation from the Commission just comments. Terrence Gallagher asked for Commission members to share from their professional experience “when construction is considered to have begun”.

Nancy Vennard noted that question also came up with the CID for the Prairie Village Shops and for that project it was determined the placement of utilities qualified.

Larry Levy stated he felt the demolition of the existing building would be the start of construction for him.

Jim Breneman stated in his experience once the construction trailer is on site and you start moving dirt and making preparations for construction it is considered to have begun. Nancy Vennard agreed. Randy Kronblad expressed caution based on the “Mission Gateway Project” which has moved a lot of dirt without any construction.

Bob Lindeblad shared the phased permitting process that is followed by the City of Overland Park for multi-phased projects. They have the following levels of permits:

- 1) Demolition
- 2) Land Disturbance
- 3) Site Development
- 4) New Building
- 5) Tenant Finish

He views site development as a start of construction.

Larry Levy views the movement of dirt as the beginning of construction, utility location is not required as that may change.

Randy Kronblad feels there has to be additional components as well as the movement of dirt and that has to be done within a certain time frame.

Nancy Wallerstein noted for the Mission Chateau project she would view the completion of the 14 conditions of approval, such as financing in place, to indicate the beginning of construction.

Bob Lindeblad feels there has to be an issuance of a permit and since Prairie Village does not have phased permits there will need to be some discussion of building permit phasing.

Nancy Wallerstein stated she does not feel a comparison to the Village Shops CID commencement of construction is appropriate as that was work in a fully developed center.

Terrence Gallagher thanked the Commission for their input.

**Next Meeting**

The February 3 meeting will have the three items continued from this meeting and the Final Plat for Homestead Estates.

**ADJOURNMENT**

With no further business to come before the Commission, Chairman Bob Lindeblad adjourned the meeting at 8:28 p.m.

Bob Lindeblad  
Chairman