

**City of Broken Arrow**  
**Meeting Agenda**  
**Planning Commission**

City of Broken Arrow  
Council Chambers  
220 S 1st Street  
Broken Arrow OK  
74012

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

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**Thursday, November 15, 2018**

**5:00 PM**

**Council Chambers**

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**1. Call To Order**

**2. Roll Call**

**3. Old Business**

**4. Consideration of Consent Agenda**

- A. [18-1249](#) Approval of PT17-101, Conditional Final Plat, 121 Elm, 1 lot, 1.43 acres, A-1 to CN/PUD-199A, south and west of the southwest corner of Elm Place and Tucson Street

**Attachments:** [2- CHECKLIST.PT17 101](#)  
[3-Conditional Final Plat Submitted 10 29 2018](#)

- B. [18-1317](#) Approval of Planning Commission meeting minutes of July 12, 2018

**Attachments:** [07 12 2018 Planning Commission Minutes](#)

- C. [18-1318](#) Approval of Planning Commission meeting minutes of July 26, 2018

**Attachments:** [07 26 2018 Planning Commission Minutes](#)

- D. [18-1319](#) Approval of Planning Commission meeting minutes of August 9, 2018

**Attachments:** [08 09 2018 Planning Commission Minutes](#)

- E. [18-1320](#) Approval of Planning Commission meeting minutes of August 23, 2018

**Attachments:** [08 23 2018 Planning Commission Minutes](#)

- F. [18-1321](#) Approval of Planning Commission meeting minutes of August 30, 2018

**Attachments:** [08 30 2018 Planning Commission Minutes](#)

- G. [18-1322](#) Approval of Planning Commission meeting minutes of September 13, 2018  
**Attachments:** [09 13 2018 Planning Commission Minutes](#)
- H. [18-1323](#) Approval of Planning Commission meeting minutes of September 29, 2018  
**Attachments:** [09 27 2018 Planning Commission Minutes](#)
- I. [18-1325](#) Approval of Planning Commission meeting minutes of October 11, 2018  
**Attachments:** [10 11 2018 Planning Commission Minutes](#)

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

**6. Public Hearings**

- A. [18-1313](#) Public hearing, consideration, and possible action regarding PUD-283 (Planned Unit Development) and BAZ-2015 (Rezoning), Dollar General Broken Arrow, 2.00 acres, A-CH to CG, located west of the southwest corner of Aspen Avenue and Omaha Street  
**Attachments:** [2-CASE MAP](#)  
[3-AERIAL](#)  
[4-COMPREHENSIVE PLAN](#)  
[5-ORDINANCE NO. 1670](#)  
[6-PUD-283 DESIGN STATEMENT](#)

**7. Appeals**

**8. General Commission Business**

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

**10. Adjournment**

**NOTICE:**

- 1. ALL MATTERS UNDER “CONSENT” ARE CONSIDERED BY THE PLANNING COMMISSION TO BE ROUTINE AND WILL BE ENACTED BY ONE MOTION. HOWEVER, ANY CONSENT ITEM CAN BE REMOVED FOR DISCUSSION, UPON REQUEST.**
- 2. IF YOU HAVE A DISABILITY AND NEED ACCOMMODATION IN ORDER TO PARTICIPATE IN THE MEETING, PLEASE CONTACT THE DEVELOPMENT SERVICES DEPARTMENT AT 918-259-8412, TO MAKE ARRANGEMENTS.**
- 3. EXHIBITS, PETITIONS, PICTURES, ETC. PRESENTED TO THE PLANNING COMMISSION MAY BE RECEIVED AND DEPOSITED IN CASE FILES TO BE MAINTAINED AT BROKEN ARROW CITY HALL.**
- 4. RINGING/SOUND ON ALL CELL PHONES AND PAGERS MUST BE TURNED OFF DURING THE PLANNING COMMISSION MEETING.**

**POSTED on \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ am/pm.**

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**City Clerk**



# City of Broken Arrow

## Request for Action

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**File #:** 18-1249, **Version:** 1

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### Broken Arrow Planning Commission

11-15-2018

**To:** Chairman and Commission Members

**From:** Development Services Department

**Title:**

**Approval of PT17-101, Conditional Final Plat, 121 Elm, 1 lot, 1.43 acres, A-1 to CN/PUD-199A, south and west of the southwest corner of Elm Place and Tucson Street**

**Background:**

**Applicant:** Tanner Consulting, LLC

**Owner:** K&S Commercial, LLC

**Developer:** K&S Commercial, LLC

**Engineer:** Tanner Consulting, LLC

**Location:** South and west of the southwest corner of Elm Place and Tucson Street

**Size of Tract** 1.43 acres

**Number of Lots:** 1

**Present Zoning:** A-1

**Proposed Zoning:** CN/PUD-199A

**Comp Plan:** Level 4

PT17-101, the conditional final plat for “121 Elm” contains 1.43 acres, is one lot and is located south and west of the southwest corner of Elm Place and Tucson Street.

On March 17, 2009, the City Council approved BAZ-1825 to change the zoning on the property from A-1 to CN along with PUD-199. BAZ-1825 and PUD-199 were approved subject to the property being platted. A preliminary plat, Wilburn Square, which contained 13.00 acres, was reviewed and approved by the Planning Commission on February 26, 2009. However, only the northeast corner of the property was platted. On June 24, 2009, “CVS at Wilburn Square,” which contained 2.71 was recorded in Tulsa County, and a CVS pharmacy was constructed on the property. The rest of the property has remained undeveloped and unplatted. PUD-199A, a request for a minor amendment to PUD-199, was submitted with the preliminary plat for “121 Elm” and was approved by the Planning Commission on April 27, 2017.

Water and sanitary sewer service to the addition will be provided by the City of Broken Arrow. According to FEMA maps, 100-year floodplain associated with an unnamed stream is located near the west side of the property. All of the 100-year floodplain is shown to be located outside of this property.

The Technical Advisory Committee reviewed the preliminary plat for 121 Elm on November 13, 2018.

**Attachments:** Checklist  
Conditional Final plat and covenants

**Recommendation:** Staff recommends PT17-101, conditional final plat for 121 Elm, be approved subject to the attached checklist.

**Reviewed By:** Larry Curtis

**Approved By:** Michael Skates

ALY

# **BROKEN ARROW PLANNING COMMISSION AND CITY COUNCIL SUBDIVISION PLAT REVIEW CHECKLIST**

## **PLAT INFORMATION**

NAME OF PLAT: 121 Elm

CASE NUMBER: PT17-101

RELATED CASE NUMBERS: PUD-199, PUD-199A, BAZ-1825

COUNTY: TULSA

SECTION/TOWNSHIP/RANGE: 03/17/14

GENERAL LOCATION: South and west of the southwest corner of Tucson Street and Elm Place

CURRENT ZONING: A-1/PUD-199

SANITARY SEWER BASIN: Lynn Lane

STORM WATER DRAINAGE BASIN: Elm Creek

ENGINEER: Tanner Consulting, LLC

ENGINEER ADDRESS: 5323 S Lewis Avenue  
Tulsa, OK 74105

ENGINEER PHONE NUMBER: 918-745-9929

DEVELOPER: K & S Commercial, LLC

DEVELOPER ADDRESS: Attn: Pete Kourtis  
12150 E 96<sup>th</sup> St. N. Ste 200  
Owasso, OK 74055

DEVELOPER PHONE NUMBER: 918-376-6533

## **PRELIMINARY PLAT**

APPLICATION MADE: March 20, 2017

TOTAL ACREAGE: 8.91

NUMBER OF LOTS: 3

TAC MEETING DATE: April 25, 2017

PLANNING COMMISSION MEETING DATE: April 27, 2017

COMMENTS:

1. \_\_\_\_ Place case number (PT17-101) in lower right corner of plat.
2. \_\_\_\_ Show the width of the right-of-way (to the nearest hundredth) dedicated by this plat along Tucson Street.
3. \_\_\_\_ By the Subdivision Regulations, line L1 should be at a 30° angle instead of a 90° angle.
4. \_\_\_\_ Show the existing access points on the north side of Tucson Street. Confirm that the proposed access points are in conformance with the Zoning Ordinance and PUD 199.
5. \_\_\_\_ Limits of no access across Lot 2, Block 1 is incorrect, revise to reflect existing point of access.
6. \_\_\_\_ Show 50-foot building line setback on Lot 2, Block 1 for the area outside the mutual access easement.
7. \_\_\_\_ In the title description, change "PUD 199" to "PUD 199 and PUD 199A" and in Section III, reference the approval of PUD 199A by the Planning Commission. Add to the covenants that other than the minor modifications made with PUD 199A, all the other requirements of PUD 199 remained unchanged.
8. \_\_\_\_ Update Section III of the covenants to comply with PUD 199A.
9. \_\_\_\_ Add the FIRM panel map number to the floodplain information.
10. \_\_\_\_ In Section 2.1.1 of the covenants delete "signage". In addition, in Section 2.1.3 of the covenants, identify that the maintenance of Reserve A is the responsibility of the property owner.
11. \_\_\_\_ It is not clear where the 17.5' utility easement and 15' landscape easement along the north property line on Lot 2, Block 1 terminates on the west side of the lot. Please clarify.
12. \_\_\_\_ In the Certificate of Survey, change "Registered Surveyor" to "Licensed Surveyor".
13. \_\_\_\_ According to the plat, 55-feet of right-of-way has been dedicated on Tucson Street and 70-feet of right-of-way has been dedicated on Elm Place. However, not all of the information needed to confirm the right-of-way dedication has been provided. Please reference all information needed to demonstrate previous right-of-way dedication on Tucson Street and Elm Place has been provided.
14. \_\_\_\_ Label "POC" and "POB" and include abbreviations in legend.
15. \_\_\_\_ Give bearings and distance from POC to POB.
16. \_\_\_\_ Please add the DD number to the face of the plat, DD# 013117-01.
17. \_\_\_\_ Storm sewer easements may be required depending on how each lot collects and conveys its storm water.
18. \_\_\_\_ If any public utility is extended onto any lot, it must be covered by an appropriate easement.
19. \_\_\_\_ Tucson Street is misspelled on the plat, please correct.

## **CONDITIONAL FINAL PLAT**

NAME OF CONDITIONAL FINAL PLAT: 121 Elm

APPLICATION MADE: 10-08-2018

TOTAL ACREAGE: 1.43

NUMBER OF LOTS: 1

TAC MEETING DATE: 11-13-2018

PLANNING COMMISSION MEETING DATE: 11-15-2018

CITY COUNCIL MEETING DATE: 12-18-2018

COMMENTS:

20. \_\_\_\_ Add PUD-199A to the title.
21. \_\_\_\_ Correct the case number on both sheet to PT17-101.
22. \_\_\_\_ Show document number or book and page for the 30'x35' U/E near the southwest corner of the property.
23. \_\_\_\_ Add address as assigned by the City of Broken Arrow.
24. \_\_\_\_ Provide information in the covenants on the approval of the minor amendment to PUD-199, PUD-199A.
25. \_\_\_\_ The conditional final plat and the "no exceptions taken" engineering drawing must agree with respect to Limits of Access and No Access, easement both internal and external, reserve area, traffic control medians, street layouts, rights-of-way, etc. Please provide a written statement (e-mail statement is acceptable) that the conditional final plat agrees with the "no exceptions taken" engineering plans.
26. \_\_\_\_ Finished for elevations (FFE) shall be shown for each lot on the Final Plat.
27. \_\_\_\_ Show monuments on plat.

## **CONDITIONS TO BE MET PRIOR TO FINAL RELEASE OF PLAT**

### **LETTER OF APPROVAL FROM UTILITY COMPANY SUBMITTED?**

\_\_\_\_ NATURAL GAS COMPANY APPROVAL

\_\_\_\_ ELECTRIC COMPANY APPROVAL

\_\_\_\_ TELEPHONE COMPANY APPROVAL

\_\_\_\_ CABLE COMPANY APPROVAL

### **CERTIFICATE OF RECORDS SEARCH FROM OKLAHOMA CORPORATION COMMISSION SUBMITTED?**

\_\_\_\_ OK CORPORATION COMMISSION CERTIFICATE OF RECORDS SEARCH

OKLAHOMA CORPORATION COMMISSION, CAROL COLLETT 405-521-2108

### **DEVELOPMENT SERVICES/ENGINEERING APPROVAL**

\_\_\_\_ STORMWATER PLANS NET'D ON: \_\_\_\_\_

\_\_\_\_ PAVING PLANS, NET'D ON: \_\_\_\_\_

\_\_\_\_ WATER PLANS, NET'D ON: \_\_\_\_\_

\_\_\_\_ SANITARY SEWER PLANS, NET'D ON: \_\_\_\_\_

\_\_\_\_ SEWAGE DISPOSAL PLANS, APPROVED BY DEPARTMENT OF ENVIRONMENTAL QUALITY ON: \_\_\_\_\_

\_\_\_\_ WATER PLANS, APPROVED BY DEPARTMENT OF ENVIRONMENTAL QUALITY ON: \_\_\_\_\_

\_\_\_\_ IS A SIDEWALK PERFORMANCE BOND DUE? \_\_\_\_\_ HAS ONE BEEN SUBMITTED? \_\_\_\_\_

\_\_\_\_ ARE PERFORMANCE BONDS/ESCROW CHECK OR LETTER OF CREDIT DUE FOR WATER, STORM SEWERS, SANITARY SEWER AND PAVING? (CIRCLE APPLICABLE)  
HAVE THEY BEEN SUBMITTED? \_\_\_\_\_

## PLANNING DEPARTMENT APPROVAL

\_\_\_\_ ADDRESSES REVIEWED AND APPROVED

\_\_\_\_ DETENTION DETERMINATION # ASSIGNED AND VERIFIED? # \_\_\_\_\_, FEE IN LIEU OF DUE? \_\_\_\_\_

### FEES

____ FINAL PLAT PROCESSING FEE (\$150 + ((\$5 X NO ____ LOTS)	\$ _____
____ WATER LINE (S) UNDER PAYBACK CONTRACT	\$ _____
____ EXCESS SEWER CAPACITY FEE (\$700 X NO ACRES ____)	\$ _____
____ ACCELERATION/DECELERATION LANES ESCROW	\$ _____
____ WATER LINE CONNECTIONS, PAYABLE TO CITY OR OTHERS	\$ _____
____ SEWER LINE CONNECTIONS, PAYABLE TO CITY OR OTHERS	\$ _____
____ STREET IMPROVEMENT (WIDENING) ASSESSMENTS	\$ _____
____ DRAINAGE SYSTEM IMPROVEMENTS PRO RATA COST	\$ _____
____ REIMBURSEMENT TO CITY OR OTHERS FOR WATER LINE CON.	\$ _____
____ REIMBURSEMENT TO CITY OR OTHERS FOR SEWER LINE CON.	\$ _____
____ STREET SIGNS, LIGHTS, ETC. (\$150 X NO OF SIGNS ____)	\$ _____
____ STORM WATER FEE-IN-LIEU OF DET. (.35 x increased impervious area)	\$ _____
<b>TOTAL FINAL PLAT FEE(S)</b>	<b>\$ _____</b>

### FINAL PROCESSING OF PLAT

\_\_\_\_ FINAL PLAT SUBMITTED FOR MAYOR AND CITY CLERK SIGNATURE ON: \_\_\_\_\_

\_\_\_\_ FEES PAID ON: \_\_\_\_\_ IN THE AMOUNT OF: \_\_\_\_\_

\_\_\_\_ FINAL PLAT PICKED UP FOR FILING ON: \_\_\_\_\_

\_\_\_\_ 6 COPIES OF FILED PLAT SUBMITTED TO PLANNING DEPARTMENT

\_\_\_\_ PDF OF RECORDED PLAT SUBMITTED TO PLANNING DEPARTMENT

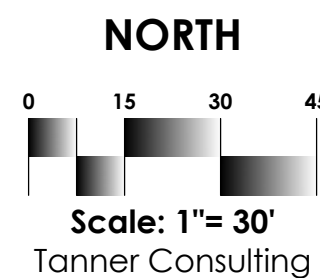
\_\_\_\_ FINAL PLAT RECEIVED IN PLANNING DEPARTMENT AFTER UTILITY COMPANY SIGN OFF ON:



# 121 Elm

PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION THREE (3)  
TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST, OF THE INDIAN MERIDIAN  
A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA

DAN E. TANNER, P.L.S. NO. 1435  
OK CA NO. 2661, EXPIRES 6/30/2019  
EMAIL: DAN@TANNERBAITSHOP.COM  
5323 South Lewis Avenue  
Tulsa, Oklahoma 74105  
Phone: (918) 745-9929



B/L	BUILDING LINE
B/U	BUILDING LINE & UTILITY EASEMENT
BK PG	BOOK & PAGE
CB	CHORD BEARING
CD	CHORD DISTANCE
CL	CENTERLINE
$\Delta$	DELTA ANGLE
DOC	DOCUMENT
ESMT	EASEMENT
LNA	LIMITS OF NO ACCESS
R/W	RIGHT-OF-WAY
U/E	UTILITY EASEMENT
1/34	ADDRESS ASSIGNED
○	FOUND MONUMENT
●	SET MONUMENT (SEE NOTE # 2)



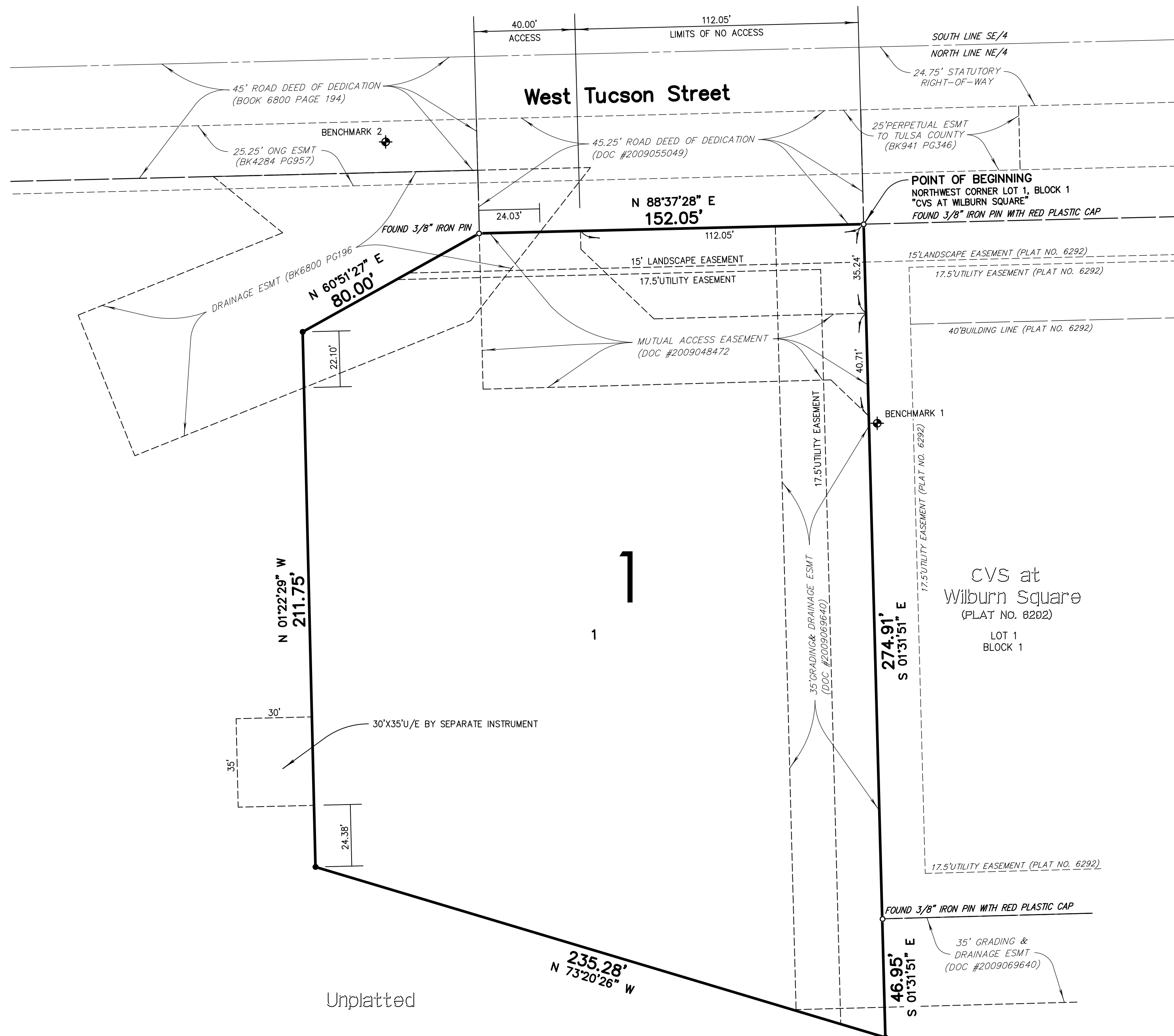
ONE (1) LOT  
IN ONE (1) BLOCK  
WITH NO RESERVE AREAS

GROSS SUBDIVISION AREA: 1.432 ACRES

1. THIS PLAT MEETS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING AS ADOPTED BY THE OKLAHOMA STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS.
2. ALL PROPERTY CORNERS ARE SET 3/8" IRON REBAR WITH YELLOW CAP STAMPED "TANNER RLS 1435" UNLESS OTHERWISE NOTED.
3. THE BEARINGS SHOWN HEREON ARE BASED UPON THE OKLAHOMA STATE PLANE COORDINATE SYSTEM, NORTH ZONE (3501), NORTH AMERICAN DATUM 1983 (NAD83); SAID BEARINGS ARE BASED LOCALLY UPON FIELD-OBSERVED TIES TO THE FOLLOWING MONUMENTS:
  - (a) FOUND 3/8" IRON PIN WITH RED PLASTIC CAP AT THE NORTHWEST CORNER OF LOT ONE (1), BLOCK ONE (1), "CVS AT WILBURN SQUARE", A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF (PLAT NO. 6292);
  - (b) FOUND 3/8" IRON PIN WITH RED PLASTIC CAP AT THE SOUTHWEST CORNER OF SAID LOT 1;

THE BEARING BETWEEN SAID MONUMENTS BEING SOUTH 1°31'51" EAST.

4. ADDRESSES SHOWN ON THIS PLAT ARE ACCURATE AT THE TIME THE PLAT WAS FILED. ADDRESSES ARE SUBJECT TO CHANGE AND SHOULD NEVER BE RELIED ON IN PLACE OF THE LEGAL DESCRIPTION.
5. ACCESS AT THE TIME OF PLAT WAS PROVIDED BY WEST TUCSON STREET BY VIRTUE OF STATUTORY RIGHT-OF-WAY AND THAT DEED OF DEDICATION OF RIGHT-OF-WAY DATED MAY 7TH, 2008 AND FILED JUNE 6, 2009 IN THE RECORDS OF THE TULSA COUNTY CLERK AS DOCUMENT NO. 2009055049.
6. STORMWATER DETENTION ACCOMMODATIONS FOR THIS SITE ARE PROVIDED IN ACCORDANCE WITH FEE-IN-LIEU OF DETENTION DETERMINATION RFD-013137-01.



CHISELED BOX SET ON TOP OF CURB AT NORTH END ON INLET, APPROXIMATELY 3.2' EAST AND 78.9' SOUTH OF THE NORTHEAST PROPERTY LINE.  
(367013.1090N, 2619730.3220E)

CHISELED BOX SET ON TOP OF CURB AT  
EAST END ON INLET, APPROXIMATELY 36.2'  
WEST AND 37.0' NORTH OF THE  
NORTHWEST PROPERTY LINE.  
(367124.4190N, 2619535.8940E)

ELEVATION = 652.89 (NAVD 88)

Attest: City Clerk

DATE OF PREPARATION: October 29, 2018

**121 Elm**  
CASE NO. PT09-101B  
SHEET 1 OF 2

Conditional Final Plat

121 Elm

PUD-199

PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION THREE (3) TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST, OF THE INDIAN MERIDIAN A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA

DEED OF DEDICATION & RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

THAT K&S COMMERCIAL, LLC, AN OKLAHOMA LIMITED LIABILITY COMPANY (HEREINAFTER, THE "OWNER") IS THE OWNER OF THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA:

A TRACT OF LAND THAT IS PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION THREE (3), TOWNSHIP SEVENTEEN (17) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN MERIDIAN, CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT ONE (1), BLOCK ONE (1), "CVS AT WILBURN SQUARE", A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF (PLAT NO. 6292); THENCE SOUTH 1°31'51" EAST ALONG THE WEST LINE OF SAID LOT 1 FOR A DISTANCE OF 274.91 FEET TO A POINT, SAID POINT BEING THE SOUTHWEST CORNER OF LOT 1; THENCE CONTINUING SOUTH 1°31'51" EAST FOR A DISTANCE OF 46.95 FEET TO A POINT; THENCE NORTH 73°20'26" WEST FOR A DISTANCE OF 235.28 FEET TO A POINT; THENCE NORTH 1°22'29" WEST FOR A DISTANCE OF 211.75 FEET TO A POINT; THENCE NORTH 60°51'27" EAST FOR A DISTANCE OF 80.00 FEET TO A POINT ON THE PRESENT SOUTH RIGHT-OF-WAY LINE OF WEST TUCSON STREET, THENCE NORTH 88°37'28" EAST ALONG SAID SOUTH LINE FOR A DISTANCE OF 152.05 FEET TO THE POINT OF BEGINNING;

SAID TRACT CONTAINING 62,398 SQUARE FEET OR 1.432 ACRES. THE BEARINGS SHOWN HEREON ARE BASED UPON THE OKLAHOMA STATE PLANE COORDINATE SYSTEM, NORTH ZONE (3501), NORTH AMERICAN DATUM 1983 (NAD83); SAID BEARINGS ARE BASED LOCALLY UPON FIELD-OBSERVED TIES TO THE FOLLOWING MONUMENTS:

(1) FOUND 3/8" IRON PIN WITH RED PLASTIC CAP AT THE NORTHWEST CORNER OF SAID LOT 1 OF "CVS AT WILBURN SQUARE";

(2) FOUND 3/8" IRON PIN WITH RED PLASTIC CAP AT THE SOUTHWEST CORNER OF SAID LOT 1 OF "CVS AT WILBURN SQUARE";

THE BEARING BETWEEN SAID MONUMENTS BEING SOUTH 1°31'51" EAST.

AND THAT THE OWNER HAS CAUSED THE ABOVE-DESCRIBED LAND TO BE SURVEYED, STAKED, PLATTED, AND SUBDIVIDED INTO ONE (1) LOT IN ONE (1) BLOCK AS SHOWN BY THE ACCOMPANYING PLAT AND SURVEY THEREOF, AND WHICH PLAT IS MADE A PART HEREOF; AND THE OWNER HAS GIVEN TO SAID PLAT THE NAME OF "121 ELM", A SUBDIVISION WITHIN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA (WHEREVER THE WORD "SUBDIVISION" APPEARS HEREIN THE SAME SHALL CONCLUSIVELY BE DEEMED TO MEAN "121 ELM" UNLESS THE CONTEXT CLEARLY DICTATES OTHERWISE. LIKEWISE, WHEREVER THE WORD "CITY" APPEARS HEREIN THE SAME SHALL CONCLUSIVELY BE DEEMED TO MEAN THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, UNLESS THE CONTEXT CLEARLY DICTATES OTHERWISE.) NOW, THEREFORE, THE OWNER, FOR THE PURPOSE OF PROVIDING FOR THE ORDERLY DEVELOPMENT OF THE SUBDIVISION AND FOR THE PURPOSE OF INSURING ADEQUATE RESTRICTIONS FOR THE MUTUAL BENEFIT OF THE OWNER, ITS SUCCESSORS, GRANTEEES AND ASSIGNS, AND THE BENEFICIARIES OF THE COVENANTS AS SET FORTH HEREIN, DOES HEREBY IMPOSE THE FOLLOWING RESTRICTIONS AND COVENANTS, WHICH SHALL BE COVENANTS RUNNING WITH THE LAND AND WHICH SHALL BE ENFORCEABLE AS HEREINAFTER SET FORTH.

SECTION I. EASEMENTS

THE OWNERS HEREBY DEDICATE TO THE PUBLIC THE UTILITY EASEMENTS DESIGNATED AS "U/E" OR "UTILITY EASEMENT" FOR THE SEVERAL PURPOSES OF CONSTRUCTING, MAINTAINING, OPERATING, REPAIRING, REPLACING, AND/OR REMOVING ANY AND ALL PUBLIC UTILITIES, INCLUDING STORM SEWERS, SANITARY SEWERS, ELECTRIC POWER LINES AND TRANSFORMERS, COMMUNICATION LINES, GAS LINES, AND WATERLINES, TOGETHER WITH ALL FITTINGS, INCLUDING THE POLES, WIRES, CONDUITS, PIPES, VALVES, METERS, MANHOLES, AND EQUIPMENT FOR EACH OF SUCH FACILITIES AND ANY OTHER APPURTENANCES THERETO, WITH THE RIGHTS OF INGRESS AND EGRESS TO AND UPON THE UTILITY EASEMENTS FOR THE USES AND PURPOSES AFORESAID, PROVIDED HOWEVER, THE OWNER HEREBY RESERVES THE RIGHT TO CONSTRUCT, MAINTAIN, OPERATE, LAY, AND REPAIR OR REPLACE WATERLINES AND SEWER LINES, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS FOR SUCH CONSTRUCTION, MAINTENANCE, OPERATION, LAYING, REPAIRING, AND REPLACING OVER, ACROSS, AND ALONG ALL OF THE UTILITY EASEMENTS DEPICTED ON THE PLAT, FOR THE PURPOSE OF FURNISHING WATER AND/OR SEWER SERVICES TO THE AREA INCLUDED IN THE PLAT. THE OWNER HEREBY IMPOSES A RESTRICTIVE COVENANT, WHICH COVENANT SHALL BE BINDING ON THE LOT OWNER AND SHALL BE ENFORCEABLE BY THE CITY OF BROKEN ARROW, OKLAHOMA, AND BY THE SUPPLIER OF ANY AFFECTED UTILITY SERVICE THAT, WITHIN THE UTILITY EASEMENTS DEPICTED ON THE ACCOMPANYING PLAT, NO BUILDING, STRUCTURE, OR OTHER ABOVE OR BELOW GROUND OBSTRUCTION THAT INTERFERES WITH THE ABOVE SET FORTH USES AND PURPOSES OF THE UTILITY EASEMENTS SHALL BE PLACED, ERCTED, INSTALLED, OR MAINTAINED, PROVIDED HOWEVER, NOTHING HEREIN SHALL BE DEEMED TO PROHIBIT DRIVES, PARKING AREAS, CURBING, LANDSCAPING, AND CUSTOMARY SCREENING FENCES AND WALLS THAT DO NOT CONSTITUTE AN OBSTRUCTION.

1.1. WATER, SANITARY SEWER, AND STORM SEWER SERVICE

1.1.1. THE LOT OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE PUBLIC WATER MAINS, SANITARY SEWER MAINS, AND STORM SEWERS LOCATED ON THE LOT.

1.1.2. WITHIN THE UTILITY EASEMENT AREAS DEPICTED ON THE ACCOMPANYING PLAT, THE ALTERATION OF GRADE FROM THE CONTOURS EXISTING UPON THE COMPLETION OF THE INSTALLATION OF A PUBLIC WATER MAIN, SANITARY SEWER MAIN, OR STORM SEWER, OR ANY CONSTRUCTION ACTIVITY WHICH, IN THE JUDGMENT OF THE CITY OF BROKEN ARROW, WOULD INTERFERE WITH PUBLIC WATER MAINS, SANITARY SEWER MAINS, OR STORM SEWERS SHALL BE PROHIBITED.

1.1.3. THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, SHALL BE RESPONSIBLE FOR ORDINARY MAINTENANCE OF PUBLIC WATER MAINS, SANITARY SEWER MAINS, AND STORM SEWERS, BUT THE LOT OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE LOT OWNER OR SAID OWNER'S AGENTS OR CONTRACTORS.

1.1.4. THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, SHALL AT ALL TIMES HAVE RIGHT OF ACCESS TO ALL UTILITY EASEMENTS DEPICTED ON THE ACCOMPANYING PLAT, OR OTHERWISE PROVIDED FOR IN THIS DEED OF DEDICATION, FOR THE PURPOSE OF INSTALLING, MAINTAINING, REMOVING OR REPLACING ANY PORTION OF UNDERGROUND WATER, SANITARY SEWER, OR STORM SEWER FACILITIES.

1.1.5. THE FOREGOING COVENANTS SET FORTH IN THIS SECTION 1.1 SHALL BE ENFORCEABLE BY THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, AND THE LOT OWNER AGREES TO BE BOUND HEREBY.

1.2. PAVING AND LANDSCAPING WITHIN EASEMENTS

THE LOT OWNER SHALL BE RESPONSIBLE FOR THE REPAIR OF DAMAGE TO LANDSCAPING AND PAVING OCCASIONED BY INSTALLATION OR NECESSARY MAINTENANCE OF UNDERGROUND WATER, SANITARY SEWER, STORM SEWER, NATURAL GAS, COMMUNICATION, OR ELECTRIC FACILITIES WITHIN THE EASEMENT AREAS DEPICTED UPON THE ACCOMPANYING PLAT, PROVIDED THE CITY OF BROKEN ARROW, OKLAHOMA, OR ITS SUCCESSORS, OR THE SUPPLIER OF THE UTILITY SERVICE SHALL USE REASONABLE CARE IN THE PERFORMANCE OF SUCH ACTIVITIES.

1.3. UNDERGROUND SERVICE

1.3.1. OVERHEAD POLES FOR THE SUPPLY OF ELECTRIC AND COMMUNICATION SERVICE MAY BE LOCATED IN THE NORTH PERIMETER UTILITY EASEMENT. STREET LIGHT POLES OR STANDARDS SHALL BE SERVED BY UNDERGROUND CABLE AND, EXCEPT AS PROVIDED IN THE IMMEDIATELY-PRECEDING SENTENCE, ALL SUPPLY LINES INCLUDING ELECTRIC, COMMUNICATION, AND GAS LINES SHALL BE LOCATED UNDERGROUND IN THE EASEMENTS DEDICATED FOR GENERAL UTILITY SERVICES AS DEPICTED ON THE ACCOMPANYING PLAT. SERVICE PEDESTALS AND TRANSFORMERS, AS SOURCES OF SUPPLY AT SECONDARY VOLTAGES, MAY ALSO BE LOCATED IN THE UTILITY EASEMENTS.

1.3.2. UNDERGROUND SERVICE CABLES AND GAS SERVICE LINES TO ALL STRUCTURES WHICH ARE LOCATED WITHIN THE SUBDIVISION MAY BE RUN FROM THE NEAREST GAS MAIN, SERVICE PEDESTAL, OR TRANSFORMER TO THE POINT OF USAGE DETERMINED BY THE LOCATION AND CONSTRUCTION OF SUCH STRUCTURE AS MAY BE LOCATED UPON THE LOT, PROVIDED THAT, UPON THE INSTALLATION OF A SERVICE CABLE OR GAS SERVICE LINE TO A PARTICULAR STRUCTURE, THE SUPPLIER OF SERVICE SHALL THEREAFTER BE DEEMED TO HAVE A DEFINITIVE, PERMANENT, EFFECTIVE, AND NON-EXCLUSIVE EASEMENT ON THE LOT, COVERING A 5 FOOT STRIP EXTENDING 2.5 FEET ON EACH SIDE OF THE SERVICE CABLE OR LINE EXTENDING FROM THE GAS MAIN, SERVICE PEDESTAL, OR TRANSFORMER TO THE SERVICE ENTRANCE ON THE STRUCTURE.

1.3.3. THE SUPPLIER OF ELECTRIC, COMMUNICATION, AND GAS SERVICES, THROUGH ITS AGENTS AND EMPLOYEES, SHALL AT ALL TIMES HAVE THE RIGHT OF ACCESS TO ALL UTILITY EASEMENTS SHOWN ON THE PLAT OR OTHERWISE PROVIDED FOR IN THIS DEED OF DEDICATION FOR THE PURPOSE OF INSTALLING, MAINTAINING, REMOVING OR REPLACING ANY PORTION OF THE UNDERGROUND ELECTRIC, COMMUNICATION, OR GAS FACILITIES INSTALLED BY THE SUPPLIER OF THE UTILITY SERVICE.

1.3.4. THE LOT OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE UNDERGROUND SERVICE CABLES AND GAS SERVICE LINES TO ALL STRUCTURES WHICH ARE LOCATED WITHIN THE SUBDIVISION. NO OWNER WITHIN THE SUBDIVISION SHALL PREVENT THE ALTERATION OF GRADE OR ANY CONSTRUCTION ACTIVITY WHICH WOULD INTERFERE WITH THE ELECTRIC, COMMUNICATION, OR GAS FACILITIES. EACH SUPPLIER OF SERVICE SHALL BE RESPONSIBLE FOR ORDINARY MAINTENANCE OF UNDERGROUND FACILITIES, BUT THE LOT OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF SUCH FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE LOT OWNER OR SAID OWNER'S AGENTS OR CONTRACTORS.

1.3.5. THE COVENANTS SET FORTH IN THE THIS SECTION 1.3 SHALL BE ENFORCEABLE BY EACH SUPPLIER OF THE ELECTRIC, COMMUNICATION, OR GAS SERVICE AND THE LOT OWNER AGREES TO BE BOUND HEREBY.

1.4. GAS SERVICE

1.4.1. THE SUPPLIER OF GAS SERVICE THROUGH ITS AGENTS AND EMPLOYEES SHALL AT ALL TIMES HAVE THE RIGHT OF ACCESS TO ALL UTILITY EASEMENTS SHOWN ON THE PLAT OR AS PROVIDED FOR IN THIS DEED OF DEDICATION FOR THE PURPOSE OF INSTALLING, REMOVING, REPAIRING, OR REPLACING ANY PORTION OF THE FACILITIES INSTALLED BY THE SUPPLIER OF GAS SERVICE.

1.4.2. THE LOT OWNER SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE UNDERGROUND GAS FACILITIES LOCATED WITHIN THE LOT AND SHALL PREVENT THE ALTERATION OF GRADE OR ANY OTHER CONSTRUCTION ACTIVITY THAT WOULD INTERFERE WITH THE GAS SERVICE. THE SUPPLIER OF THE GAS SERVICE SHALL BE RESPONSIBLE FOR THE ORDINARY MAINTENANCE OF SAID FACILITIES, BUT THE LOT OWNER SHALL PAY FOR DAMAGE OR RELOCATION OF FACILITIES CAUSED OR NECESSITATED BY ACTS OF THE LOT OWNER OR SAID OWNER'S AGENTS OR CONTRACTORS.

1.4.3. THE COVENANTS SET FORTH IN THIS SECTION 1.4 SHALL BE ENFORCEABLE BY THE SUPPLIER OF THE GAS SERVICE AND THE LOT OWNER AGREES TO BE BOUND HEREBY.

1.5. SURFACE DRAINAGE

THE LOT OWNER SHALL RECEIVE AND DRAIN, IN AN UNOBSTRUCTED MANNER, THE STORM AND SURFACE WATERS FROM LOTS AND DRAINAGE AREAS OF HIGHER ELEVATION OUTSIDE OF THE SUBDIVISION. NO OWNER WITHIN THE SUBDIVISION SHALL CONSTRUCT OR PERMIT TO BE CONSTRUCTED ANY FENCING OR OTHER OBSTRUCTIONS WHICH WOULD IMPAIR THE DRAINAGE OF STORM AND SURFACE WATERS OVER AND ACROSS THE OWNER'S LOT. THE FOREGOING COVENANTS SET FORTH IN THIS SECTION

1.5 SHALL BE ENFORCEABLE BY THE LOT OWNER AND BY THE CITY OF BROKEN ARROW, OKLAHOMA.

1.6. SIDEWALKS

THE LOT OWNER SHALL CONSTRUCT A SIDEWALK ALONG WEST TUCSON STREET IN ACCORDANCE WITH THE ENGINEERING DESIGN STANDARDS OF THE CITY OF BROKEN ARROW, OKLAHOMA.

1.7. LIMITS OF NO ACCESS

THE OWNER HEREBY RELINQUISHES RIGHT OF INGRESS AND EGRESS TO THE ABOVE DESCRIBED PROPERTY WITHIN THE BOUNDS DESIGNATED ON THE ACCOMPANYING PLAT AS "LIMITS OF NO ACCESS" ("LNA") EXCEPT AS MAY HEREAFTER BE RELEASED, ALTERED, OR AMENDED BY THE OWNER AND BROKEN ARROW PLANNING COMMISSION, OR ITS SUCCESSORS, OR AS OTHERWISE PROVIDED BY THE STATUTES AND LAWS OF THE STATE OF OKLAHOMA, PERTAINING THERETO. THE FORGOING COVENANT CONCERNING "LIMITS OF NO ACCESS" ("LNA") SHALL BE ENFORCEABLE BY THE CITY OF BROKEN ARROW OR ITS SUCCESSORS, AND THE LOT OWNER AGREES TO BE BOUND HEREBY

1.8. LANDSCAPE EASEMENT

THE OWNER DOES HEREBY ESTABLISH AND GRANT TO THE CITY OF BROKEN ARROW, OKLAHOMA, A PERPETUAL, NON-EXCLUSIVE LANDSCAPE EASEMENT OVER AND UPON THE AREA DESIGNATED AS "LANDSCAPE EASEMENT" ON THE ACCOMPANYING PLAT. THE LANDSCAPE EASEMENT IS FOR THE LIMITED PURPOSE OF INSTALLING AND MAINTAINING REQUIRED STREET FRONTAGE LANDSCAPING AS SET FORTH WITHIN THE DEVELOPMENT STANDARDS OF PLANNED UNIT DEVELOPMENT NO. 199. WITHIN THE LANDSCAPE EASEMENT, THE LOT OWNER SHALL INSTALL AND THEREAFTER MAINTAIN OF ALL LANDSCAPING.

SECTION II. PLANNED UNIT DEVELOPMENT RESTRICTIONS

WHEREAS, 121 ELM WAS SUBMITTED AS A PLANNED UNIT DEVELOPMENT (DESIGNATED AS PUD NO. 199) AS PROVIDED WITHIN THE PUD PROVISIONS OF THE ZONING ORDINANCE OF THE CITY OF BROKEN ARROW, OKLAHOMA AS THE SAME EXISTED ON MARCH 17, 2009; AND

WHEREAS, PUD NO. 199 WAS RECOMMENDED FOR APPROVAL BY THE BROKEN ARROW PLANNING COMMISSION ON MARCH 12, 2009 AND APPROVED BY THE COUNCIL OF THE CITY OF BROKEN ARROW ON MARCH 17, 2009; AND

WHEREAS, THE PLANNED UNIT DEVELOPMENT PROVISIONS OF THE BROKEN ARROW ZONING ORDINANCE REQUIRE THE ESTABLISHMENT OF COVENANTS OF RECORD, INURING TO AND ENFORCEABLE BY THE CITY OF BROKEN ARROW, SUFFICIENT TO INSURE THE IMPLEMENTATION AND CONTINUED COMPLIANCE WITH THE APPROVED PLANNED UNIT DEVELOPMENT; AND

WHEREAS, THE OWNER DESIRES TO ESTABLISH COVENANTS OF RECORD FOR THE PURPOSE OF PROVIDING FOR AN ORDERLY DEVELOPMENT AND TO INSURE ADEQUATE COMPLIANCE WITH PUD NO. 199 FOR THE MUTUAL BENEFIT OF THE OWNER, ITS SUCCESSORS AND ASSIGNS, AND THE CITY OF BROKEN ARROW.

NOW, THEREFORE, THE OWNER DOES HEREBY IMPOSE THE FOLLOWING RESTRICTIONS AND COVENANTS WHICH SHALL BE COVENANTS RUNNING WITH THE LAND AND SHALL BE BINDING UPON THE OWNER, ITS SUCCESSORS AND ASSIGNS, AND SHALL BE ENFORCEABLE AS HEREINAFTER SET FORTH.

2.1. GENERAL DEVELOPMENT AND CONDITIONS

THE DEVELOPMENT OF 121 ELM SHALL BE SUBJECT TO THE PLANNED UNIT DEVELOPMENT PROVISIONS OF THE BROKEN ARROW ZONING ORDINANCE AS SUCH PROVISIONS EXISTED ON MARCH 17, 2009, OR AS MAY BE SUBSEQUENTLY AMENDED.

2.2. PERMITTED USES

THOSE USES INCLUDED AS A MATTER OF RIGHT IN THE COMMERCIAL NEIGHBORHOOD DISTRICT (CN) AND USES CUSTOMARILY ACCESSORY TO PERMITTED USES.

2.3. MAXIMUM BUILDING COVERAGE

THE MAXIMUM COVERAGE OF ANY BUILDING ON ANY LOT OR PARCEL SHALL NOT EXCEED FIFTY PERCENT (50%) OF THE NET LOT AREA.

2.4. MAXIMUM BUILDING FLOOR AREA 100,000 S.F.

2.5. MINIMUM LOT SIZE 18,000 S.F.

2.6. ACCESS TO ABUTTING STREETS

THERE SHALL BE A MAXIMUM OF FOUR ACCESS POINTS TO TUCSON STREET AND ONE ACCESS POINT TO ELM PLACE WITHIN PUD 199. ALL ACCESS POINTS SHALL BE LOCATED AT LEAST 200 FEET APART, CENTERLINE TO CENTERLINE. CROSS ACCESS SHALL BE PERMITTED BETWEEN EACH LOT WITHIN PUD 199.

2.7. MINIMUM LOT FRONTAGE ON A PUBLIC STREET 100 FEET

2.8. LOT SPLITS

LOT SPLITS SHALL BE PERMITTED PROVIDED THE LOTS MEET THE MINIMUM SIZE OF 18,000 SQUARE FEET AND EACH LOT HAS A MINIMUM FRONTAGE OF 100 FEET ON A PUBLIC STREET OR FRONTS UPON A PRIVATE DRIVE THAT PROVIDES ACCESS TO A PUBLIC STREET AND NO ADDITIONAL ACCESS POINT IS ESTABLISHED TO ELM PLACE OR TUCSON STREET.

2.9. MAXIMUM BUILDING HEIGHT 35 FEET

ARCHITECTURAL ELEMENTS AND BUSINESS LOGOS MAY EXCEED THE MAXIMUM BUILDING HEIGHT WITH SITE PLAN APPROVAL.

2.10. OFF-STREET PARKING

AS REQUIRED BY CHAPTER 5 OF THE BROKEN ARROW ZONING ORDINANCE FOR THE PERMITTED USES. PART OF THE REQUIRED OFF-STREET PARKING FOR ANY LOT MAY BE PROVIDED ON ANOTHER LOT WITH APPROVED MUTUAL ACCESS AND PARKING COVENANTS.

2.11. MINIMUM BUILDING SETBACKS:

FROM THE CENTERLINE OF WEST TUCSON STREET	110 FEET
FROM THE CENTERLINE OF SOUTH ELM PLACE	110 FEET
FROM THE SOUTH BOUNDARY OF PUD 199	17.5 FEET
FROM THE WEST BOUNDARY OF PUD 199	17.5 FEET
FROM INTERIOR BOUNDARIES	0 FEET

2.12. LANDSCAPING

LANDSCAPING SHALL BE PROVIDED IN ACCORDANCE WITH SECTION 5.2 OF THE BROKEN ARROW ZONING ORDINANCE, EXCEPT THAT A LANDSCAPE EDGE AT LEAST 15 FEET IN WIDTH SHALL BE PROVIDED ALONG ELM PLACE AND TUCSON STREET. AT LEAST 10% OF THE NET LOT AREA OF EACH LOT SHALL BE LANDSCAPED OPEN SPACE. THE AMOUNT OF LANDSCAPE AREA SHALL BE CALCULATED AND SHOWN ON THE SITE PLAN SUBMITTED TO THE CITY.

2.13. VISUAL SCREENING

VISUAL SCREENING SHALL NOT BE REQUIRED ALONG THE BOUNDARIES OF ADJACENT STORMWATER DRAINAGE AREAS DEVELOPED UNDER AN APPROVED STORMWATER DRAINAGE PLAN. VISUAL SCREENING, IF ANY IS REQUIRED, SHALL BE ESTABLISHED AS PART OF THE SITE PLAN REVIEW AND APPROVAL.

2.14. SIGNS

SIGNS SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF BROKEN ARROW ZONING ORDINANCE. ALL FREE STANDING SIGNS SHALL BE LIMITED TO A MAXIMUM HEIGHT OF 14 FEET AND A MAXIMUM SIZE OF 100 SQUARE FEET WITH A MONUMENT TYPE BASE. THE BASE OF THE SIGN SHALL BE OF THE SAME MATERIALS AS THE PRINCIPAL BUILDING ON THE LOT. NO PORTABLE SIGNS OR BANNERS SHALL BE PLACED ON ANY OF THE LOTS OR ON ANY LIGHT POLES ON THE LOT. NO SIGNS SHALL BE LOCATED IN A UTILITY EASEMENT, UNLESS HOLD HARMLESS AGREEMENT IS AGREED TO BY THE CITY. FURTHERMORE, THE MAXIMUM NUMBER OF FREE-STANDING SIGNS ALLOWED ON TUCSON STREET IS LIMITED TO FOUR, WHILE THE MAXIMUM NUMBER IF FREE-STANDING SIGNS ALLOWED ON ELM PLACE IS LIMITED TO TWO.

2.15. LIGHTING

EXTERIOR LIGHTING FOR THE DEVELOPMENT SHALL CONFORM TO THE STANDARDS SET FORTH IN SECTION 5.6 OF THE BROKEN ARROW ZONING ORDINANCE.

2.16. BUILDING FACADES

THE BUILDING FACADES SHALL BE DESIGNED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 5.8.G. ALL FACADES OF EACH BUILDING SHALL BE MADE OF BRICK MASONRY.

SECTION III. ENFORCEMENT, DURATION, AMENDMENT OR TERMINATION, AND SEVERABILITY

3.1. ENFORCEMENT

THE RESTRICTIONS HEREIN SET FORTH ARE COVENANTS TO RUN WITH THE LAND AND SHALL BE BINDING UPON THE OWNER, ITS SUCCESSORS AND ASSIGNS. WITHIN THE PROVISIONS OF SECTION I. EASEMENTS, SECTION II. PLANNED UNIT DEVELOPMENT RESTRICTIONS, AND SECTION III. ENFORCEMENT, DURATION, AMENDMENT OR TERMINATION, AND SEVERABILITY ARE SET FORTH CERTAIN COVENANTS AND THE ENFORCEMENT RIGHTS PERTAINING THERETO, AND ADDITIONALLY THE COVENANTS WITHIN SECTIONS I., II., AND III., WHETHER OR NOT SPECIFICALLY THEREIN SO STATED, SHALL INURE TO THE BENEFIT OF AND SHALL BE ENFORCEABLE BY THE CITY OF BROKEN ARROW, OKLAHOMA. IF THE UNDERSIGNED OWNER OR ITS SUCCESSORS OR ASSIGNS SHALL VIOLATE ANY OF THE COVENANTS WITHIN SECTIONS I., II., OR III., IT SHALL BE LAWFUL FOR THE CITY OF BROKEN ARROW OR ANY OWNER OF LAND WITHIN THE SUBDIVISION TO MAINTAIN ANY ACTION AT LAW OR IN EQUITY AGAINST THE PERSON OR PERSONS VIOLATING OR ATTEMPTING TO VIOLATE ANY SUCH COVENANT, TO PREVENT SUCH PERSON OR PERSONS FROM SO DOING OR TO COMPEL COMPLIANCE WITH THE COVENANT. IN ANY JUDICIAL ACTION BROUGHT TO ENFORCE THE COVENANTS ESTABLISHED WITHIN THIS DEED OF DEDICATION, THE DEFENSE THAT THE PARTY INITIATING THE EQUITABLE PROCEEDING HAS AN ADEQUATE REMEDY AT LAW IS HEREBY WAIVED.

3.2. DURATION

THESE RESTRICTIONS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, SHALL BE PERPETUAL BUT IN ANY EVENT SHALL BE IN FORCE AND EFFECT FOR A TERM OF NOT LESS THAN THIRTY (30) YEARS FROM THE DATE OF THE RECORDING OF THIS DEED OF DEDICATION UNLESS TERMINATED OR AMENDED AS HEREINAFTER PROVIDED.

3.3. AMENDMENT OR TERMINATION

THE COVENANTS CONTAINED WITHIN SECTION I. EASEMENTS AND SECTION III. ENFORCEMENT, DURATION, AMENDMENT OR TERMINATION, AND SEVERABILITY MAY BE AMENDED OR TERMINATED AT ANY TIME BY A WRITTEN INSTRUMENT SIGNED AND

ACKNOWLEDGED BY THE OWNER OF THE LAND TO WHICH THE AMENDMENT OR TERMINATION IS TO BE APPLICABLE AND APPROVED BY THE BROKEN ARROW PLANNING COMMISSION, OR ITS SUCCESSORS, AND THE CITY OF BROKEN ARROW, OKLAHOMA. THE COVENANTS CONTAINED WITHIN SECTION II. PLANNED UNIT DEVELOPMENT RESTRICTIONS MAY BE AMENDED OR TERMINATED AT ANY TIME BY A WRITTEN INSTRUMENT SIGNED AND ACKNOWLEDGED BY THE OWNERS OF THE LAND TO WHICH THE AMENDMENT OR TERMINATION IS TO BE APPLICABLE AND APPROVED BY THE BROKEN ARROW PLANNING COMMISSION, OR ITS SUCCESSORS. NOTWITHSTANDING THE FOREGOING, THE COVENANTS CONTAINED WITHIN SECTION II. SHALL BE DEEMED AMENDED (WITHOUT NECESSITY OF EXECUTION OF AN AMENDING DOCUMENT) UPON APPROVAL OF A MINOR AMENDMENT TO PUD 199 BY THE BROKEN ARROW PLANNING COMMISSION, OR ITS SUCCESSORS, AND RECORDING OF A CERTIFIED COPY OF THE MINUTES OF THE BROKEN ARROW PLANNING COMMISSION OR ITS SUCCESSORS WITH THE TULSA COUNTY CLERK. THE PROVISIONS OF ANY INSTRUMENT AMENDING OR TERMINATING COVENANTS AND RESTRICTIONS SHALL BE EFFECTIVE FROM AND AFTER THE DATE IT IS PROPERLY RECORDED.

3.4. SEVERABILITY

INVALIDATION OF ANY RESTRICTION SET FORTH HEREIN, OR ANY PART THEREOF, BY AN ORDER, JUDGMENT, OR DECREE OF ANY COURT, OR OTHERWISE, SHALL NOT INVALIDATE OR AFFECT ANY OF THE OTHER RESTRICTIONS OR ANY PART THEREOF AS SET FORTH HEREIN, WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, THE OWNERS HAVE CAUSED THESE PRESENTS TO BE EXECUTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.

K&S COMMERCIAL, LLC  
AN OKLAHOMA LIMITED LIABILITY COMPANY

BY \_\_\_\_\_  
PETE KOURTIS, MANAGER

STATE OF OKLAHOMA )  
COUNTY OF TULSA )SS

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018, PERSONALLY APPEARED PETE KOURTIS, TO ME KNOWN TO BE THE IDENTICAL PERSON WHO EXECUTED THE FOREGOING INSTRUMENT, AS MANAGER OF K&S COMMERCIAL, LLC, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE AND VOLUNTARY ACT AND DEED, AND AS THE FREE AND VOLUNTARY ACT AND DEED OF K&S COMMERCIAL, LLC FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES \_\_\_\_\_ NOTARY PUBLIC

CERTIFICATE OF SURVEY

I, DAN E. TANNER, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OKLAHOMA, DO HEREBY CERTIFY THAT I HAVE CAREFULLY AND ACCURATELY SURVEYED, SUBDIVIDED, AND PLATTED THE TRACT OF LAND HEREIN DESCRIBED ABOVE, AND THAT THE ACCOMPANYING PLAT IS A TRUE REPRESENTATION OF A SURVEY MADE ON THE GROUND USING GENERALLY ACCEPTED PRACTICES, AND MEETS OR EXCEEDS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING.

WITNESS MY HAND AND SEAL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018.



BY: \_\_\_\_\_  
DAN E. TANNER  
LICENSED PROFESSIONAL LAND SURVEYOR  
OKLAHOMA NO. 1435

STATE OF OKLAHOMA )  
COUNTY OF TULSA )SS

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2018, PERSONALLY APPEARED TO ME DAN E. TANNER KNOWN TO BE THE IDENTICAL PERSON WHO SUBSCRIBED HIS NAME AS LICENSED PROFESSIONAL LAND SURVEYOR TO THE FOREGOING CERTIFICATE, AS HIS FREE AND VOLUNTARY ACT AND DEED, FOR THE USES AND PURPOSES THEREIN SET FORTH.

GIVEN UNDER MY HAND AND SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

MY COMMISSION EXPIRES \_\_\_\_\_ JENNIFER MILLER, NOTARY PUBLIC



# City of Broken Arrow

## Request for Action

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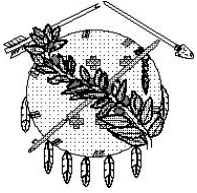
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### Broken Arrow Planning Commission

**11-15-2018**

**To:** Chairman and Commission Members  
**From:** Development Services Department  
**Title:** Approval of Planning Commission meeting minutes of July 12, 2018  
**Background:** Minutes recorded for the Broken Arrow Planning Commission meeting.  
**Attachments:** Minutes of July 12, 2018  
**Recommendation:** Approve minutes of Planning Commission meeting held July 12, 2018.  
**Reviewed By:** Larry R. Curtis  
**Approved By:** Michael W. Skates



**City of Broken Arrow**  
**Minutes**  
**Special Meeting Planning Commission**

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

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

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**Thursday, July 12, 2018**

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

**Council Chambers**

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**1. Call to Order**

Chairperson Ricky Jones called the meeting to order at approximately 5:00 p.m.

**2. Roll Call**

**Present:** 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones  
**Absent:** 1 - Fred Dorrell

**3. Old Business**

There was no Old Business.

**4. Consideration of Consent Agenda**

Staff Planner Amanda Yamaguchi presented the Consent Agenda.

- A. 18-794 Approval of PT18-106, Preliminary Plat, Bill Knight Collision, 2 lots, 2.74 acres, PUD-271/CH and IL to PUD-271A/CH and IL, north of Kenosha Street, west of 9th Street**  
Ms. Yamaguchi stated the applicant was in agreement with the Staff Report, but was not present.

Chairperson Ricky Jones 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 to be removed for discussion. He asked if there were any Items to be removed. There were none.

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

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

The motion carried by the following vote:

**Aye:** 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

**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. 18-790 Public hearing, consideration, and possible action regarding BAZ-2006, Jackson Square, 0.32 acres, R-3 to DM, one-eighth mile south of Houston Street, one-half mile east of Elm Place at 119 E. Jackson Street**

Ms. Amanda Yamaguchi reported BAZ-2006 was a request to change the zoning designation on a 0.32 acres parcel of land from R-3 single family residential to DM downtown mixed use. She stated the property was platted as lot 4 and lot 5 of block 14 of the Fears Addition to Broken Arrow. She stated the applicant requested to change the zoning for the purpose of expanding the DM zoning on the property to the west. She stated the property to the west, lot 6, and the east half of lot 7, block 14 was rezoned from R-3 to DM with BAZ-1990 on December 5, 2017; the City did not require platting with BAZ-1990. She reported the applicant proposed to construct row-home style apartment structures on the property. She stated the property was designated Level 5 in the Comprehensive Plan; the DM zoning requested was considered to be in conformance with the Comprehensive Plan in Level 5. She stated based on the Comprehensive Plan, location of the property, and surrounding land uses, staff recommended BAZ-2006 be approved and the platting be waived.

Mr. Chad Wolber of Wolber Properties, LLC, stated these homes would be brownstones, not apartment style homes. He stated there would be 13 homes built on the properties. Chairperson Jones asked if this development would encompass more than just the property in question. Mr. Wolber responded in the affirmative; it would encompass the property in question and the two properties to the west. Commissioner Aguirre asked if the other two properties to the west were currently zoned DM. Mr. Wolber responded in the affirmative.

Chairperson Jones opened up the Public Hearing for Item 6A. He asked if any present wanted to speak regarding Item 6A. Seeing none, he closed the Public Hearing for Item 6A.

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

**Move to approve Item 6A, BAZ-2006, as per Staff recommendation**

The motion carried by the following vote:

**Aye:** 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6A would go before City Council on August 7, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6A, said citizen was required to fill out a Request to Appear before City Council form in advance.

**B. 18-791 Public hearing, consideration, and possible action regarding BAZ-2007, RDS Business Park, 19.70 acres, A-1 to CN, one-quarter mile north of Kenosha Street, east of 23rd Street**

Senior Planner Brent Murphy reported BAZ-2007 was a zoning request from A-1 agricultural to CN commercial neighborhood. He stated the property was vacant and unplatted. He stated there had been several Comprehensive Plan and zoning changes, as well as a previous preliminary plat on the property. He reported the property was currently designated as Level 4 in the Comprehensive Plan and CN was considered to be in compliance with the Comprehensive Plan in Level 4. He stated the property was not located in the 100 year flood plain. He stated based on the Comprehensive Plan, location of the property and the surrounding land uses, staff recommended BAZ-2007 be approved subject to the property being platted.

Chairperson Jones explained hydrology, flooding, utility easements, access roads, etc., would be considered during the platting process. Mr. Murphy concurred; this was simply a zoning request to determine if CN was an appropriate land use for the property.

Mr. J.R. Donaldson stated his address was 12820 South Memorial Drive, Bixby, OK. He stated he represented RDS Investments, LLC, who requested this property be rezoned from agricultural to CN. He stated his client proposed commercial use along 193<sup>rd</sup>, and office use along the back portion. He stated his client was in agreement with Staff recommendation. He stated he understood there were concerns about drainage that would be addressed. He stated proper drainage was a priority for his client, RDS Investments.

Chairperson Jones asked if Mr. Donaldson understood that an engineer would be required to develop hydrology plans, plats and utility layouts for approval by the City. Mr. Donaldson responded in the affirmative.

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

Mr. Calvin Garner stated his address was 1213 North 27<sup>th</sup> Street, Broken Arrow. He stated he was concerned about where the access road for this property would be located. Chairperson Jones stated it was too early in the process to know this; conceptual site plans had not yet been developed. He explained the purpose of this meeting was to determine if commercial zoning was appropriate for this location. He stated later, if the zoning was approved, during the platting process, Mr. Garner would have an opportunity to see the site plans and voice any concerns. Mr. Garner stated the only way to access the property in question would be through his trailer park. Chairperson Jones responded most likely all access to the property would be off of the arterial street, not through his neighborhood.

Ms. Rita Harbour stated her address was 2600 West Vandalia Street, Broken Arrow. She stated her concern was regarding a road which was proposed to pass in front of the Walmart to connect with the Highway; if finished as proposed the road would pass through the trailer park to the east which would displace many residents. She stated she owned 29 or 30 properties in the trailer park and would lose six properties if this road was constructed. She asked if this commercial rezoning had anything to do with the proposed road. Chairperson Jones responded in the negative; not to his knowledge. He reiterated this meeting was only to consider whether commercial neighborhood zoning was a good fit for this property; road placement would be determined during the platting process.

Ms. Grace Weber stated her address was 16590 South 257<sup>th</sup> East Avenue, Coweta, OK. She stated the concern being voiced this evening was the possibility of construction of a road through the trailer park; a problem which had arisen in the past. She explained the owners and residents of the trailer park had fought against the proposed road and won, but were informed that the possibility could arise again in the future. She stated she believed the proposed commercial neighborhood project indicated entrance off of 193<sup>rd</sup>, but she was still concerned about the possibility of road construction through the trailer park being revisited. She stated she wanted Mr. Donaldson and the City to be aware, if a road was proposed through the trailer park once more, it would cost Mr. Donaldson and the City dearly to displace the residents; the residents were scared of this happening and would not be pleased with the prospect.

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

Vice Chairperson Whelpley asked if there were substreets leading into the proposed property. Mr. Curtis responded in the affirmative; there was one substreet which came in from the neighborhood north of the property. He stated the trailer park neighborhood which was concerned was located east of the property.

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

**Move to approve Item 6B, BAZ-2007, as per Staff recommendation**

The motion carried by the following vote:

Aye: 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6B would go before City Council on August 7, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6B, said citizen was required to fill out a Request to Appear before City Council form in advance.

**C. 18-795 Public hearing, consideration, and possible action regarding PUD (Planned Unit Development) 271A and Abrogation of a portion of BAZ-1994, Bill Knight Collision, 2.74 acres, PUD-271/CH and IL to PUD-271A/CH and IL, north of Kenosha Street, west of 9th Street**

Planner II Jane Wyrick reported PUD-271A and abrogation of a portion of BAZ-1994 involved an undeveloped 2.74 acres tract. She stated on February 20, 2018 the City Council approved PUD-271 and BAZ-1994 to rezone 1.96 acres of the site from commercial heavy to industrial light for an autobody repair facility; the remainder of the site was anticipated to be restaurant use. She explained, since approval, the owner had identified a user for the commercial portion of the site who required a larger lot size; consequently, the owner requested the northeastern corner of the site, amounting to 0.327 acres, which was rezoned with BAZ-1994, be abrogated to meet the larger lot requirement. She stated with the abrogation 1.106 acres would be commercial heavy and 1.634 acres would remain industrial light. She reported at the time the Staff Report was published it was believed no other changes would be requested with this PUD amendment; however, since then, the owner discussed with Staff the previously rezoned area B for commercial use was a smaller lot with limited depth in which a smaller 20 foot setback was approved. She stated, should this request be approved, the lot would extend to the rear of the site and the narrower rear 20 foot setback would be unnecessary; therefore, the setback would be changed from 20 feet to 30 feet. She stated the plat for the project was being processed concurrently and was on the Consent Agenda. She reported the property was designated Level 6 in the Comprehensive Plan, IL zoning was considered to be in conformance with the Comprehensive Plan at Level 6 when in conjunction with a PUD; CH zoning was also in conformance with the Comprehensive Plan at Level 6. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses Staff recommended PUD-271A and abrogation of a 0.327 acres portion of BAZ-1994 be approved with the setback revision. She stated the applicant was in agreement with the Staff Report and recommendations, but was not present.

Chairperson Jones opened up the Public Hearing for Item 6C. He asked if any present wished to speak regarding Item 6C. Seeing none, he closed the Public Hearing for Item 6C.

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

**Move to approve Item 6C, BAZ-1994 and PUD-271A, as per Staff recommendation**

The motion carried by the following vote:

Aye: 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6C would go before City Council on August 7, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6C, said citizen was required to fill out a Request to Appear before City Council form in advance.

**D. 18-793 Public hearing, consideration, and possible action regarding PUD-278 (Planned Unit Development) and BAZ-2008 (Rezoning), Parks Property, 4.69 acres, CH and A-1 to CH and RE/PUD-278, located one-half mile north of New Orleans Street, east of 1st Street at 2303 S. 1st Street**

Plan Development Manager Larry Curtis reported PUD-278 and BAZ-2008 was a request to rezone from CH and A-1 to CH and RE. He stated the reason for the proposed zoning change was future development of the property, for one additional residential home to be placed on the property. He reported the property was annexed into the City of Broken Arrow on March 15, 1971 with Ordinance No. 383. He reported the property associated with this development consisted of one lot, and while the PUD proposed to divide the property into two areas (development area A and development area B), it was essential to the PUD that the property remain as one lot and no lot splits would be permitted. He stated the permitted uses in development area A, on the western quarter of the property, were office general, personal services, retail general, multifamily dwelling (there was an existing structure on the southern



portion of the property which was multifamily use), office warehouse, grocery and/or permitted farmers market, restaurant, or food preparations/distribution. He stated the permitted use in development area B was for one single family detached residence. He stated with PUD-278 the applicant proposed to develop the property in accordance with the City of Broken Arrow zoning ordinance with some changes associated with the CH and RE zoning districts which were reflected in the report. He reported to the east of the property was the single family Washington Lakes subdivision, and to the west was the City of Broken Arrow Streets and Stormwater, Public Safety and Courts building. He stated none of the property was located within the 100 year flood plain. He stated the property associated with PUD-278 and BAZ-2008 was shown as Level 1 and Level 4 in the Comprehensive Plan. He stated the RE zoning requested with BAZ-2008 was considered in compliance with the Comprehensive Plan in that Level. He stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended PUD-278 and BAZ-2008 be approved as presented. He reported the zoning ordinance required any changes in zoning to be approved subject to platting; Staff recommended platting be waived provided right of way was dedicated along 1<sup>st</sup> Place in accordance with subdivision regulations (60 feet from the section line road with 17.5 feet of utility easement provided adjacent to the right of way).

Mr. Jason Parks stated his address was 26750 East 81<sup>st</sup> Street, Broken Arrow. He stated he was in agreement with the Staff recommendation. Chairperson Jones asked if Mr. Parks understood right of way dedication was required and a lot split would not be permitted. Mr. Parks responded in the affirmative.

Chairperson Jones opened up the Public Hearing for Item 6D. He asked if any present wanted to speak regarding Item 6D. Seeing none, he closed the Public Hearing for Item 6D.

MOTION: A motion was made by Pablo Aguirre, seconded by Lee Whelpley.  
**Move to approve Item 6D, PUD-278 and BAZ-2008, as per Staff recommendation**  
The motion carried by the following vote:

Aye: 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6D would go before City Council on August 7, 2018 at 6:30 p.m.

7. Appeals

There were no Appeals.

8. General Commission Business

A. 18-601 Presentation of Training Material for Planning Commission

Senior Planner Brent Murphy reported the Planning Commission would be familiar with most of his presentation, but if there were questions to feel free to ask. Mr. Murphy briefly gave a history of zoning regulation development, how authority was given to municipalities, and Title 11 – Planning Commission responsibilities. He stated per Title 11 the Planning Commission was responsible for preparing general plans or land use plans, holding public hearings for proposed zoning ordinances or code, making recommendations to City Council, reviewing subdivision plats, as well as providing necessary guidance in development of the City.

Mr. Murphy stated the Comprehensive Plan served as a guide for future development and included goals, objectives and policies; it clarified land use expectations and established future road networks and utility plans. He stated the Comprehensive Plan divided the City into seven Levels of Land Use Intensity which included zoning classifications and he briefly reviewed the zoning classification in each Level. He displayed and reviewed a chart which illustrated the Comprehensive Plan Land Use Intensity System. He explained there were three tools used to implement the Comprehensive Plan: Zoning Ordinances, Subdivision Regulations and Engineering Design Standards. He displayed and explained the Zoning Ordinance Matrix, Building Setback Criteria charts, Zoning Ordinance Contents (parking, landscaping, parking lot lighting, sign regulations, access controls, design requirements, and legal nonconforming uses), and Zoning Maps.

Mr. Murphy reviewed the rezoning process which started with an application including a list of the property owners within 300 feet or within 1,320 feet for multifamily. He stated legal notice would be sent to the property owners, a notice was posted in the newspaper and signs were posted on the property regarding the Hearing date, location and time. He displayed an example of the Notice which would be posted on properties and mailed to the surrounding property owners. He explained Planning Commission Members should not discuss Planning Commission business outside the meetings; these were considered ex parte communications. He briefly reviewed Planning Commission Public Hearings including the Agenda and Reports prepared by Staff, Staff presentations, applicant presentations, and the Public Hearing process. He stated this Planning Commission did a wonderful job ensuring Public Hearings were held property.

Mr. Murphy reviewed the purpose of Subdivision Regulations: to implement the Comprehensive Plan and Zoning Regulations, to ensure subdivisions were properly designed, to establish minimum standards for subdivision design, to assure the long term maintenance responsibility of public improvements, and to establish land records. He reviewed the Subdivision Process and displayed samples of each: conceptual plat, preliminary plat, conditional final plat and final plat. He asked if there were any questions.

Chairperson Jones stated the Planning Commission purview on a zoning case was very narrow by State Statute. He explained the Planning Commission did not have the ability to deny something as a matter of dislike. Mr. Murphy concurred. He stated the Planning Commission did have the ability to deny an application if it felt it was an inappropriate land use, but should give reasoning for its decision, which would help if an issue was brought to court.

Chairperson Jones thanked Mr. Murphy for the presentation. He stated he had attended many meetings in many cities and he felt the Broken Arrow Planning Commission Meetings were very well organized and pleasant. He thanked Staff for its efforts. Mr. Murphy concurred and stated it was a sign of the excellent leadership of the Planning Commission.

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

Mr. Larry Curtis stated at the City Council Meeting on June 18, 2018, PUD-230C and BAZ-2001 for Johanna Woods II, was approved; therefore, the preliminary and conditional final plat process would move forward. He stated at the July 3, 2018 City Council Meeting, BAZ-2000, rezoning from AR-1 to ON for Angus Acres, was denied, as per Planning Commission recommendations. He reported at the same meeting PUD-235A, a major amendment to the North Rose Business Park, was approved by Council, and BAZ-2002, a rezoning (AR-1 to RS-1) along the southern portion of the City, was approved by Council.

**10. Adjournment**

The meeting adjourned at approximately 5:51 p.m.

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

**Move to adjourn**

The motion carried by the following vote:

**Aye:        4 -**    Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk





# City of Broken Arrow

## Request for Action

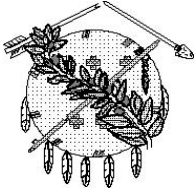
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**File #:** 18-1318, **Version:** 1

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**Broken Arrow Planning Commission  
11-15-2018**

**To:** Chairman and Commission Members  
**From:** Development Services Department  
**Title:** Approval of Planning Commission meeting minutes of July 26, 2018  
**Background:** Minutes recorded for the Broken Arrow Planning Commission meeting.  
**Attachments:** Minutes of July 26, 2018  
**Recommendation:** Approve minutes of Planning Commission meeting held July 26, 2018.  
**Reviewed By:** Larry R. Curtis  
**Approved By:** Michael W. Skates



# 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, July 26, 2018**

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

**Council Chambers**

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### 1. Call to Order

Vice Chairperson Ricky Jones called the meeting to order at approximately 5:00 p.m.

### 2. Roll Call

**Present:** 4 - Mark Jones, Fred Dorrell, Lee Whelpley, Ricky Jones

**Absent:** 1 - Pablo Aguirre

### 3. Old Business

There was no Old Business.

### 4. Consideration of Consent Agenda

Staff Planner Amanda Yamaguchi presented the Consent Agenda.

**A. 18-817 Approval of PT03-125A, Revised Preliminary Plat, Johanna Woods II, 5.02 acres, 25 Lots, A-1 to PUD-30C/RMH, south of Omaha Street, one-half mile east of 23rd Street**  
Ms. Yamaguchi reported the applicant was in agreement with the Staff Report.

**B. 18-800 Approval of PT18-107, Preliminary Plat, Freedom Wash, a replat of Lot 5 and Lot 7, Block 1 of Kenwood Acres (Plat #1417), 2.76 acres, 2 Lots, R-1 to PUD-172/RD and CH, north of Kenosha Street, one-quarter mile west of 9th Street, between 4th Street and 5th Street**  
Ms. Yamaguchi reported the applicant was in agreement with the Staff Report.

Vice Chairperson Jones explained the Consent Agenda was approved in its entirety with a single motion and a single vote unless an item was to be removed for discussion. He asked if there were any Items to be removed. There were none.

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

**Move to approve the Consent Agenda**

The motion carried by the following vote:

**Aye:** 4 - Mark Jones, Fred Dorrell, Lee Whelpley, Ricky Jones

### 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. 18-848 Public hearing, consideration, and possible action regarding PUD-279 (Planned Unit Development), Sound Mind, 14.16 acres, A-1 to CG (BAZ-1848) to CG/PUD-279, located one-half mile north of Tucson Street, west of Aspen Avenue, north of the Creek Turnpike**

Plan Development Manager Larry Curtis reported the property was currently unplatted and undeveloped. He reported BAZ 1848 (a request to change zoning from A-1 to CG) was approved on this and the adjacent property by City Council on July 20, 2010. He stated BAZ 1848 was approved subject to the property being platted; however, with exception of the area platted as Aspen Creek Town Center I to the northeast, the remainder of the property remained unplatted. He explained Sound Mind was a proposed health care facility and commercial development, and West Norfolk Drive would be extended to the edge of the Sound Mind development. He stated the first phase of the project would be the Sound Mind Behavioral Health Hospital with the commercial development to the east to begin at a later date. He stated the use of a hospital was permissible by right in the CG zoning district and this PUD request was to reduce the uses permissible on the property. He stated PUD 279 was proposed to be developed in accordance with the Zoning Ordinance and used in the development of the CG district with notes and changes associated within the PUD document. He stated the property was in compliance with the Comprehensive Plan as Level 6. He stated Staff recommended PUD 279 be approved subject to the property being platted.

Erik Enyart with Tanner Consulting stated his address was 5323 South Lewis Avenue, Tulsa.

He stated Tanner Consulting prepared the PUD on behalf of the Sound Mind Hospital Development Group. He explained the purpose of the PUD was to exclude uses from the property as part of the terms of sale between the Broken Arrow Economic Development Authority and the Sound Mind Hospital Group. He stated CG zoning was already approved. He stated his client was in agreement with Staff recommendation.

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

Citizen Robert Norman stated his address was 508 West Quantico Street, Broken Arrow. He stated he understood the Certificate of Need for Sound Mind was no longer valid. He stated a psychiatric hospital without a valid Certificate of Need should not be permitted. Mr. Curtis responded the Certificate of Need was issued by the State of Oklahoma and as such the Planning Commission had no authority in this regard. He explained what was before the Planning Commission was a PUD for land use. Mr. Norman responded a psychiatric hospital, by law, could not be built without a valid Certificate of Need. Mr. Curtis stated the land use, as a psychiatric hospital, was permissible by right in the CG zoning district. Mr. Masude Casement, representative of Sound Mind, stated the Certificate of Need provided to the City of Broken Arrow was up to date and in compliance. He stated the Certificate of Need information was posted as public information on the State of Oklahoma government website. Mr. Norman stated when he spoke with the State, the State informed him Sound Mind did not fulfill its second requirement and therefore it was out of compliance. He stated he was not against a psychiatric hospital being in developed in this location; he simply wanted to be certain all was in compliance legally. Mr. Curtis assured Mr. Norman the City would ensure all State and Federal regulations were in place prior to issuance of a building permit.

Citizen Zane Anderson stated his address was 11464 South 140<sup>th</sup> East Avenue, Broken Arrow. He asked about the future Creek Turnpike plans alongside this property. Mr. Curtis displayed a map which illustrated the future roadway proposals to connect and provide access to the future commercial developments. Mr. Anderson stated he understood this was in the flood plain. Mr. Curtis concurred; the flood plain issue would be considered and addressed when road construction plans were drawn.

Citizen Dan Clark stated his address was 5308 South Chestnut Avenue, Broken Arrow. He stated he lived near this prospective development. He asked about the flood plain. He stated he felt development of the property in the flood plain was potentially problematic. Mr. Curtis responded a bridge would be constructed over the flood plain to accommodate the Creek, and nothing was currently proposed to be constructed on the land which fell within the flood plain. Mr. Curtis assured Mr. Clark that the flood plain was well known, understood and would be protected. Discussion ensued regarding the flood plain, location of sewer lines, and City-provided buffers.

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

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

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

The motion carried by the following vote:

Aye: 3 - Mark Jones, Fred Dorrell, Lee Whelpley  
Recused: 1 - Ricky Jones

Chairperson Whelpley stated Item 6A would go before City Council on August 7<sup>th</sup>, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6A, said citizen was required to fill out a Request to Appear before City Council form in advance.

Vice Chairperson Jones left the room prior to discussion of Item 6A and returned following the vote.

**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)**

Mr. Larry Curtis reported the following items were approved by City Council: the Comprehensive Plan Amendment for Pat's Express Car Wash along the Creek Turnpike; BAZ 2003, rezoning from R-1 to RS-1; BAZ 2004, rezoning from A-1 to RS-3, for the Martha Helm Trust.

Mr. Curtis introduced the new Plan Development Division Administrative Secretary, Sarah

McDaniel.

10. Adjournment

The meeting adjourned at approximately 5:18 p.m.

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

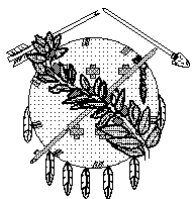
**Move to adjourn**

The motion carried by the following vote:

**Aye:      4 -**    Mark Jones, Fred Dorrell, Lee Whelpley, Ricky Jones

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# City of Broken Arrow

## Request for Action

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**File #:** 18-1319, **Version:** 1

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**Broken Arrow Planning Commission  
11-15-2018**

**To:** Chairman and Commission Members  
**From:** Development Services Department

**Title:** Approval of Planning Commission meeting minutes of August 9, 2018

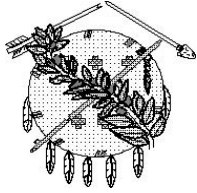
**Background:** Minutes recorded for the Broken Arrow Planning Commission meeting.

**Attachments:** Minutes of August 9, 2018

**Recommendation:** Approve minutes of Planning Commission meeting held August 9, 2018.

**Reviewed By:** Larry R. Curtis

**Approved By:** Michael W. Skates



**City of Broken Arrow**  
**Minutes**  
**Special Meeting Planning Commission**

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

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

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**Thursday, August 9, 2018**

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

**Council Chambers**

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**1. Call to Order**

Chairperson Ricky Jones called the meeting to order at approximately 5:00 p.m.

**2. Roll Call**

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

**3. Old Business**

There was no Old Business.

**4. Consideration of Consent Agenda**

Staff Planner Amanda Yamaguchi presented the Consent Agenda.

**A. 18-881 Approval of CA 18-100, Chase Bank, Lot 1, Block 1, 1.35 acres, CH, one quarter-mile south of Albany Street, east of 9th Street**

Ms. Yamaguchi stated the applicant was in agreement with the Staff Report and planned to attend the meeting. She reported this Item needed to be removed from the Consent Agenda due to modifications to Attachment 4, the license agreement.

**B. 18-912 Approval of BAL-2032, Martha A. Helm Trust Lot Split, 1 Lot, 8.49 acres, one-half mile north of Houston Street, west of Evans Road**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

**C. 18-886 Approval of BAL-2033, REIP – Pond, 0.6702 acres, PUD-94/CG, one-half mile east of Aspen Avenue, one-quarter mile north of Albany Street**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

**D. 18-914 Approval of PT18-108, Preliminary Plat, The Villages at Seven Oaks South, 13.68 acres, 57 Lots, A-1 to RS-3 (via BAZ-1622) to RS-3 to RS-4/PUD-280 (via BAZ-2010 & PUD-280), one-quarter mile east of 9th Street, south of New Orleans Street**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

Chairperson Ricky Jones indicated Item 4D needed to be removed for discussion following Item 6C; both Items were related to the same property.

Chairperson Jones 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 to be removed for discussion. He asked if there were any other Items to be removed. There were none.

MOTION: A motion was made by Fred Dorrell, seconded by Lee Whelpley.

**Move to approve the Consent Agenda Item 4B and Item 4C per Staff recommendation**

The motion carried by the following vote:

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

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

Item 4A and Item 4D were removed from the Consent Agenda; Item 4D to be discussed following Item 6C.

Planner II Jane Wyrick reported Item 4A, CA 18-100, was a request for an access point for lot 1, block 1 of the Hillcrest Lynn Lane Plat by allowing access from the north across the Reno Street right of way to 9<sup>th</sup> Street. She reported currently there was no point of access along the north and west boundaries of the lot. She explained the adjustment in the location of the access point would cause a change in the limits of no access along the north boundary of the plat and along the east side of 9<sup>th</sup> Street. She reported the license agreement, attached to the Staff Report as Attachment 4, was a proposed agreement between the City and Chase Bank who was leasing the property. She stated in discussion with the property owner the license agreement was requested to be modified to show agreement between the City and the

property owner (as opposed to the City and Chase). She stated Staff recommended CA 18-100 be approved subject to City Council approval of PUD-282 and subject to conditions included with the report.

Vice Chairperson Whelpley asked why Item 4A was removed. Ms. Wyrick responded there was a change in the license agreement as described above which was important for the Planning Commission to be aware of.

Chairperson Jones asked if anyone in the audience wished to speak regarding Item 4A.

Ms. Jan McBride stated her address was 1508 East Tacoma Street, Broken Arrow, in Westwind. She stated the access to 10<sup>th</sup> Street with this plan would be a concern to residents of Westwind. She stated it was difficult to exit the subdivision onto Hillside and she worried Chase Bank's access on 10<sup>th</sup> Street would increase congestion.

Ms. Lynn Oliver stated her address was 1708 East Tacoma Court, Broken Arrow, in Westwind. She stated it was very difficult to exit Westwind and turn left and she worried an additional business would increase the traffic and difficulty. She stated without an alternative exit for her neighborhood, access was becoming increasingly problematic. She stated there was a dead end road which backed up against the shopping center near her house and she wondered if this could be converted into another access point. She stated the speed limit along the main road was too high and should be lowered to 25 MPH.

Mr. Thomas Neal stated his address was 1500 East Tacoma Street, Broken Arrow, in Westwind. He stated he approved of Chase Bank; as a business it would operate daytime hours and would not create late night problems. He stated rather than creating an access point on 10<sup>th</sup> Street, which was exclusively a neighborhood road and would direct more traffic into the neighborhood, if access was created onto Hillside, or possibly a one-way flow to direct traffic into the business, but not back out into the neighborhood. He stated he understood there was concern regarding multiple curb cuts too close to each other, but he stated there were many areas throughout Broken Arrow which had close curb cuts which worked well. He stated his concern was the bank access directing business traffic into his neighborhood.

Chairperson Jones asked if Mr. Neal was concerned traffic would exit and turn left into the neighborhood as opposed to turning right. Mr. Neal responded in the affirmative. He stated there were issues with the intersection at 10<sup>th</sup> and Hillside currently, especially at high traffic volume times; traffic would often back up past the 10<sup>th</sup> Street intersection. He stated he did not know exactly how to alleviate the traffic issues in the area, but he did know adding to the traffic by creating the Chase Bank access point on 10<sup>th</sup> Street was a bad decision. He stated putting access on Hillside between the 10<sup>th</sup> and Lynn Lane would be a better choice.

Mr. Brent Murphy mentioned there were two items related to Chase Bank for review at this Planning Commission Meeting: Item 4A, CA 18-100, and Item 6E, PUD-282.

Commissioner Fred Dorrell requested to discuss Item 6E prior to voting on Item 4A. Chairperson Jones suggested Item 4A be heard concurrently with Item 6E.

MOTION: A motion was made by Fred Dorrell, seconded by Pablo Aguirre.

**Move to move Item 4A to be heard concurrent with Item 6E**

The motion carried by the following vote:

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

**6. Public Hearings**

**A. 18-851 Public hearing, consideration, and possible action regarding SP-45A (Specific Use Permit Amendment), Trinity Lutheran Church, 4.43 acres, A-1, west of Elm Place, one-half mile south of Florence Street**

Planner II Jane Wyrick stated SP-45A was a request for a specific use permit amendment to replace the existing sign with a proposed LED sign for Trinity Lutheran Church on South Elm Place. She reported the original specific use permit was approved in 1984 and the property was platted in 1985. She stated the existing sign was a manual changeable copy sign, was set back approximately 28 feet from Elm Place, and was outside of the existing utility easement. She stated the proposed LED sign was 7 feet, 6 inches in height and 8 feet wide with a display area of 32 square feet. She stated places of assembly were permitted in any agricultural district with a specific use permit by the Zoning Ordinance. She stated illuminated signs were permitted in agricultural districts as part of an institutional use, such as a place of assembly; therefore, with SP-45A the project was in accordance with the Comprehensive Plan and the Zoning Ordinance. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended SP-45A be approved subject to the condition the sign will be dimmed after dark.

Commissioner Pablo Aguirre asked at what time the sign would be dimmed. Ms. Wyrick responded the sign would be dimmed after dark to prevent the light from being a nuisance to

drivers. She explained the sign had a sensor which would automatically dim the LEDs when necessary. Commissioner Aguirre asked if the sign faced north/south. Ms. Wyrick responded in the affirmative.

Mr. Bruce Bagichkee (ph), with Trinity Lutheran Church, stated his address was 8613 South 5<sup>th</sup> Street, Broken Arrow. He stated the sign in question was the same size as the existing sign, with the same setback and in the same location. He stated the sign had an automatic photosensor which as daylight disappeared would dim the sign.

Chairperson Jones opened up the Public Hearing for Item 6A. He asked if any present wanted to speak regarding Item 6A. Seeing none, he closed the Public Hearing for Item 6A.

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

**Move to approve Item 6A, SP-45A, as per Staff recommendation**

The motion carried by the following vote:

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

Chairperson Jones stated Item 6A would go before City Council on September 4, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6A, said citizen was required to fill out a Request to Appear before City Council form in advance.

**B. 18-883 Public hearing, consideration, and possible action regarding PUD-175D (Planned Unit Development) and BAZ 2009 (Rezoning), Pat’s Express Car Wash Broken Arrow, 1.01 acres, PUD-175/CG to PUD-175D/CH, located north of Kenosha Street, west of the Creek Turnpike**

Senior Planner Brent Murphy reported PUD-175D was a request to change zoning from PUD-175/CG commercial general to PUD-175D/CH commercial heavy in order to accommodate an automatic car wash. He stated the property was platted as lot 2, block 3, of Northeast Crossroads. He stated the applicant requested three modifications to PUD-175: 1) Add car wash as a permitted use and delete uses permitted as a matter of right in the O2 plan, office park district. 2) Modify the amount of required parking from 1 space per employee to 1 space per 1,250 square feet of building area. 3) Modify the sign requirement from 15 feet in height with 80 square feet of display area to 25 feet in height with 100 square feet of display area; the sign would contain an LED display of no more than 32 square feet. He stated City Council approved BACP-162, a request to change the Comprehensive Plan designation from Level 4 to Level 6. He stated the change in the Comprehensive Plan was approved subject to a major amendment of PUD-175 coming back to the Planning Commission, and this was what was happening currently. He stated a draft PUD was submitted with the Comprehensive Plan change which included the car wash permit and an adjustment to the parking requirement; however, no reference was made to changing the sign requirements. He reported businesses in the area had been developed in accordance with the sign guidelines in PUD-175 and Staff had met with developers interested in developing another parcel on this property who expressed agreement with the current PUD sign restrictions. He stated the CH zoning which was requested with BAZ-2009 was considered in accordance with the Comprehensive Plan in Level 6. He stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended BAZ-2009 and PUD-175D be approved subject to the height and size of signage remaining as previously approved with PUD-175 (15 feet in height with 80 square feet of display area).

Commissioner Mark Jones asked if Mr. Murphy knew if the applicant was in agreement with Staff recommendations. Mr. Murphy responded in the affirmative; he understood Mr. Larry Curtis had spoken with the applicant who was in agreement, other than the sign requirement. Vice Chairperson Whelpley asked if Walmart and Murphy USA had signs 15 feet in height with 80 square feet of display area. Mr. Murphy responded in the affirmative.

Mr. Lou Reynolds stated his address was 2727 East 21<sup>st</sup> Street, Tulsa. He stated the PUD was 10 years old. He stated the signage for the car wash was more geared to the expressway, as opposed to regular neighborhood signage. He explained the car wash would be located 180 feet from the expressway exit, and the expressway was elevated 16 feet above the ground level. He stated in straight commercial type zoning a 25 feet in height sign was permitted with up to 300 square feet of signage. He stated he only requested 25 feet in height with 100 square feet of display area including 32 square feet of LED. He stated the signage for Walmart was off of 37<sup>th</sup> Street which was not expressway frontage. He stated he did not feel the request was a major departure; it would only allow expressway signage visibility. He stated he was not trying to take advantage; signage was not mentioned prior to this as signage visibility was a new finding. He respectfully requested Planning Commission approve PUD-175D with all three modifications.

Commissioner Dorrell asked where the sign would be located. Mr. Reynolds responded it would be located in the southeast corner of the property. He stated there was not much visibility of the car wash location from the expressway due to the elevated nature of the expressway in this location. He explained he asked for a higher sign to allow business



visibility from the expressway to enable his business to succeed. Commissioner Dorrell stated he understood Mr. Reynolds’s reasoning.

Mr. Larry Curtis reported in Broken Arrow the maximum height in the commercial zoning district was 20 feet by straight zoning, not 25 feet. He explained the height could increase by setting the sign back additional feet from the front of the property, and could increase up to 30 feet as the sign moved back, but Mr. Reynolds’s sign, in the was current proposed location, according to straight zoning, would be restricted to a maximum height of 20 feet. Discussion ensued regarding Walmart signage, past projects, setting precedents, similar property developer’s agreement with the 15 feet height restriction. Mr. Curtis used Google Earth to illustrate Mr. Reynolds’s property as not being directly next to the highway, and as such his signage would not be blocked by any expressway hillside. Mr. Reynolds disagreed; he stated this property location lacked visibility. Mr. Curtis stated the original PUD approved a monument sign for the entire development which had an increased height, and he felt Mr. Reynolds might consider utilizing this type of signage.

Commissioner Aguirre asked if Mr. Reynolds’s intent was to draw in highway traffic. Mr. Reynold responded in the affirmative. Commissioner Aguirre stated it would be difficult to attract highway traffic if the sign was lower than the highway. Mr. Reynolds concurred. Chairperson Jones asked if the owner believed he could attract people going up and down the expressway to turn off and get a car wash. Mr. Reynolds responded in the affirmative. He stated the owner of the car wash owned Walmart, owned many car washes in the metropolitan area, and understood what would drive the business.

Mr. Curtis stated the company which was interested in the similar property was a company which dealt with vehicular traffic frequently, and services associated with such. Mr. Reynolds stated he was unfamiliar with this similar business interest; therefore, he could not argue his point against it. He stated he felt a business which may or may not develop should not be considered and the business which was actively developing should be the priority. Chairperson Jones stated he did not begrudge Mr. Reynolds for asking for the modification; it was his right to ask. Discussion ensued regarding the difficulty of approval, Mr. Reynolds’s modification differing from planning, how to vote, the draft not indicating an increase in sign height, and Comprehensive Plan implications.

Chairperson Jones opened up the Public Hearing for Item 6B. He asked if any present wanted to speak regarding Item 6B. Seeing none, he closed the Public Hearing for Item 6B.

Discussion ensued regarding the QuikTrip signage request, whether it was approved or denied, the sign being moved to a separate property, and setting a precedent with prior modifications.

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

**Move to approve Item 6B, as submitted by the applicant**

The motion carried by the following vote:

Aye: 5 - Pablo Aguirre, Mark Jones, Fred Dorrell  
Nay: 2 - Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6B would go before City Council on September 4, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6B, said citizen was required to fill out a Request to Appear before City Council form in advance.

C. 18-915 **Public hearing, consideration, and possible action regarding PUD-280 (Planned Unit Development) and BAZ-2010 (Rezoning), The Villages at Seven Oaks South, 11.34 acres, A-1 to RS-3 (BAZ-1622) to RS-3 to RS-4/PUD-280, located one-quarter mile east of 9th Street, south of New Orleans Street**

Ms. Amanda Yamaguchi reported Item 6C was a request to change zoning from A-1 to RS-3 (BAZ-1622) to RS-3 to RS-4/PUD-280. She reported BAZ-1622 was approved by City Council on March 15, 2004 subject to the property being platted. She stated on October 4, 2004 PUD-194 requested to amend the development standards for the RS-3 zoning district, but was tabled by the City Council; no further action was taken on that request. She reported a preliminary plat of the Villages at Seven Oaks South, was submitted in conjunction with this PUD-280 request. She reported the applicant proposed to develop a privately gated neighborhood with up to 57 lots. She reported the conceptual layout submitted with PUD-280 showed 47 lots within the boundary of the PUD. She reported the preliminary plat showed 57 lots; the 10 lots facing South 12<sup>th</sup> Place, East New Orleans Place, and South 13<sup>th</sup> Place were not included in the PUD and the zoning would remain RS-3. She stated the subdivision would have private streets, owned and maintained by the home owner's association; the primary entrance for the subdivision would be from East Quantico Street, and emergency crash gates would provide emergency access to and from the subdivision on Roanoke Place and the proposed East Orlando substreet to the west. She stated as part of the development, South 12<sup>th</sup> Place was proposed to be approximately 1,246 feet in length; however, minor residential streets were limited to 900 feet in length before it must be

connected to a major street. She explained the street was designed to require a right or left turn upon entrance and neither the north nor south segment individually exceeded the 900 feet requirement. She stated the property associated with PUD-280 and BAZ-2010 was Level 2 in the Comprehensive Plan; the RS-4 zoning requested with BAZ-2010 and incorporated into PUD-280 were considered to be in compliance with the Comprehensive Plan in Level 2. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended PUD-280 and BAZ-2010 be approved subject to the property being platted.

Mr. Alan Betchen with AAB Engineering stated his address was P.O. Box 2136, Sand Springs, OK. He stated AAB were the engineers and surveyors for the project. He stated this was the third phase of Seven Oaks South and was originally anticipated to be a continuation of what was developed in Phase 1 and Phase 2. He explained there was a heavy demand for smaller lots with equivalent sized homes, higher amenities and higher finishes, so the sales price remained the same, and it became a smaller gated community within the overall community. He stated Battle Creek was an example of this in Broken Arrow. He stated this was what was now proposed in Phase 3. He stated there were lots being developed in Phase 2 under the same guise as Phase 1. He stated this project was unique in that it began in 2008, but the project slowed down; therefore, there was a large time gap between the project beginning and end which necessitated change. He stated gating the project would enable quicker sales and development while providing comparable level pricing of homes. He stated AAB met with the home owner's association last Friday and there were many concerns, but most were related to the HOA matters. He stated he felt like many of the initial concerns were addressed. He stated one concern voiced was property devaluation with smaller lot size; however, historically this was not the case. He explained the developer had no incentive to build an inferior quality project as development of Phases 2 and 3 were happening simultaneously; therefore, any project devaluation in either Phase would hurt the developer.

Chairperson Jones stated HOA matters were not in the wheelhouse of the Planning Commission. Vice Chairperson Whelpley stated this subdivision only had one ingress/egress. Mr. Betchen concurred. He stated the main access point would be on Quantico and the southern access point on Roanoke was a crash gate restricted to emergency access only. Discussion ensued regarding the emergency access gate, the homes to the west of the subdivision, and the intent to create a gated, exclusive subdivision.

Chairperson Jones opened up the Public Hearing for Item 6C. He asked if any present wished to speak regarding Item 6C.

Ms. Sharolyn Sorrells stated her address was 3919 South 15<sup>th</sup> Place, Broken Arrow. She stated she was a resident in Phase 2. She stated she never received any notification regarding the home owner's association meeting last Friday and she did not receive notification of the time and place of the Planning Commission Meeting. Vice Chairperson Whelpley explained Ms. Sorrells lived outside of the 300 foot notification zone. She stated she was concerned about the population density of the area. She stated she worried this development would cause a ghetto-type environment due to the size of the housing and the compact nature. She stated when she purchased her property two years ago Phase 3 looked very different. She stated there would be 57 homes in close to 10 acres which she felt were too many families in a very tight area. She stated there was school overpopulation in the area currently, and this would certainly make the congestion worse. She stated there were no plans to build a new elementary school in the area. She stated it would impact her family negatively when the number of families doubled in the small area. She stated the 57 additional homes would overcrowd the common areas such as the pool and small recreation room. She stated the streets would be very narrow, only 28 feet wide and there would be crash gates on all but one entrance, the road to which wound through her neighborhood which she felt would cause significant traffic congestion. She stated the water retention ponds in the gated community were advertised as catch and release ponds promising access for the entire community when she purchased her home and this would no longer be the case. She stated she was worried about fire and police safety in the area due to increased congestion. She stated she worried about school bus access for the children; where would children be required to wait for the bus as there was no turnaround for a school bus in the gated community. She stated the smaller lot sizes would not accommodate home sizes similar to her own. She explained most of the homes built in Phase 1 and Phase 2 had three car garages and a 40 foot wide lot could not accommodate a three car garage. She stated she paid \$113 dollars per square foot for her home, which was expensive; she spent her retirement on her home. She stated there would be no wide porch, no three car garage, no double windowed homes with no back yard built on the 40 foot wide lots. She stated the intended 1800 square feet plus garage was significantly less than any of the homes in Phase 1 or Phase 2 which were close to 3,000 square feet. She stated she was worried about the HOA fees and who would maintain the pool and have access to the pool. She stated smaller homes on smaller lots had lower home values than her neighborhood and gated community homes foreclosed 33% more often than standard neighborhood. She stated gated smaller lot communities had a much higher rate of rental properties which was undesirable. She stated the resale value on her home would drop as a

result of the smaller home and lot sizes in her neighborhood. She stated she felt AAB had been dishonest with the current owners. She stated she had reviewed the plats and asked extensive questions prior to purchase, she was told Phase 3 would be like Phase 1 and Phase 2, and she was told there would be no multifamily homes, no rentals, no zero lot line property and no small lot gated areas.

Chairperson Jones stated Ms. Sorrells had many excellent points, but many of her concerns the board could not consider in its decision making, such as the HOA. He stated he was limited to deciding whether this zoning and this PUD was an appropriate land use from a Comprehensive Plan, existing zoning, and existing land development standpoint. He stated he wanted her to understand he was not saying Ms. Sorrells did not have many valid concerns, but the Planning Commission could not legally consider all her concerns in making the decision. He thanked Ms. Sorrells for her input.

Ms. Mindy Wasson stated her address was 1413 East Quantico Street, Broken Arrow. She stated she was within the 300 foot limit of notice and did not receive a letter of notification regarding the Planning Commission Meeting. Chairperson Jones explained the notification process which included notice being sent to all residents within a 300 foot radius of the property in question, signs being posted in the same residents' yards, and notice published in the newspaper. He stated her name and address was on the list of residents who were sent notification. Ms. Wasson stated she did see the yellow rezoning sign. She stated the single entry gate would be located directly next door to her home which would be a huge impact upon her home. She stated she worried her driveway might be utilized as a turn around point and access to her own drive would be difficult. She stated when she purchased her property she was aware there would be future development next door, but had been assured there would be multiple entrances. She stated she felt someone should buy her out as she would not want to stay if Phase 3 continued as planned.

Commissioner Aguirre asked if Ms. Wasson had been aware there would be a gated entrance next to her when she built her home. Ms. Wasson responded in the negative.

Ms. Katrina Johnson stated her address was 3826 South 13<sup>th</sup> Place, Broken Arrow. She stated she did not receive a letter of notification, but had seen the signs posted. She stated Ms. Wasson was her neighbor. She stated she did not approve of this rezoning. She did not want to live next to a gated entrance. She stated she worried it would be a lot of traffic and dangerous for her sons. She stated she worried her property value would drop due to the small homes constructed right behind her own and the gated entry next door. She stated when she purchased her home she was told there would be more homes built, but was not told about a gated community with smaller homes and smaller lots. She stated she would not have purchased her home if she had been aware of the intention.

Commissioner Jones stated the reason there were three different notification methods was to ensure if one method of notification failed another might be successful.

Mr. Tom Overton stated his address was 3903 South 15<sup>th</sup> Place, Broken Arrow. He asked what the proper forum was to discuss his concerns regarding property values and other concerns which the Planning Commission could not address. Assistant City Attorney Lesli Myers responded Mr. Overton could address his concerns to the City Council; however, she was unsure if the City Council could legally consider concerns regarding property value. Mr. Overton stated there was much dissatisfaction in this subdivision due to the fact that when homes were purchased the developers made assurances which did not include Phase 3 being a gated community with small lots and small homes. He stated he purchased his home 5 years ago in Phase 1 and was only told about Phase 2; Phase 3 was a big surprise. He stated there had been no communication over the years between the residents and the developers which had brought a level of mistrust. He stated his home was his forever home and he was concerned about his home value, especially in terms of his heirs. He stated this Phase 3 development impacted him and his heirs. Chairperson Jones explained that Mr. Overton was welcome to voice his concerns during the Planning Commission and the City Council Meeting; however, the Planning Commission legally could not consider this type of concern while making decisions. Mr. Overton asked what happened next if the Planning Commission approved the PUD application. Chairperson Jones responded the Planning Commission was a recommending body; if the Planning Commission approved the application a recommendation would go before City Council for final approval; if the application was denied, the applicant had the right to appeal to City Council. Mr. Overton asked if he would have the opportunity to voice his concerns before City Council. Chairperson Jones responded in the affirmative. Mr. Overton stated he had many concerns and this was a highly emotionally charged situation.

Mr. Robert Hanks stated his address was 1503 East New Orleans Place, Broken Arrow. He stated he had purchased during Phase 2. He stated he received his Public Hearing Notice via mail. He stated he was incredibly concerned about the increased traffic flow through the neighborhood to reach the single gated entrance to Phase 3. He stated he walked the

neighborhood twice each morning with his dogs. He stated the traffic was currently moderate and he was concerned traffic would double. He stated he currently had to dodge cars occasionally and if he had known about the intended Phase 3 when he was home shopping he would not have purchased in the area.

Vice Chairperson Whelpley asked if there were sidewalks in the neighborhood. Mr. Overton responded in the affirmative; most of the neighborhood had sidewalks.

Mr. Tom Lewis stated his address was 3730 South 13<sup>th</sup> Place, Broken Arrow. He stated he understood the Planning Commission was to determine if rezoning the area of the proposed project would match the existing neighborhood well or not. He stated when he purchased his home the proposed development matched his development, but this newly proposed development was a huge deviation from the original plan. He stated a large green area and a creek were located along the back of the property, and he wondered what kind of access the emergency vehicles would have from 101<sup>st</sup>. He stated the traffic would be required to wind through the neighborhood for access and he felt it would be reasonable to have an entrance along 101<sup>st</sup>; the developer might be required to lose a house, but the ground was graded for a street in the area. He stated a second entrance would reduce the extra traffic and the associated safety hazards. He stated the deviations from the original plan included lot sizes, home sizes, gated entrance, etc. He intimated felt it was not a good fit with the existing zoning and should not be rezoned. He stated the Reserve B pond originally was to be available for access to all residents in the neighborhood and he worried this would no longer be the case if the pond were located within the gated community. He stated the entrance now would be constructed through a retention pond area and he worried this would increase water runoff and flooding as the retention area would be reduced and paved over. He stated he felt this was poor planning.

Mr. John Weed (ph) stated his address was 1409 East Phoenix Street, Broken Arrow. He stated he had the same concerns as others regarding the single gated access and traffic. He asked about the reserve area being split into two. He stated he understood the area would be developed, but the original plat was designed to have cul-de-sacs on the north and south side of the reserve area and he did not understand why the reserve would be paved over. He worried this would affect drainage.

Chairperson Jones asked if any others present wished to speak regarding Item 6C. Seeing none, he closed the Public Hearing for Item 6C.

Mr. Alan Betchen stated the meeting with the home owner's association had been set up through Facebook by a resident in order to communicate with the residents prior to the Planning Commission Meeting. He stated there were 57 lots proposed in the plat; the plat included 11 lots which were not within the PUD and would be built to the same standards as Phase 1 and Phase 2. He indicated on the map where the 11 lots were located and explained they would provide some separation between the smaller lot homes and Phase 1 and 2. He stated there were 46 lots proposed by plat within the gate. He stated the overall density allowed in RS-3 was a higher density than requested; rezoning only asked for a lot size of 52 feet and private streets within a gated community. He stated the gate would not be located on the public street; it would be contained within the reserve to include the islands, escape and turnaround. He stated the development would keep traffic from going deeper into the subdivision than the originally anticipated development scheme; he explained it was not changing the original traffic pattern other than the additional density. He stated the detention area would be bigger than what was currently proposed due to it being offset; the developer would meet stormwater ordinances and would design to preconditions. He stated he would like to have a conversation with the immediately adjacent homeowners regarding how to address the eastern pond regarding should it be gated or not. He stated most of the concerns were a misconception about what was allowed by right today versus what was proposed. He stated the lots were narrowing, but it was not to simply add additional lots; this was the product which would sell in today's market. He stated smaller homes (as small as 1500 square feet) have always been permitted in the area, Phase 1 and Phase 2 included; however, the market had not yet demanded this. He stated the developer intended a smaller lot size with higher finishes type product which was meant to fill a different need in a different market than what was originally anticipated in Seven Oaks South. He stated the quality of the home and the price point of the home would be very comparable. He stated what was being brought before Planning Commission today did not deviate far from the Comprehensive Plan.

Commissioner Dorrell asked if there was an HOA. Mr. Betchen responded in the affirmative. Commissioner Dorrell stated the entrance to the development was convoluted through the neighborhood and recommended an entrance off of 101<sup>st</sup> as suggested by Mr. Lewis as this would alleviate many concerns by the current residents. He explained to the residents the only way to control future development was to buy the land. He stated he was concerned about the egress and ingress; there was only location. He asked who was going to maintain 12<sup>th</sup> Street and 13<sup>th</sup> Street (the path through the neighborhood to access the gated area). He

stated there would be an extra 50 homes which would be causing significant wear and tear to the roads in the area. Mr. Betchen explained this access point had been planned from the beginning and only an additional 10 homes would be driving this path. He stated the development had always intended to have approximately 36 homes. Commissioner Dorrell stated while the Planning Commission could not take all the residents concerns into consideration, Mr. Betchen should; this was about being a good corporate citizen and the key was good communication. He asked when the plans changed to make this into a private gated community. Mr. Betchen responded with this application; when Phase 2 was being developed Phase 3 was still anticipated to be similar to Phase 2.

Mr. Larry Curtis displayed a map and discussed where the roads were intended to lead. He asked about the narrowness of the roads in the new development. Mr. Betchen responded the roads would be built to City of Broken Arrow standards, but would be privately maintained. Commissioner Dorrell stated he was uncomfortable with the idea of access to the newly gated community being along Phase 1 and Phase 2's roads as the gated community's drivers would cause excessive wear upon the private roads maintained by Phase 1 and Phase 2.

Mr. Curtis stated Mr. Betchen had attended the Technical Advisory Committee Meeting last Tuesday. He explained the purpose of the Technical Advisory Committee Meeting was to inform the various public agencies about upcoming developments. He stated the Committee was made up of Police, Fire, Utilities, City Agencies, other Public Agencies and Public Schools. He asked Mr. Betchen if there were any comments from any of the various public agencies regarding new development. Mr. Betchen responded Fire, Police and Schools all had representation and agreed with the plat as proposed. Chairperson Jones stated it was important to understand that this project was reviewed by numerous entities both with the City and outside the City which provided feedback. He stated if there were no concerns at the Technical Advisory Committee Meeting, then the Police and Fire felt access was adequate and the Public Schools felt the schools would not be overtaxed.

Mr. Curtis asked about the fencing between properties. Mr. Betchen stated the abutment between backyards would be similar to the Phase 1 and Phase 2 developments with residential rear yard fencing. Mr. Curtis asked about the purpose of the substreet to the north. Mr. Betchen explained the substreet to the north allowed emergency access connection through a future development. Commissioner Aguirre stated when the original plat was done on this property there was no gate. Mr. Betchen agreed. Chairperson Jones stated he understood markets changed over time and developments changed over time, and it was the developer's prerogative to change. Mr. Betchen concurred and explained the original preliminary plat was done in the early 2000's, approximately 15 years ago, and the market was wildly different than it was 15 years ago. Commissioner Dorrell asked in what year was the first house built in Phase 1. Mr. Michael Skates stated the subdivision preliminary plat was completed in 2007, about 10 or 11 years ago. He stated it took about 1 year for the initial construction to take place. Commissioner Aguirre asked how long the gated community concept had been in play. Mr. Betchen responded it was only a few months ago. Chairperson Jones asked Mr. Betchen to speak with the developer and encourage him to communicate with the HOA, attempt to resolve issues, answer questions, and facilitate discussion. Mr. Betchen responded in the affirmative; he understood the importance of communication.

Vice Chairperson Whelpley stated he felt it would be a better plan to create an entrance for the development via 12<sup>th</sup> Place; this would be better for traffic, safety, water detention and many other concerns. Mr. Betchen responded this could be considered; however, the PUD did not cement where the entrance would be located, the plat would. He stated he would be happy to table the plat and rework the entrance if the Planning Commission so desired. Vice Chairperson Whelpley stated he felt Mr. Betchen and the developer would save a lot of grief if the access was changed to via 12<sup>th</sup> Place. Mr. Betchen stated he would need to communicate with the City regarding the road length if access were changed to 12<sup>th</sup> Place, as it would make the internal street longer than the allowed 900 feet. He stated conceptually it may be an option, but it was something to work out on the plat side, not the PUD. He asked the Planning Commission to approve the PUD which permitted a gated community prior to a reworking of the entrance to the community, as it was quite an investment to redesign the neighborhood if a gated community would not be permitted. He stated he would be happy to table the plat and return at a later date with an updated version. Chairperson Jones stated the PUD in fact indicated "the preliminary entry to the subdivision will be derived from East Quantico Street as shown." He stated this could be modified and the PUD could be approved conditionally upon the entrance being moved. He stated from a land use standpoint, this was in accordance with the Comprehensive Plan, the existing zoning patterns, and the surrounding land use developments, and could be approved; however, if Mr. Betchen were willing to look at this from a slightly different design aspect, the plat could be continued. Commissioner Dorrell agreed with Chairperson Jones. He stated he would approve of Mr. Betchen reworking the entrance; he did not like the location of the entrance currently. Mr. Betchen asked for approval of the PUD with modification of the language to allow a different access point and a table of the plat. Commissioner Aguirre asked if Orlando Court would be a

connected road. Mr. Betchen responded in the negative, but it was possible for this to be considered for the access gate.

Discussion ensued regarding the rezoning, the lot increase, the approved RS-3 zoning pending plat, Item 6C being the rezoning and Item 4D being the plat.

MOTION: A motion was made by Fred Dorrell, seconded by Lee Whelpley.

**Move to approve the rezoning and PUD applications as recommended by Staff with modification in the access and circulation portion of the PUD to allow an alternate access point to be approved by Staff during the platting process**

The motion carried by the following vote:

**Aye:** 3 - Fred Dorrell, Lee Whelpley, Ricky Jones  
**Nay:** 1 - Pablo Aguirre  
**Recused:** 1 - Mark Jones

Chairperson Jones stated Item 6C (the rezoning PUD) would go before City Council on September 4, 2018 at 6:30 p.m. He explained if any citizen wished to speak regarding Item 6C, said citizen was required to fill out a Request to Appear before City Council form in advance.

Chairperson Jones reiterated it was important for Mr. Betchen to speak with the developer regarding communicative neighborhood meetings.

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

**Move to table Item 4D, the preliminary plat, until September 13, 2018**

The motion carried by the following vote:

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

Commissioner Mark Jones left the room prior to discussion of Item 6C and returned following the vote for Item 6C and Item 4D.

**D. 18-898 Public hearing, consideration, and possible action regarding PUD-281 (Planned Unit Development), Milestone, 2.07 acres, DM/SP-137G/Area 6 of the Downtown Residential Overlay District to PUD-281/DM/Area 6 of the Downtown Residential Overlay District along with the abrogation of SP-137, located one-third mile south of Kenosha Street, one-half mile east of Elm Place**

Senior Planner Brent Murphy reported PUD-281 involved a 2.07 acres parcel located at 305 N. Main Street and a mixed use residential development was proposed on this property which was owned by the Broken Arrow Economic Development Corporation. He stated the development would be a four story building with 31,000 square feet of commercial space on the ground floor with three levels of apartments/residential units above. He stated the 89,000 square feet of residential space would contain approximately 90 dwelling units. He stated the property was zoned DM, had a Specific Use Permit, SP-137, and was in Area 6 of the Downtown Residential Overlay District. He explained SP-137 was for a church which was approved by City Council in 1999, the church building had been removed, and the site was vacant. He stated the property was platted as lots 1 through 22, block 18 of the original town of Broken Arrow. He stated there was an alley which ran through the property which was in the process of being vacated. He stated in January 2018 City Council adopted Design Standards for the Downtown Residential Overlay District; as part of the document which was approved it was noted it was intended to facilitate residential and mixed use conservation of residential character in stable neighborhoods, while also accommodating increased residential densities, mixed use development and commercial activities in targeted areas to enhance activity and commerce. He stated the proposed Milestone project was located in Area 6 of the Downtown Residential Overlay District, would be developed in accordance with the City of Broken Arrow Zoning Ordinance, and the mixed use B commercial design standards of the DROD, except for some modifications which were requested and were summarized in the Staff Report. He stated the modifications were to the building design; the use proposed for the property was already permitted. He explained the PUD was to make modifications of the design of the building. He stated no on-site parking was required as part of the development, but the project proposed to have 90 on-site parking spaces and 47 on-street parking spaces. He stated Zoning allowed a six story building to cover the entire property on this site. He stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended PUD-281 be approved as presented, and as the property was platted, Staff recommended replatting be waived and SP-137 be abrogated.

The applicant, Mr. Mike Phelps with Cyntergy, the architect for the project, stated his address was 810 South Cincinnati, Tulsa. He stated he was in agreement with Staff recommendations. He explained the PUD adjusted the setback to provide ADA access and to accommodate a 7 foot slope from intersection to intersection; this was coordinated with the streetscape project which would be built concurrently. He explained the Streetscape would follow the slope and the setback would include a sidewalk. He stated the second

modification was a variance on the parking setback to maximize the number of parking spaces. He stated a widening of the alleyway was requested to accommodate Broken Arrow Emergency Vehicle access. He explained other changes including blank street-facing wall modifications, ground floor transparency windows, distances between ground floor entries, and parking screening with rod iron fencing and boxwoods.

Commissioner Dorrell asked if Mr. Phelps's intention was to increase the number of parking places with this modification. Mr. Phelps responded in the affirmative; he wanted to provide as many parking places as possible. Chairperson Jones stated there was no requirement to provide parking within the DM district. Mr. Curtis concurred.

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

Senior Pastor Larry Varvel with the First United Methodist Church of Broken Arrow stated his address was 112 East College, Broken Arrow; immediately south of the proposed Milestone project. He stated the First United Methodist Church was the first church in Broken Arrow and had been on site for 115 years. He stated his church had participated in most of the events in the Rose District, loved the Rose District and appreciated the businesses in the area, as well as the recent beautification. He stated he had not been aware of the no parking requirements for the DM district until this project was proposed. He stated he was concerned 96 apartments, along with restaurants and retail spaces, with only 138 parking places, would cause a parking bleed onto church grounds. He stated if this were constructed in any other location 200 parking spaces would have been required for the apartments alone. He stated when Cowen Construction began communication, he had asked where residents and shoppers would park; Cowen responded "probably at the church." He stated this was a realistic probability and was a concern to the First United Methodist Church. He explained the church wanted to be a good neighbor, and while new next door neighbors were a good thing, the reality was this would cause problems at the church. He explained church was not just on Sunday, it was daily with the preschool, special events, weddings, funerals, services on other days, etc., and if shoppers and residents were parked in the church parking lot, church attendees would have no space to park. He stated this left the church with two options, turn away attendees, or put up gates, fences, and signs which would be deemed unfriendly and cars would be towed. He stated neither option was acceptable. He stated he had suggested Cowen Construction consider purchasing the empty lots to the east for parking, but Cowen responded it was not within the budget; Cowen offered to pay the church nominally for use of the parking lot, or gift the church one free apartment, or some other compensation. He stated Cowen was not being rude or uncooperative, and he understood Cowen was not required to provide parking for the building, but allowing a 96 unit apartment building to be constructed without parking seemed very poorly planned. He stated the First United Methodist Church loved the Rose District and he briefly described the many ways the Church behaved as a good neighbor to the whole of the Rose District. He reiterated his concern regarding his congregation not having available parking as a result of the Milestone project. He stated Mr. Norm Stevens contacted him today, but was the first City employee who had reached out to the church.

Chairperson Jones stated he was on the Planning Commission when the DM was adopted into zoning code a few years ago. He stated numerous public hearings were held regarding the new zoning code designations. He stated it was common in downtown business districts to require no parking; in downtown Tulsa apartment complexes, condos, restaurants, etc., were being developed with no parking requirement. He stated he did not believe a lack in parking availability gave citizens the right to trespass on church property, however. He indicated the purpose of the public hearing was not to discuss the use or the parking; this was already permitted. He explained the PUD requested modifications to the building itself. He asked if Pastor Varvel had any concerns or questions about the modifications. Pastor Varvel responded he was grateful the developer had changed the plan to provide 91 parking places; however, this was still inadequate. He stated he felt when the DM was being considered thoughts were of small locally owned businesses for which parking was less of an issue, but to build a 96 unit apartment complex without parking did not make sense. Chairperson Jones stated if the apartment complex could not provide adequate parking for residents, most likely it would be extremely difficult to rent the apartments, but this was the developer's concern. He stated if a resident was illegally trespassing on church property there were consequences. Pastor Varvel stated the church would be required to gate the entire church property. He asked if this Item would next go before City Council. Chairperson Jones responded in the affirmative; it would go before City Council on September 4, 2018. He encouraged Pastor Varvel to attend and speak before City Council. Commissioner Dorrell stated Pastor Varvel had a valid concern and he commended the First United Methodist Church for its community participation. He stated Pastor Varvel had brought awareness of the problem to the Planning Commission. He recommended Pastor Varvel speak before City Council. Pastor Varvel asked if the DM zoning could be modified. Chairperson Jones responded in the affirmative. Pastor Varvel stated he worried if this apartment complex went up without any parking requirement it would set a precedent and soon there would be apartments throughout the Rose



District with no parking. Vice Chairperson Whelpley suggested an enterprising individual might buy the property to the east and charge for parking. Pastor Varvel suggested the City purchase the land to provide parking. Discussion ensued regarding the impracticality of 90 apartments with 90 parking spaces, shopping and eating in areas with no parking, and lack of parking breaking the sense of community and causing frustration.

Mr. Adam Hildebrandt stated his address was 301 South 2<sup>nd</sup> Street, Broken Arrow. He stated he attended First United Methodist Church. He stated the no parking requirement worked in downtown Tulsa due to public transportation availability enabling a no-car lifestyle, but it would not work in the Rose District. He stated he understood the Planning Commission could not change the DM at this moment, but he asked the Planning Commission to table this Item until steps could be taken to change the DM to require parking. Chairperson Jones responded the modification could be tabled, but it would not change what was permitted for parking for this development. He explained the development was permitted, no approval from the City was required; the requested changes were related to building facades and other minor issues; therefore, tabling the Item would not help.

Mr. Steven Garcille stated his address was 8833 South 264<sup>th</sup> East Avenue, Broken Arrow. He asked about the abrogation of SP-137. Mr. Curtis explained the original Assembly of God Church which was in this location had an SP permit in place to allow church use. He stated since the church had been removed and abated, the process was to remove this abatement of the SP permit as it was no longer needed. He stated if a new church wanted to utilize this location a new SP permit could be applied for. Mr. Garcille asked if the Broken Arrow Comprehensive Plan included a 96 apartment complex in the downtown Rose District. He stated he did not remember seeing anything which indicated a future density of this intensity in the Rose District with no included parking. Chairperson Jones stated when the Zoning Code was modified and the DM was approved he had envisioned developments of this sort. Mr. Garcille stated the Comprehensive Plan did not allude to an apartment development such as this as a possibility. Chairperson Jones explained Comprehensive Plans were not detailed enough to indicate numbers of apartments. Mr. Garcille disagreed; he stated the overall plan for the Rose District was very detailed. Chairperson Jones stated he understood what he was approving with the new Zoning Code, Comprehensive Plan and the Rose District DM and explained why he felt no parking requirement in the downtown Rose District was a good fit.

Mr. Chad Wolber stated his address was 1<sup>st</sup> and Elgin. He asked if the church authorized parking permits, would the City be willing to write tickets for vehicles parked without permits. Assistant City Attorney Myers responded in the negative; the City could not write tickets on a private lot.

Mr. David Salustri stated his address was 309 East Detroit Street, Broken Arrow. He stated he felt the development would be beneficial to downtown Broken Arrow. He stated he was a member of the First United Methodist Church and the church was in favor of the development, minus the parking shortage. He stated residents currently utilized the church parking lot, but it had not caused problems as of yet. He stated he felt the developers should consider purchasing the lots to the east or some other lot to provide additional parking. He stated he felt the church should attempt to fight a little harder for additional parking spaces rather than fight to stop the development. He stated other solutions included the church purchasing additional lots for parking, changing City Zoning, and additional public transportation. He stated the Planning Commission was doing a great job, and he appreciated the efforts that had gone into beautifying the Rose District. He stated he looked forward to seeing this development come to fruition.

Mr. Jim Freer stated his address was 907 South Willow, Broken Arrow. He stated he was a member of the church. He stated the church should not have to purchase additional lots; it currently had sufficient parking for the congregation. He asked who would own the apartment complex once it was built. Chairperson Jones responded he was unsure. Mr. Freer stated if there were only 91 parking spots, then only 46 apartments should be allowed.

Chairperson Jones asked if any others present wished to speak regarding Item 6D. Seeing none, he closed the Public Hearing for Item 6D.

Discussion ensued regarding the vote being only for the PUD building modifications, applications being in for building permits and site plans which were contingent upon the PUD being approved, and there being no approved building plan as of yet.

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

**Move to approve Item 6D as per Staff recommendation**

The motion carried by the following vote:

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

Chairperson Jones stated Item 6D would go before City Council on September 4, 2018 at



6:30 p.m. He explained if any citizen wished to speak regarding Item 6D, said citizen was required to fill out a Request to Appear before City Council form in advance.

**E. 18-880 Public hearing, consideration, and possible action regarding PUD-282 (Planned Unit Development), Chase Bank, 1.35 acres, CH, located one-quarter mile south of Albany Street, east of 9th Street**

Ms. Jane Wyrick reported with PUD-282 the applicant proposed to develop the property for use as a financial institution (Chase Bank). She explained the property was rezoned from A-1 to C-5, was converted to CH in 1999 and was platted as lot 1, block 1, of the Hillcrest Lynn Lane plat in 2006. She reported as a part of the 9<sup>th</sup> Street widening project Reno Street was re-routed to the south and became 10<sup>th</sup> Street; the pavement for Reno Street was removed west of 10<sup>th</sup> Street, but the right-of-way remained. She stated the property was surrounded by public right-of-way and was located at an arterial intersection. She explained the applicant requested approval to use the Reno Street right-of-way for driveway access to 9<sup>th</sup> Street. She stated the request was being processed concurrently with a change of access (Item 4A on the Consent Agenda). She stated a second driveway was proposed on the east side of the property at 10<sup>th</sup> Street. She reported the Zoning Ordinance required fence screening when nonresidential uses abutted residential uses and through the PUD the applicant requested a waiver of the screening requirement as the Reno Street right-of-way area provided a buffer between the site and residences, as well as an existing masonry wall along the residential perimeter. She stated the PUD requested approval to exceed maximum parking for financial institutions with a drive through (one space per 300 square feet amounting to a minimum of 12 spaces and a maximum of 15, plus 4 additional stacking spaces at the drive through); as proposed there would be a total of 40 parking spaces with 8 stacking spaces for the drive through. She indicated per code one free standing sign was permitted per 150 feet of frontage; frontage was not cumulative for lots with multiple street frontages. She stated the applicant requested two free standing signs, both 20 feet high, at 75 square feet each. She stated the external building material included masonry materials which met code. She reported none of the property was with a 100 year flood plain, the property associated with PUD-282 was shown in the Comprehensive Plan as Level 6, and this development, with the PUD, was considered in compliance with the Comprehensive Plan in Level 6. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended PUD-282 be approved subject to one condition of approval, that the applicant amend the limits of no access along the north boundary to allow driveway access through the Reno Street right-of-way.

Vice Chairperson Whelpley asked how many entrances the bank would have. Ms. Wyrick answered two; one to the east onto North 10<sup>th</sup> Street and one to the north through the Reno Street right-of-way, then west to access 9<sup>th</sup> Street. She stated this was the change of access which had been discussed earlier and was continued (Item 4A). She stated the change of access was on Reno; the west side of the property and the north, per the plat, had no access. Commissioner Dorrell asked if the access was taken off of 10<sup>th</sup> and changed to Reno. Mr. Curtis responded in the negative. He explained the property was platted as one lot and one block and there were limits of no access located along Lynn Lane, Reno and Hillside Drive, but there was permitted access from 10<sup>th</sup> Street according to the plat. The change of access request was along the north side, Reno Street. He stated in reference to a previous question regarding closer curb cuts, the City of Broken Arrow Zoning Code required curb cuts be limited from intersections by 250 feet; therefore, by code, an access point could not be along Hillside drive as it was within 250 feet of the intersection. He stated QuikTrip had filed a PUD which modified the zoning requirement to reduce the 250 feet, and the flow of traffic was different around the QuikTrip which enabled PUD approval. He noted the upcoming Bond issue included proposed monies to redevelop the intersection at Lynn Lane and Hillside Drive which would possibly reopen Reno to allow traffic flow through onto the main road which would alleviate congestion. Commissioner Dorrell asked if the curb cut proposed on Lynn Lane was to exit both directions. Mr. Michael Skates responded in the affirmative. Mr. Skates reported the City hired a consultant to do a traffic study which reported changes needed to be made at the interchange, at Hillside and 9<sup>th</sup> Street, along with the Broken Arrow expressway off-ramp. He stated there was money in the Bond issue to make improvements to the intersection through 9<sup>th</sup> Street, potential Reno Street reopening and a general reconfiguring of the area which would improve the traffic congestion. He briefly explained the surrounding lots and what went into the access point locations including elevation, traffic flow, differing time periods and zoning ordinances.

**Mr. Matt Craigen (ph)** stated his address was 2080 N. Highway 360, Grand Prairie, TX. He stated he represented Chase Bank. He stated stormwater would be directed into the storm sewers and landscaping was proposed along the proposed access onto Reno.

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

Mr. Thomas Neal reiterated his earlier statement about a curb cut. He referred to the map and indicated different business which had close curb cuts and wondered why Chase did not

propose something similar. Mr. Curtis stated it would require a separate PUD. Mr. Neal asked if the developer would consider filing a PUD for a curb cut. Chairperson Jones responded he was not sure the City would approve a curb cut access PUD. Mr. Curtis stated it was not a good idea to have entrances located less than 250 feet from an intersection; studies indicated resultant traffic accidents. Discussion ensued regarding additional reasons a curb cut access less than 250 feet from the intersection would not be approved, whether it was allowed in other areas, left turn lane traffic impeding flow, improving the area with Bond money, Reno Street reopening, 10<sup>th</sup> Street closing, stormwater runoff and flooding. Mr. Neal stated he worried about the bank directing stormwater into the storm sewers; he worried this would overload the system. Mr. Curtis responded stormwater would be addressed during the engineering process and Chase would be required to ensure stormwater would cause no increased impact upon the surrounding community.

Discussion ensued regarding PUD requests, zoning requirements, Chase attempting to conform to zoning requirements, the ability to request access through a PUD, the next item being the Item 4A from the Consent Agenda, and the property having been platted. Commissioner Dorrell stated he did not like the curb cut on Lynn Lane; this particular area was highly congested at all times. He stated he did not like the access onto 10<sup>th</sup> Street either. Discussion ensued regarding the Bond project reworking this area and reworking access points/directional access points, business access onto 10<sup>th</sup> by right, access to Hillside being impeded by stacked traffic and worsening congestion, and Lynn Lane being the only acceptable alternative. Mr. Curtis recommended a possible added condition to the PUD change of access request requiring right turn out and right turn in. Chairperson Jones stated he would want Staff to research this type of condition prior to addition. Mr. Skates stated the Bond package question would be resolved within the next few weeks and Mr. Spurgeon had indicated the intersection reconfiguration project would be quickly set into motion. He explained, well before the Chase Bank project was finished the Planning Commission would know what was intended at this intersection for Reno, 10<sup>th</sup> Street, and Hillside Drive. He stated he would bring this information back to the Planning Commission, as well as the applicant. He stated he believed the Engineering Department would also be in contact with the applicant regarding the access onto Reno.

Chairperson Jones asked if any others present wished to speak regarding Item 6E. Seeing none, he closed the Public Hearing for Item 6E.

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

**Move to approve Item 6E as per Staff recommendation with Commissioner Dorrell's notation regarding right turn in and out on Lynn Lane**

The motion carried by the following vote:

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

Chairperson Jones stated Item 6E would go before City Council on September 4, 2018 at 6:30 p.m.

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

**Move to approve Item 4A as per Staff recommendation with Commissioner Dorrell's notation regarding right turn in and out on Lynn Lane**

The motion carried by the following vote:

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

**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)**

Mr. Larry Curtis stated at the August 7, 2018, City Council Meeting the following Items were approved by Council: BAZ-2006, a rezoning request on Main Street by the Jackson Project, R-3 to DM zoning; the Bill Knight PUD to allow for a larger commercial development for a future eatery; the parks rezoning for PUD and a rezoning to RE on Commercial Place; BAZ-2007, a rezoning request behind Life Church; and PUD-279 for SoundMind.

**10. Adjournment**

The meeting adjourned at approximately 8:25 p.m.

MOTION: A motion was made by Fred Dorrell, seconded by Pablo Aguirre.

**Move to adjourn**

The motion carried by the following vote:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# City of Broken Arrow

## Request for Action

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**File #:** 18-1320, **Version:** 1

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**Broken Arrow Planning Commission  
11-15-2018**

**To:** Chairman and Commission Members  
**From:** Development Services Department

**Title:** Approval of Planning Commission meeting minutes of August 23, 2018

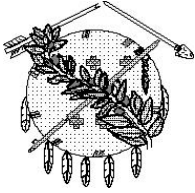
**Background:** Minutes recorded for the Broken Arrow Planning Commission meeting.

**Attachments:** Minutes of August 23, 2018

**Recommendation:** Approve minutes of Planning Commission meeting held August 23, 2018.

**Reviewed By:** Larry R. Curtis

**Approved By:** Michael W. Skates



**City of Broken Arrow**  
**Minutes**  
**Special Meeting Planning Commission**

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

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

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**Thursday, August 23, 2018**

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

**Council Chambers**

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**1. Call to Order**

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

**2. Roll Call**

**Present:** 3 - Pablo Aguirre, Fred Dorrell, Lee Whelpley  
**Absent:** 2 - Mark Jones, Ricky Jones

**3. Old Business**

There was no Old Business.

**4. Consideration of Consent Agenda**

Staff Planner Amanda Yamaguchi presented the Consent Agenda.

- A. 18-916 Approval of BAL 2034CB, North Rose Business Park, 13.20 acres, R 2, RM, CM and CH to ON, CN and IL(BAZ-1965)/PUD 253A, north of Kenosha Street, one quarter mile east of Elm Place**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

- B. 18-917 Approval of BAL 2035, North Rose Business Park, 13.20 acres, R 2, RM, CM and CH to ON, CN and IL(BAZ 1965)/PUD 253A, north of Kenosha Street, one quarter mile east of Elm Place**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

- C. 18-986 Approval of BAL 2036, Fire Station no. 3, 3.03 acres, A 1 to BAZ 2011/CG, one half mile east of Aspen Avenue, one half mile south of Florence Street, west of 23rd Street, north of the Creek Turnpike**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

- D. 18-977 Approval of PT17 102, Conditional Final Plat, The Pines at the Preserve, 90 lots, 24.61 acres, A 1 to RS 3, west of the southwest corner of 37th Street and Omaha Street**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

- E. 18-956 Approval of PT18 106, Conditional Final Plat, Bill Knight Collision, 2 lots, 2.74 acres, PUD 271/CH and IL to PUD 271A/CH and IL, north of Kenosha Street, west of 9th Street**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

- F. 18-988 Approval of request for use of masonry and metal exterior building materials, ST18 117, Broken Arrow Neighbors Warehouse, 1.03 acres, DF/Area 6 of Downtown Residential Overlay District, 315 W. College Street (one quarter mile east of Elm Place, one half mile north of Houston Street)**

Ms. Yamaguchi stated the applicant was present and in agreement with the Staff Report.

Vice Chairperson Whelpley 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 to be removed for discussion. He asked if there were any Items to be removed. There were none.

MOTION: A motion was made by Fred Dorrell, seconded by Pablo Aguirre.

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

The motion carried by the following vote:

**Aye:** 3 - Pablo Aguirre, Fred Dorrell, Lee Whelpley

Vice Chairperson Whelpley stated Item 4D and Item 4E would go before City Council on September 18, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 4D or Item 4E, said citizen was required to fill out a Request to Appear before City Council form in advance.

## 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. 18-954 **Public hearing, consideration, and possible action regarding SP-289 (Specific Use Permit), Events Center, 21.05 acres, A 1, one quarter north of New Orleans Street, east of 1st Place**

Planner II Jane Wyrick reported SP-289 was a request for a specific use permit for an events center to be placed in an agricultural zoning district. She stated the applicant proposed to develop the site in phases to include an event center, wedding chapel, banquet facility, including site improvements such as a vineyard with a greenhouse, a bridge across the creek leading to a gazebo, a large patio area, and a pond. She stated the project had 695 feet of frontage and the conceptual site plan showed two access points and 182 parking spaces. She reported the specific use document indicated that the site would be designed with low impact guidelines by providing adequate parking, green space, the vineyard and water features. She stated with the modified site plan, the minimum parking requirements should be met, but not exceeded. She stated all the proposed buildings would meet the setback requirements. She explained when Staff processed a specific use permit items such as parking, traffic, noise, and lighting were reviewed. She stated some events were anticipated to be open until 2 a.m. She reported the applicant would create berms along the south property line to possibly include walls and vegetation such as evergreen trees, in an attempt to buffer the site from the neighbors to the south. She stated Recommended Condition No. 3 prohibited amplified sound from 10 p.m. until 7 a.m. She stated the City Noise Ordinance allowed noise until 11 p.m. on Friday and Saturday; therefore, a correction would be made incorporating this into Recommended Condition No. 3. She stated the applicant requested the Recommended Condition No. 3 indicate the amplified sound condition was in regard to outdoor music. She stated the applicant proposed 16 feet high light poles in the parking area and any sign for the site would be in accordance with the zoning ordinance. She stated there was a 100 year flood plain along the east side of the property and the applicant, should this be approved, would seek the necessary permits through FEMA. She stated it was not yet known if the project would require on-site detention, if so, the applicant would be required to revise the site plan accordingly. She stated the property was not platted; therefore, should this be approved the property was to be platted within one year. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended SP-289 be approved subject to platting, subject to uses for places of assembly, and subject to the City's Noise Ordinance.

The applicant representative, Mr. Nick Denison with 1Architecture, stated his address was 1319 East 6<sup>th</sup> Street, Tulsa. He stated his client was in agreement with Staff recommendations. He stated he would be happy to answer any questions. Vice Chairperson Whelpley asked if Mr. Denison had held any meetings with the neighbors. Mr. Denison responded in the negative.

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

Mr. David Center stated his address was 208 East New Orleans Street, Broken Arrow. He stated he was the property owner on the south side of the proposed project. He stated he had three concerns, the first was drainage; he worried the development of the event center would divert more water to his land. He stated he would appreciate seeing a plan which responded to this concern. He stated there was creek which ran through the property onto his own and the creek bed had eroded considerably in the last 20 years; he was concerned about the water being directed into the creek which would divert more water onto his land. He reported the creek as it crossed New Orleans was approximately 20 feet deep as a result of the erosion process. He wondered if the water would be retained on site, or if it would be "fee in lieu of," which would be disastrous for his property. He stated his second concern was the lighting; he did not want the lighting encroaching upon his property. He stated his third concern was the fencing and screening; he wondered what was intended in this regard. He stated he liked the tree planting idea, but he wondered if the City had ordinances regarding separating a project such as the event center from neighboring properties.

Development Services Director Michael Skates stated when this project moved forward, if approved, a detention determination letter request would be submitted. He stated he believed detention would be required on the property. He stated drainage on the property would be directed to the detention facility, which more than likely would be located outside the flood plain, but somewhere near the creek. He stated it was early to know exactly what would take place, but the City had very stringent stormwater and drainage requirements. He stated if a 3 to 5 foot berm was built along the south boundary, including evergreen trees, it would create a separation between the two properties and would create a noise buffer.

Senior Planner Brent Murphy stated this property was zoned A1 and the applicant was

requesting a specific use permit for a place of assembly. He explained, in regards to lighting, the height of the poles would be limited to 16 feet tall, set back 50 feet from the neighboring properties, and would be the shoebox type (pointed straight down), which was most restrictive and would not encroach upon neighboring properties. He stated, in regards to fencing, being zoned A1 no fencing was required as a part of the zoning ordinance, but as a part of the specific use permit it could be a requirement. He stated it sounded as if berms and landscaping was being used to reduce visibility. Commissioner Fred Dorrell asked if the screening was included in the specific use permit. Ms. Wyrick responded in the negative; however, if Commissioner Dorrell wished to craft an additional condition of approval it could be added.

Mr. Marc Vessells stated his address was 116 East Laredo Place, Broken Arrow. He stated he was located down the street from this property and down a slope from this property. He stated his main concern was the traffic. He stated the water from this property ran into his neighborhood and he was worried about this increasing and causing flooding. He stated the creek flooded extremely rapidly and he worried when they leveled the property for development this flooding would get much worse. He stated he was worried about property value impact and he wished to see an impact study. He stated there were two event centers in Broken Arrow already and there were plenty of other locations for a proposed events center. He stated he did not approve of this project.

Mr. Steve Foerster stated his address was 2305 South 1<sup>st</sup> Place, Broken Arrow. He stated 1<sup>st</sup> Place was a two lane road with no sidewalks. He stated across the street, on 1<sup>st</sup> Place, was the Justice Center and Street and Stormwater building; the jail was nearby as well. He stated many City vehicles, police cars and emergency vehicles used South 1<sup>st</sup> Place, and used the gas station on 1<sup>st</sup> Place. He stated he was concerned about traffic and he was worried emergency vehicles would be impeded. He stated he was concerned about potential noise. He asked if there was any guarantee against loud rock concerts, motorcycle rallies, etc. He asked if the events center was restricted to weddings and wedding receptions.

Vice Chairperson Whelpley asked if there were plans to widen South 1<sup>st</sup> Place. Mr. Skates responded he was unsure; he would check. Vice Chairperson Whelpley stated it was indeed a narrow two lane road. Mr. Skates concurred, but stated the police headquarters had recently moved which reduced police traffic. Vice Chairperson Whelpley stated he understood a fire station was to be built along South 1<sup>st</sup> Place. Mr. Skates concurred; Fire Station 7 would be located at the corner of South 1<sup>st</sup> Place and Washington, but police and fire were no longer required to use the gas station located on South 1<sup>st</sup> Place and could refuel at any station within City Limits. Vice Chairperson Whelpley stated many school buses used South 1<sup>st</sup> Place as well. He stated it would be a very busy road.

Ms. Roxie Lilley stated her address was 204 East Laredo Place, Broken Arrow. She stated she and her neighbors had concerns regarding the traffic. She stated she was happy to hear there would be parking at the events center site and that the applicant might have a meeting with the residents to listen to and address concerns. She stated she was concerned about the hours of operation. She stated other than her concerns regarding traffic and hours of operation she welcomed this type of facility. She stated she felt it would be beneficial for the City, for beautification, and for economic growth.

Mr. Bruce Maxey stated his address was 2108 South 1<sup>st</sup> Place, Broken Arrow. He stated he was concerned about an increase in traffic. He stated there was already a large amount of traffic along this two lane road with no curb and no sidewalk. He stated he worried that a facility with 180 parking spaces would potentially increase traffic. He stated he also questioned if another events center was needed.

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

Commissioner Dorrell asked about traffic concerns, screening and how frequently events were expected to take place at the proposed center. Mr. Denison responded traffic had not been taken into consideration; focus had been upon the site itself and how it would affect the neighbors. He stated his client wanted to partner with the neighbors and wanted property values to rise. He stated events would primarily be held on the weekends, Friday, Saturday and Sunday. He stated the landscaping would be of a botanic garden level with fountains included. He explained water was a resource for the property, and efforts would be made to retain and make use of stormwater for irrigation purposes rather than direct it off property. He stated in regards to screening, his client would prefer if there were not a large concrete wall, but rather landscaping buffers integrated into the site; however, if the City determined there was a need for a fence and it was required, he was open to discussion. He stated he felt a berm plan incorporating evergreens would be more attractive for the community. He stated he was open to have meetings with the City and with residents. He stated plans were extremely conceptual at the moment, but phase 1 included a 7,000 to 10,000 square foot single story event center which targeted a 200 person wedding; however, events would not

necessarily only be wedding related. He stated stage 2 included a 25,000 square foot building which was unlike anything he knew of in the area, and would target a 400 person wedding. He stated with the flood plain the 20 acres of property was reduced to 10 acres, but the 10 acres would be maximized and a buffer zone would be created with the woods. He stated he felt this would be a fantastic development and he hoped the City of Broken Arrow and the surrounding community would be proud of the development as well.

Commissioner Aguirre asked what steps would be taken to mitigate the noise. Mr. Denison stated his client was willing to take whatever steps were necessary to comply with the noise ordinance in the area. He stated the site itself would be heavily treed with low and high vegetation and the buildings would be acoustically sound proofed buildings which would meet all sound code regulations. He stated any indoor events would not have any exterior noise. Commissioner Aguirre asked if there were plans to do decibel level checks around the property. Mr. Denison responded this could be done and asked if there was a decibel level which should be the goal or if there were any sound guidelines. Mr. Skates indicated City Ordinance talked about quietude and did not specify decibel levels; therefore, typically if quietude was disturbed on any property, the person disturbed would contact the police department, the police would come out and determine if someone's quietude had been disturbed. He stated quietude was not regulated by hours and a disturbance could happen during hours of operation; noise which disturbed the peace was not allowed at any time of day. He reported the police had the right to shut down an event, write tickets, or ask for the music to be turned down depending upon the circumstances.

Commissioner Dorrell asked if there were any plans for improvement of 1<sup>st</sup> Place. Mr. Skates responded there was not a named project in the transportation section of the Bond; however, within the Bond there were monies available for unnamed projects. He stated this was a street which could be studied by the City, depending upon the development, and if it were deemed necessary to make improvements he believed the City could use the funds in the unnamed portion of the Bond. He stated as development went forward with the project a traffic impact analysis would be required; depending upon the results of the analysis the applicant might be required to construct a deceleration lane, acceleration lane, or turn lane into the development. He stated the requirements were determined case by case.

Commissioner Dorrell asked who currently maintained the creek. Mr. Skates responded the creek belonged to the property owners and the City maintained the portion which crossed New Orleans.

Mr. David Center commented he was not asking for a fence or a wall to be installed. He stated he felt planting material would screen the property and would be nicer to look at than a wall or a fence. He wanted to know how much plant material was appropriate, what size trees, mature or immature, etc.

Commissioner Dorrell stated he felt drainage would be addressed and the lighting was appropriate. He stated he did not feel a wall would be appropriate or attractive screening. He stated his biggest concern was the traffic. He stated he understood there would be a traffic impact study, but traveling on 1<sup>st</sup> Place was already busy, especially with the school. He commented the Planning Commission was a recommending body only; this would go to the City Council for approval.

Commissioner Aguirre stated while he was concerned about the traffic, he felt a traffic study would resolve the potential issues, and the frequency of the events would have an impact as well. He stated his biggest concern was noise pollution; however, it seemed noise pollution would be addressed. He stated if the structure itself was sound proof that alone would mitigate most of the noise.

Vice Chairperson Whelpley stated his biggest concern was the lack of communication between the developer and the neighbors. He stated he felt the developer should hold meetings with the neighbors; this was extremely important. Commissioner Dorrell concurred.

MOTION: A motion was made by Fred Dorrell, seconded by Pablo Aguirre.  
**Move to approve Item 6A, SP-289, as per Staff recommendation to include the narrative and a traffic impact study**

Aye:        3 -        The motion carried by the following vote:  
Pablo Aguirre, Fred Dorrell, Lee Whelpley

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

Commissioner Dorrell stated the Planning Commission concerns went on record for the City Council; he recommended holding an informative developer/neighbor meeting prior to the



Mr. Denison stated he and his client wanted to be good neighbors. He asked if there was a recommended venue or an appropriate action in regard to reaching out to neighbors. Discussion ensued regarding contacting a local venue or church, speaking with the Planning Commission attendees, and contacting the home owners associations.

**B. 18-969 Public hearing, consideration, and possible action regarding PUD-180D (Planned Unit Development), a request for a minor amendment to PUD-180B, Tuscan Plaza II, 1.16 acres, CG/PUD-180B, south of the southeast corner of Albany Street and 9th Street**

Ms. Amanda Yamaguchi reported PUD-180D was a minor amendment to PUD-180B. She reported the property was currently zoned CG commercial general and was platted as lot 1, block 1 of Tuscan Plaza. She stated the applicant requested the maximum 3,500 square foot building area requirement on this property be increased to 5,000 square feet of building floor area. She reported the request for an increase in the floor area did not exceed the maximum ratio permitted by the CG zoning district. She stated PUD-180, which contained a total of 8.97 acres, was approved by the City Council on November 5, 2007, and divided the property into three development areas: retail plaza, out parcel A and out parcel B. She stated the property was platted as Tuscan Plaza and out parcel A and B were developed with a pharmacy and a bank. She stated lot 1, block 1 of Tuscan Plaza which contained 5.99 acres was proposed as the retail plaza area for the PUD with retail and office uses. She stated PUD-180A, a major amendment to PUD-180, modified the sign regulations and was approved by the City Council on August 5, 2008. She stated in PUD-180, lot 1, block 1 of Tuscan Plaza was initially planned to be one building, two stories in height with office and retail uses. She stated on July 25, 2013 the Planning Commission approved PUD-180B which divided lot 1, block 1 into three separate development areas: A, B and C, with a mix of both retail and office buildings. She reported Development Area A to the northeast of the property was modified by PUD-180C by the Planning Commission on August 24, 2017. She stated PUD-180C was a minor amendment and requested to reduce the number of parking spaces from 78 to 35 for a financial institution. She stated the property was designated Level 4 in the Comprehensive Plan and the changes requested with PUD-180D were considered to be in compliance with the Comprehensive Plan in Level 4. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended PUD-180D, the minor amendment to PUD-180B, be approved as presented. She stated as the property had already been platted, Staff recommended platting be waived.

Mr. Erik Enyart with Tanner Consulting stated his address was 5323 South Lewis Avenue, Tulsa. He stated he represented the client in this matter who was in agreement with Staff recommendations.

Commissioner Dorrell asked what the 5,000 square foot building would be. Mr. Enyart responded he was not certain; he believed it would be financial. Commissioner Dorrell asked if the building was located between the bank and CVS along Lynn Lane. Mr. Enyart responded in the affirmative; immediately south of the CVS. He stated the use would be permitted by the PUD.

Vice Chairperson Whelpley opened up the Public Hearing for Item 6B. He asked if any present wanted to speak regarding Item 6B. Seeing none, he closed the Public Hearing for Item 6B.

MOTION: A motion was made by Fred Dorrell, seconded by Pablo Aguirre.

**Move to approve Item 6B, PUD-180D, as per Staff recommendation**

The motion carried by the following vote:

**Aye: 3 -** Pablo Aguirre, Fred Dorrell, Lee Whelpley

Vice Chairperson Whelpley stated Item 6B would not go before City Council.

**C. 18-985 Public hearing, consideration, and possible action regarding BAZ-2011, Fire Station No. 3, 3.03 acres, 1 lot, A-1 to CG, one-half mile south of Florence Street, west of 23rd Street, north of the Creek Turnpike**

Mr. Brent Murphy reported BAZ-2011 was a request to change the zoning on a 3.03 acres parcel from A-1 to CG, commercial general. He stated, if approved, the City of Broken Arrow would purchase the property with the intent to build a new fire station. He reported the property was designated Level 6 in the Comprehensive Plan and CG zoning was considered in compliance with the Comprehensive Plan in Level 6. He stated the facility which would be developed was a public safety facility which was allowed in the CG zoning. He stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended BAZ-2011 be approved subject to the property being platted with an allowance of an application for a lot split for transfer of title and the use and zoning contingent on the property being platted.

Commissioner Dorrell asked how many fire stations were in Broken Arrow. Mr. Murphy

responded he believed there were 7 fire stations.

Vice Chairperson Whelpley opened up the Public Hearing for Item 6C. He asked if any present wished to speak regarding Item 6C.

Mr. Mike Summer stated his address was 8615 South 74<sup>th</sup> East Avenue, Broken Arrow. He stated he was concerned about drainage and flooding in the area. He stated he approved of the fire station, but was worried once it was built drainage in the area would worsen.

Mr. Skates stated the City would follow code and a detention determination would be made. He stated there was a small creek which ran across the southwest corner of the property and the intention was to ensure no additional water went off site in an unnatural way. He stated every effort would be made to control the water and prevent additional flooding.

Mr. Dennis Weese stated his address was 19491 East 115<sup>th</sup> Street, Broken Arrow. He stated part of his property on the north was a retention pond. He stated the fire station property drained to the east and entered the sewers incorporated into County Line Road which fed into his retaining pond. He stated, unfortunately, there was a spillway which continued the water to the east, and his neighbor to the east had filled in the drainage ditch which caused flooding into neighbor's yard. He stated he was concerned the problem would worsen with the construction of the fire station. He asked if someone from the City could come and take a look at the pond on his property and the drainage ditch next door to ensure the situation was understood.

Mr. Skates asked Mr. Weese to leave his contact information with Jane Wyrick who would have the Engineering Director contact Mr. Weese if the project was approved.

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

MOTION: A motion was made by Fred Dorrell, seconded by Pablo Aguirre.

**Move to approve Item 6C, BAZ-2011, as per Staff recommendation**

The motion carried by the following vote:

**Aye: 3 -** Pablo Aguirre, Fred Dorrell, Lee Whelpley

Vice Chairperson Whelpley stated Item 6C would go before City Council on September 18, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6C, said citizen was required to fill out a Request to Appear before City Council form in advance.

**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)**

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

**10. Adjournment**

The meeting adjourned at approximately 5:59 p.m.

MOTION: A motion was made by Pablo Aguirre, seconded by Fred Dorrell.

**Move to adjourn**

The motion carried by the following vote:

**Aye: 3 -** Pablo Aguirre, Fred Dorrell, Lee Whelpley

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# City of Broken Arrow

## Request for Action

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**File #:** 18-1321, **Version:** 1

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**Broken Arrow Planning Commission  
11-15-2018**

**To:** Chairman and Commission Members  
**From:** Development Services Department

**Title:** Approval of Planning Commission meeting minutes of August 30, 2018

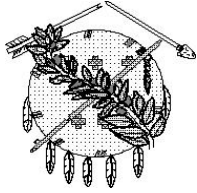
**Background:** Minutes recorded for the Broken Arrow Planning Commission meeting.

**Attachments:** Minutes of August 30, 2018

**Recommendation:** Approve minutes of Planning Commission meeting held August 30, 2018.

**Reviewed By:** Larry R. Curtis

**Approved By:** Michael W. Skates



**City of Broken Arrow**  
**Minutes**  
**Special Meeting 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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<b>Thursday, August 30, 2018</b>	<b>Time 5:00 p.m.</b>	<b>Council Chambers</b>
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**1. Call to Order**

Vice Chairperson Ricky Jones called the meeting to order at approximately 5:00 p.m.

**2. Roll Call**

**Present:** 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones  
**Absent:** 1 - Fred Dorrell

**3. Old Business**

There was no Old Business.

**4. Consideration of Consent Agenda**

Staff Planner Amanda Yamaguchi presented the Consent Agenda.

**A. 18-1056 Approval of BAL-2037, Sound Mind, approximately 19.50 acres, CG/PUD-279, located one-half mile north of Tucson Street, west of Aspen Avenue, north of the Creek Turnpike**

Vice Chairperson Ricky Jones explained the Consent Agenda was approved in its entirety with a single motion and a single vote unless an item was to be removed for discussion. He asked if there were any Items to be removed. There were none.

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

**Move to approve the Consent Agenda**

The motion carried by the following vote:

**Aye:** 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

**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. 18-1020 Public hearing, consideration, and possible action regarding the proposed changes to Section 3.1.F (Table 3.1 1) Table of Allowed Uses; and Section 5.4 (Table 4.4.1) Off Street Parking Schedule A; and Section 10.3.D.1 Definitions of General Use Categories and Specific Use Types; and Section 10.3.D.9 Definitions of General Use Categories and Specific Use Types of the Broken Arrow Zoning Ordinance**

Plan Development Manager Larry Curtis reported this item made modifications to the Broken Arrow Zoning Ordinance, specifically in regard to the sections listed above. He stated the modifications established regulations for retail Medical Marijuana Dispensaries and Medical Marijuana Commercial Growing Cultivation Facilities. He explained the update was in response to the recent passage of State Question 788 and the subsequent changes to Title 63. He stated these particular use types were not envisioned under the 2008 Broken Arrow Zoning Ordinance; therefore, it was necessary to adjust the Zoning Code to new uses which had become legal under Oklahoma law.

Mr. Curtis reported Staff proposed the addition of two subcategories under Section 3.1.F (Table 3.1 1) Table of Allowed Uses. He reported, through research, Staff determined most medical marijuana growing was conducted in closed facilities; this type of environment would best be established in the IL and IH (Industrial Light and Industrial Heavy) zoning districts. He explained Staff proposed to add, under agriculture, medical marijuana commercial growing and to make it permissible in IL and IH zoning districts; in addition, in the definition section, it was added medical marijuana growing and cultivation would be regulated, under Titles 63 of the State of Oklahoma, and growing would be conducted within a building.

Mr. Curtis reported Staff had determined it was unnecessary to change the Zoning Ordinance for Manufacturing Marijuana as the current code allowed for the flexibility of manufacturing marijuana; therefore, Staff would interpret Marijuana Manufacturing as allowed under

Manufacturing Light which was permissible in the IL and IH zoning district. He displayed a map which illustrated where the IL and IH zoning districts were located.

Mr. Curtis reported Title 63, Section 420A, stated all applicants for medical marijuana licenses were required to be 18 years of age or older. He explained a special exception could be granted to an applicant under the age of 18; however, applicants under the age of 18 were required to have an individual over the age of 18 purchase medical marijuana. He stated, in addition, Title 63, Section 420A indicated medical marijuana dispensaries could not be located within 1,000 feet of any public or private school entrance; Zoning defined schools as public or private facilities, colleges, universities, elementary, middle school, high school and trade schools. He stated the Broken Arrow Zoning Code specifically indicated that child care facilities were not included as a public or private school. He explained initially Staff considered categorizing marijuana dispensaries as pharmacies which were general retail; however, unlike dispensaries, pharmacy businesses such as Walgreens and CVS were not restricted by law on all sales by age or by location to a school. He stated it was determined general retail was not the best categorical fit for medical marijuana dispensaries; it was determined medical marijuana dispensaries most closely resembled alcohol beverage retail sales as the purchase of alcohol, like medical marijuana, was strictly restricted by age and distance to schools. He explained this made dispensaries permissible in the Commercial Mixed Use, Downtown Mixed Use, the CN, CG and CH zoning districts, and in areas 6 and 7 of the DROD. He reported a definition was added: “Medical Marijuana, Retail Sales – A retail establishment, like a Medical Marijuana Dispensary, licensed to sell Medical Marijuana as established by Title 63 O.S., Statute 421A State of Oklahoma,” and dispensaries must not be located within 1,000 feet from any school entrance. He explained these rules were set forth by the State; Broken Arrow was simply adding State rules to the Zoning Ordinance. He displayed a map which illustrated where it would be acceptable for Medical Marijuana Dispensaries were permissible by right. He stated it was the responsibility of the Medical Marijuana Dispensary to prove to the City it would not be located within 1,000 feet of a school. He stated additional changes were made within the parking tables in response to the above changes.

Vice Chairperson Jones stated, as a Planner, it seemed the Zoning Ordinance simply added a Use or a Permitted Use along with the restrictions which applied. He stated he liked the provided map which illustrated where businesses were permitted. He asked if the proposed changes paralleled the State’s activities. Mr. Curtis responded in the affirmative. He stated City Council, through the City Attorney’s office was developing an Ordinance in regard to Medical Marijuana which would go before City Council on September 4, 2018. Acting City Attorney Trevor Dennis concurred; the Ordinance was related to the local licensing and tracked the State licensing requirements very closely. Vice Chairperson Jones stated the Ordinance was unrelated to the Zoning Code. Acting City Attorney Dennis concurred; the only manner in which the Ordinance related to the Zoning Code was it indicated licensing would not be issued to an applicant unless the location was permitted through Zoning Code.

Commission Member Pablo Aguirre stated he researched zoning ordinances in cities similar to Broken Arrow in states which had approved medical marijuana. He stated he had discovered the state was the least restrictive and it was up to the community to decide what fit the community. He reported while Broken Arrow did not include a child care facility as a school, in many communities child care facilities were added separately, for example: “not allowed within 1,000 feet of any school or child care facility.” He explained many communities added child care facilities in as a subcategory in this manner. He stated he felt this was in alignment with the mentality of not allowing dispensaries within 1,000 feet of schools. He stated some communities even included public parks, arcades, libraries, and places where youth gathered in this restriction which he felt were valid considerations for the Zoning Ordinance. He stated Broken Arrow proposed one buffer zone through the Zoning Ordinance where most, if not all, of the cities he researched had many more buffer zones. He asked if this was a City decision and if the Planning Commission was willing to consider additional buffers.

Mr. Curtis responded unfortunately Oklahoma State law was restrictive regarding a city’s zoning capabilities; specifically cities were prevented from making zoning unduly restrictive for retail facilities. Acting City Attorney Dennis stated he understood Commission Member Aguirre’s concerns; however, the City had to be careful not to have regulatory exclusions, and State Question 788 prohibited local municipalities from unduly restricting zoning, specifically for dispensaries. He explained the State only expressed exclusion for public and private schools. He stated in order to comply with State Question 788, and after research with communities and the Oklahoma Municipal Association, Broken Arrow could require additional setbacks; however, there was a high risk of being challenged in court.

Commission Member Aguirre asked if the State prohibited additional buffer zone requirements. Acting City Attorney Dennis responded the Statute, as currently written, allowed one buffer zone, specifically the 1,000 foot buffer zone for schools. He explained he could not know what the court or legislature would say regarding additional buffer zone

requirements; additional buffer zone requirements may not survive a challenge in court; therefore, the Legal Department determined regulating per the State Statute was the most prudent course.

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

Citizen Jack Carlson stated his address was 1509 Pecan Circle, Broken Arrow. He asked if growing facilities had the same restriction as dispensaries (1,000 feet from a school). Acting Mr. Curtis responded in the negative; however, the Planning Commission or City Council might make adjustments in the future. He stated currently growers were allowed in the IL and IH districts without school distance restrictions.

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

Mr. Curtis stated if there were Commissioners who wished to further restrict zoning districts for marijuana business this was the time and place to discuss the possibilities. He stated the proposed Zoning was just that, proposed; Planning Commission had the ability to make recommendations and changes to further restrict zoning or to further permit zoning. Commission Member Aguirre asked if A1 could potentially become CH, CG, etc. Mr. Curtis responded the Comprehensive Plan clearly indicated where those types of uses were allowed within the City of Broken Arrow, IL was permissible in Level 6 with a PUD, and permission was possible in Level 7 for IL and IH, but again would require a zoning change which would come before the Planning Commission for approval.

Vice Chairperson Jones stated the map provided was not a final say on where marijuana business were allowed; there were other potential properties, if in accordance with the Comprehensive Plan, and if approved by the Planning Commission and City Council. Discussion ensued regarding the liquidity of the map, regulating the dispensaries as liquor stores, and zoning code being amended in the future.

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

**Move to approve Item 6A 18-1020, as per Staff recommendation**

The motion carried by the following vote:

**Aye:**     **3 -**     Mark Jones, Lee Whelpley, Ricky Jones  
**Nay:**     **1 -**     Pablo Aguirre

Vice Chairperson Jones stated Item 6A would go before City Council on September 4, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6A, said citizen was required to fill out a Request to Appear before City Council form in advance.

**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)**

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

**10. Adjournment**

The meeting adjourned at approximately 5:29 p.m.

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

**Move to adjourn**

The motion carried by the following vote:

**Aye:**     **4 -**     Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# City of Broken Arrow

## Request for Action

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**File #:** 18-1322, **Version:** 1

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### Broken Arrow Planning Commission

11-15-2018

**To:** Chairman and Commission Members

**From:** Development Services Department

**Title:**

**Approval of Planning Commission meeting minutes of September 13, 2018**

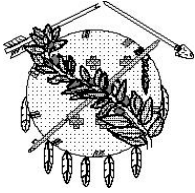
**Background:** Minutes recorded for the Broken Arrow Planning Commission meeting.

**Attachments:** Minutes of September 13, 2018

**Recommendation:** Approve minutes of Planning Commission meeting held September 13, 2018.

**Reviewed By:** Larry R. Curtis

**Approved By:** Michael W. Skates



## 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, September 13, 2018**

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

**Council Chambers**

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#### 1. Call to Order

Vice Chairperson Ricky Jones called the meeting to order at approximately 5:00 p.m.

#### 2. Roll Call

**Present: 4 -** Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

**Absent: 1 -** Fred Dorrell

Pablo Aguirre arrived at 5:02 p.m.

Vice Chairperson Jones stated Commissioner Fred Dorrell's son recently unexpectedly passed away. He asked for a moment of silence in remembrance of Jamie Dorrell, and for Commissioner Dorrell and family.

#### 3. Old Business

There was no Old Business.

#### 4. Consideration of Consent Agenda

Senior Planner Brent Murphy presented the consent agenda.

**A. 18-1008 Approval of PT16 108A, Conditional Final Plat, North Rose Business Park, 13.20 acres, 13 lots, RM, R 2, CN, and CH to IL/PUD 253A, north of Kenosha Street, one quarter mile east of Elm Place**

Mr. Murphy reported the applicant was present and in agreement with the Staff Report.

**B. 18-1044 Approval of PT18 102, Conditional Final Plat, Silverleaf II, 121 lots, 31.17 acres, A 1 to PUD 225/RS 3, one quarter mile north of Omaha Street, west of 37th Street**

Mr. Murphy reported the applicant was present and in agreement with the Staff Report. He stated the Technical Advisory Committee and Staff recommended approval.

**C. 18-1039 Approval of PT18 105, Preliminary Plat, RDS Business Park, 19.70 acres, 6 Lots, A 1 to CN, one quarter mile north of Kenosha Street, east of 23rd Street**

Mr. Murphy reported the Technical Advisory Committee and Staff recommended approval subject to the check list. He stated the applicant was present and in agreement with the Staff Report.

**D. 18-1052 Approval of PT18 109, Preliminary Plat, Boston Heights, a replat of Lot One, Block Two Arrow Acres, 2.10 acres, 7 Lots, A 1 to RS 2, one half mile east of Elm Place, one quarter mile south of Washington Street**

Mr. Murphy reported the Technical Advisory Committee and Staff recommended approval subject to the attached check list. He stated the applicant was present and in agreement with the Staff Report.

**E. 18-1067 Approval of BAL 829A, Thomas and Dollie Shaw Lot Split, 1 Lot, 0.53 acres, south of Dearborn Street, east of 37th Street at 20925 E. 43rd Street South**

Mr. Murphy reported the applicant was present and in agreement with the Staff Report.

Vice Chairperson Jones stated Commissioner Mark Jones requested Item 4B be removed from the Consent Agenda. He explained the Consent Agenda was approved in its entirety with a single motion and a single vote unless an item was to be removed for discussion. He asked if there were any other Items to be removed. Mr. J.R. Donaldson requested Item 4C be removed for discussion.

MOTION: A motion was made by Pablo Aguirre, seconded by Lee Whelpley.

**Move to approve the Consent Agenda for Items A, D and E per Staff recommendations**

The motion carried by the following vote:

**Aye: 4 -** Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

Vice Chairperson Jones stated Item 4A would go before City Council on October 2<sup>nd</sup>, 2018 at



6:30 p.m. He stated if any citizen desired to speak regarding Item 4A at the City Council Meeting, said citizen was required to fill out a Request to Appear Before City Council form in advance.

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

Item 4B and Item 4C were removed from the Consent Agenda for discussion.

Mr. Brent Murphy reported Item 4B was a conditional final plat for Silverleaf II. He stated the Technical Advisory Committee and Staff recommended approval subject to the attached check list. Vice Chairperson Jones asked if there were any questions of Staff. There were none. He asked if the applicant was in agreement with the Staff Recommendation. The applicant stated he was in agreement. Vice Chairperson Jones asked if any in attendance wished to speak regarding Item 4A. There were none who wished to speak.

MOTION: A motion was made by Pablo Aguirre, seconded by Lee Whelpley.

**Move to approve Item 4B per Staff recommendation**

The motion carried by the following vote:

**Aye: 3 -** Pablo Aguirre, Lee Whelpley, Ricky Jones  
**Recused: 1 -** Mark Jones

Commissioner Mark Jones left the room for discussion of Item 4B and returned following the vote.

Vice Chairperson Jones reported Item 4B would be presented to City Council on October 2<sup>nd</sup>, 2018 at 6:30 p.m.

Mr. Brent Murphy reported Item 4C was the preliminary plat for RDS Business Park. He stated the Planning Commission had reviewed and approved a rezoning request for CN (Commercial Neighborhood).

Mr. J.R. Donaldson stated his address was 12820 South Memorial Drive, Bixby, IA. He stated he wanted the Planning Commission to be aware a PUD for this preliminary plat would be applied for and some check list items would be modified. Vice Chairperson Jones asked if the preliminary plat should be approved. Mr. Murphy responded if the Planning Commission so desired it could go ahead and approve the preliminary plat. He explained when the PUD was brought back, if the comments were addressed, Staff could approve the PUD; however, if the comments were not addressed, or not approved of, the PUD would still go before City Council.

Vice Chairperson Jones opened up the Public Hearing for Item 4C. He asked if any present wanted to speak regarding Item 4C. There were none who wished to speak. He closed the Public Hearing for Item 4C.

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

**Move to approve Item 4C per Staff recommendation**

The motion carried by the following vote:

**Aye: 4 -** Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

**6. Public Hearings**

**A. 18-1007 Public hearing, consideration, and possible action regarding SP 290 (Specific Use Permit), Refiner's Fire International Ministries, 1.43 acres, CH, West of Elm Place, 250 feet north of Houston Street**

Jane Wyrick, Planner II, reported Item 6A, SP 290, was a request for a Specific Use Permit for a place of assembly in an existing commercial center. She reported the proposed hours of operation for the place of assembly were Sundays from 11:00 a.m. until 3:00 p.m. and Tuesday and Wednesday evenings. She stated the tenant space was approximately 2,000 sq. feet in area and the current number of service attendees was 25 to 30 individuals; however, the lease area could accommodate up to 100 individuals. She reported the parking space requirement was 25 spaces. She explained per zoning code section 3.2.b, a minimum of 2 acres was required for a place of assembly when a property was served by Sanitary Sewer; however, this property site had 1.43 acres; therefore, Staff amended the recommendation to one of denial based upon the site not meeting the minimum acreage requirement for a place of assembly.

Vice Chairperson Jones stated he understood the applicant could go before the Board of Adjustment and request a variance of the two acre requirement, and if so granted could return to Planning Commission, or the applicant could ask for a PUD, or the applicant could withdraw the application.

Director of Development Services Michael Skates stated through the specific use permit right of way was required and the owner of the complex did not wish to dedicate the right of way to the City. He stated this, along with acreage requirements, caused Staff to recommend

denial. He stated he met with the pastors of the church and explained the situation. He stated he felt the best option would be removal of the application. He reported the church had been at this location for approximately three months, unaware of the restriction. He stated Staff would allow the church until the end of October to find a new location, and would assist in the search. Commissioner Aguirre asked what the reasoning was for the two acre requirement. Mr. Skates responded it was to ensure adequate parking. Vice Chairperson Jones stated minimum acreage requirements were fairly typical. He sympathized with the applicant's situation and invited the applicant to speak.

Pastor Eugene Floyd stated his address was 4007 West Orlando Place, Broken Arrow. He stated he was the Pastor of Founders Fire, International Ministries. He stated the intent was to rent the property and hold services at the property for one year. He stated it was a 2,000 sq. foot strip mall facility in which approximately 30 members met every Sunday. He reported it was not until the church sign was going up that he was made aware of the permit and right of way requirements. He thanked the Planning Commission for its time.

Vice Chairperson Jones opened up the Public Hearing for Item 6A. He asked if any present wanted to speak regarding Item 6A. There were none who wished to speak. He closed the Public Hearing for Item 6A.

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

**Move to not approve Item 6A as amended by Staff recommendation**

The motion carried by the following vote:

**Aye: 4 -** Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

Vice Chairperson Jones stated he felt sorry this was denied. Discussion ensued regarding the church's options regarding the right to appeal, file for a PUD and finding a new location.

**7. Appeals**

There were no Appeals.

**8. General Commission Business**

**A. 18-1078 Consideration, discussion and possible approval of PT18 108, Preliminary Plat, The Villages at Seven Oaks South, 13.68 acres, 57 Lots, A 1 to RS 3 (via BAZ 1622) to RS 3 to RS 4/PUD 280 (via BAZ 2010 & PUD 280), one quarter mile east of 9th Street, south of New Orleans Street**

Mr. Brent Murphy reported this item was continued from the last Planning Commission Meeting, and as a result the applicant had gone to City Council, received approval for the PUD, but was required to amend the PUD to provide for an entrance off 12<sup>th</sup> Street. He stated the PUD would come back to the Planning Commission; therefore, he recommended the item be tabled until the PUD was resubmitted. He explained this would enable Planning Commission to review and vote for the PUD and Preliminary Plat during the same meeting. Vice Chairperson Jones asked if there was a set date for this. Mr. Murphy responded in the negative.

MOTION: A motion was made by Pablo Aguirre, seconded by Lee Whelpley.

**Move to table Item 8A pending submission of an accompanying PUD**

The motion carried by the following vote:

**Aye: 3 -** Pablo Aguirre, Lee Whelpley, Ricky Jones  
**Recused: 1 -** Mark Jones

Commissioner Mark Jones left the room for discussion of Item 8A and returned following the vote.

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

Mr Brent Murphy reported on August 9<sup>th</sup>, 2018, at the City Council Meeting, Specific Use Permit 45A was approved as recommended by Planning Commission, and the Seven Oaks South PUD was approved by City Council pending a revised PUD to be brought before the Planning Commission. He reported PUD 281 for Milestone and PUD 282 for Chase Bank were approved as recommended by the Planning Commission. He reported the special hearing item went to City Council and was approved as per Staff and Planning Commission recommendation and a second hearing would be held at the upcoming City Council Meeting.

Chairperson Whelpley stated the funeral for Jamie Dorrell would be held at 11:00 a.m. on Monday at Hayhurst Funeral Home.

Special Projects Manager Farhad Daroga reported the Planning Commission received invitations for the next several meetings regarding the Comprehensive Plan. He reported the Steering Committee Meeting would be held Monday, September 24<sup>th</sup>, 2018 from 6:00 p.m. until 8:00 p.m. at Central Park, 1500 South Main, and the Public Hearing would be held Tuesday, September 25<sup>th</sup>, 2018 from 6:00 p.m. until 8:00 p.m. at the same location.

**10. Adjournment**

The meeting adjourned at approximately 5:24 p.m.

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

**Move to adjourn**

The motion carried by the following vote:

**Aye:**      **4 -**      Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# City of Broken Arrow

## Request for Action

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**File #:** 18-1323, **Version:** 1

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**Broken Arrow Planning Commission  
11-15-2018**

**To:** Chairman and Commission Members  
**From:** Development Services Department

**Title:** Approval of Planning Commission meeting minutes of September 29, 2018

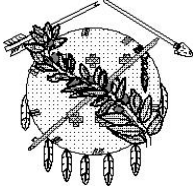
**Background:** Minutes recorded for the Broken Arrow Planning Commission meeting.

**Attachments:** Minutes of September 29, 2018

**Recommendation:** Approve minutes of Planning Commission meeting held September 29, 2018.

**Reviewed By:** Larry R. Curtis

**Approved By:** Michael W. Skates



## City of Broken Arrow

### Minutes Planning Commission

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

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

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**Thursday, September 27, 2018**

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

**Council Chambers**

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**1. Call to Order**

Chairperson Ricky Jones called the meeting to order at approximately 5:00 p.m.

**2. Roll Call**

**Present:** 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones  
**Absent:** 1 - Fred Dorrell

**3. Old Business**

There was no Old Business.

**4. Consideration of Consent Agenda**

There was no Consent Agenda.

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

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

**6. Public Hearings**

**A. 18-1125 Public hearing, consideration, and possible action regarding BAZ-2012, Jang's FRC, 1.52 acres, 1 lot, R-1 to CH, southwest corner of Albany Street and Olive Avenue, north of the M.K.T. Railroad**

Staff Planner Amanda Yamaguchi reported Item 6A, BAZ-2012, was a request to change the zoning designation on a 1.52 acres tract from R-1 single family residential to CH commercial heavy. She stated the property was currently vacant and unplatted. She stated the applicant had not stated a specific reason for the rezoning. She reported there were two water line easements, a drainage easement and a utility easement which would affect the buildable area of the property. She stated a total of 65 feet of right of way and the corner clip at the intersection would be required along both Albany Street and Olive Avenue. She stated the property was designated Level 6 in the Comprehensive Plan and CH zoning was considered in conformance with the Comprehensive Plan in Level 6. She stated based on the Comprehensive Plan, location of the property, and surrounding land uses, Staff recommended BAZ-2012 be approved subject to the property being platted.

Mr. David Sanders with Sanders Engineering, representing Mr. Jang, stated his address was 11502 South 66<sup>th</sup> East Avenue, Bixby. He stated Mr. Jang was in agreement with Staff recommendations. He stated being relatively unfamiliar with the process he would take it one step at a time, get the property rezoned, and then move forward.

Chairperson Ricky Jones opened up the Public Hearing for Item 6A. He asked if any present wanted to speak regarding Item 6A. Seeing none, he closed the Public Hearing for Item 6A.

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

**Move to approve Item 6A, BAZ-2012, per Staff recommendation**

The motion carried by the following vote:

**Aye:** 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6A would go before City Council on October 16, 2018 at 6:30 p.m.

**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)**

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

**10. Adjournment**

The meeting adjourned at approximately 5:04 p.m.

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

**Move to adjourn**

The motion carried by the following vote:

**Aye:**      **4 -**      Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# City of Broken Arrow

## Request for Action

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**File #:** 18-1325, **Version:** 1

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**Broken Arrow Planning Commission  
11-15-2018**

**To:** Chairman and Commission Members  
**From:** Development Services Department

**Title:** Approval of Planning Commission meeting minutes of October 11, 2018

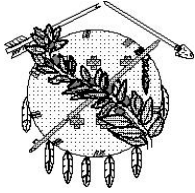
**Background:** Minutes recorded for the Broken Arrow Planning Commission meeting.

**Attachments:** Minutes of October 11, 2018

**Recommendation:** Approve minutes of Planning Commission meeting held October 11, 2018.

**Reviewed By:** Larry R. Curtis

**Approved By:** Michael W. Skates



**City of Broken Arrow**  
**Minutes**  
**Special Meeting Planning Commission**

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

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

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<b>Thursday, October 11, 2018</b>	<b>Time 5:00 p.m.</b>	<b>Council Chambers</b>
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**1. Call to Order**

Chairperson Ricky Jones called the meeting to order at approximately 5:00 p.m.

**2. Roll Call**

**Present:** 3 - Fred Dorrell, Lee Whelpley, Ricky Jones  
**Absent:** 2 - Pablo Aguirre, Mark Jones

**3. Old Business**

There was no Old Business.

**4. Consideration of Consent Agenda**

Staff Planner Amanda Yamaguchi presented the Consent Agenda.

- A. 18-1129 Approval of revised landscape plan for Forest Creek Patio Homes, ST06-155, 24.36 acres, PUD (Planned Unit Development) 146/RM (Residential Multifamily), one-quarter mile east of Garnett Road, north of Houston Street**

Ms. Yamaguchi stated the applicant requested this Item be continued until the October 25, 2018 Planning Commission Meeting.

- B. 18-1171 Approval of PT18-107, Conditional Final Plat, Freedom Wash, a replat of Lot 5 and Lot 7, Block 1 of Kenwood Acres (Plat #1417), 2.76 acres, 3 Lots, R-1 to PUD-172/RD and CH, north of Kenosha Street, one-quarter mile west of 9th Street, between 4th Street and 5th Street**

Ms. Yamaguchi stated the applicant was in agreement with the Staff Report.

- C. 18-1160 Approval of PT18-110, Preliminary Plat, Casey's General Store 2, Lot 1, Block 1, 1.31 acres, 1 Lot, CG, northeast corner of Aspen Avenue and Florence Street**

Ms. Yamaguchi stated the applicant was in agreement with the Staff Report, but was not present.

- D. 18-1199 Approval of BAL-2038, 101st and 193rd, 51.38 acres, A-1 and A-CN, located to the north and west of the intersection of New Orleans Street and 23rd Street**

Ms. Yamaguchi stated the applicant was in agreement with the Staff Report.

Chairperson Ricky Jones 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 to be removed for discussion. He asked if there were any Items to be removed other than Item 4A. There were none.

MOTION: A motion was made by Fred Dorrell, seconded by Lee Whelpley.

**Move to approve the Consent Agenda Items 4B, 4C, and 4D, per Staff recommendation**

The motion carried by the following vote:

**Aye:** 3 - Fred Dorrell, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 4B would go before City Council on November 6, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6A, said citizen was required to fill out a Request to Appear before City Council form in advance.

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

Item 4A was continued until the October 25, 2018 Planning Commission Meeting.

MOTION: A motion was made by Lee Whelpley, seconded by Fred Dorrell.

**Move to continue Item 4A until October 25, 2018**

The motion carried by the following vote:

**Aye:** 3 - Fred Dorrell, Lee Whelpley, Ricky Jones



## 6. Public Hearings

### A. 18-1179 **Public hearing, consideration, and possible action regarding PUD-17B (Planned Unit Development), Vandever Acre Center, 5 acres, CG/PUD-17, located north and west of the northwest corner of New Orleans Street and Elm Place**

Planner II Jane Wyrick reported Staff and the applicant requested Item 6A be continued until October 25, 2018.

Chairperson Jones stated any present who wished to speak regarding Item 6A should attend the Planning Commission Meeting on October 25, 2018 for discussion.

MOTION: A motion was made by Fred Dorrell, seconded by Lee Whelpley.

#### **Move to continue Item 6A until October 25, 2018**

The motion carried by the following vote:

Aye: 3 - Fred Dorrell, Lee Whelpley, Ricky Jones

### B. 18-1130 **Public hearing, consideration, and possible action regarding PUD-189C (Planned Unit Development), Highland 55 at Mission Hills, 19.62 acres, PUD-189/RM to PUD-189C/RM, located north of Albany Street, one-third mile west of 9th Street**

Senior Planner Brent Murphy reported this property was part of PUD-189 and had an underlying zoning of RM (residential multifamily). He stated PUD-199, which contained 53.75 acres, was approved by City Council in 2008 subject to the property being platted. He stated the 53.75 acres associated with PUD-189 was divided up into three areas: A, B, and C; Development Area A (31.87 acres) was developed as Mission Hills Apartments and Development Area B (13.8 acres) plus 5.82 acres of Development Area C was combined for the project presently before Planning Commission. He stated the developer proposed to build duplexes on the 19.62 acres. He reported the number of dwelling units allowed by right on the total 19.62 acres was 388 units; the number of units allowed on the 13.8 acres was 266 units; however, PUD-189C proposed only 98 units on the 19.62 acres. He stated PUD-189 approved a height limit of 45 feet while PUD-189C indicated a height maximum of 35 feet with single story buildings. He indicated the exterior building material incorporated brick, stucco, stone or cement fiberboard material and 50% of the building would be either brick or stone. He stated there would be a single property owner responsible for the maintenance of the units, exterior, fencing, streets, etc. He stated the cul-de-sac units would have fire suppression systems installed. He stated the substreet to the north would be emergency access only; primary access would be from the south, connected to Albany. He reported the property was not within a 100 year flood plain. He stated there were high pressure pipelines along the north with 125 feet of easement; the units would sit back at least 50 feet from the pipelines. He stated the property was identified as Level 3 in the Comprehensive Plan and PUD-189C was in accordance with the Comprehensive Plan in Level 3. He reported this would be a private gated community and the privately owned streets would be 26 feet in width, built to Broken Arrow standards. He stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended PUD-189C be approved as presented subject to the property being platted.

Mr. David Forrest, the developer, stated his address was 1213 Hampton Court, Edmond, OK. He stated he agreed with Staff recommendations. He explained this would be an age restricted luxury senior living community with a central clubhouse, fitness facility, and a mile of walking trail.

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

Mr. John Butler stated his address was 135 East Elmira Place, Broken Arrow. He asked about the north end emergency access road. Chairperson Jones explained there would be a crash gate with a Knox Box for Police and Fire access only. Mr. Butler expressed concern about the high pressure pipelines. Chairperson Jones explained the developer would work with the pipeline company to ensure all pipeline safety requirements were met. Mr. Butler asked about water drainage and sewer locations. Chairperson Jones explained this was not yet known; the developer would submit engineering plans to the City for approval. Mr. Butler asked if this would be discussed at a future Planning Commission Meeting. Chairperson Jones recommended Mr. Butler contact Mr. John McElhenney regarding the engineering plans.

Ms. Lucinda Morte stated her address was 110 East Granger Street, Broken Arrow. She stated she lived in Lynn Lane Village and was concerned about rising crime rates. She explained there were ongoing problems emanating from the apartment complex; she worried a senior living complex would be targeted. She asked if construction access would be via the north entrance, south entrance or both. Chairperson Jones recommended Ms. Morte contact Mr. McElhenney or the developer regarding construction access. Ms. Morte asked when construction would begin. Chairperson Jones responded he would ask the developer during rebuttals.

Mr. Joel Thompson stated his address was 111 East Elmira Place, Broken Arrow, north of the

development. He asked if there would be a remaining greenbelt between the existing homes and new development. Chairperson Jones responded in the affirmative; the pipeline prohibited construction over the greenbelt. Mr. Thompson asked about the number of units. Chairperson Jones reviewed the number of units allowed (266 units) versus the number intended units (98 units). Mr. Thompson asked what the estimated square footage and home value range would be. Chairperson Jones responded there would be a minimum of 1600 square feet per unit, but he did not know the estimated value.

Mr. Paul Welch stated his address was 2204 North 7<sup>th</sup> Street, Broken Arrow. He stated he was concerned the owner would sell the property immediately upon development. Chairperson Jones indicated the owner had the right to sell the property. He explained the Planning Commission did not regulate land sales; however, the PUD would lock the land into this specific development regardless of who owned the property. Mr. Welch asked if this development would be a retirement village. Chairperson Jones responded in the affirmative; this was what the applicant proposed; however, there was nothing in the PUD which specified an age limit. Mr. Welch stated he was concerned the development would quickly degrade and become an unregulated eye sore. He stated the concept of a retirement village was solid, but was not guaranteed, and he worried his property value would drop if the development was not properly maintained. Commissioner Dorrell asked if Mr. Welch would rather this be an apartment complex. Mr. Welch responded in the negative. He stated, with the Bass Pro Shop and Convention Center nearby, this was a destination location and he did not feel a duplex development was a good fit for the area. Discussion ensued regarding property sale regulations.

Mr. Ray Wilson stated his address was 113 East Helena Street, Broken Arrow, to the north of the development. He stated he was worried about the green space which would be lost with this development. He explained there were deer, bobcat and coyotes in the area and it would be a shame to destroy the wildlife environment. Chairperson Jones stated this was private property; the owner had the right to develop it. Mr. Wilson recommended the City of Broken Arrow consider purchase the property for wildlife preservation.

Mr. Paul Welch asked the name of the property owner. Ms. Yamaguchi responded the owner was Mr. Ed Schermerhorn.

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

Mr. David Forrest indicated the north entrance would not be used as a construction entrance. He stated construction was estimated to begin the first quarter of 2019. He stated this development would be a luxury resort type community, rental rates would be fairly high, and the business model depended upon the residents being 55 years and older.

Vice Chairperson Whelpley asked if this PUD had previously been approved. Mr. Murphy responded in the affirmative; PUD-189 was an existing PUD. Discussion ensued regarding PUD-189C increasing the development acreage and reducing the unit density of what was permitted.

MOTION: A motion was made by Fred Dorrell, seconded by Lee Whelpley.

**Move to approve Item 6B as per Staff recommendation**

The motion carried by the following vote:

Aye:        3 - Fred Dorrell, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6B would go before City Council on November 6, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6B, said citizen was required to fill out a Request to Appear before City Council form in advance.

**C. 18-1153    Public hearing, consideration, and possible action regarding SP-291, Waters Edge Winery, 0.08 acres, request for a Specific Use Permit for micro food and beverage production in Area 6 of the Downtown Residential Overlay District, one-half mile north of Houston Street, west of Main Street at 116 S. Main Street**

Mr. Brent Murphy reported SP-291 was a micro food and beverage production request. He explained the applicant wished to remodel the existing building for use as a winery and restaurant. He stated the property was located in Area 6 of the Downtown Residential Overlay District and had been platted as part of the original town of Broken Arrow. He stated the applicant had provided the required information in conjunction with the Specific Use Permit and the building would contain 2,750 square feet. He reported the winery would be open from 11 a.m. until 9 p.m. on Sunday, Tuesday and Wednesday, would be closed Monday, and open from 11 a.m. until 10 p.m. Thursday, Friday and Saturday. He stated odor expectations included regular food smells, and a mild fermentation smell limited to the production room which would be properly ventilated. He reported truck deliveries included three times a week for food, one time a month for wine juice, and one time every three months for wine bottles. He reported there would be no wine sold retail from the store; the applicant expected to produce approximately 1,620 cases of wine (19,000 bottles) per year, to be distributed to local retailers,

wine clubs, and restaurants. He stated the winery expected to hire 16 to 20 employees. He stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended SP-291 be approved as requested, and as the property was platted, Staff recommended the platting process be waived.

Vice Chairperson Whelpley asked if the Specific Use Permit had an expiration date. Mr. Murphy responded in the negative.

Ms. Michelle Dean, the applicant, stated her address was 4320 South Dogwood Avenue, Broken Arrow. She stated she was in agreement with Staff recommendations.

Chairperson Jones opened up the Public Hearing for Item 6C. He asked if any present wished to speak regarding Item 6C. Seeing none, he closed the Public Hearing for Item 6C.

MOTION: A motion was made by Fred Dorrell seconded by Lee Whelpley.

**Move to approve Item 6C as per Staff recommendation**

The motion carried by the following vote:

Aye: 3 - Fred Dorrell, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6C would go before City Council on November 6, 2018 at 6:30 p.m. He explained if any citizen desired to speak regarding Item 6C, said citizen was required to fill out a Request to Appear before City Council form in advance.

**D. 18-1165 Public hearing, consideration, and possible action regarding BAZ-2013, EuroTexan, 1.05 acres, 1 lot, A-1 to CG, west of the southwest corner of Kenosha Street and Evans Road**

Ms. Amanda Yamaguchi reported BAZ-2013 was a request to change the zoning designation from A-1 to CG (commercial general). She stated the property was currently used for commercial purposes and on February 4, 1980 was platted as Possum Run in Wagoner County. She reported there were two buildings on the property, one a retail center (most recently a roofing company), and one a storage building. She explained the new property owners intended to remove the storage building and construct a new commercial building in the future. She stated the property was annexed into the City of Broken Arrow in February 1980 by Ordinance No. 819. She stated the property had been platted in Wagoner County prior to annexation. She stated the property was designated as Level 4 in the Comprehensive Plan, and CG zoning was in conformance with the Comprehensive Plan in Level 4. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended BAZ-2013 be approved subject to the property being replatted.

Mr. Steve Marx, the applicant, stated this was the old John Deere property, the barn on which was an old shop which needed to be taken down. He stated he was in agreement with Staff recommendations. Chairperson Jones asked if Mr. Marks understood the approval was subject to the property being platted. Mr. Marks responded in the affirmative.

Chairperson Jones opened up the Public Hearing for Item 6D. He asked if any present wanted to speak regarding Item 6D. Seeing none, he closed the Public Hearing for Item 6D.

MOTION: A motion was made by Lee Whelpley, seconded by Fred Dorrell.

**Move to approve Item 6D as per Staff recommendation**

The motion carried by the following vote:

Aye: 3 - Fred Dorrell, Lee Whelpley, Ricky Jones

Chairperson Jones stated Item 6D would go before City Council on November 6, 2018 at 6:30 p.m.

**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)**

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

**10. Adjournment**

The meeting adjourned at approximately 5:38 p.m.

MOTION: A motion was made by Fred Dorrell, seconded by Lee Whelpley.

**Move to adjourn**

The motion carried by the following vote:

Aye: 3 - Fred Dorrell, Lee Whelpley, Ricky Jones

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



# City of Broken Arrow

## Request for Action

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**File #: 18-1313, Version: 1**

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**Broken Arrow Planning Commission  
11-15-2018**

**To:** Chairman and Commission Members  
**From:** Development Services Department  
**Title:** Public hearing, consideration, and possible action regarding PUD-283 (Planned Unit Development) and BAZ-2015 (Rezoning), Dollar General Broken Arrow, 2.00 acres, A-CH to CG, located west of the southwest corner of Aspen Avenue and Omaha Street

**Background:**

**Applicant:** AAB Engineering, LLC  
**Owner:** James Morrow  
**Developer:** Dollar General  
**Engineer:** AAB Engineering, LLC  
**Location:** West of the southwest corner of Aspen Avenue and Omaha Street  
**Size of Tract:** 2.00 acres  
**Present Zoning:** A-CH  
**Proposed Zoning:** CG  
**Comp Plan:** Level 6 (Regional Employment/Commercial)

Planned Unit Development (PUD)-283 and BAZ-2015 involve a 2.00 acre undeveloped tract located west of the southwest corner of Aspen Avenue and Omaha Street. Applicant is requesting that the zoning on the unplatted property be changed from A-CH (Annexed-Commercial Heavy) to CG (Commercial General). A preliminary plat, Dollar General Broken Arrow, has been submitted and is being reviewed for the December 6, 2018 Planning Commission meeting.

This property was annexed into the City of Broken Arrow by Ordinance No. 1670 on October 7, 1991. With PUD-283, applicant is proposing to develop a Dollar General on the site. The conceptual layout submitted with the PUD-283 shows the proposed location of the building, driveways and parking.

PUD-283 is proposed to be developed in accordance with the CG development standards with the following modifications:

- Screening shall not be required along the eastern and southern property lines
- A single access point will be permitted to the site via a drive separated from the existing drive to the west by not less than 200' measured centerline to centerline
- Water is available from the City of Broken Arrow. Sanitary sewer is available from both City of Broken

Arrow and City of Tulsa

- Site lighting shall conform to the Broken Arrow Zoning Ordinance with the exception that light poles will be allowed within utility easements abutting street rights-of-way. A note shall be placed on the face of the site plan stating “Property owner(s) assumes all liability and replacement responsibilities for any damage to light poles placed in utility easements.” Through the platting process, the applicant intends to provide a mutual access easement to allow future developments to the east to utilize the drive.

#### 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	City of Tulsa	CS	Undeveloped
East	Level 6	A-CH	Undeveloped
South	Level 6	A-CH	Undeveloped
West	Level 3	RM/PUD-177C	Creekside Apartments

According to the FEMA Maps, none of this property is located in the 100 year floodplain. Water service is available from the City of Broken Arrow. Sanitary Sewer from the City of Broken Arrow is available west of the property within the Creekside Apartment complex. If an easement can be obtained, this sewer will be extended to provide service to the property. If an easement is not attainable then a connection can be made to the City of Tulsa sanitary sewer located north of Omaha Street.

The property associated with PUD-283 and BAZ-2015 is shown in the Comprehensive Plan as Level 6. The CG zoning requested with BAZ-2015 and incorporated into PUD-283 is considered to be in conformance with the Comprehensive Plan in Level 6.

**Attachments:** Case map  
Aerial photo  
Comprehensive Plan  
Ordinance No. 1670  
PUD-283 Design Statement

#### **Recommendation:**

Based on the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommends that PUD-283 and BAZ-2015 be approved, subject to the following:

1. The property being platted.
2. All wall-pak lighting shall be equipped with shield to direct light downward.
3. All freestanding signs will have a monument type base of the same masonry material as the principle building.

**Reviewed By:** Larry R. Curtis

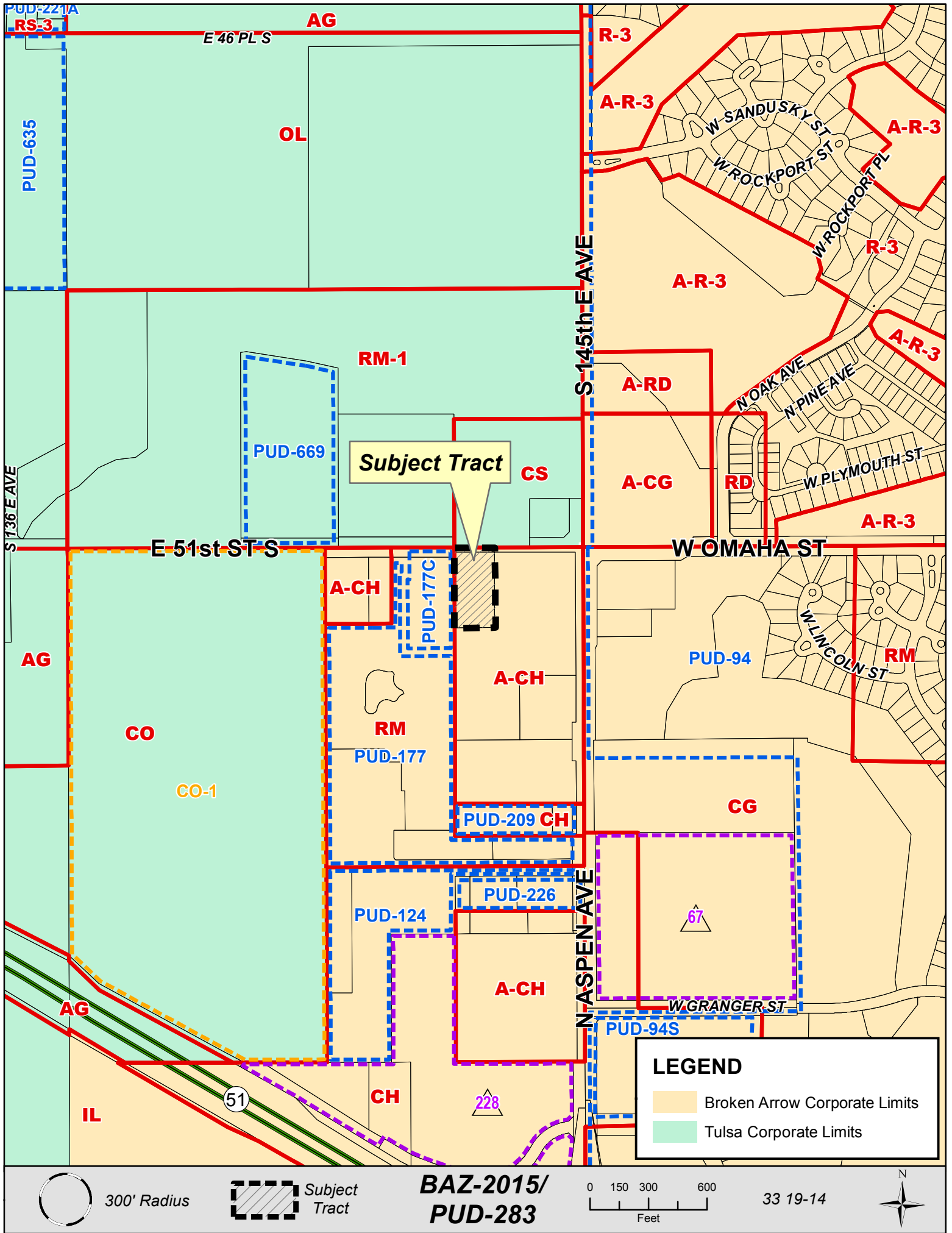
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**File #: 18-1313, Version: 1**

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**Approved By: Michael W. Skates**

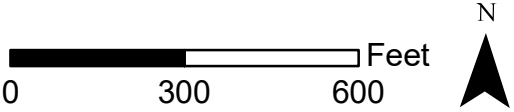
ALY







PUD-283 & BAZ-2015  
Dollar General Broken Arrow

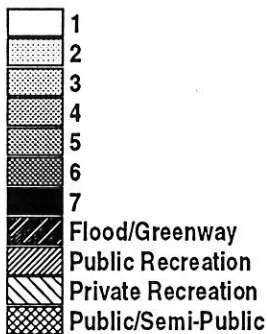




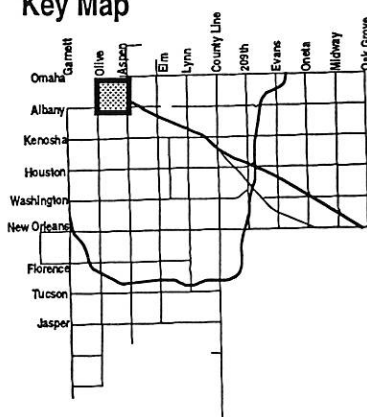
### Omaha/Aspen/Albany/Olive (Section 33-19-14)

Level 6 designations are given to this section based mostly on zoning and high level of traffic and traffic carrying capacity. Two tracts on Albany are zoned O-3. This zoning is lower than could be allowed by Level 6 designation, however, all surrounding tracts are zoned in accordance with a Level 6 designation.

#### LUIS Classification



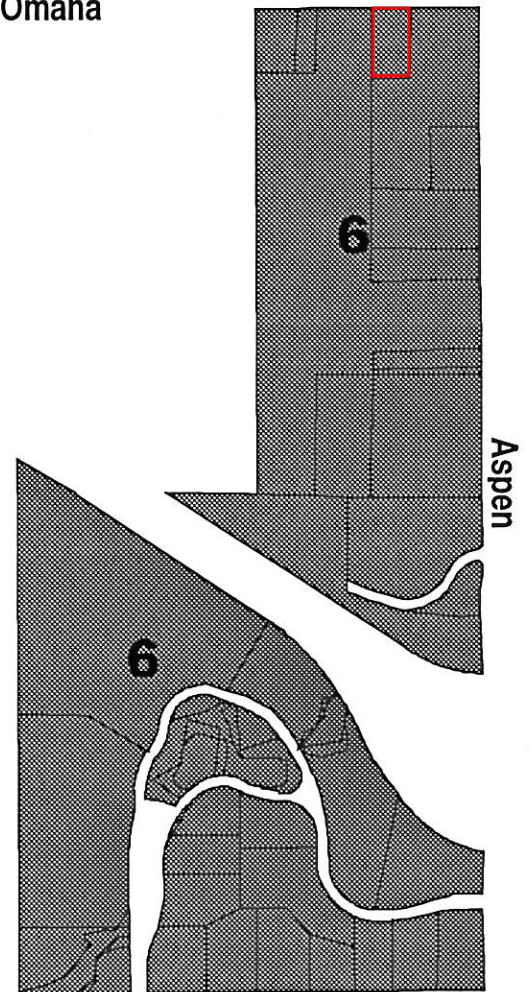
#### Key Map



Olive

PUD-283 & BAZ-2015

Omaha



Albany

ORDINANCE NO. 1670

AN ORDINANCE ANNEXING A CERTAIN CONTIGUOUS TRACT OF LAND FORMING A PART OF SECTION 33, TOWNSHIP 19 NORTH, RANGE 14 EAST OF THE INDIAN BASE AND MERIDIAN IN TULSA COUNTY, OKLAHOMA, TO THE CITY LIMITS OF THE CITY OF BROKEN ARROW, OKLAHOMA, GRANTING AN AC-5 ZONING CLASSIFICATION, ADOPTING A SERVICE PLAN, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE BROKEN ARROW CITY COUNCIL:

Section I: That the following described tract of land lying adjacent to the present corporate limits of the City of Broken arrow, to-wit:

The East half (E/2) of the Northeast quarter (NE/4) Section 33, Township 19 North, Range 14 East, in Tulsa County, Oklahoma, less the North 24.75 feet thereof,

be and the same is hereby annexed to the City of Broken Arrow, Oklahoma, and the corporate limits of said City are hereby extended to include the above described tract of land. After the effective date of this ordinance, all property located therein, and all persons residing or otherwise occupying the land shall be subject to the jurisdiction of this City and all laws made pursuant thereto. The land shall be assigned AC-5 zoning. City Council expressly finds that all requirements of 11 O.S. §21-103 have been fully complied with in advance of the issuance of this ordinance.

SECTION II: Police, fire, and zoning services shall be extended immediately upon annexation. Utilities shall be extended during the normal development process, with sewer services being provided from the South and water services being provided from the East.

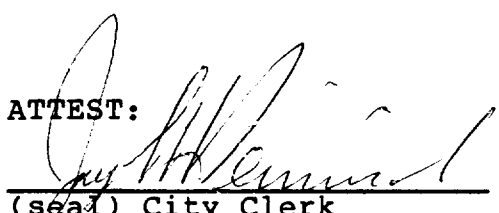
SECTION III: Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

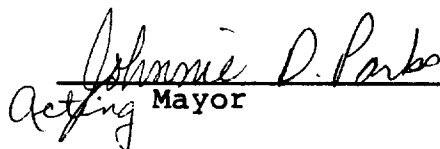
SECTION IV: An emergency exists for the preservation of the public health, peace and safety, and therefore this ordinance shall become effective from and after the time of its passage and approval.

PASSED AND APPROVED and the emergency clause ruled upon  
separately this 7<sup>th</sup> day of October, 1991.

DATED this 7<sup>th</sup> day of October, 1991.

ATTEST:

  
(seal) City Clerk

  
Acting Mayor

APPROVED:

  
City Attorney

# **Dollar General Aspen and Omaha**

## **Planned Unit Development #283**

### **Submitted**

**November 8, 2018**

### **Location**

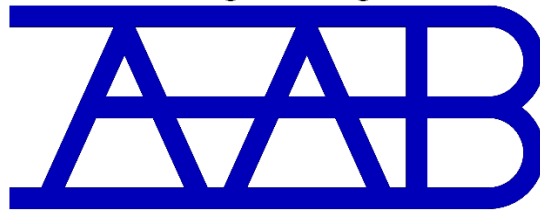
**West of the southwest corner of Aspen Avenue and Omaha St.**

### **Owner**

**James N. Morrow  
30677 S 4195 RD UNIT 4195  
INOLA, OK 74036**

### **Prepared By:**

**AAB Engineering, LLC**



**Engineering • Surveying • Land Planning**

PO Box 2136 Sand Springs, OK 74063  
Office: (918) 514-4283 Fax: (918) 514-4288

## **Development Concept**

PUD-283 is an approximately 2.00 acre development located west of the southwest corner of Aspen Avenue and Omaha St. The site is currently vacant and is abutted by vacant land to the south and east and by the Creekside Apartments to the west. See Exhibit A for the overall site plan showing the surrounding areas. The property is currently zoned A-CH meaning that it was annexed as CH zoning but requires rezoning to conform to City of Broken Arrow zoning code. See attached Exhibit B for the surrounding zoning classifications. This PUD application has been submitted along with a rezoning application that proposes CG for the parcel (BAZ-2015). The project proposes a Dollar General retail store with an access to Omaha Street near the eastern property line. Since this access will not meet the driveway separation requirements set out in the zoning code a PUD is necessary to provide relief of that requirement. See the attached Exhibit C for a conceptual site plan of the development.

## **Development Standards**

This PUD is intended to allow the construction of a Dollar General store conforming to the conceptual site plan shown in Exhibit C. The PUD shall be developed in accordance with the use and development regulations of the CG district of the Broken Arrow Zoning Ordinance, except as modified by this document.

## **Landscape and Screening Standards**

The PUD shall be developed in accordance with the landscaping provisions of the Broken Arrow Zoning Ordinance, except as hereinafter modified:

The adjacent properties are vacant and zoned A-CH which when rezoned will likely be to a non-residential zoning classification. Since a screening fence would not be necessary adjacent to a non-residential zoning classification a screening fence will not be required along the eastern or southern property lines

## **Access and Circulation**

Access to the site will be derived from a single driveway connection to Omaha Street. Due to the limited site frontage and the location of the existing access point to the west there is no location that will allow an access point that conforms to the zoning code's separation standards. A single access will be permitted to the site via a drive separated from the existing drive to the west by not less than 200' measured centerline to centerline. A mutual access easement will be included on the plat that allows the adjacent property to the east to access Omaha Street via the proposed drive.

## **Utilities and Drainage**

Water service is provided to the site by the City of Broken Arrow via an existing 12" line along the arterial frontage. An 8" City of Broken Arrow sewer line is located west of the property within the Creekside Apartment Complex. If an easement can be obtained this sewer will be extended to provide service to the property. If an easement is not attainable then a connection can be made to the City of Tulsa sanitary sewer located north of Omaha St. Franchise utilities currently serve the project area with communications, natural gas, and electricity. We anticipate underground services throughout the development.

The site drains generally from east to west towards the adjacent apartment complex. This drainage pattern will be largely maintained with the increase in runoff being mitigated by the construction of an onsite detention facility.

### **Lighting**

Site lighting shall conform to the standards of City of Broken Arrow Zoning Ordinance with the exception that light poles will be allowed within utility easements abutting street rights-of-way. A note shall be placed on the face of the site plan stating: "Property owner(s) assumes all liability and replacement responsibilities for any damage to light poles placed in utility easements."

### **Site Plan Review**

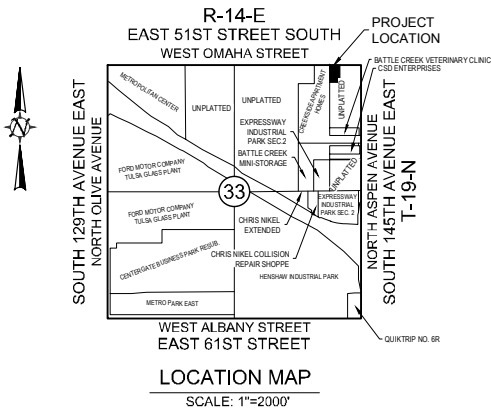
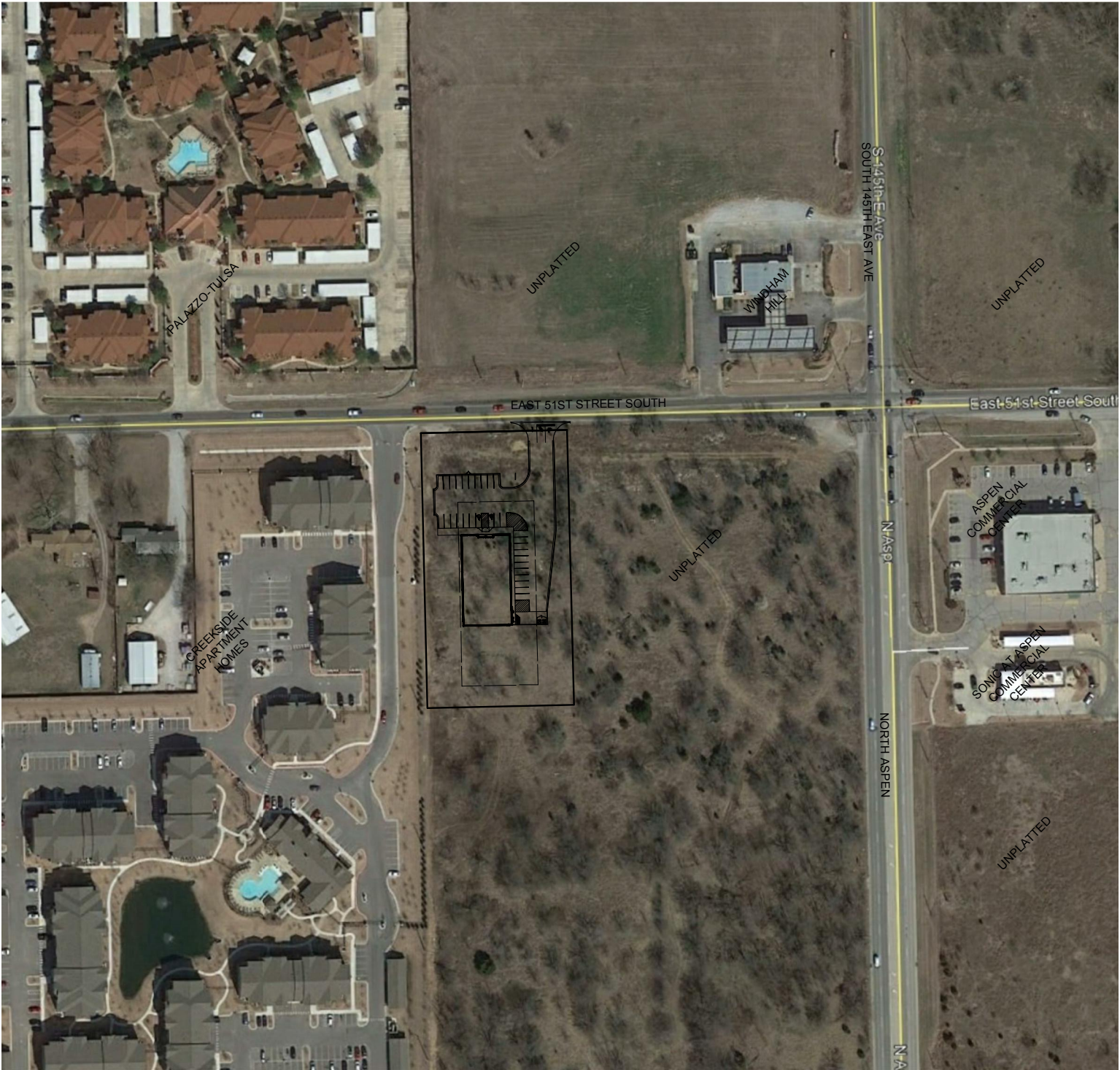
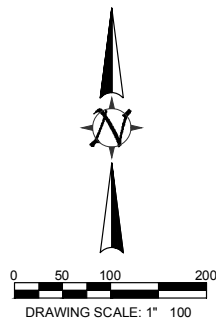
No building permit shall be issued until a detailed site plan and a detailed landscape plan is submitted to and approved by the City of Broken Arrow as conforming to these PUD restrictions.

### **Schedule of Development**

Construction is expected to occur in early 2019.



Exhibit A  
Surrounding Areas  
for  
Dollar General Broken Arrow



AAB Engineering, LLC

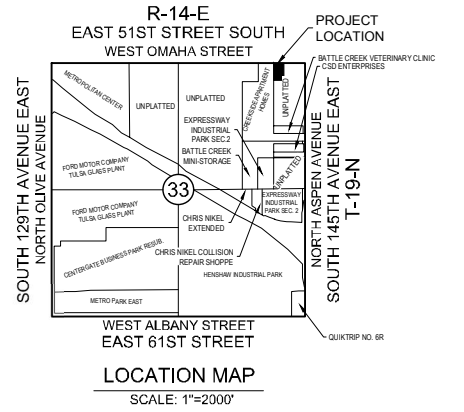
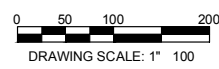
**AAB**

Engineering • Surveying • Land Planning




PO Box 2136 Sand Springs, OK 74063  
OK CA#6318 Exp: June 30, 2018  
KS CA#2292 Exp: Dec. 31, 2018  
Office: (918) 514-4283 Fax: (918) 514-4288



Existing Zoning  
for



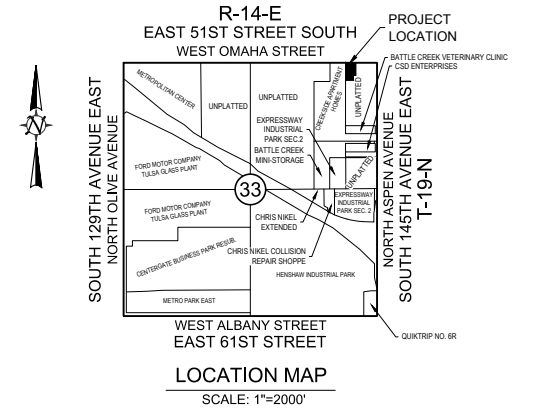
### LEGEND

-  ZONED AG (AGRICULTURE)
-  ZONED CS (COMMERCIAL)
-  ZONED RM (RESIDENTIAL MULTI-FAMILY)



PLOT DATE: Mon, 01 Oct 2018 FILE: P:191413-DG BROKEN ARROW/DG BROKEN ARROW, OK - PUD

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**AAB Engineering, LLC**



The logo features the letters 'AAB' in a large, bold, blue serif font. The letters are stylized with horizontal bars passing through them, creating a continuous, architectural look. The 'A' and 'B' are connected by a shared horizontal bar.

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## **Exhibit D**

### **Legal Description**

A TRACT OF LAND THAT IS PART OF THE NORTHWEST QUARTER (NW/4) OF THE NORTHEAST QUARTER (NE/4) OF SECTION EIGHTEEN (18), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FIFTEEN (15) EAST OF THE INDIAN BASE AND MERIDIAN AND ALSO A PART OF QUIKTRIP COMMERCIAL CENTER #50, CITY OF BROKEN ARROW, WAGONER COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

BEGINNING AT THE NORTHWEST CORNER OF THE NORHTEAST QUARTER (NE/4) OF SAID SECTION EIGHTEEN (18) THENCE NORTH  $88^{\circ}51'01''$  EAST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER (NW/4) OF THE NORTHEAST (NE/4) OF SAID SECTION EIGHTEEN (18) FOR A DISTANCE OF 301.89 FEET TO A POINT ON THE NORTHERLY EXTENSION OF THE WESTERLY RIGHT OF WAY LINE FOR STATE HIGHWAY 51; THENCE SOUTH  $25^{\circ}03'52''$  EAST FOR A DISTANCE OF 0.00 TO A POINT OF CURVE; THENCE SOUTHEASTERLY ALONG SAID WESTERLY RIGHT OF WAY LINE AND ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2950.79 FEET, A CENTRAL ANGLE OF  $07^{\circ}11'07''$ , A CHORD BEARING AND DISTANCE OF SOUTH  $28^{\circ}39'26''$  EAST FOR 369.81 FEET, FOR AN ARC DISTANCE OF 370.05 FEET TO THE SOUTHEAST CORNER OF LOT 2 BLOCK 1 OF SAID QUIKTRIP COMMERCIAL CENTER #50; THENCE SOUTH  $61^{\circ}40'41''$  WEST ALONG THE SOUTHERLY LINE OF SAID LOT 2 FOR A DISTANCE OF 249.18 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE SOUTH  $28^{\circ}19'24''$  EAST FOR A DISTANCE OF 22.00 FEET; THENCE SOUTH  $01^{\circ}25'30''$  EAST ALONG THE WEST LINE OF LOT 3 BLOCK 1 SAID QUIKTRIP COMMERCIAL CENTER #50 FOR A DISTANCE 119.13 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3 AND ALSO BEING THE SOUTHEAST CORNER OF RESERVE AREA "A"; THENCE NORTH  $88^{\circ}46'20''$  WEST ALONG THE SOUTH LINE OF SAID RESERVE AREA "A" FOR A DISTANCE OF 259.11 FEET TO A POINT ON THE EAST BOUNDARY LINE OF OAK CREEK ESTATES ADDITION; THENCE NORTH  $01^{\circ}25'30''$  WEST ALONG THE EAST BOUNDARY LINE OF OAK CREEK ESTATES ADDITION FOR A DISTANCE OF 569.75 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS 216,104.37 SQUARE FEET / 4.96 ACRES MORE OR LESS.