



City of Broken Arrow

Minutes Planning Commission

City Hall
220 S 1st Street
Broken Arrow OK
74012

Chairperson Jaylee Klempa
Vice Chair Robert Goranson
Member Jonathan Townsend
Member Jason Coan
Member Mindy Payne

Thursday, September 14, 2023

Time 5:30 p.m.

Council Chambers

1. Call to Order

Chairperson Jaylee Klempa called the meeting to order at approximately 5:30 p.m.

2. Roll Call

Present: 4 - Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa
Absent: 1 - Jonathan Townsend

3. Old Business

There was no Old Business.

4. Consideration of Consent Agenda

- A. 23-1183** Approval of Planning Commission meeting minutes of August 24, 2023
B. 23-1177 Approval of PR-000318-2023|PT-000947-2023, preliminary plat, The Enclave at Yoly, 18.17 acres, 41 Lots, A-1 (Agriculture), located east of 129th Street (Olive Avenue), one-half mile south of 131st Street (Jasper Street)
C. 23-1180 Approve COA-000975-2023, Regional Hyundai Change of Access, approximately 2.27 acres, CH/PUD-162 (Commercial Heavy), located one-quarter mile west of Aspen Avenue (145th East Avenue), north of Kenosha Street (71st Street), at 2380 W. Kenosha Street
- Staff Planner Henry Bibelheimer presented the Consent Agenda.

Chairperson Klempa explained the Consent Agenda consisted of routine items, minor in nature, and was approved in its entirety with a single motion and a single vote, unless an item was removed for discussion. She asked if there were any Items to be pulled from the Agenda. Items B and C were pulled from the Consent Agenda.

MOTION: A motion was made by Robert Goranson, seconded by Mindy Payne.

Move to approve the Consent Agenda Item 4A

The motion carried by the following vote:

Aye: 4 - Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa

5. Consideration of Items Removed from Consent Agenda

Ms. Amanda Yamaguchi reported Consent Agenda Item 4B was for a preliminary plat for the Enclave at YOLy who proposed to have 41 lots on 18.17 acres. She stated the property, which was East of 129th Street (Olive Avenue), one-half mile South of 131st Street (Jasper Street). She stated City Staff received an email asking about the section of the covenants of the plat which talked about overhead utilities being permitted. She noted this was pretty standard language; PSO was not available at the Technical Advisory Committee meeting to discuss the item on the preliminary plat. She noted ultimately whether the utilities would be above ground or below ground fell to PSO, so Staff would keep the comment in the file, but it did not change Staff's report or recommendations. She stated Staff would talk to PSO at the conditional final plat meeting and see if an agreement could not be reached. She noted Staff would also reach out to the citizen who sent the email and ensure they understood the process.

Vice Chair Robert Goranson asked why this project did not have a PUD as it had private streets.

Ms. Yamaguchi explained the PUD would come before Planning Commission on September 28, 2023. She noted a condition of approval of this preliminary plat was approval of the PUD which would come before Planning Commission at the next meeting.

Vice Chair Goranson asked if the PUD would contain information regarding the gate.

Ms. Yamaguchi responded the design of the streets, lane widths, setbacks, where the gates would be, etc., would all be designed through the plat, and ultimately the site plan. She noted

the project would be designed to accommodate a gate, but it was the developer’s decision whether a gate was installed. She noted if the PUD indicated private streets, the City would hold the developer accountable to all the design requirements for private streets.

Vice Chair Goranson suggested holding the preliminary plat until the Planning Commission had a chance to review the PUD.

Ms. Yamaguchi stated this Item could be continued to the next meeting for consideration along with the PUD.

Vice Chair Goranson stated he felt more comfortable continuing this Item.

Discussion ensued regarding the PUD, the private streets and gates, the design standards, and the utilities.

Ms. Yamaguchi noted typically with new developments the interior utility lines were underground, with perhaps overhead on the perimeter; however, this was up to PSO.

Commissioner Jason Coan asked if the Franchise Agreement specified whether PSO had full discretion regarding where and how power lines were installed.

Ms. Yamaguchi indicated she was unsure but would look into it.

Commissioner Coan stated he did have a concern regarding the street in the development; he felt it would need a traffic calming device due to its length. He asked if the Planning Commission could recommend installation of a calming device.

Vice Chair Goranson responded in the affirmative. He noted there was information in the Engineering and Design Manual which talked about traffic control measures. He agreed the street was very long.

Discussion continued regarding the streets; adjusting the PUD before the next meeting to ensure the streets were designed in a manner which if ever turned over to the City, the City would not have extra expenses; whether law enforcement could enforce speed limits on private streets; emergency vehicle access to gated communities; and deeds of dedication.

MOTION: A motion was made by Robert Goranson, seconded by Jason Coan.

Move to continue Consent Agenda Item 4B until September 28, 2023

The motion carried by the following vote:

Aye: 4 - Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa

Ms. Yamaguchi reported Consent Agenda Item 4C was COA-000975-2023 a request to amend the platted limits of no access on Kenosha Street for an existing auto dealership. She stated the property was located approximately one- quarter mile west of Aspen Avenue (145th East Avenue), north of Kenosha Street (71st Street), at 2380 W. Kenosha Street. She stated at the end of last year, Regional Hyundai requested a change of access to proposed and construct a new driveway on the eastern side of the property; the driveway was constructed. She stated the intention was to close the eastern drive upon completion; however, the applicant and property owner determined that due to internal traffic circulation, the existing drive should remain open in addition to the new driveway. She noted all of the alignment criteria and separation requirements of the driveways in the Zoning Ordinance were met.

Commissioner Mindy Payne stated her concern was drivers would be pulling out onto a busy street from two different areas. She said she would like to see the first entrance closed for safety reasons. She stated there was a lot of room in the parking lot for the big trucks.

Vice Chair Goranson noted he drove through there yesterday, and there was not much traffic coming from the car dealership, not like the traffic coming from Walmart which was across the street. He indicated the circulation coming in and out of that dealership would be more problematic than the two entrances.

Commissioner Coan asked if there was a specific reason the dealership wished to keep the second entrance open, such as semitruck access.

Ms. Yamaguchi stated the problem with the original entrance was it was difficult for the car hauler semitrucks to utilize.

Commissioner Coan asked if there was a way to allow one entrance to remain open but only for semitruck deliveries.

Ms. Yamaguchi noted she was unsure how enforceable that would be; perhaps signage could be installed.

Vice Chair Goranson stated he felt the applicant should be given the chance to speak for this item.

MOTION: A motion was made by Mindy Payne, seconded by Robert Goranson.

Move to continue Consent Agenda Item 4C until September 28, 2023

The motion carried by the following vote:

Aye: 4 - Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa

6. Public Hearings

A. 23-1178 Public hearing, consideration, and possible action regarding PUD-000986-2023 (Planned Unit Development Minor Amendment), Creek 51 Business Park, 97.20 acres, CG and IL/PUD-204A, one-half mile south of Houston Street, west of Highway 51, and west of the Creek Turnpike

Staff Planner Henry Bibelheimer reported Planned Unit Development (PUD)-000986-2023 was a minor amendment to PUD-204A and involved 97.20 acres located one-half mile south of Houston Street, west of Highway 51, and west of the Creek Turnpike; the property was platted in Wagoner County as Creek 51 Business Park. He reported the minor amendment request was to modify the driveway separation requirements for South 37th Court. He explained Section 5.3.B.3.b of the Zoning Ordinance required curb cuts onto all arterial and collector streets shall be spaced at least two hundred fifty feet (250') apart, centerline-to-centerline. He stated South 37th Court was considered an industrial collector street that ended with a cul-de-sac. He stated PUD-000986-2023 proposed the following modification: "Driveway locations and separation requirements may be modified from Broken Arrow Zoning Ordinance regulations through the engineering variance process during the site plan review." He noted a conceptual exhibit was provided for informational purposes, but each driveway location would be approved during the site plan process; all other provisions previously approved with PUD-204A shall remain unchanged. He stated the property is designated as Level 6 in the Comprehensive Plan. He indicated the surrounding land uses were included in the Staff report. He said based on the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommended PUD-000986-2023 be approved and that platting be waived.

The applicant, Erik Enyart, with Tanner Consulting stated he understood the intent of the code was to allow for proper traffic circulation; this was a cul-de-sac collector street, not an arterial. He stated proposed driveways were presented, but Staff would have the ability to approve or deny driveways on a case by case basis.

Ms. Yamaguchi explained the problem with this development was the cul-de-sac itself; there was no way to get access to each of the lots around the cul-de-sac and meet the 250 foot separation requirement.

Vice Chair Goranson asked if this would go before the Technical Advisory Committee.

Ms. Yamaguchi responded in the negative; this would be handled internally by engineering and planning.

Chairperson Klempa closed the public hearing.

MOTION: A motion was made by Jason Coan, seconded by Mindy Payne.

Move to approve Item 6A per Staff recommendations

The motion carried by the following vote:

Aye: 4 - Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa

B. 23-1179 Public hearing, consideration, and possible action regarding PUD-000951-2023 (Planned Unit Development Minor Amendment), CREOKS, approximately 1.064 acres, 1 proposed lot, CN/PUD-287 located approximately one-quarter mile north of East Kenosha Street (East 71st Street South), East of 193rd E. Ave/ County Line Rd (North 23rd Street)

Mr. Bibelheimer reported Planned Unit Development (PUD)-000951-2023, was a minor amendment to PUD-287, a 1.064-acre undeveloped tract located Approximately one-quarter mile north of East Kenosha Street (East 71st Street South), East of 193rd E. Ave / County Line Rd (North 23rd Street). He stated PUD-287 was approved by City Council on April 2, 2019, subject to platting; the final plat was filed on August 4th, 2020. He indicated Creoks was a medical clinic proposing to be built within the regulations of PUD-287 and the Broken Arrow Zoning Ordinance except where modified as outlined. He noted PUD-000951-2023 proposed changes to the landscape requirements/building setbacks for Lot 2 Block 1 of PUD-287. He stated this section currently reads: "Minimum front building setbacks from Hillside Drive shall be either: 1) 50 feet with parking in front of building; or 2) 2.25 feet, with 25 feet of landscaped area adjacent to the right-of-way and no parking or paving in front of the building along the entire street frontage." He stated the proposed front setback was 25 feet, and the proposed landscape section was: "The landscaped edge requirement has been

modified from the original PUD. Instead of a 25 foot landscaped edge, we are requesting 10 foot which was the required amount for this use per Section 5.2.B.a.i of the City of Broken Arrow Zoning Code.” He stated PUD-000951-2023 was heard by Planning Commission on August 24, 2023 and was tabled until September 14, 2023. He noted Staff recommended approval.

Vice Chair Goranson noted this Item was tabled to clean up the document; everything else was the same.

Mr. Bibelheimer concurred.

The applicant, Justin DeBruin, with Wallace Design Collective, stated he was present last month; the only thing that changed was making sure the exhibits were in place. He noted the property was CN zoned with a PUD which allowed commercial, and office uses. He stated the landscape edge required by code today was 10 feet; the PUD specified 25 feet, but the request was to reduce the landscape edge back to 10 feet. He noted the lot was shallow, and a 25 foot landscape edge took up one quarter of the depth of the lot which severely restricted space for the structure and parking. He requested approval.

Chairperson Klempa closed the public hearing.

MOTION: A motion was made by Robert Goranson, seconded by Mindy Payne.

Move to approve Item 6B per Staff recommendations.

The motion carried by the following vote:

Aye: 4 - Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa

C. 23-1193 Public hearing, consideration, and possible action regarding PUD-000988-2023 (Planned Unit Development Minor Amendment), Villages at 1Eleven Flats, 8.95 acres, A-1 to CM and PUD-288A, located north of the northwest corner of Florence Street (111th Street) and Aspen Avenue (145th E Avenue)

Senior Planner Chris Cieslak reported Planned Unit Development (PUD)-000988-2023, was minor amendment to PUD-288A involving a 8.95 acre undeveloped tract located north of the northwest corner of Florence Street (111th Street) and Aspen Avenue (145th E Avenue). He stated PUD-288 and BAZ-2024 were approved by the City Council on June 17, 2019. He noted PUD-288 and BAZ-2024 were approved to change the zoning from A-1 (Agricultural) to CM (Community Mixed-Use) and RS-4 (Single-Family Residential) with PUD-288, subject to the property being platted; the western portion of the property was platted as The Village at 1Eleven. He stated Villages at 1Eleven Flats was a proposed mixed-use development consisting of commercial and residential uses. He stated access to this development was proposed to be from two primary points of access off of Florence Street (111th Street) and two primary points off of Aspen Avenue (145th E Avenue). He stated the conditional final plat for this development was approved by the City Council on October 19, 2021. He reported there were two sections being modified within the PUD amendment, clarifying the original language in the PUD. He explained with this minor amendment, the applicant was requesting to increase the maximum length of multi-family structures proposed on the site. He noted Section 5.5.C.2.a of the Zoning Ordinance limited the length of any multi-family building to one-hundred and sixty feet; the applicant requested this maximum building length be increased to 255 feet. He noted the other section clarified the minimum Lot frontage to lot ratio incorporating a minimum of 35% building width to lot width ratio for buildings within 25 feet of principal street frontage. He stated the Staff report included the surrounding land uses. He stated based on the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommended PUD-000988-2023 be approved, subject to the property being platted.

Vice Chair Goranson stated going from 160 feet to 255 feet was quite an increase. He asked why code required 160 feet maximum, was this due to fire code or other safety reasons.

Ms. Yamaguchi responded this was a Zoning Ordinance requirement. She stated the only fire issues she could see would be when the structure was designed and constructed, there would need to be fire exits at different locations. She indicated she did not believe the restriction to 160 feet was due to any fire requirement but was more an attempt to limit the size and scale of developments back in 2008 when the Zoning Ordinance was approved.

Vice Chair Goranson stated he wondered why 160 feet was chosen as the limit.

Commissioner Coan asked if this type of request had arisen previously.

Ms. Yamaguchi stated a couple of PUDs have come through asking to increase the length of the multifamily building, but typically the request was not as drastic. She noted she could make a side note and ensure this question was addressed in the new version of Zoning Ordinance.

Vice Chair Goranson stated he did not know whether 160 feet or 255 feet would make a big difference or not.

Chairperson Klempa stated aesthetically it might make a difference. She stated there were changes in the levels of the building frontage.

Ms. Yamaguchi concurred noting the design would not change, it would include the changes in levels, balconies, rooflines, changes in materials, etc., which were previously proposed.

The applicant, Eric Enyart, with Tanner Consulting, stated he understood the Zoning Code provision of 160 feet maximum had to do with building aesthetics, and unfortunately, he did not have the building elevations in hand, but he felt it was a very attractive building. He asked for approval.

Vice Chair Goranson noted the 255 foot length portion of the building would not be on street frontage but would face the residential uses.

Chairperson Klempa asked if the original PUD stated 160 feet.

Ms. Yamaguchi responded in the negative; the PUD did not include any change from code, so the requirement deferred back to the Zoning Code requirement of 160 feet.

Discussion ensued regarding the 255 foot length enabling the development to have the proposed number of units; and whether permitting this deviation would set a precedent.

Mr. Bibelheimer noted in the new Zoning Ordinance update, if approved, multifamily buildings could be up to a maximum of 250 feet in length.

Mr. Enyart stated this property’s underlying zoning was CM which was intended to be a very urban type of development.

Discussion ensued regarding the New Orleans Square District allowing multifamily buildings longer than 160 feet.

Vice Chair Goranson stated he was okay with 255 feet, especially with new zoning code considering 250 feet.

Chairperson Klempa closed the public hearing.

Commissioner Coan agreed with Vice Chair Goranson, given the new zoning code requirements, he felt this request was reasonable.

MOTION: A motion was made by Jason Coan, seconded by Mindy Payne.

Move to approve Item 6C per Staff recommendations

The motion carried by the following vote:

Aye: 4 - Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa

D. 23-1182 Public hearing, consideration, and possible action regarding PUD-000984-2023 (Planned Unit Development), Dallas Street Multi-Family Flats, approximately 0.66 acres, DROD Area 7 (Downtown Residential Overlay) to DROD Area 7 (Downtown Residential Overlay District)/PUD-000984-2023 (Planned Unit Development), one-quarter mile north of Houston Street (81st Street), east of Elm Place (161st E. Avenue)

Ms. Yamaguchi reported the property associated with Dallas Street Multi-Family Flats was an undeveloped tract of land located approximately one-quarter mile north of Houston Street (81st Street), east of Elm Place (161st E. Avenue). She stated the property was platted as Lots Ten (10) to Eighteen (18), Block Seven (7) of the Homestead Addition to Broken Arrow and is zoned as Area 7 (Commercial/Mixed-Use Corridor) of the DROD (Downtown Residential Overlay District). She explained Area 7 of the DROD supported the “flats” building form, which was defined as a multi-story, residential building form which included stacked residential units. She stated the Owner/Developer of the subject tract proposed to construct a multi-family development consisting of twelve units. She stated the proposed 6 buildings were two-story in height and each building contained two units. She indicated parking for this development would be provided off of the existing alley to the south of the property. She stated PUD-000984-2023 requested deviations from the “Flats” building form of the Downtown Residential Overlay District zoning regulations; she highlighted the major deviation requests. She noted the spacing between buildings was requested to be reduced from 15 feet to 10 feet. She stated currently no parking was permitted between the street-facing wall and the street and the applicant requested four guest parking spaces and one 12-minute delivery space be permitted along Dallas Street. She indicated the applicant requested landscape buffer changes. She stated this was a really nice development, the first in Area 7 under the Flats building type. She stated she believed it would be beautiful when completed.

She noted according to FEMA maps, none of the property was located in a 100-year floodplain area; water and sewer were available from the City of Broken Arrow. She stated Staff recommended PUD-000984-2023 be approved and that platting be waived; PUD-3 shall also be abrogated.

Vice Chair Goranson asked what the City was getting in return for the allowances being asked for in the PUD.

Ms. Yamaguchi responded, the landscaping and the aesthetic value of the development. She noted this would be at the entrance into the Rose District off of Elm, so when you turned off Elm, you would see the beautiful landscaping with the evergreen trees and berms which would brighten up the area.

The applicant, Erik Enyart, stated this was an excellent project. He noted he realized the intent of the DROD and admired it, but it had a lot of particulars which he felt most projects would need to adjust. He stated he was in agreement with Staff recommendations.

Chairperson Klempa asked about the crosshatch parking space noted on the drawing.

Mr. Enyart explained the crosshatch parking space was the loading zone for Amazon-type deliveries with a 12 minute time limit on parking.

Chairperson Klempa asked there be handicapped parking.

Mr. Enyart stated he understood it would be ADA compliant.

Commissioner Coan noted there were 12 units, 24 parking spots, and one delivery parking spot. He stated the amount of parking was a concern. He asked how many bedrooms the units had.

Mr. Enyart stated he was unsure.

Commissioner Coan asked where overflow parking would be located for this development.

Ms. Yamaguchi noted multifamily units required two parking spaces per unit.

Mr. Enyart stated the DROD and Comprehensive Plan included language strongly encouraging, even offering incentives, for infill development of this sort. He noted the development met the code requirements for parking, but he did understand Commissioner Coan's concern. He noted this was considered the downtown area and he believed there was opportunity for off-street parking.

Chairperson Klempa stated the development met the parking requirement of 2 spaces per unit if you included the visitor parking spaces.

Ms. Yamaguchi stated from Staff's perspective, the changes requested with this PUD were minimal. She noted there were things which would need to be adjusted in every code, especially when it was the first development of its type to come through, such as the reduction of space between buildings. She stated the distance between buildings was still well within building code, and it would be permitted by any other single family development, but the way the DROD was written it had a 15 foot requirement, so Staff did not feel like this was a big ask. She noted in some instances, meeting code would have a negative impact on the development, such as not having any parking spaces in the front, as she liked having the visitor and delivery parking spaces in the front.

Commissioner Payne asked if additional parking could be added out front.

Mr. Enyart responded yes, additional parking could be added.

Commissioner Payne stated she would like to see two to four more spaces.

Ms. Yamaguchi recommended leaving the stipulation flexible, perhaps requiring two to four more spaces, in front or in the back, and leaving it to the developer to design it out appropriately. She stated from Staff's perspective, Staff liked the five spaces out front, but the intent of the DROD was to not have parking in the front. She stated this was a balancing act.

Discussion continued regarding parking spaces.

Chairperson Klempa closed the public hearing.

Mr. Bibelheimer stated in the zoning ordinance update, for multifamily dwellings, it would be

one parking space per one bedroom unit, and one and a half parking spaces for two or greater bedroom units, so the parking requirement for multifamily was potentially being decreased in the zoning ordinance update. He stated with the new zoning ordinance update, and not knowing how many bedrooms each unit had, a maximum of 18 parking spaces would be required.

MOTION: A motion was made by Jason Coan, seconded by Robert Goranson.

Move to approve Item 6D per Staff recommendations

The motion carried by the following vote:

Aye: 4 - Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa

E. 23-1181 Public hearing, consideration, and possible action regarding PUD-000956-2023 (Planned Unit Development), Cypress Business Park, approximately 0.28 acres, CG (Commercial General)/PUD-3 to CG (Commercial General)/PUD-000956-2023, one-eighth mile northwest of the northwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue)

Chairperson Klempa indicated she would abstain from the discussion and vote on this Item due to a conflict of interest.

Ms. Yamaguchi reported the property associated with Cypress Business Park was an undeveloped tract of land located approximately one-eighth mile northwest of the northwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue). She reported the property was platted as Lot 4 and the West 75' of Lot 5, Block One of Vandever Acres Office Park, and zoned CG (Commercial General), along with PUD-3. She stated PUD-03 indicated all eight lots in Vandever Acres were originally intended to be developed as a medical office park when it was platted in 1977; however, under current 2023 conditions, the surrounding area has changed, and the area has gravitated from Medical to Commercial General uses. She stated the Owner/Developer of the subject tract proposed to abrogate PUD-03 and requests a new PUD to permit light manufacturing of glass products only (windows/doors) in an enclosed building on a portion of the subject tract, while the remainder would be for other uses permitted in the CG zone: office and commercial uses. She stated while the CG district does not support light manufacturing uses, the New Orleans Square Overlay District abutting the south property line permitted a Makerspace use, which allowed the small-scale activities requested by the Owner/Developer. She stated the developer confirmed the intended operations of the light industrial space would fall within the Makerspace definition included in the Staff Report. She stated in addition, per the same requirements of the abutting UG (Urban General) district of the New Orleans Square Overlay District, the Makerspace use was restricted to a maximum of 5,000 square feet. She reported PUD-000956-2023 also contained requests for deviations from the CG (Commercial General) zoning regulations. She reviewed the requested deviations including a request for no minimum lot frontage; this was a landlocked parcel with access through mutual access agreements with surrounding properties. She explained access to this site shall be through the following: 1) Two established mutual access easements from the property to the east; 2) Two established mutual access easements from the north; and 3) One possible mutual access easement from the south. She stated parking would be as required by Zoning Ordinance and in addition, any parking spaces constructed over the required number of parking spaces may be used for business vehicle parking. She indicated one off-premise sign would be permitted on Elm Place subject to the following conditions: 1) A site plan be approved by the Community Development Division; 2) A license agreement or other relevant document being provided showing that the individual property owners were in agreement with the location of the sign on their property; and 3) This sign, since it was proposed to be located within New Orleans Square Overlay, shall be required to meet the size and height regulations of the overlay district. She noted all other signage within the development shall meet the requirements of the CG zoning district. She stated according to FEMA maps, none of the property is located in a 100-year floodplain area. She noted this item was continued from the August 24, 2023 Planning Commission meeting due to lack of quorum. She stated Staff recommended PUD-000956-2023 be approved and that platting be waived; PUD-3 shall also be abrogated.

Chairperson Klempa opened the public hearing and reviewed public hearing procedures.

Citizen Robert Zilm stated he was on the Board of Trustees for Lot 1 of Block 1, Vandever Acres. He stated the Board was very much in protest of this because of the additional traffic which would be added and the impact this would have on the other tenants of this operation. He stated by the applicant's own admission this was not permitted in the current zoning, and he asked for the current zoning requirements to be upheld. He indicated modifications to the plat required approval by a majority of the owners of the subdivision by covenant, and there were five owners, and this was not acquired. He stated the applicant cited a retail use, but the only retail use on the property was the Sonic which fronted Elm, and both lanes of Sonic led into this property which would cause a tremendous traffic impact. He noted 75 parking places were proposed for a 20,000 square foot building which was intended to be a buffer between commercial retail and office. He stated he felt a 20,000 square foot building was not

a buffer. He again discussed how the development would increase traffic.

Vice Chair Goranson noted the building would only be for assembly of glass products. He asked about the covenant.

Assistant City Attorney Graham Parker stated covenants were agreements between the property owners; the City could allow something according to Ordinance, but there could be claims amongst the covenant holders in which the City could not intervene.

Vice Chair Goranson stated the Planning Commission could approve something, but the property owners could still sue each other for violation of covenant regardless of a Planning Commission decision.

Assistant City Attorney Parker concurred.

Ms. Yamaguchi stated it was similar to private covenants in a residential subdivision. She stated the City did not have any standing in private covenants.

Vice Chair Goranson stated the City could not enforce covenants.

Assistant City Attorney Parker agreed.

Mr. Zilm said it sounded like the property owners would have to sue the applicant to protect their interests.

Assistant City Attorney Parker stated the City could not give legal advice, he could only say a violation of covenant was an issue which would need to be mediated privately.

Vice Chair Goranson noted if this were approved by Planning Commission, it would then go before City Council for consideration and Mr. Zilm would have the opportunity to speak to City Council.

Discussion ensued regarding how much traffic this building and the manufacturing use would generate; the manufacturing portion of the 20,000 square foot building being only 5,000 square feet; the remaining portion of the building being commercial.

Ms. Yamaguchi noted with the current zoning on the property the owner could build any commercial use. She explained the PUD was asking for 5,000 square feet of manufacturing to be permitted in the building as manufacturing was not a commercial use.

Citizen Keith George stated this was not a good development for the area given the pedestrian walking trails throughout. He noted allowing manufacturing in this area would give the area an industrial feel as opposed to the pedestrian friendly feel it seemed to be working toward. He stated he did not feel it was an appropriate use for the property.

Commissioner Payne stated manufacturing was not an appropriate use for this area. She noted she spent years on the New Orleans Square Advisory Committee and did not feel this fit into New Orleans Square. She stated she felt approving manufacturing on this property could also “open Pandora’s Box.”

Ms. Yamaguchi explained the applicant was not requesting manufacturing for this property; the applicant was asking for the property to be approved for the “Maker’s Space” definition in the New Orleans Square Overlay District.

Commissioner Payne asked if it was going to be an artsy type building.

An employee of the applicant, David Buzlea, with Red Dog Construction, volunteered to answer questions.

Assistant City Attorney Parker indicated the Planning Commission could listen to what Mr. Buzlea had to say but was not required to take Mr. Buzlea’s comments into consideration when making its decision.

Mr. Buzlea stated he was an employee of the owner and developer of the subject property. He stated this request was for a “Maker’s Space” which was an assembly space for windows and glass doors; it was not for manufacturing.

Commissioner Payne asked if the space would emit a smell, as there was a winery nearby which held outdoor events.

Mr. Buzlea explained the window and door units were hand assembled via metalworking and glass cutting. He stated there would be no type of exhaust smell from machinery.

Chairperson Klempa closed the public hearing.

Commissioner Coan noted the only way to access this property was through other properties.

Ms. Yamaguchi concurred noting the mutual access agreements were put into place when the property was platted.

Commissioner Coan asked if the mutual access agreement would remain in place if a property changed ownership.

Ms. Yamaguchi responded in the affirmative. She noted if the property owners wished to modify the plat to revoke the mutual access agreements, it could be done. She noted there was also another proposed mutual access agreement point through the property to the south which was also owned by the applicant; therefore, if access to the property from the north and east were denied, there would still be access from the south.

Commissioner Coan asked what would happen if this were approved and the property transferred ownership.

Ms. Yamaguchi explained the new property owner would still be required to follow the same definition of “Maker’s Space” being approved through this PUD.

Vice Chair Goranson asked if there was any idea what would be in the rest of the building.

Ms. Yamaguchi responded in the negative.

Vice Chair Goranson stated he wondered if other applications would come forward for “Maker’s Space” type businesses in the rest of the building.

Ms. Yamaguchi explained the “Maker’s Space” use was limited to 5,000 square feet unless the matter came back before Planning Commission for consideration.

MOTION: A motion was made by Jason Coan, seconded by Mindy Payne.

Move to deny Item 6E

The motion carried by the following vote:

Aye: 2 - Jason Coan, Mindy Payne
Nay: 1 - Robert Goranson
Abstain: 1 - Jaylee Klempa

Item 6E was denied.

Ms. Yamaguchi explained the applicant had 10 days to appeal to the City Council. She asked for those who were interested to leave contact information and Staff would reach out if the matter were appealed.

7. Appeals

There were no Appeals.

8. General Commission Business

There was no General Commission Business.

9. Remarks, Inquiries, and Comments by Planning Commission and Staff (No Action)

Commissioner Payne stated she enjoyed the training video.

Ms. Yamaguchi asked if there were any questions or comments regarding the training video.

Planning Commission enjoyed the training video and agreed it was a good review.

Ms. Yamaguchi announced the public hearing for the new Zoning Ordinance would be during the next Planning Commission Meeting. She noted the Planning Commission would receive the new updated Zoning Ordinance via email to review prior to the Planning Commission Meeting on September 28, 2023.

Robert Goranson requested clarification on the engineering variance process.

Engineering Section Manager Jason Dickeson explained the process noting anything in the engineering and design criteria could be modified through a variance unless otherwise stated through Section 1.7 which indicated it could not be modified with a variance. He explained the many stages of the variance process.

Discussion ensued regarding places around Broken Arrow where variances might have been

granted.

Robert Goranson discussed school district sizes. He displayed and discussed a map which showed school district boundaries.

10. Adjournment

The meeting adjourned at approximately 7:06 p.m.

MOTION: A motion was made by Mindy Payne, seconded by Jason Coan.

Move to adjourn

The motion carried by the following vote:

Aye: **4 -** Jason Coan, Mindy Payne, Robert Goranson, Jaylee Klempa