



City of Broken Arrow

Minutes Planning Commission

City Hall
220 S 1st Street
Broken Arrow OK
74012

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

Thursday, July 9, 2020

Time 5:00 p.m.

Council Chambers

1. Call to Order

Chairperson Lee Whelpley called the meeting to order at approximately 5:00 p.m.

2. Roll Call

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

3. Old Business

There was no Old Business.

4. Consideration of Consent Agenda

Staff Planner, Amanda Yamaguchi, presented this Item.

- A. 20-811** Approval of Planning Commission meeting minutes of June 25, 2020
- B. 20-812** Approval of BAL 2090 (Lot Split), North Rose, 1 Lot, 0.53 acres, one quarter mile north of Kenosha Street (71st Street), one quarter mile east of Elm Place (161st East Avenue)
- C. 20-813** Approval of BAL 2091CB (Lot Combination), North Rose, 2 Lots, 0.94 acres, one quarter mile north of Kenosha Street (71st Street), one quarter mile east of Elm Place (161st East Avenue)
- D. 20-821** Approval of PT19 104, Conditional Final Plat, Redbud Ranch, a replat of Lot 2, Block 1 County Line Center, 1 Lot, 18.49 acres, A RM to RM/PUD 273A, north and east of the northeast corner of Albany Street (61st Street) and 23rd Street (193rd E. Avenue)
- E. 20-818** Approval of PT20 106, conditional final plat, Fire Station #7, 2.48 acres, 1 Lot, AR 1 to RS 2, southeast corner of Washington Street (91st Street) and First Place

Chairperson Whelpley 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; there were none.

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

Move to approve the Consent Agenda

The motion carried by the following vote:

Aye: 4- Jaylee Klempa, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated Item 4D and Item 4E would go before City Council on August 4, 2020 at 6:30 p.m. He noted any who wished to speak at the City Council Meeting were required to fill out a Request to Speak form prior to the Meeting.

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. 20-816** Public hearing, consideration, and possible action regarding PUD-92J (Planned Unit Development) and BAZ-2060 (Rezoning), 1320 E. Kenosha Street, 0.63 acres, PUD-92/CH to PUD-92J/CH/IL, located north of Kenosha Street (71st Street), one-third mile east of 9th Street (177th E. Avenue/Lynn Lane) at 1350 E. Kenosha Street)
Senior Planner Brent Murphy indicated the applicant requested continuing this item to the July 23, 2020 Planning Commission meeting.

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

Move to continue this Item until the next Planning Commission Meeting July 23, 2020

The motion carried by the following vote:

Aye: 4- Jaylee Klempa, Mark Jones, Ricky Jones, Lee Whelpley

- B. 20-805** Public hearing, consideration, and possible action regarding PUD-118F (Planned Unit

Development), Aspen Park Village, 2.80 acres, PUD-118A/CH to PUD-118F/CH, located one-quarter mile north of Kenosha Street (71st Street), east of Aspen Avenue (145th E. Avenue)

Mr. Brent Murphy reported Planned Unit Development (PUD)-118F involved a 2.80-acre parcel located one-quarter mile north of Kenosha Street (71st Street), east of Aspen Avenue (145th E. Avenue). He reported the applicant was requesting a major amendment to PUD-118F to allow a medical marijuana dispensary facility to be located on the property. He stated the property was platted as Lots 4 and 5, Block 1, Aspen Park Village. He noted the space where the dispensary was being proposed was previously used for the retail sale of alcoholic beverages. He indicated this item was continued on the June 11, 2020, Planning Commission Agenda, as well as on June 23, 2020. He noted today Staff was notified the owner of the shopping center made a private agreement not to allow a dispensary at the shopping center while Theater Arts was a tenant in the shopping center. He explained this was a private agreement and not part of the PUD. He noted at the time PUD-118A was approved, medical marijuana dispensary was not recognized as a permitted use in the CH district; today, Broken Arrow Zoning Ordinance recognized medical marijuana dispensary as a permitted use in the CH district. He explained for the applicant to be able to establish a medical marijuana license, acknowledgement from the local jurisdiction that the dispensary was in compliance with Zoning Ordinance was required. He explained for Staff to acknowledge zoning was in compliance, “medical marijuana retail sales” (dispensary) had to be recognized as a permitted use and since PUD-118A did not acknowledge medical marijuana dispensary as a permitted use, the PUD needed to be modified. He stated according to the Zoning Ordinance, to change the list of permitted uses in a PUD, a major amendment to the PUD was required. He explained, as a result, the applicant submitted a request for a major amendment to PUD-118A to allow “medical marijuana retail sales” (dispensary) to be a permitted use in PUD-118F; this was the only change being requested to PUD-118A. He stated Staff recommended PUD-118F be approved as requested. He stated the City had no association or involvement with the private tenant agreement.

Vice Chairperson Ricky Jones asked for clarification of the private agreement. Mr. Murphy explained there was a private agreement between the applicant and the owner of the shopping center that no dispensary would be permitted in the shopping center as long as Theater Arts was a tenant; however, the applicant still requested the PUD to be amended to allow a dispensary as a permitted use. He stated Staff recommended approval. He explained the City had nothing to do with the private agreement; the private agreement had nothing to do with the PUD.

Assistant City Attorney Ewing reported the applicant was Eller & Detrich; the owner and developer was Liberty Crossing Apartments, LLC. She stated Liberty Crossing Apartments, LLC., had a private agreement with Theater Arts (one of the tenants). She stated the private agreement was not a part of the PUD, and Broken Arrow was not subject to the agreement. She stated if Liberty Crossing Apartments violated the agreement the City would not be affected.

The applicant, Nathalie Cornett, with Eller & Detrich at 2727 E. 21st Street, Tulsa stated she represented the brokerage company which represented the property owner. She stated the property owner was requesting a major amendment to add dispensary use to this PUD. She noted initially when this major amendment was requested Theater Arts objected to the application. She explained Theater Arts was a dance studio which taught children from the ages of 5 to 18. She explained Theater Arts was a vendor of Epic Charter Schools but was not a school. She noted a continuance was previously requested to give the property owner the opportunity to speak with Theater Arts. She reported upon discussion with the tenant, the objection was resolved through private agreement not to allow a dispensary in the shopping center while Theater Arts was a tenant; however, the property owner would like to have the opportunity to allow a dispensary if and when Theater Arts was no longer a tenant in the shopping center.

Vice Chairperson Ricky Jones clarified: There was no dispensary in line to become a tenant at this time. The property owner wished to amend the PUD to possibly allow dispensary as a use in the future. Ms. Cornett agreed. She indicated the applicant was in agreement with Staff recommendations.

Vice Chairperson Ricky Jones thanked Ms. Cornett.

Chairperson Whelpley opened the public hearing. He asked if there were any public comments; there were none. He asked if there was any further discussion.

Committee Member Klempa noted she typically voted against PUD changes in favor of marijuana facilities when there were children’s facilities close by; however, as there was a private agreement in place to prevent a marijuana dispensary while Theater Arts was a tenant, she would not object.

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

Move to approve Item 6B per Staff recommendations

The motion carried by the following vote:

Aye: 4- Jaylee Klempa, Mark Jones, Ricky Jones, Lee Whelpley

C. 20-814 Public hearing, consideration, and possible action regarding PUD-313 (Planned Unit Development), Stoney Ridge Estates, RM (Residential Multi-Family) to RM (Residential Multi-Family)/PUD-313, located one-quarter north of Kenosha Street (71st Street), one-quarter mile west of 9th Street (Lynn Lane), south of the Broken Arrow Expressway

Ms. Amanda Yamaguchi reported Planned Unit Development (PUD)-313 involved a 6.53-acre lot located one-quarter quarter mile north of Kenosha Street, one-quarter mile west of 9th Street, and south of the Broken Arrow Expressway. She reported the property was platted as Lot 6, Block 2, Stonecrest Addition and remained undeveloped. She indicated the applicant proposed to develop the property as an age-restricted (senior tenants), four-story, apartment building. She explained due to the cost of constructing an elevator, the applicant requested to increase the maximum length of the building to facilitate the use of one elevator system. She stated the topography of the site made perimeter fencing on the north and west sides of the development difficult; the ground surface elevation along the west boundary was approximately 25-feet higher than the proposed parking lot and constructing a fence along this boundary would require extensive grading and the removal of the existing tree line, which would disrupt neighboring properties. She stated the north boundary was approximately 8-feet below the proposed parking lot, thus a 6 to 8-foot screening fence would not be sufficient to screen the development from the Broken Arrow Expressway; however, existing trees along this boundary provided a natural buffer between the site and the expressway. She stated the applicant proposed to keep these trees. She explained other modifications through the PUD included: 1) A parking reduction from 2 spaces per unit to 1.5 spaces per unit due to this being a senior development with fewer residents per unit; and 2) Decrease in landscaping requirements from 2 trees per unit and 5 shrubs per unit to 1 tree per unit and 3 shrubs per unit due to the number of existing screening trees.

Ms. Yamaguchi reported the property associated with PUD-313 was designated as Level 3 (Transition Area) in the Comprehensive Plan recently adopted by the City Council; RM (Residential Multi-Family) zoning was considered to be in conformance with the Comprehensive Plan in Level 3. She stated in Staff's opinion PUD-313 satisfied provisions 1, 2, and 5 of Section 6.4.A of the Zoning Ordinance: 1) The development of this site as an age-restricted multi-family development was compatible with the adjoining properties. 2) The development preserved the existing tree barrier along the north and west boundaries of the property. The topography of the site provided a natural screening barrier between the development and the adjacent single-family homes. 5) The apartment building was being designed to be safe and accessible and was compatible with the existing apartment building to the east. She stated based upon the Comprehensive Plan, the location of the property, and the surrounding land uses, Staff recommended PUD-313 be approved as presented.

The applicant, Mark Capron with Wallace Engineering at 123 N. Martin Luther King, Jr. Blvd., indicated agreement with Staff recommendations. He stated this project was for senior living which created a unique circumstance as opposed to traditional family/multifamily development. He stated the property was zoned for multifamily. He explained the main reason for the PUD application was related to the length of the building which would exceed what was allowed through Code. He explained due to the cost of the elevator the developer would be unable to divide the building into two building with two elevators. He discussed wall plane projection, the storm shelter, building setback, and parking requirements. He noted 85% to 90% of the units in senior living developments were typically occupied by a single tenant and less than half typically owned vehicles; therefore, 2 parking spaces per unit were not needed. He noted this was not an assisted living facility; therefore, there were not many staff members. He discussed the screening requirements, the inadequacy of fencing in the area, and the screening trees in place.

Chairperson Whelpley asked about the heights of the development versus the existing single-family homes. Mr. Capron responded to the single-family homes to the west had a floor elevation of approximately 27 feet; there was a significant drop from these homes to the development. Chairperson Whelpley asked if this would cause difficulties when it rained. Mr. Capron responded in the negative; the developer would ensure stormwater was contained.

Chairperson Whelpley opened the public hearing and asked if there were any public comments.

Citizen Chad Watchorn stated his address was 118 E. Norman Place. He asked if this development would fall under any HUD program.

Chairperson Whelpley responded he was unsure; Mr. Capron would be able to answer this

question.

Vice Chairperson Ricky Jones indicated the Planning Commission did not take HUD into consideration; Planning Commission was only evaluating whether the land use was appropriate.

Mr. Watchorn asked for clarification regarding the height differences. Community Development Director Larry Curtis explained the elevation of the single-family homes were 25 feet higher than the top of the proposed building; therefore, current homeowners would see over the proposed building. He stated the proposed building was a split level with three floors on the west side facing the residential homes, and four floors on the east side of the building due to topography.

Mr. Watchorn asked about the tree line. Vice Chairperson Ricky Jones stated the trees on the west property line would remain in place to provide a natural buffer. Mr. Watchorn asked about the reduction in landscaping requirements and whether any of the current trees would be removed. Vice Chairperson Ricky Jones stated according to the site plan the darker green area on the plan map would remain aside from some incidental clearing.

Chairperson Whelpley recommended Mr. Watchorn meet with Mr. Capron following the meeting with any additional questions.

Chairperson Whelpley closed the public hearing.

Vice Chairperson Ricky Jones asked Mr. Capron to respond to Mr. Watchorn's questions.

Mr. Capron stated the trees in the dark green area on the proposed site plan would remain in place while the trees in the light green area would be removed. He noted the tree area to remain in place was approximately 35 feet to 40 feet in width. He stated he did not know whether this project would be HUD funded.

Vice Chairperson Ricky Jones stated based on the Comprehensive Plan, the existing zoning patterns, the physical uniqueness and shape of the property, and based on Staff recommendations, he would make a motion to approve Item 6C.

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

Move to approve Item 6C per Staff recommendations

The motion carried by the following vote:

Aye: 4- Jaylee Klempa, Mark Jones, Ricky Jones, Lee Whelpley

Chairperson Whelpley indicated this Item would go before City Council on August 4, 2020 at 6:30 pm.

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)

There were no remarks, inquiries, or comments by Planning Commission or Staff.

10. Adjournment

The meeting adjourned at approximately 5:32 p.m.

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

Move to adjourn

The motion carried by the following vote:

Aye: 4- Jaylee Klempa, Mark Jones, Ricky Jones, Lee Whelpley