



**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 25, 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:** 4 - Pablo Aguirre, Mark Jones, Lee Whelpley, Ricky Jones  
**Absent:** 1 - Fred Dorrell

**3. Old Business**

**A. 18-1229 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**

Plan Development Manager Larry Curtis reported this was a revised landscape plan submitted by Forest Creek Patio Homes, a single family attached residential community. He stated a request from the applicant for this Item was continued from the October 11, 2018 Planning Commission Meeting. He reported on November 30, 2006 a site plan and landscaping plan was submitted to the Planning Commission; the site plan showed a gated 128 unit single family attached residential development and the landscaping plan showed 243 trees including 74 trees located within the pipeline easement. He stated it was determined the 74 trees would not be permitted within the pipeline easement and were removed. He stated since that time the applicant requested a modification to the landscaping plan, and since the original landscaping plan came before the Planning Commission in the past, Staff felt it was important to carry the same procedure forward to be reviewed by the Planning Commission. He reported in September 2018 the landscaping architect conducted an inventory of the trees on the property; on the attached revised landscaping plan it was noted there were 154 existing trees and 144 ornamental trees. He stated of the 154 existing trees, 12 trees were smaller than the 12 inch caliper required by the zoning ordinance, and 5 trees were not on the approved tree list. He explained, as a result, the landscaping architect identified 137 trees that were in compliance with the zoning ordinance. He stated the previously approved landscape plan showed 169 trees; therefore, the current landscaping plan exceeded the previously approved requirements. He reported in Area 3, where Forest Creek Patio Homes was located, PUD-146 required at least 35 guest parking spaces to be provided; however, on September 20, 2018 it was brought to Staff's attention the number of the required guest parking spaces may not have been provided and the revised landscaping plan only showed 18 guest parking spaces. He stated Staff requested information from the developer regarding whether the requirement had been met and at the time the Staff Report was prepared no additional information had been provided. He stated, as a result, Staff recommended the attached revised landscaping plan submitted on September 18, 2018 be approved subject to the following: guest parking spaces be provided in accordance with the requirements of PUD-146 or re-modified through a re-submittal of the site plan, and the pipeline company should be notified prior to construction of the proposed trail in the new revised landscaping plan.

The Applicant, Brian Beam, representing Capital Homes, stated his address was 12150 East 96th Street North, Suite 202, Owasso. He stated he was in agreement with the Staff Report.

Chairperson Jones opened up the Public Hearing for Item 3A. He asked if any present wanted to speak regarding Item 3A.

Mr. Jerry Ferguson, HOA President Elect, stated his address was 320 South Astor Avenue, Broken Arrow. He stated he was in agreement with the PUD amendments. He stated the HOA had worked diligently with Capital Homes and felt confident in the partnership.

Chairperson Jones indicated the matter before Planning Commission today was the revised landscape plan; any agreement between the HOA and Capital Homes was unknown to the Planning Commission. He recommended the agreement be submitted to the Planning Commission to go on file, but Staff would enforce the landscape plan and conditions only. Mr. Ferguson stated the agreement had been submitted to Mr. Michael Skates.

Chairperson Jones asked if any others present wished to speak regarding Item 3A. Seeing none he closed the Public Hearing for Item 3A.

Vice Chairperson Whelpley stated he was pleased to see the homeowners and the developer communicating with each other.

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

**Move to approve Item 3A per Staff recommendation**

The motion carried by the following vote:

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

Chairperson Jones stated Item 3A would not go before City Council; the Planning Commission decision was final.

**B. 18-1215 Public hearing, consideration, and possible action regarding PUD-17B (Planned Unit Development Major Amendment), Vandever Acres Center, 5 acres, CG, located north and west of the northwest corner of New Orleans Street and Elm Place**

Ms. Jane Wyrick, Planner II, reported with PUD-17B the applicant proposed a major amendment to PUD-17 to allow place of assembly as a permitted use and to develop the property as a place of assembly with commercial uses. She reported PUD-17 had been approved by City Council in 1980 and included C2 and C5 zoning (old zoning designations), which were now converted to CG. She explained the major amendment to the PUD would bring the PUD into compliance with the current 2008 zoning ordinance. She reported the property was platted as lot 2, block 1, of Vandever Acres, filed in Tulsa County in 1981. She explained at the time of plat 60 feet of right of way was dedicated along New Orleans Street and 50 feet of right of way was dedicated along Elm Place. She stated New Orleans Street and Elm Place were classified as primary arterial streets and currently required 60 feet of right of way from the section line. She stated the corners of the property which abutted the Mr. Mambo's site were 250 feet from the intersection; therefore, additional right of way would need to be dedicated from the intersection. She stated a 15 foot utility easement was dedicated along Elm Place, but not along New Orleans, so additional right of way and utility easement would need to be dedicated. She stated the commercial building on the site formally housed a Safeway and Homeland store until 2002; Hobby Lobby followed and closed in 2017. She stated with PUD-17 lot 2, block 1 was allowed a maximum aggregate floor area of 71,874 sq. feet of building floor space. She reported the applicant wished to retain the previously approved floor area; the existing facility was closer to 50,000 sq. feet. She stated the existing three sided pole sign in the parking area on the east side of the site was nonconforming and needed to be removed; the sign and benches at the base of the sign were located in parking spaces. She explained with PUD-17B the applicant requested inclusion of place of assembly as a permitted use; 37,500 sq. feet of the existing building would be dedicated to place of assembly, while 12,500 sq. feet was to be remodeled for commercial use. She reported Phase 1 of the development removed the existing hut in the east, dedicated the rights of way and easements, and brought the property into current zoning code compliance; Phase 2 included development of a new 7,000 sq. feet retail building in the southern part of the site, along New Orleans and west of Mr. Mambo's. She stated the applicant proposed 4 to 8 foot landscape borders which did not meet the minimum 10 feet landscape border criteria per zoning ordinance. She explained to meet the minimum 10 feet landscape border criteria parking spaces would need to be removed along the east; therefore the applicant would need to modify the site plan. She stated Phase 2 included 202 parking spaces which met the parking requirement; however, the site plan needed to be modified to accommodate loading zones for the handicap spaces. She stated City Staff met with the applicant in June 2018 at which time the church proposed to occupy the entire facility; however Staff indicated this was not an appropriate location for a church. She reported in February the City entered into a contract with Catalyst Commercial to conduct a rejuvenation study and create a plan to attract private investment and new economic activity to this location. She stated Staff was awaiting the report from the consultant with an evaluation of how the proposed use aligned with recommendations for the area. She stated the deviations requested in this PUD amendment would allow place of assembly as a use, and allow reduction of the landscape borders.

Ms. Wyrick reported the property associated with PUD-17B was shown as Level 4 in the Comprehensive Plan which included commercial and employment nodes; this proposal was not considered to be in compliance with the Comprehensive Plan in Level 4 because places of assembly was not the highest and best use of the commercial site and did not meet policy C-P1 of the Comprehensive Plan which stated "the City shall refrain from approving requests for specific use permits for uses which could affect the ability to attract quality dining and entertainment facilities within or immediately adjacent to existing or future commercial districts as identified in the future development guide." She explained since the policy was adopted there were modifications to the state regulations regarding alcohol sales; dining establishments that procured less than 50% of revenue from alcohol sales were not impacted by the proximity to places of assembly/religious facilities; however, if more than 50% of sales revenue was from alcohol sales the business was required to be located at least 300 feet

from the religious facility/public or private school. She reported if PUD-17B was approved there would be an impact on future liquor stores and facilities which derived more than 50% revenue from alcohol sales. She stated several specific use permits for places of assembly had been reviewed in the past and were noted in the Staff Report; she listed several applied for place of assembly specific use permits in similar areas along with various requirements, as well as reasons for approval/disapproval.

Ms. Wyrick stated Staff received an email and met with an adjacent property owner, GBR Properties, with concerns about occupant uses, the existing liquor store impacts, impact upon future business leasing, limited sales tax and property tax. She stated GBR Properties Representatives submitted an additional agenda document which was included in the Staff Report with the email. She stated the existing liquor store would be allowed to remain, but new liquor stores would be required to be 300 feet from the church. She stated at this time Staff recommended continuation of this Item until receipt of the final report from Catalyst Commercial (December 6, 2018). She stated if Planning Commission approved PUD-17B there were 11 conditions of approval which would need to be met.

Commissioner Jones asked if the Catalyst Commercial study covered all four corners of the intersection. Ms. Wyrick responded in the affirmative. Commissioner Jones asked if there was communication with the consultant regarding final report status. Special Projects Manager Farhad Daroga responded he was unsure when a final report would be completed, but a draft regarding this particular corner would be completed soon.

Mr. Mark Capron, the applicant's representative with Sisemore Weise and Associates, stated his address was 6111 East 32<sup>nd</sup> Place, Tulsa. He stated he was not in favor with a continuance; he wished to discuss and vote. Commissioner Jones stated he preferred to see the Catalyst Commercial Study results prior to voting on this Item. He explained the City had invested significant funds in revitalization of this intersection; he was hesitant to accidentally approve a use contrary to the recommendation of the consultant. Vice Chairperson Whelpley asked if Mr. Capron had met with Mr. Jason Claunch, President of Catalyst Commercial. Mr. Capron responded in the negative. He stated he was ready for a presentation and was willing to review the 11 conditions of approval. He asked Planning Commission to proceed with the discussion. Vice Chairperson Whelpley explained proceeding with discussion and voting on this Item could adversely affect the City's efforts of revitalization. Chairperson Jones concurred. Mr. Capron reiterated he wanted to proceed with his presentation. Chairperson Jones allowed it.

Mr. Mark Capron summarized the events which led to the current site design. He displayed and discussed the site plan layout which included church and commercial space. He stated more than half of the 11 points were items he was prepared to comply with; however, he did not feel the existing sign needed to be removed. He stated this site was developed in 1980 and had an existing parking lot with limited space which precluded the proper landscaping requirement, especially with the added required rights of way. He stated he was willing to work with Staff regarding the type of landscaping (trees versus shrubs, etc.). He stated building façade met with current code. He stated he did not understand why the timing should be different for a church versus any other commercial use in this location. He reported the access points would remain unchanged. Commissioner Jones asked if Mr. Capron was in agreement with the 11 conditions recommended by Staff. Mr. Capron responded in the negative; he felt the landscape, sign and timing request were unreasonable.

Mr. Nick Lombardi with Frisbee Lombardi Real Estate, a representative of the applicant, stated his address was 1418 East 71<sup>st</sup>, Suite H, Tulsa. He stated a significant amount of money would be invested in this property to increase the façade, appeal, and ability to acquire sales tax revenue. He stated as a real estate broker he did not see many 50,000 sq. feet retail spaces. He stated this plan included 12,500 sq. feet of marketable retail space which would be divided and would generate sales tax revenue for the Broken Arrow economy. He stated he believed this was a better solution for the current existing facility and would benefit the Community. He stated Federal Law prohibited a municipality through overlays, codes or regulations from treating a church use different from a secular use. He stated he felt the conditions recommended by Staff were unreasonable: sign removal, landscaping and parking requirements. He stated the current plan was in the spirit of the code and would benefit the City.

Chairperson Jones opened up the Public Hearing for Item 3B. He asked if any present wanted to speak regarding Item 3B.

Ms. Theresa Stewart stated her address was 4304 South Chestnut, Broken Arrow, in Aspen Park. She stated she felt a church in this location would be a benefit to the City of Broken Arrow. She briefly described her life experiences up to this point and explained why she felt a church was a welcome addition. She stated her father had been on the verge of suicide, but was saved by God through the words of a pastor. She stated it was difficult for her to attend the meeting due to health issues, but she felt it was important to speak on behalf of the

church. She stated a bird in the hand was worth two in the bush; she felt the City did not need to wait until the consultant had completed the report before moving forward with this project. She stated she believed this could be a highly beneficial situation with a positive impact upon the City which could include Christian owned businesses in a positive spiritual atmosphere.

Ms. Angela Poston stated her address was 1220 West Honolulu Street, Broken Arrow. She stated, as a resident of Vandever Acres she was opposed to the rezoning of the Hobby Lobby from commercial to a place of assembly for the following reasons. She stated there had been multiple discussions on Next Door and the Vandever Acres/Vandever West Facebook page regarding the desire for a retail or entertainment business model in this location; a church use had never been mentioned. She stated in May 2018 there was a Public Meeting regarding the City's revitalization plan for the intersection, and again retail and entertainment venues were the desired business models voiced by the residents in attendance. She stated if this location was rezoned for a church the City would lose over \$38,000 dollars in property taxes yearly, of which \$23,000 dollars went to local schools. She stated she did not feel the 12,500 sq. feet of retail space in this location would make up the difference, especially without LOIs. She stated the revitalization plan the Citizens of Broken Arrow had paid for was incomplete, and she would appreciate if the recommendation for this decision be held until December 6, 2018, and the plan was submitted. She requested the plan be made available for the Public to view and comment on prior to any decision making regarding zoning of this space. She stated she posted these concerns on the Next Door application on October 19, 2018 with a call to action. She reported as of 2 p.m. this afternoon she had 117 replies; 54 individual opinions were expressed, 7 were in favor of the church, 40 were against a church at this location, 3 were against this specific church, and 4 were doubtful the City would heed the Community's recommendations. She asked for rezoning of this building to be denied.

Ms. Jean Weber stated her address was 1504 West Boston Court, Broken Arrow, in Aspen Pond. She stated Aspen Pond was between Vandever West and Vandever Acres. She congratulated the City of Broken Arrow for the time, money and effort going into the revitalization master plan. She thanked the Planning Commission for its service. She stated when she watched the video coverage of the Public Meeting regarding the revitalization plan she never heard mention of a church. She stated she agreed the decision should be continued until December 6, 2018 upon receipt of the revitalization plan recommendations. She stated she was a member of a church and understood the value of church to families and communities. She stated she had nothing personal against this specific church, but she was against the rezoning as she felt this was not a good location for a church. She stated this was a commercial area and needed to be developed as a commercial area. She stated while she would love to see a Sprouts, Trader Joe's and a Starbucks in this location, her individual preferences did not matter so much as to the fact that this should be developed in a retail, restaurant, entertainment, commercial manner. She stated she was concerned that the proposed future commercial development made by the applicant would not be completed in a timely manner; "future" development could mean months, years or even decades. She stated while she was also concerned about the loss of tax revenue, she mostly wished to be excited about the development potential.

Ms. Emily Norman stated her address was 2416 South 15<sup>th</sup> Street, Broken Arrow. She stated she was ready to see some progress in this area. She stated she approved of this proposed development. She stated she was from Tulsa and had seen churches built in previous commercial areas which were thriving and attractive. She stated she felt this could be an attractive addition to the City of Broken Arrow. She stated she understood waiting to see what the revitalization plans recommended, but she wished the Planning Commission to consider this as well.

Ms. Margaret Feigel stated her address was 1712 East Ithaca Street, Broken Arrow. She stated she belonged to a church in Broken Arrow, her children attended Catholic School for 12 years, and she was not against any kind of religion; however, she did not feel this location was an appropriate place for a church. She stated she did not approve of the place of assembly rezoning. She agreed the decision should be held until receipt of the revitalization plan. She stated she heard talk of revitalizing this area in a similar manner to Main Street, and she was excited to see the plans. She asked Planning Commission to wait until December before making this decision.

Mr. Jerry Reeves stated his address was 4610 South Zunis, Tulsa. He stated he had been involved with this project for over a year and was involved with the sale of this property. He stated there was zero interest in this location by retail and commercial venues. He stated waiting for a study by consultants would result in no prospects for this location, only ideas for what it could be used for. He stated the proposed development was a solid concrete potential use. He stated if the Planning Commission delayed in approval of this project it would detrimentally affect the property owner's sale of the property. He asked the Planning Commission to move forward with this process and allow the area to be developed.

Dr. Donald Tredway stated his address was 6301 South 225<sup>th</sup> East Avenue, Broken Arrow. He stated he had lived in Broken Arrow for 20 plus years. He stated he was a member of Home Church. He stated he lived near where Life Church developed an old Albertson's location and he saw how it revitalized the area. He stated he had watched this intersection deteriorate over the years and felt it was a good time to proceed with the development of this location. He stated he understood the importance of the revitalization plan, but felt this was an opportunity for development not to be missed which would benefit the Community.

Mr. George O'Connor stated his address was 101 25C South Sheridan Road, Broken Arrow. He stated he was President of Mid America Realty. He stated Mid America Realty managed the Town Center on the southwest corner of this intersection. He stated this was not an easy space to lease. He stated he would not be concerned if this was a proposal for a 5,000 sq. foot church; however, a 40,000 sq. foot church would usurp a large portion of available retail space at the intersection. He commented Mr. Lomarbi's statement that developing 12,500 sq. feet of retail space was a major economic boost to Broken Arrow was ridiculous; it was not even close. He stated this was 40,000 sq. feet of church which would not add to retail income. He stated residents were attracted to retail mass; the more mass, the more attractive it became for shoppers in the area. He stated south Broken Arrow deserved the benefit of a strong retail market. He stated if 40,000 sq. feet of retail space was lost it would detrimentally affect development of the intersection. He stated he was excited about the consultant's revitalization plan and he felt the City should review the results prior to any decision making regarding the intersection. He stated the loss of 40,000 sq. feet of commercial space would change the market the consultants were reviewing. He stated he understood it was difficult to lease large spaces, but he and his company did not see the church as a benefit to the area. He recommended waiting until the revitalization report was reviewed prior to making a decision.

Vice Chairperson Whelpley asked if Mr. O'Connor was following the 101<sup>st</sup> and Elm project. Mr. O'Connor responded in the affirmative; his company was responsible for over 100,000 sq. feet of retail space (from Ross to the old movie theater) in this location. Vice Chairperson Whelpley stated Mr. O'Connor held a great interest in this area. Mr. O'Connor concurred. Chairperson Jones asked if Mr. O'Connor had participated in the Catalyst Study. Mr. O'Connor responded in the affirmative; he had spoken with them at the start of the Study.

Mr. Ben Latham, President of GBR Properties, stated his address was 3114 East 81<sup>st</sup> Street, Tulsa. He stated he once had the Hobby Lobby building under contract, but did not have enough time to discover a suitable user for the space and the contract was terminated. He stated there was another legitimate user who once showed interested in the space, but did not move forward. He stated if this proposed development did not move forward it was not fair to say there would be no further interest in the property. He stated he was against the proposed development; he did not feel it was a proper land use for the intersection. He stated he believed it was important to wait and listen to the consultant's recommendation for the area prior to development. He stated page 2 of the amendment stated the church would maintain and expand the retail space, but this was not true. He stated reducing the 50,000 sq. feet of retail space to 12,500 sq. feet was a reduction of retail space, not maintenance and expansion of retail space. He reiterated Mr. O'Connor's statement: this would take away retail mass which was what made a retail intersection viable and successful. He stated current code required this space to have one parking space per 300 sq. feet of retail, and one parking space per 100 sq. feet of place of assembly; this added up to 470 parking spaces, but the site only proposed 202 spaces. He stated there was a cross parking agreement with his property; he owned the rest of property associated with PUD-17; however, the 169 parking places included in the cross-over parking agreement added to the 202 proposed parking spaces was still less than 470. He stated 12,500 sq. feet of small retail spaces would just add to the already vacant small retail spaces; he did not feel this space would significantly generate added sales tax revenue and certainly would not replace sales tax revenue lost with the loss of retail space. He stated in his opinion this was not a viable land use option for this location and he felt it would be prudent to await the expert's opinion prior to decision making.

Chairperson Jones asked if any others wished to speak regarding Item 3B. Seeing none, he closed the Public Hearing for Item 3B.

Mr. Nick Lombardi stated the consultant's revitalization report which called for a bowling alley or a movie theater would not bring a bowling alley or movie theater into the area. He stated the principals of mixed use and smart growth indicated educational uses fit well with medical, apartments next to retail, etc.; head counts begot activity and activity begot more activity. He stated an intersection could be revitalized with a simple catalyst, which this project emulated. He stated it was an appropriate land use as it worked into mixed use/smart growth: "multiple uses of disparate disciplines could coexist and create critical mass that draws traffic." He stated according to the laws of supply and demand, if the church eliminated 35,000 sq. feet of retail space, the demand would increase for the remaining retail space. He stated the parking required was for the assembly area only, not the office space.

Commissioner Mark Jones stated both sides had excellent arguments. He stated empty large retail spaces such as this were an eyesore and he felt the project before Planning Commission today would revitalize the area. He agreed activity begot activity. He stated Life Church in the old Albertson's location was an excellent example of how a church could revitalize a commercial corner. He stated he felt it was a great opportunity to potentially generate new activity for the existing vacancies. He indicated interest in this area up to this point had been limited and this developer was willing to invest in the location.

Chairperson Jones stated he was not saying the church would be an inappropriate use for the corner; his concern was the City had invested in a consultant and he wished to hear the consultant's opinion. He stated the consultant may indicate the church was an excellent use or a poor use, but regardless the Planning Commission would have more information to base its decision upon.

Commissioner Pablo Aguirre stated from a business standpoint he understood the "bird in hand" concept; however, he also understood the concept of "the cart before the horse." He asked when the revitalization study would be complete. Mr. Daroga responded a draft regarding this location would be available prior to December 6, 2018; however, the final edition of the study would not be available yet. Chairperson Jones asked if there would be enough information in the draft report to enable the Planning Commission to make an informed decision. Mr. Daroga responded in the affirmative; he had spoken with the consultants regarding this potential development. Commissioner Aguirre stated the City had made an investment in the area which should not be ignored. He stated places of worship had huge impacts on surrounding areas, both positive and negative, and he wished to hear from the consultant regarding the recommended uses in this area. He stated he was also uncomfortable with the developer's unwillingness to meet the requested conditions. Chairperson Jones concurred; the recommendations were standard requirements.

Vice Chairperson Whelpley stated this intersection had the potential to be an asset to the City of Broken Arrow. He stated the Rose District was not developed in a month, but took more than 6 years to come to fruition. He stated it was important to follow the proper steps, as was done with development of the Rose District; it was important not to jump ahead in the process. He stated he did not understand the applicant's impatience. He stated he understood the developer had been working on this project for a couple months, but the City had been working on this intersection for more than 8 months.

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

**Move to continue Item 3B until December 6, 2018**

The motion carried by the following vote:

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

Mr. Larry Curtis indicated notification would be sent to the surrounding property owners regarding the meeting on December 6, 2018. Chairperson Jones recommended the interested parties obtain a copy of the revitalization study draft prior to the meeting on December 6, 2018.

**4. Consideration of Consent Agenda**

Staff Planner Amanda Yamaguchi presented the Consent Agenda.

- A. 18-1234 Approval of Planning Commission meeting minutes of March 08, 2018
  - B. 18-1235 Approval of Planning Commission meeting minutes of March 22, 2018
  - C. 18-1236 Approval of Planning Commission meeting minutes of April 12, 2018
  - D. 18-1237 Approval of Planning Commission meeting minutes of April 26, 2018
  - E. 18-1238 Approval of Planning Commission meeting minutes of May 10, 2018
  
  - F. 18-1227 Approval of BAL-2040, Haddock Lot Split, 1 Lot, 0.29 acres, one third mile west of Aspen Avenue, one quarter mile south of Houston 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 from the Consent Agenda. There were none.

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

**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. 18-1176 **Public hearing, consideration, and possible action regarding BAZ-2014, Wall/Toomey Properties, 12.99 acres, A-1 to RS-2, north and east of the northeast corner of Albany Street and Evans Road**

Plan Development Manager Larry Curtis reported this was a request to change a zoning designation from agricultural to single family residential (RS-2). He stated there were two different property owners associated with the rezoning request. He stated the property in question was annexed into the City of Broken Arrow on October 15, 2001 with Ordinance No. 2393; however, a lot split request had been submitted to and approved by Wagoner County which divided the property into three parcels. He reported the lots created through Wagoner County did not meet the minimum lot size and lot frontage requirements of Broken Arrow zoning ordinances. He stated after the lot split was recorded by Wagoner County Sarah Wall purchased the northernmost parcel with the desire to construct a new single family residence. He explained prior to applying for a building permit Ms. Wall was informed the property needed to be in compliance with Broken Arrow zoning ordinances; therefore, Ms. Wall and Mr. and Mrs. Toomey (who owned the other two parcels) submitted an application to rezone the property from A-1 to RS-2. He explained if RS-2 zoning was approved by City Council an application would be submitted to split the property in a manner which would meet the minimum lot size and frontage requirements of the Broken Arrow RS-2 zoning district. He reported this property was not located within the 100 year flood plain; the property was designated as Level 2 in the Comprehensive Plan, and RS-2 zoning was identified as being in conformance with the Comprehensive Plan in Level 2. He stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended BAZ-2014 be approved. He stated staff recommended platting be waived subject to the right of way and utility easements being provided along Kenosha Street and Evans Road in accordance with the subdivision regulations.

Chairperson Jones asked if the applicants were in agreement with Staff recommendations. The applicants 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.

Dr. Donald Tredway stated his address was 6301 South 225<sup>th</sup> East Avenue, Broken Arrow. He indicated on the map where his property was located in relation to the tract in question (neighboring the property to the north and east). He stated his 75 acres of property was agricultural grazing land on which he had livestock. He stated with this new zoning there would be 9 single family homes neighboring his agricultural land and he was worried what type of affect these homes would have on his property. He stated he lost several acres when the turnpike went in and when a pond was required for drainage. He stated he shared an agricultural pond with Mr. Toomey and when this tract was rezoned one quarter of the pond would be owned by Mr. Toomey and one quarter would be owned by Ms. Wall. Chairperson Jones stated Dr. Tredway's agricultural zoning would not be affected by BAZ-2014.

Mr. Kent Bright stated his address was 5875 South 225<sup>th</sup> East Avenue, Broken Arrow. He stated currently his backyard was all agricultural land, which he appreciated, and he was worried once this was rezoned to RS-2 in the future it could easily be developed into a multi-home neighborhood. Mr. Curtis explained while the platting process was being waived currently, if a developer wanted to build in this area, the property would require proper platting, engineering plans, environmental surveys, etc; however, the Comprehensive Plan indicated that eventually this entire area would be used for residential development. Chairperson Jones stated the City anticipated this area in the future would become residential; however, the rezoning today was only to facilitate the lot split to accommodate a single home. He stated Mr. Bright's property, as well as the surrounding properties, were designated on the Comprehensive Plan to eventually become residential neighborhood.

Mr. Ethan Cluck stated his address was 5849 South 225<sup>th</sup> East Avenue, Broken Arrow. He stated he was concerned the area would continue to be split into smaller lots. He asked if rather than being rezoned RS-2, if it could instead be zoned RE. Mr. Curtis responded this was a problem due to the limited amount of frontage on Evans Road as RE zoning required a minimum of 100 feet of frontage. Discussion ensued regarding the property being split in Wagoner County illegally, fixing title issues, compliance to Broken Arrow zoning, splitting the property into smaller spaces in the future with RS-2 more easily, and Comprehensive Plan expectations.

Ms. April Wright stated her address was 5875 South 225<sup>th</sup> East Avenue, Broken Arrow. She stated she had not approved of the split of the lot from the start. She asked about how the thee lots would be laid out to accommodate the required frontage. Mr. Curtis stated he was unsure at this time; the lot split had not been submitted as yet, but the rezoning would begin

the process. He explained each lot would be required to have a minimum of 70 feet of frontage along either Evans or Albany. Chairperson Jones stated the purpose of this meeting was to determine if RS-2 zoning was appropriate for this location based upon the Comprehensive Plan. Ms. Wright stated she did not approve of the rezoning. She stated she felt this rezoning was a method of backtracking to make something fit which did not.

The applicant, Mr. Terry Toomey, stated his intent was not to pave the way for a development. He stated he loved the country view, the cows, the pond, and he wanted to keep it this way. He stated he wanted the neighbors to be at ease; he had no intention to develop a neighborhood in the future.

The applicant, Ms. Sarah Wall, stated her address was 17606 East 45<sup>th</sup> Place, Broken Arrow. She stated she wanted to put the neighbor's concerns to rest as well; as long as she owned this property it would not be a neighborhood. She stated her intentions were to build a home in which to raise her family. She stated she had been searching for years for a parcel of land in Broken Arrow and she looked forward to spending the rest of her life in this location.

Chairperson Jones asked if any others wished 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 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 November 20, 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**

**A. 18-1231 Consideration and possible approval of the 2019 Planning Commission meeting and calendar schedule**

Ms. Amanda Yamaguchi reported for the past several years the Planning Commission Meetings had been scheduled on the second and fourth Thursday of each month with the exception of November and December in which the meetings were moved to the first and third Thursday due to holidays. She stated the proposed calendar for the 2019 Planning Commission Meetings followed suit.

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

**Move to approve the 2019 Planning Commission Meeting calendar**

The motion carried by the following vote:

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

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

Mr. Curtis reported approximately 1 year ago Planning Commission recommended approval of the Downtown Residential Overlay District to City Council which City Council enacted in December 2017 with an action date going into effect on January 2, 2018. He reported since that time approximately 7 homes had been constructed in the Downtown Area using the Downtown Residential Overlay District code. He explained as a result Staff believed there were modifications which should be made and in December there would be recommended modifications to the DROD for Planning Commission review.

**10. Adjournment**

The meeting adjourned at approximately 6:38 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