



City of Broken Arrow

Request for Action

File #: 18-1215, **Version:** 1

Broken Arrow Planning Commission

10-25-2018

To: Chairman and Commission Members
From: Development Services Department

Title: Public hearing, consideration, and possible action regarding PUD-17B (Planned Unit Development Major Amendment), Vandever Acres Center, 5 acres, CG, located north and west of the northwest corner of New Orleans Street and Elm Place

Background:

Applicant: Marc B. Capron, SWA
Owner: Elm 101 LLC
Developer: Home Church
Engineer: Sisemore Weisz & Associates, Inc.
Location: North and west of northwest corner of New Orleans Street and Elm Place
Size of Tract 5 acres
Present Zoning: CG
Proposed Zoning: CG
Comp Plan: Level 4

Planned Unit Development (PUD)-17B involves a 5-acre parcel located north and west of the northwest corner of New Orleans Street and Elm Place. With PUD-17B, applicant is proposing a major amendment to PUD-17 to allow place of assembly as a permitted use and to develop the property for a place of assembly and commercial uses.

PUD-17 was approved by the City Council in 1980 and included C-2 (now converted to CG) and C-5 (now converted to CH) zoning. While PUD-17 was approved in 1980, this major amendment to the PUD is cause to bring the PUD into compliance with the current 2008 Zoning Ordinance. The property was platted as Lot 2 Block 1 Vandever Acres Center, filed in Tulsa County on January 30, 1981 and is zoned CG. At the time that Vandever Acres Center was platted, 60 feet of right-of-way was dedicated along New Orleans Street, and 50 feet of right-of-way was dedicated along Elm Place. New Orleans Street and Elm Place are classified as primary arterial streets which requires 60 feet of right-of-way from the section line along each street. In addition, the Subdivision Regulations and the Engineering Design Criteria Manual require 65 feet of right-of-way within 350 of the intersection of two arterial streets. The corners of the property that abut the Mr. Mambo site are 250 feet from the intersection. A 15-foot utility easement was dedicated along the Elm Place frontage but not along the New Orleans Street frontage. Should this request be approved, additional right-of-way and a utility easement will need to be dedicated.

The existing commercial building formerly housed a Safeway/Homeland store until 2002 and later a Hobby Lobby with Hobby Lobby closing 2017. With PUD-17, Lot 2 Block 1 was allowed a maximum aggregate floor area of 71,874 square feet of buildings to be constructed. The applicant would like to maintain this previously approved maximum floor area even though the existing facility is closer to 50,000 square feet. The existing three-sided pole sign in the parking area at the east side of the site is nonconforming and will need to be removed. The sign and the benches at the base of the sign are located in parking spaces for the site.

With PUD-17B, the applicant is requesting to include Place of Assembly as a permitted use. On the proposed Development Area Plan, 37,500 square feet of the existing 50,000-square-foot building would be dedicated to place of assembly use, while 12,500 square feet is proposed to be remodeled for commercial use as Phase I of the development. Phase I will also include removal of the existing hut east of the existing building, rights-of-way and easement dedications and bringing the entire property into compliance with current zoning code requirements unless otherwise noted in the PUD. Phase II is proposed to include the development of a new maximum 7,000-square-foot retail building in Development Area “B” located on the southern portion of the lot along New Orleans Street. The applicant does not plan to expand the building area beyond what is proposed in Phase I and Phase II at this time. The proposed landscaping does not meet the criteria set forth in Section 5.2 of the Zoning Ordinance. In order to meet this requirement, some of the parking spaces would need to be removed along the east boundary. Due to dedication of right-of-way and meeting the landscape requirement, the site plan will need to be modified. As shown on the Phase II Conceptual Site Plan (Exhibit “D”), 202 parking spaces are proposed. The proposed parking meets the required parking. Some of the handicap spaces on the plan do not show loading and unloading zones, thus, some parking spaces will be lost to meet the ADA requirement. Additional parking spaces would be lost with the dedication or right-of-way and in meeting the landscape requirement. It is important to note, however, there is a mutual access easement for the Vandever Acres Center.

City staff met with the Applicant back in June 2018 at which time the Church proposed to occupy the entire facility. Staff explained that this would not be an appropriate location for a Church to occupy 50,000 square feet of commercial space where the City is currently working on a revitalization study directly connected to commercial retail enhancement. Through communication with the applicant, it was determined that the best opportunity to move forward with this use would be with a Planned Unit Development. The PUD described above and below in this fact sheet and as attached lays out this approach.

In February 2018, the City of Broken Arrow entered into a contract with Catalyst Commercial to conduct a study to rejuvenate this area and to create a plan to attract private investment and new economic development activity along the retail corridor at the intersection of Elm Place and New Orleans Street. Staff is awaiting the consultant’s report and evaluation of how the proposed use aligns with the recommendations for the commercial area. The property that is the subject of this PUD Major Amendment is located within this study area.

SUMMARY OF DEVIATION FROM ZONING ORDINANCE

PUD-17B is proposed to be developed in accordance with the current Zoning Ordinance and the use and development regulations of the CG district, except as summarized below:

Item	Zoning Ordinance Requirement	PUD-17B
Use Permitted	As allowed in the CG district.	As allowed in the C-2 (now CG) district. Additional use to include Place of Assembly.

Maximum Floor Area	None	Dev. Area “A” Church and accessory use • 40,000 sf Uses permitted in CG District • 24,874 sf Dev. Area “B” Uses permitted in CG District • 7,000 sf
Maximum building height	None	Thirty-five feet (35’)
Building Setbacks	50 feet from street frontages and 30 feet side setback	Pre-existing building to remain. Any new buildings to meet the current Zoning Ordinance for CG.
Exterior Building Materials	Masonry materials. The use of metal or wood requires the approval of the Planning Commission	Per Zoning Ordinance
Landscaping	One tree per 50 lineal feet, plus one tree per 15 parking spaces. Thirteen trees required along street frontage. Interior parking lot landscaping requires an additional 12 trees resulting in a total of 25 trees. Landscape islands to be ten feet in width.	Per Zoning Ordinance except that landscape edge along Elm Place to be eight feet in width and triangular shaped islands to be permitted without a minimum width. Landscaping strip along New Orleans Street to be reduced to 4 ft and 8 ft.
Access	Access drive required to be 250 feet from the centerline of the intersecting arterial street.	Existing access is in accordance with the current recorded plat.
Parking Spaces	Retail - 1 per 300 sf Place of Assembly - 1 per 100 sf A minimum of 202 spaces are required.	Retail - 1 per 300 sq ft Assembly - 1 per 100 sq ft
Signage	One freestanding sign per 150 feet of frontage. For lots with multiple street frontages, the street frontage is not cumulative. Sign height is limited to 20 feet. The height of the sign can be increased one foot in height for every two feet of setback to a maximum of 30 feet. Minimum setback - 70 ft from section line	Wall signs in accordance with Zoning Ordinance. One multi-tenant freestanding sign proposed along the New Orleans Street frontage on Development Area “B.”
Trash enclosure	Dumpsters to be screen with an opaque fence and gate that is higher than the proposed dumpster.	Per current Zoning Ordinance

SURROUNDING LAND USES/ZONING/COMPREHENSIVE PLAN

The surrounding properties contain the following uses, along with the following development guide and zoning designations:

Location	Development Guide	Zoning	Land Use
North	Level 4	PUD 3/CG	Medical Office/Sonic Drive In
East	Level 3 and 4	PUD 4/CG	Retail center and church
South	Level 4	CG	New Orleans Street and retail beyond
West	Level 4	PUD-17/CG	Retail

None of the property is located in a 100-year floodplain area.

The property associated with PUD-17B is shown in the Comprehensive Plan as Level 4. Level 4 includes commercial and employment nodes that includes freestanding commercial buildings, shopping centers and office developments. The development proposed with PUD-17B is not considered to be in compliance with the Comprehensive Plan in Level 4 because place of assembly is not the highest and best use of the commercial site and it does not meet Policy C-P1 of the Comprehensive Plan.

Policy C-P1 of the Comprehensive Plan states, “The City shall refrain from approving requests for specific Use Permits for uses which could affect the ability to attract quality dining and entertainment facilities within or immediately adjacent to existing or future commercial districts (Level 4 and Level 6 areas) as identified in the Future Development Guide.” Since this policy was adopted, there have been modifications to the regulations pertaining to liquor sales. Dining establishments that receive less than 50 percent of their revenue from alcohol sales are not impacted by the proximity of religious facilities. However, liquor stores and establishments that receive more than 50 percent of their revenue from alcohol sales do have to be located more than 300 feet from a religious facility or public/private school. If PUD-17B is approved, there will be an impact on applications for future liquor stores and facilities that derive 50 percent or more of their income from alcohol sales.

Several Specific Use Permits for places of assembly have been reviewed in the past including SP-257 for Life Church (located at Kenosha Street and 23rd Street) and SP-256 for Harvest Church (located on South Main Street). For Life Church, there was a concern about the impact that a place of assembly may have on other businesses desiring to locate in Tiger Plaza as well as parking concerns. Because multiple services are held in this location, conditions were placed on the project requiring at least one hour in between services and for parking lot monitors to ensure that members parked only on the property associated with that Specific Use Permit. SP-271 was approved for Choose Life Church (located at the northeast corner of Elm Place and New Orleans Street) with a two-year time limit. Choose Life Church is no longer at this location. Harvest Church originally requested approval of a Specific Use Permit for a place of assembly to be located at 222 South Main Street (SP-243). The Downtown Advisory Board recommended denial of the request because the request was not in accordance with the Comprehensive Plan and the Zoning Ordinance. More specifically, the proposed use was not a land use by right at that location; it would negate and abrogate policies established in the Comprehensive Plan and the Downtown Master Plan; it did not meet the minimum lot requirement of the zoning ordinance; the proposed use would have impacts on attracting quality entertainment and similar uses and facilities into the downtown area; and the proposed use may have had impacts on surrounding land uses and parking and traffic systems. The applicant withdrew the request to look for another site. Harvest Church subsequently requested approval for a different site on South Main Street, north of Washington Street. There were no protestants, there was concern by an adjacent property owner about maintenance of the fence, and the church agreed to maintain the fence.

Time limits were placed on some requests for Specific Use Permits for place of assembly such as with SP-262 for Open Door Church of Christ (located at the southeast corner of Kenosha Street and Aspen Avenue) with a provision for the applicant to apply for the Specific Use Permit to be extended after three years. Yet other requests for approval of a Specific Use Permit for a place of assembly were denied. These include SP-66 for Christ Presbyterian Church (proposed at the northeast corner of Aspen Avenue and Albany Street) that was denied due to the impact to economic development and existing businesses in the area. Also proposed at the northeast corner of Aspen Avenue and Albany Street, SP-125 for Riverway Community Church was denied because it was not in compliance with the Comprehensive Plan and could affect economic development and existing businesses. Another was SP-290 for Refiner's Fire International Ministries that was denied due to the lot size being less than two acres and because the property owner was not willing to dedicate the required right-of-way.

This PUD amendment was scheduled to be heard at the Planning Commission meeting of October 11, 2018 but was continued to the October 25, 2018 meeting due to both the Plan Development Manager and Development Services Director to attend, who both have been in the meetings with the applicant.

In this additional two (2) weeks, staff received an email from the adjacent property owner, GBR properties, with a list of concerns related to the proposed Church within a portion of the 50,000 square foot facility. Questions stemmed around limited occupant uses, existing and proposed liquor store locations, impact on leasing activity, limited sales tax and property tax generation. Staff met with the adjacent property owner and applicant consultants on October 18, 2018 to discuss the proposed project and questions contained in the email. GBR representatives provided an additional agenda document at the meeting that asked about building code requirements, construction type change from mercantile to assembly, HVAC tonnage requirement, sound proof requirements within the building and adjacent property walls and if this use would increase the problem that exist with the homeless at this intersection.

The email and agenda provided by GBR is attached for reference. Staff, GBR representatives and applicant consultants had a conversation about the proposed re-use of the property and City staff answered the questions posed by GBR. Existing liquor stores, sports bar or other activity where liquor is sold or consumed are grandfathered in by the Oklahoma State ABLE laws. New liquor store or bar would be required to be 300 feet from the proposed Church, if approved. A map is provided in the attachments showing this distance from the proposed facility property line west into and along the shopping center stores frontage.

Attachments:

- Case map
- Aerial
- PUD Amendment Development Standards
- Vandever Acres Center plat
- Letter from Oil Capital Commercial Real Estate Services
- Email from GBR Properties
- Meeting Agenda Prepared by GBR Properties
- Section 37-518.3.A Able Commission excerpt
- Map showing 300-foot distance from property line

Recommendation:

Staff's recommendation:

Continue the item to the December 6, 2018 Planning Commission meeting to allow the City's consultant, Catalyst Commercial, time to evaluate how this request corresponds with the study's results. Staff will re-notify those property owners within 300 feet of the property of the new public hearing date.

If recommended for approval at this meeting, the applicant shall meet the following requirements.

1. Additional right-of-way and utility easement shall be dedicated to meet the current Subdivision Regulations and Engineering Design Criteria Manual.
2. No building permit shall be issued until a detailed site plan has been approved by the Planning Commission as being in compliance with the provisions of PUD-17B and the Broken Arrow Zoning Ordinance.
3. Signage for the site shall meet setbacks from the section line, site triangle clearance, height and sign area requirements.
4. If PUD-17B is approved, the existing nonconforming three-sided pole sign in the parking area at the east side of the site as well as the benches located at the pole sign base shall be removed.
5. Parking shall meet the current requirements set forth in Section 5.4 of the Zoning Ordinance.
6. Site landscaping, including the width of landscape islands, shall be in accordance with Section 5.2 of the Zoning Ordinance.
7. Facades that face the public right-of-way shall be finished with masonry materials such as stone or brick as shown on the elevations (Exhibit F1 and F2 of PUD-17B).
8. Facades on the proposed new building in Development Area “B” shall be finished with masonry materials on all sides.
9. Phase I shall be completed within two (2) years of approval including the commercial area. The actual remainder space in Development Area “A” shall be used for commercial uses that are permitted in the CG zoning district.
10. Phase II shall be completed within three (3) years of approval but may be extended with approval by the Planning Commission.
11. Within the PUD document, references to “PUD-17A” shall be modified to “PUD-17B.”

Reviewed By: **Larry R. Curtis**

Approved By: **Michael W. Skates**

JMW