

**CITY OF BROKEN ARROW  
MINUTES OF THE  
REGULAR MEETING OF THE  
PLANNING COMMISSION  
January 22, 2015**

The Planning Commission agenda for this meeting was posted on January 15, 2015, at 1:45 p.m., on the City Hall Bulletin Board, 220 South First Street, Broken Arrow, Oklahoma.

1. The Broken Arrow Planning Commission met on Thursday, January 22, 2015, at 5:00 p.m. The meeting was called to order by Chairperson, Lee Whelpley.

2. **Roll Call:**

Present: Lee Whelpley, Chairperson  
Ricky Jones, Vice Chairperson  
Dorrell, Fred, Commission Member  
Carolyne Isbell-Carr, Commission Member

Absent: Glenn Shaw, Commission Member

Staff Present: Lesli Myers, Deputy City Attorney  
Michael Skates, Dir. of Development Services  
Farhad Daroga, City Planner  
Brent Murphy, Assistant City Planner  
Marcae Hilton, Staff Planner  
David Steele, Planning Division Engineer  
Tom Hendrix, Engineering Division Manager  
Karissa Fischer, Admin. Assistant  
Kristina Penny, Project Coordinator

3. **OLD BUSINESS**

- A. None.

4. **CONSENT AGENDA**

Marcae Hilton presented the Consent Agenda.

**Motion** by Ricky Jones to approve the Consent Agenda, as presented. The motion was seconded by Carolyne Isbell-Carr.

Yes: Whelpley, Jones, Isbell-Carr

No: None

Abstain: Dorrell

**Motion** approved.

- A. Minutes, Planning Commission meeting held January 8, 2015. This item was approved as presented.

**5. CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA**

None.

**6. PUBLIC HEARINGS**

Lee Whelpley said due to scheduling and attendance, Item 6D, PUD 79A and BAZ 1927, will be heard first.

- D. The Commission considered PUD 79A and BAZ 1927, Rose Creek, 4.62 acres for PUD 79A and 1.99 acres for BAZ 1927, IL to CG, north of Kenosha Street and west of Elm Place.

Brent Murphy said the applicant contacted Staff and requested to have this item continued to the February 26, 2015 Planning Commission meeting. He said the applicant is considering making changes to the PUD and then meet with Staff regarding those changes. They have requested the February 26<sup>th</sup> Planning Commission date to allow sufficient time for these changes.

Ricky Jones said his firm prepared the drawings for this project and would have to recuse himself from discussion. Ricky Jones left the Council Chambers.

Lee Whelpley opened the public hearing. No one responded. There were about 15 people in the audience.

**Motion** by Fred Dorrell to continue Item 6D, to the February 26<sup>th</sup>, 2015 Planning Commission meeting. The motion was seconded by Carolyne Isbell-Carr.

Yes: Whelpley, Dorrell, Isbell-Carr

No: None

Abstain: None

**Motion** approved.

Ricky Jones returned to the Council Chambers.

- 6A. The Commission considered BAZ 1928, Bouse Fur House, 2.91 acres, IH to IL, one-half mile south of Kenosha Street, one-third mile east of Aspen Avenue.

Brent Murphy presented the background saying BAZ 1928 is a request to rezone 2.91 acres from IH (Industrial Heavy) to IL (Industrial Light). The property, which is located one-half mile south of Kenosha Street, one-third mile east of Aspen Avenue, has been platted as Graham Franklin Industrial Park.

Mr. Murphy said there is an existing building on the property that was previously used as a plumbing business. The applicant has purchased the property and is in the process of remodeling the building for a kennel. Kennels are permitted in the IL district; however, not in the IH district and as a result the applicant has requested to change the zoning classification from IH to IL.

- 6A. Brent Murphy said this property is Level 7 in the Comprehensive Plan and IL zoning is considered to be in accordance with the Comprehensive Plan. He said based on the Comprehensive Plan, the location of the property and surrounding land uses, Staff recommends BAZ 1928 be approved as requested. Since the property has been platted previously, Staff recommends that platting be waived.

Lee Whelpley asked if the applicant was present.

Lindsey Bouse, 4413 W. Ithica Street, Broken Arrow, OK said they are in agreement with Staff recommendations.

Lee Whelpley opened the public hearing. No one responded. There were about 10 people in the audience.

**Motion** by Carolyne Isbell-Carr to approve Item 6A, per Staff recommendation. The motion was seconded by Fred Dorrell.

Yes: Whelpley, Jones, Dorrell, Isbell-Carr

No: None

Abstain: None

**Motion** approved.

Lee Whelpley said Item 6A, BAZ 1928, will be heard by the City Council on February 17, 2015, at 6:30 p.m.

- 6B. The Commission considered BAZ 1929, Sunrise Estates, 0.24 acres, AR-2 to R-2, one-half mile north of Dearborn Street, east of 209th E. Avenue.

Brent Murphy presented the background saying, BAZ 1929 is a request to rezone one residential lot, comprising of 0.24 acres from AR-2 to R-2. The vacant, undeveloped parcel is located in the Sunrise Estates Addition, located about one-half mile north of Dearborn Street, east of 209<sup>th</sup> E. Avenue. He said the applicant wants to construct a new single-family residence on the property and right-of-way (ROW) and utility easements have not been dedicated in accordance with the Subdivision Regulations along 209<sup>th</sup> E. Avenue. He said with the AR-2 transitional zoning classification and the current right-of-way, the property is not in compliance with the Subdivision Regulations. According to Section 1.4 of the Zoning Ordinance, this property must be rezoned before anything new can be constructed on the property.

Brent Murphy said the property was annexed into Broken Arrow on April 2, 2001 and was platted as Lot 1, Block 9, Sunrise Estates in 1971. The plat was recorded in Wagoner County before it was in the City of Broken Arrow city limits. He said when the property was platted, only 24.75 feet of right-of-way was provided from the section line along 209<sup>th</sup> E. Avenue and no utility easements were provided. He said Broken Arrow's current Subdivision Regulations require at least 50 feet of right-of-way from the section line along with a 17.5 feet wide utility easement.

6B. Mr. Murphy said south of 31<sup>st</sup> Street are the Eastborough and Eastborough Third Subdivisions and both subdivisions provided 33 feet of right-of-way along 209<sup>th</sup> E. Avenue. He said the Sunrise Estates Addition contains one-half mile and 24.75 feet of right-of-way dedicated along 209<sup>th</sup> E. Avenue. There are 17 platted lots in the Sunrise Estates Addition that abut 209<sup>th</sup> E. Avenue and 13 out of the 17 lots have houses constructed on them.

Brent Murphy said this lot is 83 feet in width and based on these conditions Staff recommends BAZ 1929 be approved for R-2 zoning and instead of dedicating right-of-way and utility easements in accordance with the Subdivision Regulations, dedicate 8.25 feet of right-of-way along 209<sup>th</sup> E. Avenue, along with a five-foot wide utility easement. This would make the right-of-way dedication on this lot 33 feet from the section line, which is the same as the Eastborough and Eastborough Third additions to the north. In addition, the applicant may apply for a variance to the Board of Adjustment and request the building line setback along 209<sup>th</sup> E. Avenue for this lot be reduced from 35 feet to 6.75 feet or as necessary. This would place the building line setback at the same position as currently shown on the Sunrise Estates plat.

Fred Dorrell asked if that is what was done on the original plat. Brent Murphy said the original plat only has 24.75 feet of right-of-way for each of the 17 lots within the one-half mile contained in the subdivision. Mr. Murphy said the property was developed in Wagoner County and annexed into the City and Staff feels this is an opportunity to obtain ROW if they ever widen 209<sup>th</sup> East Avenue. Mr. Murphy said the two Eastborough Additions to the north have 33 feet of right-of-way.

Ricky Jones said this is a good compromise by not requiring the full amount and there have been other rezoning cases in this area and the City has been consistent with requiring right-of-way or easements. Brent Murphy said, rezoning requests that are not in compliance with the Subdivision Regulations must provide additional right-of-way and utility easements.

Discussion continued.

Lee Whelpley asked if this application is approved, if the BOA application is necessary. Brent Murphy said the applicant would still have to go to the BOA to request a variance for the building line setback because the Zoning Ordinance requires 35 feet setback when adjacent to an arterial street. Mr. Murphy said if this application is approved and Council requires the right-of-way, the building line setback is still 35 feet from the right-of-way line.

Discussion continued.

Ricky Jones asked if the application is approved by the Commission, subject to ROW and easement dedication, and City Council approves it with the same conditions, if the applicant does not dedicate the right-of-way or easements if the R-2 zoning applies. Brent Murphy said, they would not have the R-2 zoning classification and could not build on the lot because a building permit cannot be issued until the required items are submitted. Mr. Murphy said the applicant can wait and see if the BOA grants the variance request and can then dedicate the right-of-way and easements.

6B. Lee Whelpley asked if this is the first step of the process. Brent Murphy said this is the first step because City Council will need to decide the ROW requirement and the applicant has to rezone this property. Mr. Murphy said per the Zoning Code, any change in zoning is approved subject to platting and the City Council can waive the platting requirement if right-of-way and utility easements are dedicated.

Lee Whelpley asked if the applicant was present.

Mike McHenry, 20943 E. 36<sup>th</sup> Place, Broken Arrow, OK said he is not in agreement with the Staff report. He said initially, when he met with Staff, he was asking to keep the property the same as the existing neighborhood with 24.75 feet and then go to the BOA to request a variance. He said he is not in agreement with the 8.25 feet requirement because the building line will be the same as the rest of property. He said the fence lines for the current neighborhood are the same throughout and if his property has to have a fence line 9 feet from surrounding properties it will not keep up with aesthetics.

Mike McHenry said initially he purchased this lot to build a house and sell it; however, will be building this house for himself. He said the lot is small and to take away ten feet, the lot becomes even smaller. He said he is asking for the land to stay as it was when it was platted in Wagoner County with 24.75 feet of right-of-way and then ask the BOA for a variance.

Ricky Jones asked Mr. McHenry if he understood that this property is located on an arterial street, as designated by the major street and highway plan, and at some time in the future the street will be widened to its ultimate ROW and design width. Mr. Jones asked if Mr. McHenry understood that if the proposed house is able to stay on the property, there possibly could be a four lane road very close to the house.

Mike McHenry said he understands and does not foresee the road being widened in the next twenty years. Ricky Jones said it may not; however, City's must plan for that. Mr. McHenry said he understands and would not mind a road ten feet from his property.

Lee Whelpley opened the public hearing. No one responded. There were about 8 people in the audience.

Ricky Jones said he is concerned with having appropriate right-of-way because 209<sup>th</sup> might be widened at some point in the future and the City will have to buy whatever property is not there to meet the requirement. He said that will have a negative impact. He said he feels the requirements set forth by Staff are a good compromise by not requiring the entire 50 feet of right-of-way to be dedicated.

Michael Skates said the Zoning Ordinance requires 50 feet right-of-way and 17.5 utility easements to be dedicated. Staff recommends reducing the required amount to something less in order to help the property owner. Mr. Skates said Staff looked at this lot and surrounding properties along the arterial road and found that the City has obtained all of the right-of-way or done something similar. He said ultimately 209<sup>th</sup> will be widened to three or five lanes and

- 6B. additional ROW will be purchased if not already in place. Sunrise Estates was in Wagoner County and Broken Arrow annexed it.

Lee Whelpley closed the public hearing.

**Motion** by Ricky Jones to approve Item 6B, BAZ 1929, as recommended by Staff with the modification of the right-of-way requirement. The motion was seconded by Fred Dorrell.

Yes: Whelpley, Jones, Dorrell, Isbell-Carr

No: None

Abstain: None

**Motion:** approved.

Lee Whelpley said this item will be heard by the City Council on February 17, 2015, at 6:30 p.m.

- 6C. The Commission considered PUD 44J, Greenway Business Park, 2.00 acres, PUD 44/IL, east of Aspen Avenue, one-half mile south of Albany Street.

Brent Murphy presented the background saying Planned Unit Development (PUD) 44J involves 2.00 acres located east of Aspen Avenue, one-half mile south of Albany Street. This property has been platted as Lot 6, Block 5 of Greenway Business Park and is presently zoned IL (Industrial Light) and is a part of PUD 44. There is an existing building on the property.

Mr. Murphy said with PUD 44J, the applicant is requesting a major amendment to PUD 44 to allow Commercial General (CG) uses, including Child Care Center and Day Care Center/Nursery School uses. SSB Kids, which occupies the abutting property to the east, wants to expand into a portion of the existing building. Child Care Center and Day Care Center/Nursery School require a Specific Use Permit in the CG district, but can be a permitted use with PUD 44J.

Brent Murphy said the property onto which they plan to expand is part of PUD 44, which is currently limited to only light industrial uses. In May 2002, the City Council approved PUD 44B, a major amendment to part of Greenway Business Park which kept all the light industrial uses in the area but also allowed C-2 (General Commercial) uses for five lots near Aspen Avenue and O-2 (office) uses on eight lots in the interior of Greenway Business Park. The abutting property to the west of PUD 44J was one of the parcels that was amended to allow C-2 uses, while the abutting property to the east was one of the parcels that was amended to allow O-2 uses. The property associated with PUD 44J was not part of PUD 44B.

Mr. Murphy said in 2005, the Planning Commission approved a minor amendment, PUD 44F, on the abutting property to the east to permit the use identified in the Zoning Ordinance at that time "Recreational Use (Commercial), not including Theater or Fitness Center" to be allowed on the property. After this minor amendment was approved, SSB Kids constructed a new building and outdoor swimming pool on the property.

Brent Murphy said based on the Comprehensive Plan and surrounding land uses, Staff recommends that PUD 44J be approved as requested.

6C. Lee Whelpley asked if the applicant was present.

Mark Thomas, Architect representing the applicant, 4200 E. Skelly Drive, Tulsa, OK, said they are in agreement with Staff recommendations.

Lee Whelpley opened the public hearing. No one protested. There were about 5 people in the audience.

Lee Whelpley closed the public hearing.

**Motion** by Fred Dorrell to approve Item 6C, PUD 44J, as recommended by Staff. The motion was seconded by Carolyn Isbell-Carr.

Yes: Whelpley, Jones, Dorrell, Isbell-Carr

No: None

Abstain: None

**Motion:** approved.

Lee Whelpley said this item will be heard by the City Council on February 17, 2015, at 6:30 p.m.

**7. APPEALS**

A. None.

**8. GENERAL COMMISSION BUSINESS**

A. None.

**9. REMARKS, INQUIRIES AND COMMENTS BY PLANNING COMMISSION AND STAFF - (NO ACTION)**

**10. ADJOURNMENT**

At 5:25 p.m. Fred Dorrell made motion to adjourn. The motion was seconded by Ricky Jones and Carolyn Isbell-Carr.

Yes: Whelpley, Jones, Dorrell, Isbell-Carr

No: None

**Motion** approved.