

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
September 21, 2015**

The City Council of Prairie Village, Kansas, met in regular session on Monday, September 21, 2015 at 7:30 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas.

**ROLL CALL**

Mayor Laura Wassmer called the meeting to order and roll call was taken with the following Council members present: Ashley Weaver, Jori Nelson, Steve Noll, Eric Mikkelson, Andrew Wang, Brooke Morehead, Sheila Myers, Dan Runion, David Morrison, Ted Odell and Terrence Gallagher.

Staff present was: Tim Schwartzkopf, Chief of Police; Keith Bredehoeft, Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Wes Jordan, Assistant City Administrator; Nolan Sunderman, Assistant to the City Administrator; Lisa Santa Maria, Finance Director and Joyce Hagen Mundy, City Clerk. Also present was Planning Consultant Chris Brewster.

Mayor Laura Wassmer led all present in the Pledge of Allegiance.

**INTRODUCTION OF STUDENTS & SCOUTS**

Two boy scouts were in attendance to earn their "Citizenship in the Community" badges.

**PUBLIC PARTICIPATION**

With no one wishing to address the Council, public participation was closed at 7:35.

Mayor Wassmer recognized JazzFest Committee members present and Chairman JD Kinney for the very successful 6<sup>th</sup> Annual Prairie Village Jazz Festival held last Saturday. She noted that one of the musicians back stage told her that this was the best run festival he had ever seen and how pleased he was with how well the musicians were treated. She acknowledged the work of the committee members, city staff and volunteers for putting together such a professionally run event featuring local and recognized jazz artists. This is a great event for Prairie Village and we thank you for all the work that goes into making it happen each year.

### **CONSENT AGENDA**

Eric Mikkelson removed item #1 and asked that the minutes of the September 8<sup>th</sup> meeting reflect the confirmation by Gary Anderson that there was no intended office use to be construction in conjunction with the TIF project, except for ancillary offices related to the proposed apartments and/or hotel.

Council President Brooke Morehead moved for the approval of the Consent Agenda for September 21, 2015 as amended:

1. Approve amended City Council Minutes - September 8, 2015
2. Approve claims ordinance #2933
3. Approve 2016 Mission Hills Agreement for Police and Court Services
4. Approve Construction Change Order #1 (Final) with Metro Asphalt, Inc. for Project P5001: 2015 Street Repair Program in the amount of \$4,330.28 bringing the final contract amount to \$154,330.28

A roll call vote was taken with the following members voting “aye”: Weaver, Nelson, Noll, Mikkelson, Wang, Myers, Morehead, Runion, Morrison, Odell and Gallagher.

### **COMMITTEE REPORTS**

## **JazzFest Committee**

Brooke Morehead added her thanks to the JazzFest Committee for their work in putting together a very successful 2015 Jazz Festival and noted there would be a wrap-up meeting to review the event and financial results.

## **Mayor's Report**

Mayor Wassmer reported she has had a very busy two weeks attending the Shawnee Mission Educational Foundation Breakfast, meetings on the Meadowbrook Project, meetings with representatives of First Washington on improvements proposed for the shopping centers, attending the 6<sup>th</sup> Annual Prairie Village Jazz Festival, attending a regional Mayors' meeting on economic growth in Kansas City, attending a planning meeting for a proposed overlay district, the Citizens Police Academy, Constitution Day activities at Belinder Elementary, a tour of the Deffenbaugh facility, participating in the Brush with Kindness event and hosting the Northeast Johnson County Mayors at WireCo Corporate Headquarters at 2400 West 75<sup>th</sup> Street.

## **STAFF REPORTS**

### **Public Safety**

- Chief Schwartzkopf reported on the second "Coffee with a Cop"
- Saturday, September 26<sup>th</sup> the Department will be participating in the "Drug Take Back" program collecting prescription drugs at a drop-off outside of the police station.

### **Public Works**

- Keith Bredehoeft provided updates on Roe Avenue Project and the 75<sup>th</sup> Street Projects
- Mr. Bredehoeft responded to questions on the water main break at Somerset & Mission Road on Sunday. He noted that the Water District is planning improvements to its water lines on Mission Road in 2016. The process will be similar to that followed this past year on 75<sup>th</sup> Street
- Letters were mailed last week to residents impacted by Emerald Ash Bore additional information is available on the city's website.

## **Administration**

- Wes Jordan reported on the “Brush with Kindness” projects in Prairie Village. A second and third project will be done on Wednesday, September 23<sup>rd</sup> and Saturday, September 26<sup>th</sup>. He will send additional information to the Council and a presentation will be made later this fall on the work done.
- Mr. Jordan provided additional information on the employee appreciation event to be held this Friday at Royals Stadium.
- Lisa Santa Maria noted that this is the final quarter of the fiscal year and encouraged Council members to submit any requests for reimbursement.
- Quinn Bennion noted the upcoming Public Meeting/Open House held by Johnson County Park & Recreation District to gather input on the development of the park land at Meadowbrook. The meeting will be Tuesday, September 29<sup>th</sup> from 3:30 to 7:30 p.m.
- There will be a special council meeting on Monday, October 12<sup>th</sup> from 5:30 to 6:00 at Meadowbrook followed by a joint workshop.
- Mr. Bennion stated he will be out of the office next week attending the International City Managers Conference. The point of contact in his absence will be Assistant City Administrator Wes Jordan.

## **OLD BUSINESS**

### **PC2015-06 Consider Request for Rezoning 7930 State Line Road from R-1b and C-0 to CP-1 and Approval of Preliminary Development Plan**

City Planning Consultant Chris Brewster noted this application was first heard by the Planning Commission on June 2, 2015, and then again on July 7, 2015. The Planning Commission recommended approval of the rezoning and preliminary site plan subject to 15 conditions. Additionally the Planning Commission approved a Conditional Use Permit for a drive through based on the site plan, subject to 3 conditions - one it being contingent upon approval of the Zoning and Preliminary Site Plan by the Governing Body. The Governing Body considered the application at its August 3 meeting and failed to approve the application. A motion was approved to send the application back to the Planning Commission to look at specific issues associated with the drive through and relationship with abutting residential property. A revised site plan based on this motion was created by the applicant.

The primary issues from the City Council were the drive-through and noise. A new site plan was developed to further address these issues. While the new plan addresses these issues, other issues are created. The applicant is willing to move forward with either plan. A revised landscape plan has been created using more plants and trees suggested at the Council meeting. The revised landscape plan will be implemented with either site plan recommended by the Planning Commission. An engineering firm was hired to conduct a noise analysis of the proposed drive through speakers and the existing noise levels. The dumpster has been moved further from the residential properties to minimize noise.

Specifically the Planning Commission discussed the following with respect to the issues identified:

- Drainage - since the proposed application is reducing impervious surface and further increasing landscape elements, an improvement over current conditions is possible.
- Traffic - while the proposed use could increase traffic for the site, the traffic study found that the current capacity of State Line road can handle the proposed uses traffic patterns and site configuration.
- Lighting - the final development plan will be required to meet all outdoor lighting standards which require design standards to ensure no light spill over onto adjacent residential property.
- Smell and Noise - the operation, performance standards and site design are arranged in a manner to best mitigate any potential impacts of noise and smell.

The revised site plan includes additional landscape materials, and a revised circulation plan that does not circulate parking and drive-through traffic as far back (west) on the site. Instead, two stacking lanes turn into the drive-through closer to the building on the central part of the lot. The speaker boxes for the drive through remain in the same location as the original application and are oriented to the south west - towards the office property to the south. While additional landscape materials and reduced potential for all traffic circulating to the back portion of the lot could reduce perceived noise impacts on abutting

residential property, the revised plan also presents a potential circulation issue. There is only one drive lane to the majority of the site parking on the north side of the lot, and if more than 12 cars begin to stack at the drive-through area, there is the potential for customers trying to access parking to stack in that line along the east side of the applicants property. This option was originally proposed by the applicant prior to the initial application, but due to potential stacking issues staff requested the circulation option shown on the original application.

After significant discussion by the Planning Commission, the Commission voted to return its original recommendation to the City Council. The primary reasons for not selecting the revised plan were pedestrian safety concerns for patrons walking from the parking lot to the restaurant and potential stacking of vehicles interfering with traffic flow created by the new plan proposed. Based on the findings of the noise study they amended condition #15 and added condition #16 stipulating the enhanced landscaped plan prepared be implemented.

Mr. Brewster at this point the Planning Commission's recommendation can be approved, denied or amended by a simple majority vote of the Governing Body based on the Golden Factors.

Dan Runion asked what happens if traffic does back up onto State Line Road. Mr. Brewster replied there is room for the stacking of 12 vehicles before it impacts traffic flow on the property and an additional 10 vehicles before it would impact State Line Road. This will not be a problem.

Terrence Gallagher stated he appreciated the enhanced landscape and but raised concern with odor emissions with the trash dumpster located adjacent to

neighboring properties. Mr. Brewster replied a condition of approval from the Planning Commission was that the dumpster be moved from next to the residences to the south side of the property farthest away from the residential properties.

Eric Mikkelson questioned the effectiveness of the eight foot fence due to the elevation of this property in comparison with the adjacent properties and if 49 parking spaces were necessary. Mr. Brewster responded the 8 foot fence will provide adequate screening particularly with the enhanced landscaping. He noted the determination of parking counts is an inexact science. The issues was not addressed by the Commission as the applicant submitted plans with the number of parking spaces required by code. However, he added that under the requested Planned Zoning designation, the City has the ability to approve few parking spaces. He feels the requested number of spaces is appropriate for the size of this building and operation.

Mitch Dicarolo, with Block and Company, introduced Jeff Bartz with BHC Rhodes, Danny Potts with Klover Architecture and Mo Yaganeh, President & Operating Partner with KC Slim LLC.

Jeff Bartz presented a comparison of the original plan approved by the Planning Commission and the revised plan created based on the requests of the City Council. The goal of new plan is to minimize noise. They have done so with additional landscaping using recommended trees and adding landscaping around the sound boards and moving dumpster further away from residents. Only parking will be located in the deepest part of the lot by the residential properties.

A study was completed by Henderson Engineers, Inc. on August 19<sup>th</sup> and 20<sup>th</sup>. Noise levels were measured on the proposed site and the existing Slim Chickens restaurants in Independence, Missouri and Overland Park, Kansas at noon. The results

indicate the intercom noise is primarily inaudible except at times of no traffic, though locust, wind noise and other typical outdoor ambient noises will be approximately equivalent or louder than the intercom system. Based on testing, the estimated level from the drive through speaker at the northwest property line on the proposed site is 42.2 decibels with the existing ambient noise level of 51.5 decibels. Noise from the two locations tested revealed noise levels at 10 and 15 feet from the speakers to be less than existing traffic noise from the street.

Eric Mikkelson stated he was bothered by the plan having the required number of parking spaces when there is the flexibility to have fewer spaces. Mr. Bartz replied they would be willing to reduce the parking by one or two spaces. Mr. Yaganeh stated the majority of the patrons park and come in to eat with only approximately 30% using the drive-through facilities. Adequate parking spaces are important to their patrons.

Mr. Mikkelson asked about the potential for a higher fence. Mr. Bartz replied there are greater structural concerns with a fence in excess of 8 feet, the proposed 8 foot fence would match that installed by Panda Express and the proposed landscaping will create a solid wall buffer. Mr. Mikkelson asked if there would be a solid wall year-round. Mr. Bartz replied the proposed trees are evergreen that have been planted as close to one another as possible allowing for future growth.

Jori Nelson stated her biggest concern is parking adjacent to residential properties and the impact of car headlights as well as noise. Mr. Bartz noted the majority of the parking is on the south side of the site minimizing the noise to the neighboring residents on the north. Ms Nelson stated she visited the Panda Express site to confirm the noise level of their drive-through speakers and found it to be minimal.



Mr. Bartz replied the findings of the noise study, without the benefit of the proposed buffering landscaping, indicate that noise will not be a serious issue for adjacent residential properties.

Ted Odell stated the City needs to be careful when considering lowering parking requirements. He likes the additional landscaping and feels the 8-foot fence is appropriate. Brooke Morehead agreed that the revised landscape plan is a significant improvement over what currently exists. Sheila Myers asked what was at the front of the building. Mr. Bartz replied an outside seating area with a canopy.

Ted Odell moved the Governing Body adopt Ordinance 2333 approving the rezoning of 7930 State Line Road from R-1b and C-0 to CP-1 (Restricted Business District) and the revised Preliminary Development Plan subject to 16 conditions recommended by the Planning Commission. The motion was seconded by Andrew Wang.

Mayor Wassmer opened the meeting to comments from residents in attendance.

Carly Bailey, 2021 Somerset Drive, stated the opposition to this project by the neighbors on Somerset has not diminished. Concerns remain regarding security, noise pollution, light pollution, traffic, water runoff and employees hanging around late in the evening. She noted that Panda Express was the only similarly zoned property with a drive-through in Prairie Village, pointing out the others are all located in Kansas City, Missouri. She and her mother were “adamantly opposed to Slim Chickens” coming to the neighborhood. She pointed to the problems associated with the presence of Panda Express on the neighboring parcel and said she worried that another restaurant with a drive through window would only exacerbate noise, odors and light pollution.

Ms Bailey pointed out that KCP&L routinely trims the trees on this property to protect their power line and that the trees on the Panda Express property do not provide screening. As a neighboring resident Panda Express has been a resounding failure. Ms. Bailey citing court zoning related rulings, urged the City Council to deny this application and protect the property values of the surrounding property owners.

Audrey Martin, 2119 Somerset Drive, stated that no one wants a massive solid wall in their back yard and that no more trees are needed. She noted the pavement is necessary for access for maintenance of the power lines.

Harlan Burkhead, 7909 Sagamore, noted that the construction of a ten foot wall would block headlights, but it would also block sunlight from coming into their backyards and negatively impacting the growth of plants. Mr. Burkhead stated the traffic study presented by the applicant was not done independently nor recently. The study used 2011 data from Kansas City, Missouri and is not signed by a certified engineer. Over the years he has lived at this location, he has seen traffic volume increase significantly and feels that this additional business will result in traffic accidents.

David Woolridge, 2115 Somerset, stated he can hear the speakers from Panda Express on his property. The proposed evergreens will provide minimal sound buffering and the power company will cut the trees back preventing them from reaching the height to be effective for screening. Mr. Woolridge stated the sound study conducted was not descriptive or comparative. He noted that you can't measure sound from something that has not been constructed. This is a seven day a week operation with the greatest noise coming during the evening hours which were not measured. He asked the City Council to not allow this most intrusive commercial development to be constructed behind their homes.

Jori Nelson asked if the City verified the traffic study. Keith Bredehoeft replied the study was reviewed by city staff and the city's traffic consultant. Based on their findings a full traffic study was not requested. Mitch DiCarlo stated that the Police Department's research found no accidents at this location in the past three years.

Mitch DiCarlo of Block stated that the company had been responsive to the concerns of both the Planning Commission and the council doing everything we could come up with or conceive of...to address all of the concerns that were raised. He noted that traffic created by this project is not in addition to existing traffic, it is replacing the traffic generated by the previous office use.

Jori Nelson asked if the business was successful how much vehicular traffic would be generated during a day. Mo Yaganeh responded that most of their traffic would be between the hours of 11 - 1:30 and 4 to 8 p.m. with very little traffic after 8 p.m. It was difficult to estimate traffic at this point stating it could be 400 to 500 vehicles per day. He encouraged the City Council members to go on Facebook and read the reviews on the recent Slim Chickens operation that opened in Overland Park. This is not a "chicken shack", but a well designed operation that will bring revenue and jobs to Prairie Village. There is no comparison for the proposed \$2.5M operation in Prairie Village.

David Morrison commended Mr. DiCarlo on their presentation and proposed business; however, he noted that they are requested the rezoning of this property from a residential use to a retail/commercial use. He would like to see the office building use continue. He does not see an overwhelming reason to change the zoning for the benefit of this developer over the objection of the neighboring residential property owners who will be negatively impacted. He feels it is time for the City Council to stand behind its residents and say no to the proposed rezoning.

Eric Mikkelson stated he agreed with most of Mr. Morrison's comments including the comments regarding the outstanding presentation provided by the applicant. However, he is concerned that it will be a number of years before the proposed landscaping will become a solid wall protecting the residents from vehicle lights shining on their property. Mr. Mikkelson moved to amend the motion with the following two conditions: that the eight foot fence be increased to 10 feet in height and that four to six parking spaces located closest to neighboring residential properties be removed. The amendment was seconded by Dan Runion.

Ted Odell questioned the changing elevation between the properties and its impact on the screening of headlights. Mr. Bartz replied there is a three foot difference in elevation. Mr. Gallagher noted the proposed landscaping is far greater than that required by other cities and will create an effective buffer. He does not support a ten foot wall across the back of these residential properties. Mr. Odell noted the stated difficulties in constructing and maintaining a ten foot wall. Mr. Mikkelson stated the additional two feet would ensure that the headlights would be screened. Brooke Morehead suggested the construction of a berm.

Sheila Myers stated she appreciated what the applicant has done, but this site does not support the use they are proposing. They are trying to retrofit a business on a site that cannot accommodate it.

Andrew Wang questioned the City Council's tinkering with the architecturally designed site approved by a Planning Commission with experience and expertise. He stated this is not a residential site. It is a highly travelled major corridor of commercial businesses. If office use was the optimal use for this property, the office building would have been successful.

Jori Nelson expressed concern with the number of vehicles that would be coming onto to property over the course of a year based on the estimate given.

Ted Odell stated he would be more comfortable with the proposed amendment if it were to simply reduce the number of parking spaces and prevent headlights from shining onto adjacent properties rather than stating a specific number of parking spaces to be removed and requiring a 10 foot fence.

Dan Runion asked what the adjacent business properties along State Line Road in Prairie Village were zoned. Chris Brewster stated they were zoned CP-1, the same zoning being requested.

Terrence Gallagher noted that the issue is the headlights shining upon adjacent property and suggested that it be addressed not by a required ten foot fence but through a sight-line study that would determine the minimum height required to prevent that from occurring.

Eric Mikkelson amended his proposed amendment to require the fence be construction at a height determined by a sight analysis to prevent any overflow of headlight lights onto neighboring property and that the six parking spaces closest to the adjacent residential properties be removed.

Chris Brewster noted the applicant stated he could removed one or two and that the city needs to make sure that sufficient parking is available. He feels the number of spaces should be determined by the applicant and noted this could also be addressed through the use of compact spaces. Jeff Bartz noted they could designate those parking spaces nearest to residential properties as employee parking limiting the impact. Mr. Mikkelson stated he has a difficult time having parking spaces that are not needed. Mr. Bartz noted the parking spaces are a minimum of 15 feet from the residential property

lines. Mr. Mikkelson responded he'd like to see them a minimum 20 feet back. Mr. Bartz noted code only requires a five foot setback.

Caroline Bailey, 2021 Somerset, noted that Somerset is angled to State Line and they already look onto the site and parking.

Mayor Wassmer suggested removing two from the top and two from the bottom. She also likes designating them as employee parking.

Terrence Gallagher suggested moving the parking on the north side to the south side and move the trash enclosure farther away from residents. Mr. Bartz stated those changes could be made in the final development plan that will go back to the Planning Commission.

Eric Mikkelson moved the following amendment to the motion on the floor - that condition #8 be amended to read: the fence height shall be set at the height necessary to prevent headlights from high profile vehicles from entering adjacent residential lots from the highest point of the property and condition #17 be added to read: that the applicant shall remove four (4) parking spaces closest to the residential properties or relocate them so they are no closer to the residential properties than the closest spot after they are removed. The amendment was seconded by Dan Runion and passed by a vote of 9 to 3.

The motion as amended that the Governing Body adopt Ordinance 2333 approving the rezoning of 7930 State Line Road from R-1b and C-0 to CP-1 (Restricted Business District) and the revised Preliminary Development Plan subject to 17 conditions recommended by the Planning Commission and Governing Body was voted on by roll call vote with the following votes cast: "aye" Weaver, Nelson, Noll, Mikkelson, Wang,

Morehead, Runion, Morrison, Odell, Gallagher, Wassmer and “nay” Hopkins (in absence) and Myers.

**NEW BUSINESS**

Councilman David Morrison reported that he had just returned from a National League of Cities Conference and encouraged other council members to participate in these valuable educational experiences.

**Committee meetings scheduled for the next two weeks:**

Environment/Recycle Committee	09/23/2015	5:30 p.m.
Council Committee of the Whole	10/05/2015	6:00 p.m.
City Council	10/05/2015	7:30 p.m.

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The Prairie Village Arts Council is pleased to present a photo exhibit by the Dolyna Photo Club in the R. G. Endres Gallery during the month of September.

The Annual Prairie Village Peanut Butter Week in support of Harvesters Food Bank will be held October 5 - 9, 2015. Support the drive through donations at City Hall, or at your local church or school.

The Annual League of Kansas Municipalities will be held October 10 - 12, 2015 in Topeka.

Save the Date - the Northeast Johnson County Chamber of Commerce Annual Gala will be held on Saturday, November 21<sup>st</sup>.

**ADJOURNMENT**

With no further business to come before the City Council the meeting was adjourned at 9:45 p.m.

Joyce Hagen Mundy  
City Clerk