



# 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, December 6, 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, Fred Dorrell, Lee Whelpley, Ricky Jones  
**Absent:** 1 - Mark Jones

### 3. Old Business

**A. 18-1307 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**

Planner II Jane Wyrick reported PUD was a Major Amendment request to include a place of assembly as a permitted use within the Vandever Acres Center PUD. She stated the request included allocating 12,500 sq. feet of the existing 50,000 sq. foot building for commercial use and construction of a 7,000 sq. foot commercial pad building along the New Orleans Street frontage of the site, as well as site improvements. She stated PUD-17B was heard at the October 25, 2018 Planning Commission Meeting where several individuals spoke in favor and in opposition to the request. She reported those in favor cited the difficulty in finding a suitable tenant for the space, the desire to have an entity in the building that was ready to use it, the ability of multiple uses coexisting to generate activity and draw traffic to the area, and the appealing façade rendering for the renovation. She stated those in opposition stated concerns regarding the appropriateness of the proposed use, the loss of sales tax revenue, a preference for retail and entertainment, the impact to property owners regarding new users who desired to locate within 300 feet of the proposed use and a desire to review the Revitalization Study for this commercial area before any decision was made. She explained the item was continued to allow the City's Consultant time to evaluate how this proposal corresponded to the Study. She stated the property owners within 300 feet of this site were re-notified of the hearing.

Ms. Wyrick reported the Draft Report of the Elm and New Orleans Revitalization Study showed that successful revitalization of this commercial area would be incremental and needed to focus on a shared vision providing a strategic framework for each phase of implementation. She stated the plan called for density, a mix of uses and clustering different uses; uses included place of assembly, retail, dining, entertainment, office, and high density residential on the outskirts. She stated the plan also included public gathering spaces, connectivity between uses, and accessible parking. She stated the mixed use would allow for shared parking which created additional opportunity for development sites. She stated the report indicated in the short term Broken Arrow should plan for Public Improvements, such as a Master Plan Streetscape, followed by redevelopment of existing commercial properties by the owners of each parcel. She stated in the long term, vacant land to the south and west of the area could be developed with a mix of residential and commercial uses interconnected with the area plan to provide an expanded customer base within walking distance.

Ms. Wyrick indicated the plan stated while the former Hobby Lobby site was a prime location for future retail, it also acknowledged with the shifting of retail formats over the past few years there were fewer expanding big box retailers making it difficult to find users for the large existing vacant space. She stated based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended PUD-17B be approved subject to the conditions of approval included with the report.

Commissioner Pablo Aguirre asked if the applicant was willing to bring the Vandever Acres Center up to code. Ms. Wyrick responded in the affirmative.

Director of Development Services Michael Skates stated when this intersection was developed in the 1970s it was developed as strip centers with large parking areas. He stated over the years this development plan had changed to utilize less parking and more green space with outdoor gathering areas. He stated this intersection covered approximately 168

acres; during the Public Meeting in May the public indicated it desired a higher quality district with improved uses, increased amenities and a greater sense of place. He stated the Consultant, along with Staff input, intended to lay out the project in four quadrants, focusing on the southwest quadrant to start. He explained the southwest quadrant had the most ability to promote viability with its 45 acres of undeveloped land which potentially could become upscale higher density residential town homes, mixed use, row housing, etc., with connectivity to the retail areas. He stated the Study identified continued improvements with green space, short term goals, mid term goals, long term goals, and several different possible projects. He stated the City, through the Bond projects, had approximately \$2.6 million dollars available to do improvements at this intersection. He stated the City was in contact with the power company regarding relocating the power lines and it was determined this would be a long term goal due to expense. He explained the City was attempting to partner with the landowners in an effort to make improvements, possibly changing parking lots to create green space areas and walkability. He stated the City was considering an overlay in the area. He stated the City was considering how to rethink the shopping centers in small pieces and how to move forward cooperatively with property owners and potential retail developers. He stated the Consultant provided a list of potential retailers which would bring opportunity to the area. He stated the Consultant had presented project ideas regarding out lots, open green space "pocket parks," connectivity, etc. He stated the opportunities were boundless, but it required a cooperative effort between the City, property owners and retail developers to ensure viability of this area. He stated beginning in January, City Staff would meet with property owners to discuss the Revitalization Study report.

Plan Development Manager Larry Curtis stated he understood citizens were wondering if the City could revitalize the Rose District, why not this area. He explained the Rose District consisted of four blocks while this area essentially could fit four Rose Districts. He stated he believed there was potential for an equally successful development in this location; however, more walkability was needed. Therefore, he stated, development of the southwest corner with high density residential and mixed use office space was the first step to successful revitalization. He stated, in addition, there was a lot of large open space left vacant by big box stores for which the Consultant proposed mixed use, including place of assembly. He stated he approved of PUD-17B for this reason.

Chairperson Jones asked when the Final Report would be available. Mr. Skates responded March or April 2019.

Vice Chairperson Whelpley indicated a TIF (Tax Increment Financing) was instrumental in revitalization of the Rose District. He asked if this was an eligible area for a TIF. Mr. Skates responded in the affirmative; he believed it was eligible, but he was unsure a TIF was the correct tool to use for improvement. He stated the City had money available for the area within the Bond Program. He stated the City needed to meet with the property owners to determine what types of investments the property owners were interested in prior to determining how to use the Bond Funds and what further tools might be necessary for revitalization. He stated the Engineering Department would provide proposals regarding possible streetscapes in the area within the next thirty days.

Commissioner Aguirre asked if he was correct in understanding the Consultant did not feel a church on the northwest side of the intersection would provide any detriment to development of the area. Mr. Skates responded in the affirmative; while it was not necessarily the best use for the area, the Consultant felt a church going in with retail and redevelopment of the property, bringing the property up to code with added green space and right of way, was a first step in revitalization of the area.

Chairperson Jones asked if the applicant, Mr. Mark Capron, had anything to add. Mr. Capron responded in the affirmative. Mr. Capron stated there were eleven recommendations set forth by Staff and he and his partners were in agreement with all recommendations. He discussed the changes in landscaping which would be made to bring everything up to code and the resultant beautification. He discussed removal of the existing unsightly signage. He stated he was in agreement Staff recommendations.

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

Citizen Thomas Dawe stated his address was 1220 West Gary Street, Broken Arrow, OK 74012. He commended the Planning Commission for its efforts. He stated his family had lived in Broken Arrow for 19 years and was invested in the Community. He stated in Tulsa an indoor adventure park was being built in an empty large box store location and he felt something of this nature would be a better choice in this location. He stated he wanted to shop in Broken Arrow, but shopping on the north side of Broken Arrow was terrible. He stated it would be beneficial to have an entertainment/shopping district in this location and his neighbors agreed. He stated he was not opposed to Home Church, but did not feel this location was a good fit for a church as it would not draw foot traffic all week long. He stated

he felt a church would be a detriment to other business development in the area.

Chairperson Jones explained the Planning Commission was a recommending body only; it recommended a decision to the City Council which would finalize approval or denial. He explained Citizens had the right to speak before City Council regarding recommended items.

Mr. Ben Latham stated his address was 3114 East 81<sup>st</sup> Street, Tulsa, OK 74137. He stated he was President of GBR Properties and his company owned a majority of Vandever Acres. He stated at the last meeting it was decided the Consultant's Report was necessary to make an informed decision. He indicated he has not seen the Consultant Report yet and he understood it was only 80% complete. He stated he felt without a completed Report an educated decision could not be made regarding this intersection. He stated he felt this Item should be postponed until the Final Report was completed. He stated the Rose District did not happen overnight and he felt it was important not to rush any decisions. He indicated he wished to wait for the Report, review it, and then make an informed decision regarding what businesses should be developed in this area.

Chairperson Jones stated he wished to have the completed report, but did not feel it was fair to make the applicant wait until March for the report prior to making decisions. He asked if Staff was comfortable with the information available, if Staff believed the basis of its recommendation was supported by the Report. Mr. Skates responded in the affirmative. He stated he felt confident in this decision. He stated the Consultant Report was approximately 95% complete and the Consultant was confident in the Report as it stood. He stated he reviewed the report with the Consultant with much discussion. He explained he desired to vet the report internally prior to presentation to Planning Commission and ultimately to City Council and this would draw out the process even further. Commissioner Jones stated in October it was understood the Planning Commission would have a preliminary report only at this point with which to base decisions. Chairperson Jones indicated he asked Staff to ask the Consultant point blank "is this use appropriate" which Staff had done; therefore, he was comfortable with Staff's recommendation.

Citizen Dwayne Morgan stated his address was 19710 East 106<sup>th</sup> Street, Broken Arrow, OK 74014. He stated his family had lived in Broken Arrow for 25 years. He stated he was in favor of the church moving into this space. He explained there were no potential prospects for the area at this point. He stated he personally had contacted several retailers and fast food restaurants and there was no interest in this area. He stated he felt the church would be good stewards of the property. He stated church members would shop and eat after service which would bring business to the area. He stated the church would have other meetings and activities throughout the week which would also bring in traffic.

Mr. George O'Connor stated his address was 10125C South Sheridan Road, Tulsa. He stated he managed Broken Arrow Town Center which was located across the street from the proposed church location. He stated if the Planning Commission approved this PUD there would be a loss of 50,000 sq. feet of retail space which would be lost permanently. He stated the report (which he had not seen yet) recommended to staff that a place of assembly would be a good use; however, place of assembly did not necessarily mean church and he did not feel the Consultant was specifically recommending a church use. He stated he had nothing against churches, but once the 50,000 sq. feet were lost other retail businesses would be less inclined to develop in the area and he felt more mini-storages and other church-type uses would come in which would not promote revitalization. He stated he felt south Broken Arrow needed more shopping, retail and convenience and the church would not encourage this type of development.

Mr. Mike Joyce stated his address was 4105 South Rockford, Tulsa, OK 74105. He stated he was a real estate attorney, practicing for over 31 years. He stated he had many Broken Arrow clients and had facilitated land acquisition for the City of Broken Arrow. He stated he was also a real estate broker with McGraw Realtors and represented the owner of the property involved in PUD-17B. He stated while consultant reports were useful, common sense was essential; common sense regarding economics and the economic reality was big box business, retail in general, was changing; retail did not support large shopping centers any longer, especially in Broken Arrow, Oklahoma. He stated he had marketed this property all over the country to his national, regional, and local clients and there was no interest, with the exception of the church. He stated church users were excellent users. He stated even in the successful Rose District the biggest land owner was First United Methodist Church. He stated he felt the First United Methodist Church was an integral part of the Downtown and contributed to the success of the area. He stated he believed Staff had done an excellent job in recognizing this would be a good use. He stated he felt this was the best first step and he felt the Planning Commission should recommend approval.

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

Commissioner Aguirre indicated at the previous Planning Commission Meeting it was determined that the Planning Commission would consider recommending approval if the applicant agreed to the Staff Recommendations and if the Consultant’s Report indicated a church in this location would not detract from future development. He stated he felt both of these conditions had been met.

Vice Chairperson Whelpley stated there was a liquor store within 300 feet of the proposed church location. He indicated while the current liquor store owner would be grandfathered in, the next store owner would be prohibited from selling alcohol which would make the sale of the business more difficult. He stated if a restaurant wanted to develop within 300 feet of the proposed church location, it would be prohibited from serving alcohol. He explained he was mentioning this to make certain others were aware. He stated he did not see the current liquor store owner in attendance to comment.

Chairperson Jones asked if he was correct in understanding if a restaurant wanted to develop a location within 300 feet of the church the restaurant would not be allowed to serve alcohol. Assistant City Attorney Lesli Meyers responded in the affirmative. Discussion ensued regarding a restaurant being allowed to serve alcohol if the alcohol generated less than 50% of the restaurant’s revenue, the law being written as within 300 feet of the church entrance, where the liquor store was located exactly, and “grandfather” laws.

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

**Move to approve Item 3A, 18-307, PUD-17B per Staff recommendation**

The motion carried by the following vote:

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

Chairperson Jones stated Item 3A would go before City Council on January 2, 2019 at 6:30 p.m. He explained if any individual desired to speak regarding Item 3A, said individual was required to fill out a Request to Appear before City Council form in advance.

**4. Consideration of Consent Agenda**

Plan Development Manager Larry Curtis presented the Consent Agenda.

- A. 18-1351 Approval of Planning Commission meeting minutes of October 25, 2018**
- B. 18-1352 Approval of Planning Commission meeting minutes of November 1, 2018**
- C. 18-1397 Approval of Planning Commission meeting minutes of November 15, 2018**
- D. 18-1348 Approval of BAL-2039, 1101 North Aspen Lot Split, 2.11 acres, Lot 2, Block 1, Dental Depot, CN/PUD-223, north of the northeast corner of Kenosha Street and Aspen Avenue**

Mr. Curtis stated the applicant was present and in agreement with the Staff Report.

- E. 18-1360 Approval of BAL-2044, Wall/Toomey Lot Split, 2 Lots, 6.23 acres, north of Albany Street, east of Evans Road**

Mr. Curtis stated the applicant was present and in agreement with the Staff Report.

- F. 18-1374 Approval of BAL-2045CB, Wall/Toomey Lot Combination, 5 Lots, 11.43 acres, north of Albany Street, east of Evans Road**

Mr. Curtis stated the applicant was present and in agreement with the Staff Report.

- G. 18-1388 Approval of PT18-111, Preliminary Plat, Dollar General Broken Arrow #20251, 1.88 acres, 1 Lot, A-CH to CG/PUD-283 via BAZ-2015, located west of the southwest corner of Aspen Avenue and Omaha Street**

Mr. Curtis stated the applicant was present and in agreement with the Staff Report.

- H. 18-1389 Approval of PT17-105, Conditional Final Plat, Aspen Crossing Patio Homes, 82 lots, 15.29 acres, A-1, R-2 and A-R-2 to RS-3, RD, and PUD-260, north and east of the northeast corner of Jasper Street and Aspen Avenue**

Mr. Curtis stated the applicant was present and in agreement with the Staff Report.

- I. 18-1392 Approval of PT17-105A, Conditional Final Plat, Aspen Crossing 1, 49 lots, 12.63 acres, A-1 to RS-3/PUD-260, north of the northeast corner of Jasper Street and Aspen Avenue corner of New Orleans Street and Elm Place**

Mr. Curtis stated the applicant was present and 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 Fred Dorrell, seconded by Lee Whelpley.

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

The motion carried by the following vote:

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

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

No Items were removed from the Consent Agenda. No action was needed or taken.

**6. Public Hearings**

**A. 18-1349 Consideration, discussion and possible approval of PUD-223A, Dental Depot Amendment, 2.11 acres, Lot 2, Block 1, Dental Depot, CN/PUD-223, north of the northeast corner of Kenosha Street and Aspen Avenue**

Plan Development Manager Larry Curtis reported Item 6A, 18-1349, PUD-223A, was a Minor Amendment request. He stated the applicant proposed to modify development area B to reduce the minimum lot size of 40,000 sq. feet to 35,000 sq. feet and reduce the lot width from 150 feet to 100 feet. He explained this was being requested in order to enable a split of the property into two parcels. He stated a lot split application was submitted in conjunction with the request for the Minor Amendment. He stated approval of the lot split was contingent upon approval of the Minor Amendment and PUD-223 stated development area B may be subdivided by lot split in a Minor Amendment to the PUD. He stated with reduction to lot size and lot width PUD-223A still met the minimum lot size and frontage requirements of the CN underlying zoning district. He stated none of the property was located within a 100-year flood plain and since the property was already platted, Staff recommended platting be waived. He stated Staff recommended the Planning Commission approve PUD-223A as presented by Staff.

The applicant, Mr. John Droz, stated his address was 810 South Cincinnati, Tulsa, OK 74119. He stated he agreed with Staff recommendations.

Chairperson Jones opened the Public Hearing for Item 6A. He asked if any present 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 Fred Dorrell.

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

The motion carried by the following vote:

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

Chairperson Jones stated Item 6A was a Minor Amendment and as such would not go before City Council for approval.

**B. 18-1308 Public hearing, consideration, and possible action regarding BAZ-2016, Builder's Unlimited, Inc., 2.98 acres, IL and A-IL to IL, one quarter mile north of New Orleans Street, one quarter mile west of Evans Road**

Senior Planner Brent Murphy reported the applicant requested the zoning on the property be changed from IL (Industrial Light) and A-IL (Annexed-Industrial Light) to IL. He stated this property was unplatted and vacant. He stated Builders Unlimited, a general contracting firm, planned to build a new facility on the property, and was required to bring the zoning into compliance before beginning construction (A-IL was not in compliance with current code). He explained the A-IL zoning was assigned to the property in 1992 when the property was annexed into Broken Arrow. He stated this property was located in Arrow East Industrial Park and in 2000 the City extended sanitary sewer service to the property through an assessment district. He stated there had been six other zoning requests from A-IL to IL in this area, all of which had been approved, and the platting had been waived in the past; however, there was a requirement that the adequacy of water supply for fire protection be verified by the Fire Marshall and Development Services Department. He stated water to the Park was supplied by Rural Water District #4 and a fire hydrant had been added to the south end of the Industrial Park. He stated the Comprehensive Plan showed this area as Level 6 and the IL zoning was in conformance with the Comprehensive Plan in Level 6. Therefore, based on the Comprehensive Plan, location of the property and the surrounding land uses, Staff recommended BAZ-2016 be approved subject to water adequacy verification, and platting be waived.

The applicant, Steve Wright, stated his business address was 4617 South 83<sup>rd</sup> East Avenue, Tulsa, OK 74145. He stated he lived in Coweta and looked forward to building his business closer to home. He stated he agreed with Staff recommendations.

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

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

**Move to approve Item 6B per Staff Recommendations**

The motion carried by the following vote:

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

Chairperson Jones stated Item 6B would go before City Council on January 2, 2018 at 6:30 p.m. He explained if any individual desired to speak regarding Item 6B, said individual 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)**

Mr. Larry Curtis stated Mr. John McElhaney would be joining the Engineering and Construction Department Monday, December 10, 2018. Chairperson Jones congratulated Mr. McElhaney on his new position.

**10. Adjournment**

The meeting adjourned at approximately 6:06 p.m.

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

**Move to adjourn**

The motion carried by the following vote:

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

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Mayor

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City Clerk