



City of Broken Arrow

Request for Action

File #: 19-163, Version: 1

**Broken Arrow City Council
Meeting of: 02-05-2019**

To: Mayor and City Council Members
From: Development Services Department
Title:

Approval of 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/193rd East Avenue), one-half mile north of Florence Street (111th Street)

Background:

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 23rd Street (County Line Road/193rd E. Avenue), one-half mile north of Florence Street (111th 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 23rd Street. The revised site plan that was submitted to and approved by Staff in 2005 showed a sidewalk along 23rd 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 23rd 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.

On January 10, 2019, Staff met with members of New Heart Fellowship Church. The Church acknowledged that they will be constructing a five foot wide sidewalk along all of the Church's property along 23rd Street (County Line Road). On January 17, 2019, Staff received a letter from the Pastor with New Heart Fellowship requesting that the Church be allowed to construct the sidewalk in three phases over the next three years. The first phase, which would be completed by December 31, 2019, would be constructed between the Church's two drives. The second phase, which would be from the north drive to the property shared with Mark Snead, would be completed by December 31, 2020. The last phase, which would be from the south entry drive to the south property line that will become David Allen's property, will be completed by December 31, 2021. Prior to construction, New Heart Fellowship Church will submit drawings showing the location of the sidewalk along with handicap access ramps. The sidewalk will be constructed to City of Broken Arrow standards. Mr. Snead will be responsible for the portion of the sidewalk across his property, and Mr. Allen will be responsible for the portion of the sidewalk that will be crossing his future property.

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 23rd 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 23rd 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 23rd 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).

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.

The Planning Commission, in their meeting of January 10, 2019, concurred with Staff and recommended approval (4-0 vote) of BAZ-2022, subject to the property being platted. One person spoke regarding the rezoning request and inquired if only two new homes would be constructed. The Chairman acknowledged that while the applicant is presently only interested in two homes, the R-2 zoning being requested does allow additional homes to be constructed as long as all the requirements of the Zoning Ordinance are being met.

As part of their approval, the Planning Commission recommended 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. New Heart Fellowship Church has acknowledged they will construct the sidewalk over their property in three phases over the next three years. As noted in their January 14, 2019, letter, construction of the sidewalk on the New Heart Fellowship Church property shall be completed by December 31, 2021. For Mr. Allen, he will be responsible for constructing the sidewalk over the property he is in the process of obtaining. No Certificate of Occupancy will be issued for Mark Snead or David Allen until the installation of the sidewalks are complete on each of their properties. The change of access to 23rd Street that was a part of BAL 1072 also needs to be submitted and approved by the Planning Commission.

Cost: \$0

Prepared By: Brent Murphy, AICP, Senior Planner

Reviewed By: Development Services Department
Legal Department
Assistant City Manager, Operations

Approved By: Michael L. Spurgeon, City Manager

Attachments: Planning Commission Fact Sheet
Case map
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
New Heart Fellowship Church approved site plan
Lot split exhibit and legal description for BAL 1072 and BAL 1074
Case map for BAL-1072
Case map for BAL-1074
January 10, 2019, email to New Heart Fellowship representatives
January 14, 2019 letter from New Heart Fellowship Church

Recommendation:

Approve BAZ-2022 as recommended by Planning Commission and Staff.

BDM