



City of Broken Arrow

Minutes Planning Commission

City Hall
220 S 1st Street
Broken Arrow OK
74012

Chairperson Fred Dorrell
Vice Chairperson Lee Whelpley
Commission Member Ricky Jones
Commission Member Mark Jones
Commission Member Jaylee Klempa

Thursday, January 9, 2020

Time 5:00 p.m.

Council Chambers

1. Call to Order

Chairperson Fred Dorrell called the meeting to order at approximately 5:00 p.m.

2. Roll Call

Present: 4 - Jaylee Klempa, Ricky Jones, Lee Whelpley, Fred Dorrell
Absent: 1 - Mark Jones

3. Old Business

There was no Old Business.

4. Consideration of Consent Agenda

Staff Planner Amanda Yamaguchi presented the Consent Agenda.

A. 20-91 Approval of Planning Commission meeting minutes of December 19, 2019

Chairperson Dorrell 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 removed for discussion. He asked if there were any items to be removed from the Consent Agenda; hearing none, he called for a motion.

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

Move to approve the Consent Agenda per Staff recommendation

The motion carried by the following vote:

Aye: 4 - Jaylee Klempa, Ricky Jones, Lee Whelpley, Fred Dorrell

5. Consideration of Items Removed from Consent Agenda

No Items were removed from the Consent Agenda; no action was taken or required.

6. Public Hearings

A. 20-79 Public hearing, consideration, and possible action regarding BACP 167 (Comprehensive Plan Change), Ruhl-Siegfried, 78.18 acres, Level 2 to Levels 2 and 4, one-quarter mile east of Olive Avenue (129th East Avenue), south of New Orleans Street (101st Street)

Commissioner Ricky Jones indicated his firm prepared the application for this Item and he would not participate in the vote. He left the Planning Commission chambers prior to discussion of this Item and returned following the vote.

Ms. Amanda Yamaguchi reported BACP-167 was a request to change the Comprehensive Plan designation on a 78.18-acre tract of land from Level 2 to Level 2 and Level 4. The property, which was located one-quarter mile east of Olive Avenue and south of New Orleans Street was presently zoned A-1 (Agricultural) and was unplatted. She explained the applicant sought the change in the Comprehensive Plan in an effort to modify the zoning on the property. She indicated a rezoning and PUD application were submitted in conjunction with this application and would be heard by the Planning Commission on January 23, 2019. She noted the development concept described the proposed development as mixed-use with a variety of housing types including an area of private gated streets, larger estate lots, and alley-loaded homes. She stated the northwest corner of the property, the area being requested as Level 4 of the Comprehensive Plan, was proposed as a community market area for the residents of the neighborhood and the public.

Ms. Yamaguchi reported in the draft PUD submitted, the property was divided into two areas; Development Area A (northwest corner of the property) was proposed as the commercial area and Development Area B (the remaining property) was proposed as the residential area with a maximum of 250 lots. She stated based on the Comprehensive Plan, the location of the property, the draft PUD that was submitted, and the surrounding land uses, Staff recommended BACP-167 be approved, subject to the property being platted and a PUD being approved similar in context to the draft PUD submitted with BACP-167.

The applicant, Erik Enyart, Tanner Consulting, stated his address was 5323 S. Lewis Avenue, Tulsa. He indicated he was in agreement with Staff recommendations.

Chairperson Dorrell opened the Public Hearing for Item 6A. He indicated a Mr. Charlie Ryser requested further information regarding the project.

Mr. Charlie Ryser stated his address was 2800 W. Quantico Street. He expressed concern regarding traffic through and around his neighborhood. He stated he was concerned about traffic during school hours. He indicated currently it was a dangerous situation for the children and worried the situation would worsen with this development. He asked if it would be possible to install a traffic light at this particular intersection to ease traffic and decrease the danger.

Chairperson Dorrell indicated the matter before Planning Commission was a Comprehensive Plan change; however, he recognized the validity of Mr. Ryser’s concern.

Community Development Director Larry Curtis explained Broken Arrow intersections, including the intersection in question, were arranged in an effort to reduce hazards. He noted when connecting streets were offset, danger increased due to a lack of visibility. He indicated all traffic concerns, including Mr. Ryser’s concern, would be addressed during the engineering and design of the project. He made a note of Mr. Ryser’s concern and thanked Mr. Ryser for his input.

Chairperson Dorrell noted there were no other requests to speak regarding this Item. He closed the Public Hearing.

Vice Chairman Whelpley asked if the property was located within the flood plain. Planning and Development Manager Jill Ferenc responded in the negative.

MOTION: A motion was made by Jaylee Klempa, seconded by Lee Whelpley.

Move to approve Item 6A per Staff recommendations

The motion carried by the following vote:

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

Chairperson Dorrell noted this Item would go before City Council on February 4, 2019 at 6:30 p.m.

B. 20-80 Public hearing, consideration, and possible action regarding BAZ-2043 (Rezoning), The Cannabis Co. LLC, 0.60 acres, A-1 to CN, west of the northwest corner of 65th Street (241st E. Avenue/Oneta Road) and Highway 51

Senior Planner Brent Murphy reported BAZ-2043 was a request to change the zoning designation on 0.60-acres from A-1 (Agricultural) to CN (Commercial Neighborhood). He stated the property was located west of the northwest corner of 65th Street (241st E. Avenue/Oneta Road) and Highway 51. He indicated the property was platted as a part of Lot 12, Block 2, of the Prairie Dale addition; the Prairie Dale addition, however, was platted in Wagoner County, which had different subdivision standards than the City of Broken Arrow. He reported the A-1 zoning classification was assigned to the property when it was annexed into Broken Arrow on January 5, 1987, with Ordinance 1436 and the plat for Prairie Dale was recorded in Wagoner County on August 4, 1970.

Mr. Murphy indicated the applicant intended to place a medical marijuana dispensary in the existing building on the property. He stated medical marijuana dispensaries were allowed in the CN district but not in the A-1 district; as a result, this was a request to change the zoning on the property from A-1 to CN. He stated the Future Development Guide of the Comprehensive Plan showed the site to be designated as a Level 4 and CN zoning was considered to be in accordance with the Comprehensive Plan in Level 4. He stated while the applicant was contemplating a medical marijuana dispensary on the property, any use allowed in the CN district would be permitted if BAZ-2043 was approved; therefore, what needed to be evaluated was whether or not this was an appropriate location for CN zoning. He noted the CN zoning requested with BAZ-2043 was in conformance with the Comprehensive Plan. He stated based on the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommended BAZ-2043 be approved, subject to the property being replatted to the City of Broken Arrow Subdivision standards. He stated an email was sent to the applicant in this regard.

Mr. Murphy noted this property abutted residential to the north and when CN zoning abutted residential an opaque fence, 8 feet to 10 feet in height, was required. He noted presently there was a chain link fence present. He indicated there was an off-premise advertising sign on the property which would be permitted to continue; however, no additional off-premise

advertising would be permitted. He stated the applicant had been informed.

Commissioner Ricky Jones stated while the proposed use for this property was medical marijuana dispensary the Planning Commission was required to consider the proposed change of zoning which would permit any CN use. He noted the approval of this change in zoning did not specifically allow a medical marijuana dispensary at that location.

Mr. Murphy stated if the change in the zoning was approved then any CN approved use could come into this space at any time.

The applicant, Kyle Gibson, with Align Design Group, stated his address was 551 S. Quaker Avenue, Tulsa. He stated he was in agreement with Staff recommendations.

Commissioner Ricky Jones asked if Mr. Gibson understood the screening requirement and other requirements for commercial district zoned property. Mr. Gibson responded in the affirmative.

Chairperson Dorrell opened the Public Hearing and noted none had signed up to speak regarding this Item. He closed the Public Hearing.

Commissioner Ricky Jones indicated he felt this was an appropriate request for CN zoning.

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

Move to approve Item 6B per Staff recommendations

The motion carried by the following vote:

Aye: 4 - Jaylee Klempa, Ricky Jones, Lee Whelpley, Fred Dorrell

Chairperson Dorrell noted this Item would go before City Council on January 21, 2019 at 6:30 p.m.

C. 20-81 Public hearing, consideration, and possible action regarding SP-146A (Specific Use Permit), Aspen Creek Church, 7.22 acres, A-1 (Agricultural)/SP-146 (Specific Use Permit), one-half mile south of Florence Street (111th Street), west of Aspen Avenue 145th East Avenue)

Ms. Amanda Yamaguchi reported SP-146A was a request for a Specific Use Permit Amendment to replace an existing monument sign with a larger sign and a digital message board sign to be installed at a later date. She stated the property was platted as Lot One (1), Block One (1) of New Life Center, located one-half mile south of Florence Street (111th Street), west of Aspen Avenue (145th East Avenue). She indicated with SP-146A, the applicant proposed to replace the existing monument sign with a larger sign and possibly a digital message board sign at a later date. She indicated in accordance with the zoning ordinance, permanent freestanding signs, which functioned as on-premise advertising and were located on a lot used for institutional uses, including educational institutions, may be constructed in residential districts as long as the sign did not exceed 32-square-feet of display area and did not exceed 8-feet in height. She stated per Section 5.7.E.2 of the zoning ordinance, increases in display surface area and height may be requested through a PUD or Specific Use Permit and would be based on the total linear foot of lot frontage but may not exceed 300 square feet. She indicated the proposed sign was 12-feet in height and 9-feet in width and of plywood construction with digital print vinyl graphics and the total proposed display area of the sign was approximately 108 square feet. She noted in the future, the church would appreciate the option to retrofit this sign to include a digital message board. She indicated digital signs could be permitted through the use of a specific use permit however; staff recommended any future digital sign be no larger in display area than the sign proposed with this specific use permit.

Ms. Yamaguchi stated based on the Comprehensive Plan, location of the property, and the surrounding land uses, Staff recommended SP-146A be approved subject to the following four conditions: 1) Any future digital sign should not be any larger than approved by SP-146A and must meet all other provisions of the Zoning Ordinance. 2) The existing sign was to be removed upon the completion of the proposed sign. 3) Any landscaping removed during construction must be replaced. 4) Since the property was platted, staff recommended platting be waived.

Vice Chairperson Whelpley asked if a second sign was being proposed. Ms. Yamaguchi responded in the negative; the church was replacing the existing sign with a new version and possibly in the future the new sign could be replaced with a digital message board.

The applicant, Chris Krohn, with A-Max Sign Company, stated his address was 9520 E. 55th Place, Tulsa. He stated he was in agreement with Staff recommendations.

Chairperson Dorrell opened the Public Hearing and noted none had signed up to speak regarding this Item. He closed the Public Hearing.

Commissioner Jaylee Klempa asked about the durability of the proposed sign and when the facility intended to install a digital sign. Mr. Krohn responded the proposed sign was designed to last approximately 7 to 10 years. He noted metal poles would be utilized. He stated the church may or may not choose to utilize a digital message center but wished to have the option in the future.

Commissioner Klempa expressed concern regarding sign deterioration. She asked if it would be possible to include a sign replacement requirement in the permit. Ms. Ferenc responded in the negative. She explained there were sign maintenance regulations in place to prevent dilapidated signage.

Vice Chairperson Whelpley asked if there was a term limit for this specific use permit. Ms. Ferenc responded in the negative.

MOTION: A motion was made by Lee Whelpley, seconded by Jaylee Klempa.

Move to approve Item 6C per Staff recommendations

The motion carried by the following vote:

Aye: 4 - Jaylee Klempa, Ricky Jones, Lee Whelpley, Fred Dorrell

Chairperson Dorrell noted this Item would go before City Council on February 4, 2019 at 6:30 p.m.

D. 20-88 Public hearing, consideration, and possible action regarding PUD-297 (Planned Unit Development) and BAZ-2044 (Rezoning), 811 W. New Orleans Street, 2.21 acres, CG to PUD-297/CG/IL, located west of the southwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue)

Mr. Murphy reported Planned Unit Development (PUD)-297 involved a 2.21-acre parcel located west of the southwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue). He stated in conjunction with PUD-297, the applicant submitted BAZ-2044, a request to change the underlying zoning from CG (Commercial General) to CG (Commercial General) and IL (Industrial Light). He indicated the property was platted as Lot 1, Block 1, Luby's. He noted there used to be a Luby's restaurant on this property which had since been remodeled.

Mr. Murphy reported the Comprehensive Plan change request for this property went before City Council on Tuesday, January 7, 2020, and City Council approved the Comprehensive Plan change request stipulating this property only be utilized to process marijuana, not grow marijuana. He stated the applicant revised the PUD document and deleted all references to growing medical marijuana at this facility. He indicated the PUD divided the property into Development Area A and B. He stated Development Area A would house the medical marijuana processing facility and the PUD required all manufacturing to occur inside the building, limited to a 12,000 sq. foot area. He noted IL (Industrial Light) was permitted in Development Area B but was limited to assembly light and warehouse activities. He indicated a Comprehensive Plan change was approved by City Council last Tuesday night for Level 6, and IL zoning was considered to be in accordance with the Comprehensive Plan in Level 6. He stated based upon the Comprehensive Plan, the PUD submitted with BAZ-2044, the location of the property, and the surrounding land uses, Staff recommended PUD-297 and BAZ-2044 be approved, as per the revised document which specified and prohibited the growing of medical marijuana.

Chairperson Dorrell asked if deleting the growing of medical marijuana as an allowed use was the only change to the document. Mr. Murphy responded the document now prohibited growing medical marijuana.

The applicant, Mark Capron, with Wallace Engineering stated his address was 123 N. Martin Luther King, Jr. Blvd., Tulsa. He indicated he was in agreement with Staff recommendations. He noted the medical marijuana processing business would only utilize part of the building; there were existing businesses in the building including a specialty pharmacy in the front portion of this building.

Commissioner Ricky Jones asked if odor or noise were associated with medical marijuana processing facilities. Mr. Mark Capron responded the PUD prohibited odors. He stated the PUD and ordinance prohibited exterior signage, smell, noise, etc.; citizens would be essentially unaware a marijuana processing plant existed in this location. He stated oils would be processed into non-chocolate confectionary products at this facility. He stated the project would be shipped in and shipped out, not dispensed on site. He indicated the business would create jobs in the area but would otherwise not affect the other businesses on site. He indicated the medical marijuana processing plant would not be dispensing through the specialty pharmacy.

Mr. Larry Curtis stated Broken Arrow Nuisance Ordinance prohibited nuisance odors and the Medical Marijuana Permitting Ordinance prohibited odors as well; therefore, if ever there were to develop an odor or a nuisance of any kind the medical marijuana processing plant’s permit would be revoked.

Chairperson Dorrell opened the Public Hearing and noted one individual signed up to speak.

Mr. George O’Connor, with Mid-America Realty, stated his address was 10125C S. Sheridan Road, Tulsa. He stated he represented the owners of Broken Arrow Town Center, the 100,000 sq. foot retail shopping center located next to this building. He asked if marijuana would be grown in this facility. Chairperson Dorrell responded in the negative. Mr. O’Connor asked if the facility would produce baked goods such as cookies. Ms. Ferenc responded the 12,000 sq. foot facility would process non-chocolate edible marijuana items. Mr. Curtis explained this facility would be a processing facility; no product would be sold at this location. He explained the product would be sold wholesale to a dispensary in a separate location. Mr. O’Connor stated he was concerned there would be odors involved. He noted he recently had a tenant which had to be moved due to a grow facility which emanated odors. He indicated Broken Arrow Town Center was located 100 feet away from the proposed medical marijuana processing facility and he was concerned about possible smells. Mr. Curtis stated City Ordinance was very specific about the prohibition of noise and smells related to this facility.

Mr. O’Connor stated he did not believe a processing facility would be an improvement to the Elm and New Orleans area. He indicated a processing facility should be placed in an industrial area; zoning should not be changed to accommodate a processing facility.

Chairperson Dorrell closed the Public Hearing.

Commissioner Ricky Jones asked if this processing facility might have a negative impact on the Elm and New Orleans area plan. Mr. Curtis explained the Elm and New Orleans plan called for retail development, house tops, industry, businesses, and foot traffic. He indicated the processing plant would bring in foot traffic secondary to job increase.

Mr. Sean DeWitt (owner’s representative) stated his address was 811 W. New Orleans Street. He indicated the 12,000 square foot space was an industrial space which had been vacant for three years. He noted the PUD specified the processing facility was limited to the 12,000 square foot space. He indicated the oil being utilized was processed; the only production would be gummy production which did not produce any odor. He explained there was no risk of smell. He noted there was no intention to grow medical marijuana in this location.

Discussion ensued regarding the new medical marijuana related ordinances, it being to the processing facility’s advantage to ensure there was no odor, the medical marijuana business being required to renew permits annually, the City having the authority to give a 24 hour notice and inspect the facility, Staff recommendations, this facility bringing in 100 new jobs, and 100 new employees increasing foot traffic in the area.

MOTION: A motion was made by Ricky Jones, seconded by Lee Whelpley.
Move to approve Item 6D per Staff recommendations with the newly submitted modified PUD

The motion carried by the following vote:
Aye: 3 - Ricky Jones, Lee Whelpley, Fred Dorrell
Nay: 1 - Jaylee Klempa

Chairperson Dorrell noted this Item would go before City Council on January 21, 2019 at 6:30 p.m.

Mr. Curtis asked about Ms. Jaylee Klempa’s vote. Commissioner Klempa responded a new church was being constructed on the opposite corner.

Commissioner Ricky Jones recommended Mr. O’Connor attend the City Council Meeting and sign up to speak regarding this Item.

- E. 20-92
- Public hearing, consideration, and possible action regarding PUD-300 (Planned Unit Development) and BAZ-2042 (Rezoning), Metro Foot & Ankle, 0.58 acres, IL (Industrial Light) to CH (Commercial Heavy), located one-third mile south of Kenosha Street (71st Street), west of Elm Place (161st E. Avenue)**

Staff Planner II Jane Wyrick reported Planned Unit Development (PUD)-300 and BAZ-2042 (Rezoning) involved a 0.58-acre lot located one-half mile south of Kenosha Street (71st Street), west of Elm Place (161st E. Avenue), at 701 W. Elgin Street. She stated the property, which was vacant, was platted as Lot 1, Block 10, of Graham Franklin Industrial Park IV

recorded in Tulsa County on March 29, 1977. She indicated the site was zoned IL (Industrial Light) and previously included a car wash. She reported on December 19, 2019, the Planning Commission recommended approval of BACP-165 to amend the comprehensive plan designation from Level 6 and Greenway/Floodplain to an increased amount of Level 6 and a decreased amount of Greenway/Floodplain on this site. She noted City Council would hear this item at its January 21, 2020 meeting.

Ms. Wyrick stated with BAZ-2042 (Rezoning), the applicant requested approval to rezone the property from IL (Industrial Light) to CH (Commercial Heavy); the applicant also requested approval of a Planned Unit Development (PUD-300) to reduce setbacks and to modify the landscape edge by clustering landscaping at the northeast corner of the property. She indicated one freestanding sign was proposed to be placed in the landscape area up to 12 feet in height. She reported also included was a request to locate the trash enclosure near the northwest corner of the building which was in front of the front building line. She explained the trash enclosure could not be located in the floodplain, and there was no other location to place it behind the building. She stated it was anticipated that one parking space would be lost by placing the trash enclosure in this location; however, the parking slightly exceeded the required 22 parking spaces based on the parking required for medical office use. She indicated this requirement may vary depending on the use in the tenant space on the east side of the building; parking would be evaluated again when a user for the east side of the building was identified. She stated the 5,419-square-foot building was proposed to be one and one-half story with masonry and EIFS (Exterior Insulation Finishing System) exterior. She indicated the applicant would be dedicating a corner clip and 10 feet of right-of-way along Elm Place by separate instrument; a 30-foot easement was dedicated with the plat.

Ms. Wyrick reported the property associated with PUD-300 was designated as Level 6 and Greenway/Floodplain in the Comprehensive Plan recently adopted by the City Council; CH (Commercial Heavy) zoning was considered to be in conformance with the Comprehensive Plan in Level 6.

Ms. Wyrick reported, in Staff’s opinion, PUD-300 satisfied items 1 and 5 of Section 6.4.A of the Zoning Ordinance: (1) Applicant has designed a conceptual site plan that preserved all of the 100-year floodplain by focusing development on the north portion of the site. This also limited the intensity of use. By stepping the building with a partial second story and designing a raised entrance area, the building was articulated to provide a building which enhanced the immediate area. (5) Applicant designed the site utilizing existing curb cuts spaced as far as possible from the intersection given the small lot size. The site has been underutilized since the previous car wash was demolished. The size of the site and floodplain made it a difficult site to develop. Development of the site with an aesthetically pleasing commercial building and landscaping would improve the views along Elm Place and result in a more productive use of the land.

She stated according to FEMA maps, 14 percent of the site was designated as being in the 100-year floodplain, 57 percent of the site was designated as 500-year floodplain, and 29 percent of the site was outside of the floodplain. She noted the applicant would need to map the floodplain to the current contours and provide compensatory storage for areas of fill and the applicant would need to submit a LOMA-F to FEMA. She stated based upon the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommended PUD-300 and BAZ-2042 be approved, subject to the conditions included in the report. She noted a correction to Condition 2 referencing the 500-year floodplain: Condition 2 should reference the 100-year floodplain. She asked for this correction to be included with the motion.

The applicant, JR Donelson, stated his address was 12820 S. Memorial Road, Bixby. He indicated he was in agreement with Staff recommendation.

Chairperson Dorrell opened the Public Hearing and noted none had signed up to speak regarding this Item. He closed the Public Hearing.

MOTION: A motion was made by Ricky Jones, seconded by Lee Whelpley.
Move to approve Item 6E per Staff recommendations noting the modification of Condition 2 changing 500-year floodplain to 100-year floodplain
The motion carried by the following vote:
Aye: 4 - Jaylee Klempa, Ricky Jones, Lee Whelpley, Fred Dorrell

Chairperson Dorrell noted this Item would go before City Council on February 4, 2019 at 6:30 p.m.

7. Appeals

There were no Appeals.

8. General Commission Business

There was no General Commission Business

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

Place Making Manager Farhad Daroga gave an update regarding the Elm and New Orleans area. He briefly reviewed accomplishments of the Elm and New Orleans Advisory Committee. He reported the Committee formed three Subcommittees which would focus on communicating with the property owners, communicating with business owners, and developing tactical urbanism programs. He noted a report would come before City Council in the spring regarding a plan to move forward in improving the Elm and New Orleans area. He noted Committee discussions were held regarding infrastructure, utilities, funding, etc. He stated the Committee launched a brief online marketing/branding survey yesterday. He recommended participation in the survey. Mr. Curtis indicated the survey link was: brokenarrowok.gov/survey. Discussion ensued regarding the survey.

10. Adjournment

The meeting adjourned at approximately 5:50 p.m.

MOTION: A motion was made by Jaylee Klempa, seconded by Ricky Jones.

Move to adjourn

The motion carried by the following vote:

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