

Council, and the continued growth and recognition of the Rose District, accomplishments listed in the Annual Report under Fiscal Sustainability, Economic Growth, City Organization, Quality of Life and Infrastructure. Mr. Spurgeon asked the Director of Communications, Ms. Krista Flasch, to come forward to give the slide presentation and he passed out copies of the Annual Report to the Council members. He indicated that community support for the three propositions funded by their taxes had been high, helping move the community forward with respect to the Police and Fire Departments, and street maintenance. The Rose District, recognized as a great street, saw private investments of close to \$25 million, parlayed with \$5 million in downtown public investments. The City planned to invest several million dollars more to finish the infrastructure. A number of new jobs were created, as a result of the partnership, and opportunities to shop locally were also enhanced, with sales tax revenues supporting City services. Mr. Spurgeon went on to say that he considered himself blessed to have been appointed City Manager of Broken Arrow in September. Mr. Spurgeon invited Ms. Flasch to speak on availability of the Annual Report. Ms. Flasch reported that complimentary copies of the Report would be available at City Hall and that she would be passing out copies at the end of the meeting to any interested, as well. In addition, it would be advertised in the FOCUS Newsletter, also available at City Hall. She gave the URL or web address where it could be read online as www.brokenarrowok.gov/2015annualreport. She specified that the Report included a helpful Service Directory at the back and encouraged people to read the Report and make use of the shortcuts, furnished by the Directory, as a means of contacting City employees.

Ms. Krista was complimented by the Council on the Annual Report.

**8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services
(No action may be taken on matters under this item)**

No citizens signed up to speak.

9. General Council Business

A. 16-136

Consideration, discussion, possible approval and authorization to execute a Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County, Oklahoma, and the City of Broken Arrow related to the Creative Arts Center in the Rose District Project

Mr. Russell Gale, Acting Assistant City Manager, recalled that in October 2015 an application for \$650,000 of Vision surplus was approved by the Vision Authority for the Creative Arts Center. An agreement to fund the project had been approved by the Tulsa County Board of Commissioners on December 28, 2015, providing only \$100,000 initially, however. At the previous meeting of January 19th, the Council had requested that the contract be placed on the February 2nd meeting agenda, for their consideration.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey
The motion carried by the following vote:

Move to approve the Capital Improvements Agreement by and between the Board of County Commissioners of Tulsa County, Oklahoma, and the City of Broken Arrow related to the Creative Arts Center in the Rose District Project

Aye: 5 -

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

B. 16-075

Consideration and possible approval of BAZ 1941 (rezoning request), The Crossings at 71st (Park Place), 80.00 acres, rezoning A-1 to RS-3, east of Midway Road, one-quarter mile north of Kenosha Street

Councilor Parks brought to the Council's attention a possible conflict, though not as far as he was concerned, in his sister living a few blocks away, in a neighboring subdivision, from the location under consideration. For the sake of transparency, Councilor Parks recused himself from the discussion and vote regarding this Item.

Mr. Farhad Daroga, City Planner, explained that the property was zoned as A-1, for agricultural use and was undeveloped. The request was that it be rezoned to RS-3, for single-family residential development. The Council first reviewed the request in September 2015, and it was subsequently tabled. The application was for RS-3, and the Comprehensive Plan showed Level 2, designated as single-family residential zoning. The property to the south was developed as an R-2 single-family residential neighborhood. To the west, lay property that was developed, in part, outside the City limits, while properties to the north and east were undeveloped. The Planning Commission had met in summer 2015 and recommended approval of the RS-3 zoning. Mr. Daroga stated that the applicants were present to put forward their proposal. He added that Development Services Director, Mr. Michael Skates had met with the applicants and surrounding property owners, and both he and Mr. Skates were happy to answer any questions.

Mr. Andrew Shank, Esq. of Eller & Detrich, Tulsa, stepped forward to speak on behalf of the applicant. He stated that he had submitted a packet to Development Services

Director, Mr. Michael Skates, and he passed the packet around to the Council. He recalled, summarizing the case, that it had started with an application that was filed with City Staff. The Staff analyzed the application and made a recommendation for approval of the requested rezoning, being that it was consistent with the Comprehensive Plan. He said that the physical facts of the case supported approval, since the property abutted a single-family residential district to the south. The Planning Commission then heard the case and had some questions with regard to traffic, storm water, etc. Mr. Shank remarked that he believed those questions came under the heading of engineering details that would be addressed in the platting process, and as such, were not part of a routine zoning application. The applicant, at any rate, commissioned a traffic study, had a hydrologist prepare documentation, and met with the Director of Development Services, in order to facilitate the process. He pointed out that the packet contained summaries of the reports and speakers were on hand to address the issues. He concluded by reiterating that the physical facts of the case clearly supported approval of the rezoning. He observed that the actual development, as seen from the preliminary plat submitted, would be less dense than the existing single-family development to the south; there would be fewer lots per acre and more green space. Traffic and storm water issues should be addressed by the experts later. Stating, in short, that because the application was in compliance with the Comprehensive Plan, and was consistent with the purpose of the residential zoning district designation, he respectfully requested that it be approved by the Council. He asked Mr. Randy Tolbert of Peters and Associates Engineers, Little Rock, Arkansas, to address the Council on the traffic study.

Mr. Tolbert, Senior Project Engineer, said that he had over 17 years of traffic engineering experience with Peters and Associates. He stated that the company had been in business since 1982 and that its principal engineer, Mr. Ernie Peters, was registered in the state of Oklahoma. Both he and Mr. Peters conducted the traffic study in which existing traffic volume counts in the vicinity of the site were monitored. Then projected site-generated traffic volumes were calculated, based on reliable standard practice, to estimate full build-out site-generated volumes associated with the site. Projected volumes in the latter study were then added to the existing traffic volumes for the a.m. and p.m. peak hours, taking into account two site-access drives. It was found each vehicle moving up the study site intersections proceeded at level-of-service (LOS) B or better, during a.m. and p.m. peak hours. In other words, speeds were maintained and maneuverability within the traffic stream was only slightly restricted, at times. Additionally, a right-turn deceleration lane analysis was conducted at the site, and it was found that neither the north nor the south streets met the criteria Department of Transportation (DOT) guidelines for a deceleration lane. Peters and Associates looked at all applicable standards and criteria, as per "The City of Broken Arrow Engineering Design Criteria Manual, Section 7," and found that all conditions and guidelines were met, meaning that there was no need for improvements at the two intersections. Mr. Tolbert told the Council that, as he understood, however, the developer was willing to build a deceleration lane at each of the two access drives. He added it was his understanding that the City planned to place a traffic signal south of the site. If the City were to follow on that traffic conditions could be expected to even improve slightly at, and in the vicinity of, the site.

Councilor Eudey asked whether the study had examined the traffic at the major intersections of Kenosha Street and Midway Street, and at 61st Street and Midway Street. Mr. Tolbert replied that they had specifically analyzed the two site drives associated with the development and did not conduct any analysis south of the site. Only traffic volumes were inspected on the two major intersections.

Mr. Shank summarized the study's findings, with respect to Broken Arrow's traffic design standards, stating that deceleration lanes were not required, and reiterating the applicant's offer to fund two deceleration lanes, nevertheless. He noted that the analysis was extremely conservative in that, as he understood, it was based on the preliminary site plan filed, with over 300 potential lots. The proposed preliminary plat, submitted to Development Services, showed only 231 lots. He concluded that, obviously, the traffic impact from fewer lots would be lesser. He added that the traffic analysis supposed 231 lots that would be developed instantaneously, when, in reality, it would take years for a project of such size to come to be completed, and it would be done in phases. Any potential adverse impact could be mitigated by the proposed deceleration lanes and by the signalized intersection the City acknowledged it would put in, in 2016.

Mr. Spurgeon commented that in his previous experience, with respect to the deceleration lanes being offered, the offer was usually memorialized in the approval agreement or platting.

Mr. Shank observed that the City of Broken Arrow was unique in its zoning ordinances and should that Council vote to approve the application that night, the approval would be upon condition of submittal and approval of a final plat. The proposal would be back before the preliminary plat, and back again before the final plat, and if it were to deviate in any way that would displease the Council, they should not approve it.

Mr. Kyle Sewell, Project Manager of Crafton Tull, 220 East 8th Street, Tulsa, spoke on the preliminary drainage studies the company had conducted, in advance of the preliminary design phase with platting because of the concern for zoning. Giving background on Crafton Tull, he told the Council that they had been in business for over 50 years and had done a lot of drainage work in Oklahoma, Arkansas, and surrounding states, including projects in Broken Arrow itself. He stated that the development, as it was currently drawn, would comply with industry standards for storm water design requirements for the City, with respect to the Oklahoma Department of Environmental Quality and the EPA. He explained that their drainage study, prior to development, involved an evaluation of existing discharges from the site, with a view of maintaining and not exceeding Broken Arrow's regulations for the flow rate coming off. Peak flows were calculated. Then the study took into account the post development flows with the addition of detention ponds, and the results were that 8% less peak discharge would be produced under the hundred-year: the most extreme case evaluation required of them. So there would be a net result in the peak flows and the velocities of the water coming off of the site would be reduced also. Those beneficial conditions at the site would not impinge upon with the downstream flow into the receiving streams. Mr. Sewell added that existing Ridgeway Heights development did not have detention ponds in place and there was some drainage onto the site under consideration. Consequently, the new development site would be detaining some of that, thus helping, in some small way, the problem of the neighboring development.

Councilor Lester asked if his calculations were based on the full development of the project. Mr. Sewell replied yes, and indicated that the construction of the ponds would be phased in, in order to make sure that at each stage, they would maintain and remain below the pre-developed discharge conditions, slowing down water velocity and reducing the total peak flow.

Mr. Shank drew their attention to the last tab in the packet he had provided, recalling that at the last hearing a comment had been made about sanitary sewer capacity. He referred to a letter from Mr. Skates, indicating that there was sanitary sewer availability and existing capacity to address the proposed size of the development. He said he would reserve the remainder of his comments until after the public had a chance to speak.

In response to a question by Councilor Eudey regarding the traffic study, Mr. Tolbert clarified that they took into account the number of lanes, as well as the lane width, and the average number of driveways within a mile of the site. Safety was a consideration.

Councilor Lester asked Mr. Skates if the sanitary sewer were on a lift station, and Mr. Skates replied in the affirmative, elaborating that it would connect to a gravity line that would go to the Adams Creek lift station. He affirmed also that the present lift station had the necessary capacity and that the development would have its own transferring lift station. Mr. Shank pointed out that what was before the Council was not a final plat application, nor a building permit application, but simply a re-zoning request. Technical questions would be addressed again in detail at the preliminary plat, the final plat and on each occasion that the building permit was pulled.

Mayor Thurmond said that several people had signed up to speak and that, in addition, he was in receipt of 70 forms expressing opposition to rezoning.

Mr. Don Jenkins, 6626 South 257th East Avenue, spoke. He remarked that it was his understanding that the pumping station was not big enough to handle a larger capacity. He expressed concern about drainage in the area, saying that that following the recent heavy rains the road near the bridge, just across from 67th Street, was under a foot to a foot and a half of water. He observed that the property in question was much higher in elevation than the surrounding property, and heavy rains would result in mudslides that would extend to the streets and ditches, during the course of the property's development. Another major concern was that the type of houses planned would not be in keeping with what has been built in the surroundings of Forest Ridge in the past several years.

Ms. Bonnie Glidewell, 6804 South 254th East Avenue, said the Council had heard of the flooding problem in the area of the site under consideration and she remarked that the problems were ongoing. Ms. Glidewell appealed to the hearts and minds of the Council members to formulate a decision, in the difficult matter before them, that would be to the benefit of all the parties involved. She expressed confidence in their ability to decide while keeping in mind the concerns of citizens present and their neighbors, and the interests of the developer and the people who would potentially dwell in the new development. She praised the Council's excellent stewardship, adding that their decision should be one that made them proud and one that instilled pride in people with regard to Broken Arrow.

Ms. Mary Ann Colston, 513 North 79th Street, spoke next, passing out copies of her presentation. She expressed appreciation of the Council's forward thinking in the job they had of making tough decisions on a biweekly basis. Ms. Colston stated that she had new information to give, describing a rain event in the area where she lived, located about a quarter mile from Covington Creek. She showed slides of photos she took of the Covington Creek storage basin, on the morning of the event, in which approximately 4

inches of rain fell over a period of about 12 hours. She then showed a slide of the Covington Creek flood storage area on the following day, looking west from Church Road. The photo indicated two sanitary sewer elevated manholes that were submerged. She expressed concern as to the particular amount of rain over so many hours producing such consequences and said she had been told that there could be leakage from manholes. She presented a map of Adams Creek, displaying the site of the proposed project for crossings at 71st Street, as well as the site of another project Rausch Coleman project, with crossings at 91st Street, both flowing into Covington Creek. She said that Forest Ridge had multiple detention facilities – four of them -- between the crossings and further on down into the Covington storage basin. Ms. Colston next showed a picture, illustrating her concern that roads in the vicinity were flooding on a more frequent basis and potentially blocking Fire/Rescue access. Displaying a photo of road flooding at 61st Street and Midway Street on the morning of the recent rain event, she commented that most of the roads were collecting water and that the situation became worse with more than 6 inches of rainfall.

Vice Mayor Carter commented that he lived in the area, as well, and had witnessed what Ms. Colston was referring to, and thought it pretty scary, especially when the manholes were submerged. He also stated that it was not an uncommon occurrence. Ms. Colston agreed and went on to say that she was worried because sewage was, by its very nature, unhealthy, and stranded motorists sometimes had to wade through it. Vice Mayor Carter noted that the area was developed outside the City limits and pointed out that the City had had to do significant work to make it acceptable and prevent flooding in Covington and surrounding areas, including widening the basin. Expansion of the basin had helped but still had not prevented water from collecting very close to homes.

Mr. Trey Hart, of 6430 South 257th East Avenue, located just to the north and on the west side of the proposed development, spoke. He inquired of Mr. Skates whether a traffic analysis had been done that was presented at the previous meeting. Mr. Hart said he thought so and that it had been rated as F and went on to ask what the difference was between the City's traffic analysis and Tolbert's analysis. He added that he distinctly recalled that the intersection had received a D rating and the road an F rating. He was confused, having consulted the archived video of that particular meeting in which it was discussed. He wondered the City came up with a traffic analysis that scored it an F, while the developer's people came up with a B+? He thanked the Council and requested they keep his concerns in mind since their decision would affect a lot of the people living in the area, for quite some time into the future. Mr. Hart concluded by saying that the infrastructure for the project was not quite there yet, adding that he wished it was because he supported construction of new developments in Broken Arrow.

Councilor Eudey commented that, according to his recollection, the study presented previously dealt specifically with the intersection of Kenosha and Midway Streets, and that it did not include the rest of Midway Road, and that the intersection was rated, at various times, a D and an F. Several people voiced their opinions that Councilor Eudey was correct. Mr. Skates said that actually two different things had taken place, with respect to the traffic studies. The City had done a study years ago focusing on the intersections. The focus of the traffic study that Tolbert had performed recently was strictly on the neighborhood and the impact on the two proposed entrances/exits to and from the neighborhood. Tolbert looked at the intersection based on what the City had previously done. Mr. Skates noted that, however, as the attorney, Mr. Shank had mentioned, the City had already agreed to install a fully-actuated traffic signal in the following fiscal year, which would remedy what the City had previously identified – primarily the south leg of Midway Street at Kenosha Street – as a level F.

Mr. Robert Penick, 5741 South 257th East Avenue, recently retired from the Tulsa Fire Department, stated that he wanted to talk about life safety concerns with regard to the area. He explained that the information he had to share came by way of the National Fire Protection Association (NFPA) guidelines, the United States Search and Rescue Task Force, and from the Federal Emergency Management Agency (FEMA). He said he was concerned about traffic, with the proposed additional 231 houses, and about water run-off, also. He commented that there was more and more urban flooding in connection with the development of Forest Ridge and its detention ponds, through Covington Estates. Mr. Penick cited instances, over the past several years, of people that had to be rescued from their cars, including a police woman on her car roof because she drove into water along 71st Street at School Creek, right in front of Station Four. He went on to say that Midway Road had flooded multiple times in the past two months, and the City placed a road barricade there, seeing fit to just leave it there because of the frequency of problem. The narrowness of the road with more traffic on it, without ditches to divert the water, would create a bigger problem, bearing in mind the complete loss of traction in about a foot of water. He cautioned that same thing that happened on 61st Street between County Line Road and 209th East Avenue, where in May a big flood episode washed the bridge out for several months, could happen. With additional concrete from houses and additional streets and driveways, and with less grass, up to six times as much water could flow and the water from retention ponds would still have to go someplace. He indicated that the danger of drowning in floodwaters was very real. In

response to a question by Councilor Lester, Mr. Penick maintained that detention ponds at the proposed development would only serve to initially slow down the water, and not prevent it from overflowing and washing out roads.

Mr. Jim Oden, 5309 South 257th East Avenue, commented on Mr. Shank's assertion that the proposal was consistent with the Comprehensive Plan, stating that necessary infrastructure should precede development. He said he had witnessed a number of cars that had been washed away in a ditch, in the five years he had lived in the area. The roads had no shoulder where one could pull over and flooding presented a danger to motorists. He cited the Council's obligation to protect citizens already in the area. He was not against growth, but reasoned that the plan should be delayed until proper infrastructure was put in place.

Mr. Jimmy Beard, 5601 South Midway Road, expressed disappointment that they were there in the fourth meeting on the subject, owing to the variety of obvious problems the planned development would present to people living in the area. He stated that he and his neighbors saw problems every day and had experienced cars, or, more recently, dump trucks, on their side or upside down, in their front yards, in the ditch. He described how his four-wheel drive pick-up truck was not able to get through all the water that came off Ridgeway Heights, hitting Midway Road and heading north down to 61st Street. He said he did not think it possible for the developers to figure out a way to make the water run uphill and jump into the ponds voluntarily, and for the stay there, being detained, for a while. Mr. Beard said that given the variety of problems they had faced that had not been addressed in 30 years, owing, understandably, to the cost involved, he thought the City should avoid creating new problems and making the situation worse. He observed that there were hundreds of acres that were undeveloped and questioned whether they wanted to set the bar at such a level when golden opportunities presented themselves to develop land elsewhere, where people wanted to live. He pointed out that the zoning was designed to protect the existing people in a particular area, stating that they were not against development, but only wanted the right kind of development. He related that 30 years ago, there would be a heavy rainfall where he lived and he wouldn't be trapped, whereas for the past 10 or 15 years, 3 or 4 inches of rain meant he was trapped on his property, with no one being able to reach him, including emergency vehicles. Therefore, he opposed the plan for safety reasons relating to the lack of infrastructure. He concluded by saying he believed that a vote of approval by the Council would be unfair to the people who lived in the area, and that it would, furthermore, be a disservice to all the people of Broken Arrow, in view of the problems the development would pose and all of the tax dollars it would take to fix them.

Mr. Larry Wilkenson, 6501 South 241st East Avenue or Oneta Road, gave a PowerPoint presentation also passing out photographs, relating some of the concerns he had about the sanitary sewer, based on his own observations. He pointed to sanitary sewers in the photos, situated in various spots, including in the grass, the street, and a bar ditch, partially in the road. He indicated the sanitary sewer pump station where he said there was a manhole draining into Adams Creek, and recalled that in the past year two new pumps had been installed. He pointed out the manhole in a photo that had been taken the past Sunday, and the effluence surrounding it, stating that he certainly would not want to drink it. Pointing to the lagoon beside it, he said, as he understood, it was for emergency purposes. He informed the Council that he had bought his property in 1972, he knew it and its history very well, and had he had lived there, on the opposite side of the Creek, for the last ten years. Over the years, he said, he had seen the dikes of the lagoon fail, with raw sewage spilling over the dike into the Creek, and specified that it was not the Creek that had spilled over into the lagoon. He shared another photo from May 29, 2015, showing one of the manholes there leaking sewage into the bar ditch and the Creek. The situation he described lasted for days, under so much pressure the manhole that the cap could not be taken off. Mr. Wilkenson referred to the zoning ordinances which state that City would provide standards for public health, safety, and general welfare, in conjunction with the Comprehensive Plan. The zoning ordinance also stated that it would discourage any use of land that "because of its character or size would create additional requirements and costs for public services." He pointed out that the very busy street, Oneta Road, had no lane markings for traffic going in opposite directions, because, as he understood, it was not wide enough to accommodate such. If there wasn't enough space to put striping on the road and on the sides of the road where the sewer line were, it seemed to him that the City would have to purchase additional property if the City were to put in new sewer lines. Mr. Wilkenson questioned if the Mayor could assure the citizens that the present sewer infrastructure was sufficient to handle the additional influx the new development would entail.

Mr. Stephen Gray, Esq., with law offices at 3101 North Hemlock Circle, Broken Arrow, addressed the Council. He gave his home address, 3837 West El Paso Street, Broken Arrow, and stated that he was very proud of the community of Broken Arrow, in which he had raised his children. He brought to the Council's attention a gentleman, Mr. Jack Spradling, whom his neighborhood association had retained. He explained that Mr. Spradling was a civil engineer associated with Green Country Sewer Company, who had platted numerous subdivisions and commercial developments all over the greater Tulsa

area, and had also acted, formerly, as city engineer for the cities of Bixby and Skiatook. Mr. Gray went on to say that Mr. Spradling had looked into the matter relating to the item under consideration for him, in an effort to get some answers. Mr. Spradling was not able to get answers in a timely manner, although his involvement was, admittedly, recent. Mr. Spradling had questioned the capacity of the eight-inch sewer line to serve the 140 acres of Ridgeway Heights Development. Mr. Gray went on to say that there was also a question about the adequacy of the Adams Creek Lift Station to serve the additional loading of nearly 300 residents, but no information had been furnished to Mr. Spradling by the City, in order that a cogent evaluation might be made. Another of his questions concerned the location of a lift station in a floodway, which Mr. Gray found rather surprising. Mr. Gray commented that he didn't know that you could build anything in a floodway, but apparently, at some point in the past, the City had approved a lift station in the floodway. He submitted that more information was needed in response to his and the public's concerns. The Council had heard from an articulate populace not opposed to development per se, but asking for the public infrastructure to support the plan. Midway Road was, at best, an old county road that was annexed in, and that probably didn't have anything greater than four or five inches of overlay. Running construction equipment up and down to build 300 houses, would be questionable relative to wear and tear on the road. Furthermore, Mr. Gray questioned where children would walk since there was no sidewalk on the east side of the road, where the subdivision was being proposed. The last time he had checked, there was no Private Financed Public Improvement (PFPI) that had been proposed to improve this road at the intersection, and all the way up to the entrance of the proposed subdivision. In conclusion, Mr. Gray said that he knew that the Council's choice was a difficult one. He thought that some sort of Planned Unit Development (PUD), with, perhaps, an R-2 zoning designation would be better, but there was a need for public infrastructure to be in place to support this or any development plan.

Councilor Lester asked where Mr. Spradling would expect to get the information he had sought with reference to the sewer if they were just at the zoning phase. Mr. Gray replied that he thought Mr. Spradling was inquiring of the City engineering Staff, relative to the site in question. Councilor Lester stated that there were two-lane roads all over the City that were not developed with sidewalks and full-lane roads before property was developed. He added that if they waited for roads to be developed in that way, most of Broken Arrow would not be developed. Mr. Gray said he recognized the validity of Councilor Lester's point, but maintained that it was a matter of an old road that, he suspected, would not support so much traffic. They would then incur the cost of repairing a two-lane road that did not have a sufficient base to support the traffic, whether or not there were sidewalks. Councilor Lester thanked the speaker.

Mr. Mat McDaris, of 27691 East 56th Street, stated he was the owner of that property and had lived in Broken Arrow for 70+ years, running a business for over 50 years on Main Street. He said he could remember when the population of Broken Arrow was 2,500. When it rained where he lived you slid down the hill whether you wanted to or not. In 1957, on graduation night, it rained and part of Oneta Road was under 6 ½ feet of water over 71st St. So, he said, things were changing. His family had never protested additional housing addition anywhere in the area.

In response to comments by the public, first Mr. Shank brought up the Covington Creek drainage basin, wishing to clarify an issue. He asked Mr. Sewell if the site planned for development drained into that basin. Mr. Sewell replied no, that was not the case, it drained into the Timber Creek basin. Mr. Shank then summarized, stating that most of the comments and concerns were technical in nature, addressing engineering and development standards that are taken up at the preliminary and final platting phases, or taken up with earth change permits, or with building permits. What the hearing was about was whether the applicant's request complied with the Comprehensive Plan, and it did comply. The hearing was also to consider whether the rezoning request was consistent with the Broken Arrow Zoning Code, and it was. Several comments had been made about the type of housing that might be associated with the development not being conducive to the area or bringing the area down. According to Section 2.3 of the Zoning Code, the general purpose of residential districts allowed for a variety of housing types meeting the diverse economic and social needs of residents. One of the reasons Staff recommended approval, and the Planning Commission recommended approval, was because the proposed project did just that. Much comment had been about the lack of infrastructure to support the rezoning request. That was the development process backwards. Rezoning, recommending approval, approving the application, and then moving forward with platting, was where the infrastructure would come from. They'd heard from the traffic expert that the deceleration lane would improve traffic in the area, and that a signalized intersection would be installed by the City. Mr. Shank gave his assurance that, as a part of the platting process, the applicant would approach the City to lay the foundation for a street widening in the future. Development paved the way for infrastructure. The hydrologist stated that there would be detention ponds and adequate storm sewers to address flooding concerns, which would, in fact, improve discharge from the area and detain water from Ridgeway Heights. Mr. Shank said that a vote for

approval of the application actually sent the message that the Council did care about the City's infrastructure and all citizens and that that project was indeed consistent with the Comprehensive Plan and the purposes of the zoning code.

Councilor Eudey inquired whether there was a reason why the applicant's desire was brought to the Council in the manner that it was, rather than as a PUD. Mr. Shank replied that the application was in compliance with the Comprehensive Plan, and when a PUD was sought you were asking for something. He explained that he needed to allocate floor area differently among his uses and that he might need some more signage rights. What they were asking for completely complied with the Comprehensive Plan, with its intentions, and it was consistent with the zoning code. That was why no PUD application was filed, he said.

Mayor Thurmond asked if there were any more questions or anything to discuss.

Councilor Lester commented that everybody had done a very good job of presenting their concerns, and had brought up issues that were relative to issues that would come up later in the process. He stated the purpose of the hearing was to decide whether the rezoning application met the Comprehensive Plan. Looking at the way Broken Arrow had developed, having lived there a long time, he'd seen the way Broken Arrow's grown in population and he'd seen roads and developments out in his part of southwest Broken Arrow, that were two-lane roads, that developed into housing additions much like that, though perhaps in not quite that rural an area. He said he thought it was their responsibility, certainly, to look after issues citizens had raised, and with regard to flooding, 101st Street and Garnett Road where he lived flooded every time 2 inches of rain fell. All parts of Broken Arrow experienced issues that the City need to continue to try to address. Whether the debated housing addition was constructed or not, there were issues out in east Broken Arrow, as well as other parts of Broken Arrow, that still needed to be addressed. He stated he thought the application did meet the criteria of the Comprehensive Plan. Although there was a lot of work to do to determine whether the sewage capacity was there, it was not what was on the table that night. He shared people's concerns but did not think he could hold up development based on whether or not the road was a two-lane country road or a four-lane road. There would be a lot of standards they would have to hold up for the developer to meet. He felt the City Staff was doing a good job in dealing with the issues of storm water in that area and that was a plus. Again, infrastructure issues would come under consideration later in the process and, therefore, to his mind, the applicant had met the challenge of keeping in line with the Comprehensive Plan.

Mayor Thurmond voiced his agreement with Councilor Lester. He said that, in reality, they were there to decide whether the application met the zoning criteria, met the Comprehensive Plan, and whether it was a Level 2 project. The rest of the engineering design would come in the engineering stage. The meeting was not in keeping with something a developer was normally called to do, since the burden was on the City to meet all of the criteria regarding sanitary sewer requirements, storm water requirements, and traffic requirements. That would be their responsibility when they submitted plans. He stated that Broken Arrow had very stringent regulations, especially in relation to flooding. They had improved areas that were not built to the City's standards and had alleviated flooding, as required. A few years back Broken Arrow had won an award from the Flood Managers Association for Health (FMAH). He reiterated that the Council was deciding a legal matter on whether the application met a Level 2 Comprehensive Plan zoning, and he did think the application did meet the criteria.

Mayor Thurmond asked if there was anything more to discuss.

Vice Mayor Carter said that he took a slightly different view. Going back to the capacities of Broken Arrow's infrastructure system in that area, he read the General Purpose of Residential Districts Zoning's statement requiring they meet with the Comprehensive Plan and with the standards of public health, safety, and general welfare. I said he saw the sewage capacity in that area as being inadequate. From all the photos and from his own experience, having lived in the area 15 years, it really bothered him to think of putting 231 more homes under that capacity that would be facing the same problems and dangers of citizens already in the area. He would prefer and vote to get the infrastructure entirely right before the zoning were changed in any way. He explained that he did not want to approve development when they were not prepared to take care of the people that would come to live there, investing their money and lives, when there was potential danger from inadequate sewers or flooding. He would like to see the infrastructure in place first, unlike the way it had been done for 50 years, and not have to provide a remedy later, when someone had already been injured. Councilor Lester asked whether that was not part of the development process, to make sure that all that was in place they proceeded along. Vice Mayor Carter answered that he understood, but pointed out that even if the developer did everything they were supposed to do in the development itself, if the City were not prepared to take care of it from their end, it would not be good. They would be putting in a nice development with all the right plumbing and streets and everything else, but unless the City and the adjacent public land were not ready to take it on with capacities for sewer and traffic, then they would

just be shooting themselves in the foot. Councilor Lester asked if they were changing the standards across the City then, because they would have to be consistent in applying that standard. Vice Mayor Carter replied that maybe they needed to look at the Comprehensive Plan and do it across the City, and adding that the Plan had been written a long time ago. Vice Mayor Carter recalled the annexation of some additions down around the County line that were built according to standard and everything looked good until big rain one night that flooded homes. The City subsequently spent a lot of money to correct the problem, however, he wondered why problems had to be addressed after the fact. Councilor Lester argued that he believed the process dealt with that in terms of the detention requirements, countering that stipulating four- or five-lane roads, new plumbing or sewer systems, and everything else that goes with that, beforehand, would mean closing the doors and putting a stop to growth. Mayor Thurmond commented that the sanitary sewer could not be connected if they didn't have capacity, relating that there was one in south Broken Arrow just waiting for the connection to be done. He asserted that they did build in keeping with their standards and they were not widening the County standards. Vice Mayor Carter reasoned that he understood, but if they had an inadequate capacity in the first place and they built the addition, then how could the City hook into it? Councilor Lester replied that he didn't disagree although that he thought issues would be broached during the development phase and if the capacity were not there the Council would just turn them down.

Councilor Eudey commented that his was the first vote and that none of the speakers had made his decision easy, though he appreciated the comments because they were helpful. The City's extraordinary staff had taken a lot of time to put things together so that he could understand it. A number of things had to be considered. One thing they could not consider in their decision was the income or nature of the properties that are going to be built here. It would not be proper to do so. As long as the homes that were going to be built in this neighborhood — whatever they ultimately were — were built pursuant to City code, and built pursuant to the plan that would be ultimately approved by the City, that's was really beyond the purview of anything they could consider at present. He said he was to the concerns residents had and they were concerns relevant to every citywide development. However, Councilor Eudey stated that it was not on his radar in considering the question. He shared the same concerns as Councilor Carter with regard to infrastructure. The road in question made him nervous and although he would take the traffic experts at their word that the traffic would hold it, he'd driven on that road and it made him nervous. He was also wary about what he would be asking everyone in the vicinity to have to live with. I gave him pause, but it was also true that they could not consider solely that. They could not consider what would have to be done; they could only consider what would be done. However, he did have a concern that really hadn't been addressed except in Mr. Gray's query, and he thanked Mr. Gray for bringing it up. With all due respect and as a lawyer himself, Councilor Eudey remarked, Mr. Shank's answer was a lawyer's answer. It was a good answer, but a lawyer's answer. As he himself had stated at the last meeting, he was concerned about the density of the neighborhood relative to the infrastructure they did have in place. Development could not be stalled solely on the basis of infrastructure, but they had to look at what they were being asked to do and consider if it fit in with the overall community. He had consulted the zoning map and wasn't sure it really changed his mind because the property in question would be the first RS-3 in the area. He admitted that he would be more comfortable if it were a PUD so that they could have greater input, for lack of a better term. It was the first decision he had really struggled with, having concerns with the RS-3 zoning, and nothing presented that evening had addressed those particular concerns. He ended by saying that he would be glad to hear the thoughts of his colleagues on that.

Councilor Lester responded that RS-3 was not his favorite, but observed that the RS-3 development caddy corner to his own neighborhood in Tulsa had had no impact on his neighborhood. He understood that people didn't want an RS-3 next to an R-2 or an R-1 estates development, but having been in real estate for nearly 40 years he had found that whatever people said, it didn't impact it. There was an impact if they didn't keep their properties up, and that's one reason the City started requiring new developments to have home owners associations (HOAs) that maintain the property. To that degree, he was less concerned about any kind of development. It did not a matter whether he himself liked or didn't like RS-3, it was what had been presented to them by the applicant, who had met the criteria up to that point. He maintained that they'd done everything they needed to do to move forward to the next level. Councilor Lester concluded by saying they could continue the discussion. Mayor Thurmond asked if there was to be any more discussion.

MOTION: A motion was made by Mike Lester, seconded by Craig Thurmond.

Move to approve BAZ 1941 for RS-3 zoning as recommended by the Planning Commission and Staff subject to property being platted

The motion was rejected by the following vote:

Aye: 2 -
Nay: 2 -
Abstain: 1 -

Mike Lester, Craig Thurmond
Scott Eudey, Richard Carter
Johnnie Parks