



# City of Broken Arrow

## Minutes Planning Commission

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

*Chairperson Lee Whelpley*  
*Vice Chairperson Ricky Jones*  
*Commission Member Fred Dorrell*  
*Commission Member Mark Jones*  
*Commission Member Pablo Aguirre*

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**Thursday, May 24, 2018**

**Time 5:00 p.m.**

**Council Chambers**

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### 1. Call to Order

Chairperson Lee Whelpley called the meeting to order at approximately 5:00 p.m.

### 2. Roll Call

**Present:** 5 - Pablo Aguirre, Mark Jones, Fred Dorrell, Ricky Jones, Lee Whelpley

### 3. Old Business

There was no Old Business.

### 4. Consideration of Consent Agenda

Amanda Yamaguchi, Staff Planner, presented the consent agenda.

#### A. 18-597 Approval of Planning Commission Meeting Minutes of February 22, 2018

MOTION: A motion was made by Ricky Jones, seconded by Fred Dorrell.

**Move to approve the Consent Agenda per Staff recommendations**

The motion carried by the following vote:

**Aye:** 5 - Pablo Aguirre, Mark Jones, Fred Dorrell, Ricky Jones, Lee Whelpley

### 5. Consideration of Items Removed from Consent Agenda

There were no items removed from the Consent Agenda. No action was required or taken.

### 6. Public Hearings

A. 18-537 **Public hearing, consideration, and possible action regarding PUD-30C (Planned Unit Development) and BAZ-2001 (Rezoning), Johanna Woods II, 5.02 acres, A 1 to RMH/PUD-30C, one half mile east of 23rd Street, one quarter mile south of Omaha Street**  
Planner II Jane Wyrick reported PUD-30C and BAZ-2001 was a request to change zoning from A1 to RMH/PUD-30C and to amend the existing Johanna Woods PUD by adding the above parcel. She stated the amendment included a reduction of the minimum lot width from 50 feet to 40 feet in the addition. She reported the property was not platted; however, the applicant intended to plat the property in conjunction with the PUD amendment. She reported a previous rezone request for the site was approved in 2002, but was not platted. She explained a PUD was approved by the City Council in 1982 for a 75.14 acres residential mobile home community with 242 lots; two later amendments permitted mobile homes to be owner or renter occupied, allowed the front building lines to be staggered and allowed the sale of mobile homes on site subject to conditions: only one mobile home be sold per lot and no more than six lots be for sale simultaneously. She stated access to the proposed addition was via the existing North 30<sup>th</sup> Street on the east side of Johanna Woods. She stated Reserve A, on the north side of the site along East Omaha Street, was designated as a landscape area, but may include a community storm shelter in the future. She stated Reserve D, located on the west side of the site, would be dedicated to the City for additional roadway. She stated the applicant proposed to dedicate 50 feet of right of way along East Omaha Street and 5 feet along North 30<sup>th</sup> Street when the site was platted. She reported construction of a sidewalk along East Omaha Street would also be required with the plat. She stated the applicant proposed minimal clearing of trees and intended only to remove trees for mobile home pads and utility connections; utilities were available in the area. She stated no on-site detention was required for the proposed addition. She stated the development proposed with PUD-30C and BAZ-2001 was considered to be in compliance with the Comprehensive Plan at Level 3. She stated Staff recommended PUD-30C and BAZ-2001 be approved subject to the property being platted.

Mr. Tim Terrell with Tulsa Engineering Planning and Associates stated his address was 9820 East 41<sup>st</sup> Street, Suite 102, Tulsa. He reported PUD-30C was similar in layout to what was approved in 2003. He explained at that time the intended lot size was 70 feet in anticipation of triple wide homes which never came to fruition; therefore, the reduction in lot size to 40 feet was requested. He reported the plan would be similar to the preliminary plat which would be submitted; the change was an addition of four lots, each 40 feet wide. Vice Chairperson Jones asked if Phillips 66 required any additional setback from the easement for the gas lines. Mr.

Terrell responded in the negative; the setback was 5 feet outside of the easement which was standard.

Chairperson Whelpley opened up the Public Hearing for Item 6A. He asked if any present wanted to speak regarding Item 6A.

Citizen Jack Bar stated his address was 5304 South 203<sup>rd</sup> East Avenue, Broken Arrow; across the street from the proposed mobile home park. He reported he and his neighbor did not approve of the proposed mobile home park; it would be too many homes in too small an area and he was concerned traffic would worsen. He stated he also worried about overcrowding of Liberty Elementary School in the area. He stated his greatest concern, as well as his neighbor's, was reduction in property value.

Citizen Don Bender stated his address was 4953 South 204 East Avenue, Broken Arrow. He stated he and his neighbors were concerned about a drop in property values. He stated as a retiree on a fixed income he was considering a reverse mortgage which included periodic property appraisal. He stated he was concerned the expansion of the trailer park would bring his property value down which in turn would adversely affect his reverse mortgage and the funds available to him. Vice Chairperson Jones explained the Planning Commission could not consider valuation of homes in matters of rezoning. Mr. Bender stated this was unfortunate as this decision could directly impact his personal finances.

Chairperson Whelpley asked if any other present wished to speak regarding Item 6A. Seeing none, he closed the Public Hearing for Item 6A.

Vice Chairperson Jones stated the Planning Commission was strictly limited in what it could consider in rezoning applications; considerations included relation to Comprehensive Plan, existing zoning and development patterns, etc.

MOTION: A motion was made by Ricky Jones, seconded by Fred Dorrell.

**Move to approve Item 6A per Staff recommendation**

The motion carried by the following vote:

**Aye:** 4 - Pablo Aguirre, Fred Dorrell, Ricky Jones, Lee Whelpley  
**Abstain:** 1 - Mark Jones

Chairperson Whelpley stated Item 6A would go before City Council on June 18<sup>th</sup>, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding this Item, said citizen was required to fill out a Request to Appear Before City Council form in advance.

**B. 18-581 Public hearing, consideration, and possible action regarding BAZ-2000, Angus Acres Perimeter Rezoning, approximately 15 acres, A-R-1 to ON, south and east of the south east corner of Kenosha Street and 23rd Street**

Senior Planner Brent Murphy reported BAZ-2000 was an A-R-1 (annex single family residential) to ON (office neighborhood) rezoning request. He stated the property was platted in Wagoner County as part of the Angus Acres Addition in December 1957 and was annexed into Broken Arrow city limits in 1980; 10 of the 11 lots had single family homes and the 11<sup>th</sup> lot was vacant. He stated when Angus Acres was platted, 25 feet of right of way was dedicated along County Line Road (23<sup>rd</sup> Street), while current regulations required 60 feet of right of way along County Line Road. He explained the lots initially were 301 feet in width; however, the lots were split, became 150 feet wide, and now would lose an additional 35 feet to right of way for the upcoming road widening. He stated the property was designated Level 2 in the Comprehensive Plan, ON was identified as possible in Level 2, and was considered to be in accordance with the Comprehensive Plan when located adjacent to an arterial street such as Kenosha or County Line Road. He stated there were commercial zoning uses which occurred to the west side and north side of County Line Road. He stated based on the Comprehensive Plan, location of the property, and surrounding land uses, Staff recommended BAZ-2000 be approved subject to the property being replatted in accordance with the subdivision regulations. He reported Staff explained to the applicant the process required as part of the replatting, including engineering and improvements.

Chairperson Whelpley asked if County Line Road was to be widened along the east or west side of the road. Mr. Murphy responded both sides of the road; County Line Road would be widened from two lanes to five lanes and construction would affect both sides of the road. Vice Chairperson Jones stated there was a private deed restriction filed with the residential subdivision which indicated all lots were to be used for residential purposes only; however, private deed restrictions were outside the purview of the Planning Commission, and legally the Planning Commission could only enforce zoning codes, not private deed restrictions which were considered to be between the developer and the residents. Mr. Murphy stated the applicant was aware of the deed restriction. Chairperson Whelpley asked if Wagoner County had any further legal hold on this property. Mr. Murphy responded in the negative. Plan Development Manager Larry Curtis stated he had a signed petition opposed to BAZ-2000 which would be made part of the record.

Chairperson Whelpley opened up the Public Hearing for Item 6B. He asked if any present wanted to speak to Item 6B.

Citizen Don Stacey stated his address was 2002 Archdale Street, Broken Arrow. He stated he was the group representative of the 11 individuals involved in the zoning application. He explained the road widening was the initial reason for the rezoning application; a large amount of yard space would be lost with the road widening, reducing side yard space to 3 feet in some cases. He stated, in addition, there would be an unfenced jogging and bicycling trail located within a few feet of several homes. He stated a 3 foot side yard was out of compliance with the required 15 foot side yard along arterial streets. He reported the homes located along 23<sup>rd</sup> Street would be virtually unmarketable residentially when the road and trail were completed. He stated there were six properties located on 71<sup>st</sup> Street, east of the bank, who wished to be included in the zoning application for various reasons, three of which were rental properties. He stated of the properties located along 23<sup>rd</sup> Street one was a rental property and one was a vacant lot. He stated the applicants chose office neighborhood after consulting with development services, as this was possible in Level 2 of the Comprehensive Plan and qualified to be rezoned office neighborhood as the properties were located along an arterial street. He stated there were commercial businesses across the street to the west and north of the properties. He stated he felt office neighborhood would be a good fit for the area as a buffer between commercial retail and residential area. He stated he understood office neighborhood had limited hours of operation as opposed to commercial retail. He stated his applicant group requested due consideration and approval of the rezoning request.

Citizen David Stephenson stated his address was 2018 Archdale Street, Broken Arrow and he had been a resident at this address since 1970. He stated it was a lovely neighborhood, but was now divided. He stated a number of years ago the neighborhood spoke with one voice against becoming a commercial area. He stated he understood Mr. Stacey's reasoning. He indicated on the map displayed which lots along Archdale he and his wife owned and lived in, as well as which lot his daughter lived in with her son. He stated he had a vested interest in the neighborhood. He reported every resident he had spoken to within Angus Acres, other than the applicants, were opposed to the change in zoning. He stated he was concerned traffic would increase through the neighborhood and was concerned it would be dangerous for children waiting for the school bus. He stated he was concerned the property values in the remainder of the neighborhood would drop if the rezoning was approved. He stated there were residents who were out of state and unable to sign the petition who were also opposed. He asked for the Planning Commission's consideration.

Vice Chairperson Jones stated he wanted it understood it was not that he did not care about home values; state law dictated what criteria the Planning Commission was to weigh in the decision making process. He intimated he did care, but was not permitted to allow his feelings in the matter to affect his decision.

Citizen Judy Whiten stated her address was 2021 Angus Drive, Broken Arrow. She stated her home faced 71<sup>st</sup> Street and she worried what her impending view would be when offices were built along 71<sup>st</sup> Street. She stated her home would face the rear of the office buildings, the trash receptacles, etc. She stated she currently had health problems which kept her home and she spent a great deal of time on her front porch. She stated she was concerned her new view would be extremely unattractive. Mr. Larry Curtis explained if the zoning were approved it would be subject to platting, which meant the developer would be required to install an opaque wood fence from which the buildings would be set back a minimum of 35 feet. Ms. Whiten stated she did not want to sit on her front porch and have a fence and the rear of a building as her view.

Citizen Perry "Butch" Neufeld stated his address was 2010 Angus Drive, Broken Arrow. He stated he lived at this address for 32 years. He stated he approved of the rezoning request. He asked the Planning Commission to approve the request.

Citizen Brian Anthony Homberger stated his address was 2414 East Sydney, Broken Arrow, in Angus Acres II, and lived in his home for 18 years, from the time it was a part of Wagoner County. He stated he had paid off his home and recently invested \$75,000 in his home; he built an attached 4 car garage, remodeled, and planned on living in his home the rest of his life. He stated Mr. Stacey used to be president of the home owners association. He stated he was concerned about what would become of his family and his neighborhood. He stated there were only two homes on County Line Road which would be affected by the road widening. He stated he looked forward to the widening of County Line Road as he thought that would improve traffic, but with the rezoning there would be a row of doctor's offices on his side of County Line Road and he worried traffic would again be terrible. He stated he felt bad that Mr. Stacey would only have 3 feet of yard space in his side yard, but he felt that was Mr. Stacey's bad luck and it should not affect his family, his legacy and his home. He stated he was concerned his property value would drop. He stated the zoning would be changed to benefit one or two individuals and he did not approve. He stated ON zoning did not guarantee

limited hours of operation. He explained minor emergency centers, which were zoned for ON, were open 24 hours. He stated he feared ON zoning would just be the beginning, next the zoning would be changed to CN. He asked Planning Commission to deny the zoning change request. He stated the neighborhood covenant indicated the area would remain residential neighborhood unless 51% of the vote approved a change. He stated he did not understand why the City of Broken Arrow could not enforce or respect the covenant. He stated he felt the covenant should be honored.

Citizen Robert Talley stated his address was 2030 Angus Drive, Broken Arrow. He stated he was in favor of the rezoning. He stated when he first moved into the area there was a sign which indicated the neighborhood was for sale, and while at the beginning it was agreed the neighborhood should stick together, it was impossible for that to continue. There was no way to get all 30 residents to agree. He stated he understood why the residents on the interior of the neighborhood would not want the exterior residents to change zoning as there would be an element of added noise and traffic; however, the exterior residents had been dealing with the noise and traffic for years. He stated he should not be punished to preserve the interior neighbors. He asked, if the rezoning was approved, would he have the ability to rent his house as an office and would he have the right to continue to lease his house residentially. Mr. Larry Curtis responded if the rezoning was approved and Mr. Talley wished to rent his home as an office building, Mr. Talley would be required to have his property replatted; however, he would be able to continue to use/lease his home for residential purposes without replating the property.

Citizen Diane Alden stated her address was 2526 East Sydney Avenue, Broken Arrow. She stated she was opposed to the rezoning. She stated she appreciated that the rezoning application was ON and not commercial retail, but she was concerned about the children and elderly who walked through the neighborhood with the increased traffic.

Citizen Anthony Miner stated his address was 2017 Angus Drive, Broken Arrow. He stated he had only lived at this property for 6 years. He stated he was not in favor of or opposed to the rezoning.

Citizen Janna Moore stated her address was 2038 High Crest Drive, Broken Arrow. She stated her home was next door to the proposed rezoning and she opposed the rezoning.

Citizen Shirley Ketcher stated her address was 2001 Archdale Drive, Broken Arrow. She stated her property would be negatively affected by the road widening. She explained she currently endured traffic and noise in her location, and the road widening would certainly make this worse. She stated she would not be able to sell her property for a fair price once the road was widened if it was not rezoned. She stated there had been numerous accidents in her yard, but if offices were allowed there would be less of an accident risk as offices would be further back from the road. She stated she was not trying to be cruel to her neighbors; she was simply trying to protect herself in the wake of progress. She stated she was not out to make a profit; she wanted her family to be safe and away from a major road. She approved the rezoning.

Citizen Perry "Butch" Neufeld stated his address was 2010 Angus Drive, Broken Arrow. He stated he loved his home, but he was tired of the noise from the QuikTrip and the church nearby. He stated he had many traffic accidents in his yard; he was tired of it and was ready to leave.

Mr. Curtis stated if the ON zoning was approved, properties were replatted and offices were built, all driveway and parking access to the offices would be via Kenosha or County Line; access would not be allowed through the residential streets of the subdivision.

Citizen Clarence Duane Smith stated his address was 716 Kilby Drive, Broken Arrow. He stated he had lived at this address for 40 years. He stated he served as the inspection manager in Tulsa for a number of years. He stated he was opposed to the rezoning. He stated the neighborhood covenant indicated a majority of the residents was required to change the zoning and he had received informal legal advice that the covenant could affect the rezoning. He stated if the rezoning was approved, his quality of life would be lowered and crime would increase.

Mr. Don Stacey stated his address was 2002 Archdale Drive, Broken Arrow. He stated his property was on 23<sup>rd</sup> Street and he had been plagued with accidents on his property; his daughter was almost killed by a driver who went through the side of his house. He stated he installed a wall of telephone poles in his side yard in defense which many cars had hit and he worried the road widening would make the accident problems much worse. He stated he loved his home, had lived there for 50 years, but it had reached the point that the noise and the danger were intolerable. He stated by selling the 35 foot right of way he lost his telephone pole wall and the City refused to install a barrier to protect his home. He stated the road widening would significantly reduce his property value residentially. He stated he approved the rezoning.

Chairperson Whelpley asked if any other wished to speak regarding Item 6B. Seeing none, he closed the Public Hearing for Item 6B.

Commissioner Dorrell stated he understood the resident's concerns. He stated he had difficulties with the rezoning. Chairperson Whelpley stated he believed ODOT was widening the street, not the City. Mr. Curtis explained ODOT provided the funds, but it was a City project.

Vice Chairperson Jones stated he sympathized with the concerns of the residents in the area. He stated he had never been a fan of residential property accessing a primary arterial road. He stated County Line Road was an arterial road which would be widened, and as a result, would no longer be suitable for residential single family homes; therefore, he felt it was an orderly transition to move from residential to nonresidential use in the area. He stated non-commercial office zoning provided safeguards in the zoning code which would help mitigate the negative impact through the platting process. He was in favor of the rezoning from this standpoint.

MOTION: A motion was made by Ricky Jones, seconded by Pablo Aguirre.

**Move to recommend approval of BAZ-2000 based on the Comprehensive Plan per Staff recommendation**

The motion carried by the following vote:

**Aye:** 2 - Pablo Aguirre, Ricky Jones  
**Nay:** 3 - Mark Jones, Fred Dorrell, Lee Whelpley

Mr. Larry Curtis stated as the action by the Planning Commission was not to approve this item, the applicant had 15 days to appeal this item to City Council, filed through the City Clerk within the 15 day period. He stated if it was filed with the City Clerk it would go before City Council. He stated there would be no notice as it was an appeal and all parties needed to check the City Council Agenda on the City website for the next 60 days.

Chairperson Whelpley explained if any citizen desired to speak regarding this Item at City Council, said citizen was required to fill out a Request to Appear Before City Council form in advance. He stated citizens had a 3 minute time limit to speak during City Council Meetings.

## 7. Appeals

There were no Appeals.

## 8. General Commission Business

### A. 18-469 Election of Planning Commission Officers for 2018-2019

Commissioner Dorrell nominated Ricky Jones as Chairperson and Lee Whelpley as Vice Chairperson.

MOTION: A motion was made by Fred Dorrell, seconded by Mark Jones.

**Move to elect Ricky Jones as Chairperson for 2018-2019**

The motion carried by the following vote:

**Aye:** 4 - Pablo Aguirre, Mark Jones, Fred Dorrell, Lee Whelpley  
**Abstain:** 1 - Ricky Jones

MOTION: A motion was made by Mark Jones, seconded by Fred Dorrell.

**Move to elect Lee Whelpley as Vice Chairperson for 2018-2019**

The motion carried by the following vote:

**Aye:** 4 - Pablo Aguirre, Mark Jones, Fred Dorrell, Ricky Jones  
**Abstain:** 1 - Lee Whelpley

### B. 18-601 Presentation of Training Material for Planning Commission

Chairperson Whelpley stated Item 8B should be tabled until the next Planning Commission Meeting.

MOTION: A motion was made by Mark Jones, seconded by Ricky Jones.

**Move to table Item 8B until the next Planning Commission Meeting**

The motion carried by the following vote:

**Aye:** 5 - Pablo Aguirre, Mark Jones, Fred Dorrell, Ricky Jones, Lee Whelpley

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

There were no Remarks, Inquiries or Comments by Planning Commission and Staff.

## 10. Adjournment

The meeting adjourned at approximately 6:16 p.m.

MOTION: A motion was made by Ricky Jones, seconded by Fred Dorrell.

**Move to adjourn**

The motion carried by the following vote:

**Aye:** 5 - Pablo Aguirre, Mark Jones, Fred Dorrell, Ricky Jones, Lee Whelpley

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Mayor

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City Clerk