



# City of Broken Arrow

## Request for Action

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**File #: 19-110, Version: 1**

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### Broken Arrow Planning Commission

01-10-2019

**To:** Chairman and Commission Members

**From:** Development Services Department

**Title:** Public hearing, consideration, and possible action regarding BAZ-2022, Snead - Allen rezoning, 64.27 acres, A-1 to R-2 and FD, one-eighth mile east of 23rd Street (County Line Road/193<sup>rd</sup> E. Avenue), one-half mile north of Florence Street (111<sup>th</sup> Street)

#### Background:

**Applicant:** Mark Snead and David Allen

**Owner:** Mark Snead and David Allen

**Developer:** Mark Snead and David Allen

**Engineer:** NA

**Location:** One-eighth mile east of 23rd Street (County Line Road/193<sup>rd</sup> E. Avenue), one-half mile north of Florence Street (111<sup>th</sup> Street)

**Size of Tract** 64.27 acres

**Number of Lots:** 3

**Present Zoning:** A-1

**Proposed Zoning:** R-2

**Comp Plan:** Level 2 (Urban Residential) and Greenway/Floodplain

BAZ-2022 is a request to change the zoning designation on 64.27-acres from A-1 (Agricultural) to R-2 (Single-Family Residential) and FD (Floodplain District). The unplatted property, which contains three parcels, is located one-eighth mile east of 23<sup>rd</sup> Street (County Line Road/193<sup>rd</sup> E. Avenue), one-half mile north of Florence Street (111<sup>th</sup> Street).

Four previous cases (BAZ-1934, BAZ-1935, BAL-1072, and BAL-1074) are also connected to this rezoning case. On May 5, 2015, the Broken Arrow City Council approved BAZ-1934 and BAZ-1935 to change the zoning on these parcels from A-1 to R-2. At the time of both these rezoning requests, the property was owned by New Heart Fellowship, Inc. The rezoning was done in conjunction with two lot split requests, BAL-1072 and BAL-1074. Both of these lot split requests were conditionally approved by the Planning Commission on May 14, 2015. It was the intent of the Church to convey the property associated with BAZ-1935 and BAL-1974 to Mark Snead and to trade the property associated with BAZ-1934 and BAL-1972 to David Allen in exchange for some property owned by Mr. Allen. The property associated with BAZ-1935 and BAL-1974 was conveyed to Mark Snead in 2015. To Staff's knowledge, the land exchange between New Heart Fellowship Church and David Allen has not occurred.

A site plan for New Heart Fellowship Church was submitted to and conditionally approved by the Planning Commission on December 2, 2004. One of the conditions associated with the approval of the site plan was that a sidewalk be constructed along 23<sup>rd</sup> Street. The revised site plan that was submitted to and approved by Staff in 2005 showed a sidewalk along 23<sup>rd</sup> Street. The sidewalk, however, was not constructed. The plat for New Heart Fellowship was recorded in Wagoner County on June 24, 2005.

One of the conditions associated with the approval of both BAL-1072 and BAL-1074 was that the sidewalk along 23<sup>rd</sup> Street would be constructed (within three years) in accordance with the Subdivision Regulations, 5 feet in width and one foot from the property line in the street right-of-way, for all the property platted as New Heart Fellowship Church. In a letter dated May 14, 2015, that was submitted to the City of Broken Arrow, the Church acknowledged that the sidewalk would be constructed within three years from the date of the letter. On November 14, 2018, Staff visited the site and observed that the sidewalk still had not been constructed. On this same day, a letter was sent to the pastor for New Heart Fellowship requesting an update on the status for getting the sidewalk installed. As of this Staff report, no response has been provided.

The parcel associated with BAZ-1935 and BAL-1074 was conveyed from New Heart Fellowship Church to Mark S. Snead and Ginger R. Snead. Since a letter had been submitted by the Church acknowledging that the sidewalk would be constructed within three years, the requested lot split met the conditions established by the Planning Commission for the warranty deed to be stamped by Staff and recorded in Wagoner County. One of the conditions associated with BAL-1074 was that prior to the property being joined together with the abutting property to the east, the abutting property to the east shall be rezoned R-2. It is Mr. Snead's desire to build two single-family residential units on his property. Before this can be done, the property associated with BAL-1074 will need to be combined with part of the property associated with BAZ-2022 and then redivided. The property Mr. Snead owns that was associated with BAZ-1935 and BAL-1074 has direct access to 23<sup>rd</sup> Street. In addition, the parcel owned by Mr. Snead that is part of BAZ-2022 has access through two stub streets in the Elmwood Estates I to the north. However, only one of the two stub streets has been paved.

The Church still owns the property to the south associated with BAZ-1934 and BAL-1072. Staff has not stamped any warranty deeds associated with the lot split. It is Mr. Allen's desire to trade part of his land in exchange for the property associated with BAZ-1934 and BAL-1072. With BAZ-2022, he is fulfilling the requirement to have his land rezoned to R-2. However, Mr. Allen's land does not front onto any public street. Access to his property occurs through a 40-foot wide mutual access easement. The Planning Commission approved BAL-1072 subject to the following conditions:

1. Warranty deeds for both parcels shall be brought simultaneously to the Planning Division to be stamped prior to being recorded in Wagoner County.
2. Sidewalk shall be constructed along 23<sup>rd</sup> Street in accordance with the Subdivision Regulations, 5 feet in width and one foot from the property line in the street right-of-way, for all of the property platted as New Heart Fellowship Church prior to the warranty deeds being stamped.
3. Prior to Tract 1 being joined together with the abutting property to the east, the abutting property to the east shall be rezoned R-2.
4. Comments contained in May 4, 2015, memo from Stormwater Division Manager shall be addressed prior to the warranty deeds being stamped.
5. A request for a change of access to 23<sup>rd</sup> Street shall be submitted to and approved by the Planning Commission prior to the warranty deeds being stamped.

None of the conditions associated with BAL-1072 have been fulfilled.

Part of the property associated with BAZ-2022 is located in the 100-year floodplain of Broken Arrow Creek. With their rezoning application, applicant has submitted legal descriptions requesting that the portion of the rezoning request that are located in the 100-year floodplain be rezoned FD (Floodplain District).

Surrounding land uses and zoning classifications include the following:

North:	A-1	Elmwood Estates I addition
East:	A-1	Undeveloped
South:	A-1	Large lot single family residential
West:	AG (Tulsa County)	Undeveloped

The Future Development Guide of the Comprehensive Plan shows the site to be designated as a Level 2 and Greenway Floodplain. The R-2 zoning being requested is considered to be in accordance with the Comprehensive Plan in Level 2, and the FD zoning is considered to be in compliance with the Comprehensive Plan.

**Attachments:**

- Case map for BAZ-2022
- Aerial photo
- Comprehensive Plan
- May 14, 2015, letter from New Heart Fellowship Church
- November 14, 2018, letter to New Heart Fellowship Church
- New Heart Fellowship Church plat
- Approved site plan for New Heart Fellowship Church
- Lot split exhibit and legal description for BAL-1072 and BAL-1074
- Case map for BAL-1072
- Case map for BAL-1074

**Recommendation:**

The rezoning requested with BAZ-2022 is in conformance with the Comprehensive Plan. Based on the Comprehensive Plan, previous lot split approvals, the location of the property, and the surrounding land uses, Staff recommends that BAZ-2022 be approved subject to the property being platted. Staff can recommend that platting be waived, provided all the conditions associated with BAZ-1934, BAZ-1935, BAL-1072, and BAL-1074 are fulfilled. For Mr. Snead's property, this means that he needs to construct the sidewalk across the portion of his property that was associated with BAZ-1935 and BAL-1074. For Mr. Allen, this means that rest of the sidewalk needs to be constructed along 23<sup>rd</sup> Street. This can either be done by the Church or Mr. Allen. No Certificate of Occupancy will be issued until the installation of the sidewalks are complete on each property. The change of access to 23<sup>rd</sup> Street also needs to be submitted and approved by the Planning Commission.

**Reviewed by: Larry Curtis**

**Approved by: Michael Skates**

BDM