

M I N U T E S

OKLAHOMA COUNTY PLANNING COMMISSION SPECIAL MEETING

May 29, 2003 1:30 p.m.

The meeting of the Oklahoma County Planning Commission convened and was called to order by Ms. Cheryl Dorrance, Vice Chairperson, at 1:30 p.m., in Room 103, Oklahoma County Office Building, 320 Robert S. Kerr, with the following individuals present:

Ms. Cheryl Dorrance, Vice Chairperson
Mr. Dee Wynn, Member
Mr. Curtis Roberts, Member
Mr. Charlie Thomason, Member
Mr. David Richey, Member

Also in attendance:

Mr. Tyler Gammon, Jr., Planning Secretary
Ms. Ruth Walters, County Planner
Mr. Ray Reaves, P.E., D.E.E., County Engineer
Ms. Gretchen Crawford, Assistant District Attorney
Ms. Markita Shaw, Assistant Planner

Mr. Tyler Gammon, Planning Secretary, called roll and a quorum was declared.

Rezoning: (Z- 2003-03) From: CG - Urban General Commercial & Office District
To: CH – Highway Commercial District

Application of: **GREG WHEELER CHILDREN’S TRUST**

The applicant proposed establishing a fireworks and seasonal retail sales structure. The following is the legal description of the property:

A part of Lot One (1) of the Northwest Quarter (NW/4) of Section Eighteen (18). Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, more particularly described as follows: to wit: BEGINNING at the Northwest corner of Lot One (1) on the Northwest Quarter (NW/4); THENCE East 757.2876 feet; THENCE South 330 feet; THENCE West to the West line of Lot One (1); THENCE North to beginning (EXCEPT: a tract on the West deeded to Oklahoma County for read purposes; said deed being recorded in Book 55 at Page177 of the records of Oklahoma County, Oklahoma)

Location: SE corner of NE 50th St. and Bryant Ave. (County Hwy. Dist. #1)

Mr. Gammon gave the staff report and stated that there were no changes in the report, but that he had anticipated a letter from the property owner stating that they had approval from Oklahoma City to attach to the city's sewer and water lines.

Ms. Walters stated that there was a minor change to the staff report. The actual emergency services for the property in question were Forest Park Fire Department and EMSA, as opposed to Midwest City and EMS as printed in staff reports mailed earlier to each Planning Commissioner.

Mr. Kent Hartzog, representative for the applicant, gave a brief history on the seasonal sales business and distributed pictures of the subject area to the Planning Commissioners. Mr. Hartzog stated that the intention of the rezoning application was to construct a seasonal sales facility that would be run by non-profit organizations.

Mr. Wynn asked if there would be full time, salaried personnel running the seasonal sales facility.

Mr. Hartzog reiterated that various non-profit groups would solely operate it, but there would be a manager to oversee and aid the organizations as needed.

Mr. Richey asked why the need for a special meeting and why this application was not presented on the Planning Commission's regular schedule.

Mr. Hartzog stated that the applicant wanted to get the facility built and the property rezoned in order to sell fireworks this season.

Mr. Richey asked Mr. Hartzog if they had not started the project in time to be placed on the next regular meeting for the Commission.

Mr. Hartzog replied that the project had been started in plenty of time, but that he failed to realize that there were regularly scheduled meetings. He also stated that he did know when the next Planning Commission meeting was.

Mr. Gammon stated that all Planning Commission meetings are the third Thursday of every month.

Mr. Hartzog asked if the next regular meeting would be at the end of June. If so, he didn't think that there would be time to complete the project if they were to wait until the next scheduled meeting.

Ms. Crawford asked Mr. Hartzog if he knew of all the necessary licensing requirements for fireworks stands in the State.

Mr. Hartzog replied that the entire state-licensing requirement would be met and that fireworks stands fall mainly under the jurisdiction of the State Fire Marshall.

Ms. Dorrance asked Mr. Hartzog if he realized that the County also had regulations for fireworks stands.

Mr. Hartzog responded that he was familiar with the County's regulations.

Mr. Roberts stated that if the application was approved now, there would only be time to construct a temporary building before the fireworks season.

Mr. Hartzog stated that a temporary building would probably be the case for this season.

Ms. Dorrance asked if there was a motion at this time.

Mr. Thomason asked if the reason for the entire rezoning application was to permit the sale of fireworks.

Mr. Hartzog responded that business would not be economically feasible without the sale of fireworks.

Mr. Thomason asked if the applicant knew of the legal issues regarding the transport of fireworks within city limits.

Mr. Sam Broadway explained that persons have the right to transport fireworks via the interstate system as long as their gunpowder load weighs less than 1,000 pounds.

Mr. Hartzog stated that there was no presumption that buyers would take their products into the cities and that their intent was to provide easy access for interstate travel. Mr. Hartzog also stated that their facilities bring in many customers from out of state.

Ms. Crawford suggested to the Commission that if they decide to make a motion on the proposed rezoning application, to simultaneously make no representations to the other legal requirements concerning the sale of fireworks.

Mr. Richey asked again why the Planning Commission was called for a special meeting. He also asked why the applicant didn't make it on the Planning Commission's May agenda.

Mr. Hartzog asked when his application would have had to been submitted to be eligible for the May meeting.

Mr. Gammon stated that all applications must be submitted 45 days prior to the respective meeting date.

Mr. Hartzog stated that they were not aware of the zoning issue associated with the property under discussion.

Mr. Richey stated his concern about having special meetings and setting a precedent for the future.

Mr. Broadway reiterated the fact that they were not aware that the property needed to be rezoned to Commercial Highway (CH). They assumed that the property was zoned correctly for the sale of fireworks. He also stated that it was not economically feasible to build a facility like theirs without the revenue from fireworks sales. Mr. Broadway expressed that the fireworks sales made up about one-third of all of their business and asked for the special meeting in order to make the deadline for this season's firework sales.

Mr. Richey stated that if the Commission allowed this special meeting for this applicant, they would be inclined to provide the same service to everyone that missed a regularly scheduled meeting deadline.

Mr. Roberts asked if the building of the proposed structure hinged solely on the ability to sell fireworks this season.

Mr. Broadway affirmed the need for the sale of fireworks this season. He stated that the project had been started six months earlier and that the engineers and architects had simply overlooked the zoning issue. He also expressed that a large sum of money had already been invested in the project.

Ms. Dorrance expressed that many of the Planning Commission members were unhappy with the precedent that the special meeting set, but some type action was still needed concerning the rezoning application.

Mr. Leroy Wheeler stated that his son's trust owned the subject property. He explained that he had cleaned up the land and hoped that something useful could be done with the area. He expressed that he and the County would benefit from the development of the land.

Mr. Thomason made a motion to approve the rezoning application for Greg Wheeler's Children Trust with the clarification that only the zoning issue is under consideration.

With a motion on the floor, Mr. John Baxter, with Design Engineers, assured the Commission that they knew that they had commercial zoning, but found that County regulations restricted the sale of fireworks to CH (Commercial Highway) or AA (Agricultural and Rural Residential) zoning. He also stated that this special meeting was not a favor because the applicant paid all extra costs for the special meeting.

Ms. Dorrance stated to Mr. Baxter that all fees paid were the normal cost for all Planning Commission items.

Jim Roth, Commissioner for District One, expressed his gratitude to the Planning Commissioners for attending the special meeting. He also reiterated the fact that the applicant was unaware of the zoning requirement until about the middle of May. Mr. Roth also said that it was his idea to ask for the special meeting. He respectfully asked that the Commissioners look at the item as to its value to the community and not dwell on the issue of the special meeting.

Mr. Richey re-affirmed the reservations he had on the discrimination or favoritism issues that holding this special meeting may bring forth.

Mr. Roth explained that he did not personally know the applicant, landowner or anyone else associated with the application. He stated that he saw this project as a benefit to Oklahoma County and had not received any money from the applicant or anyone associated with the applicants at any time. He expressed that he was only trying to bring into existence a project that may provide economic growth for Oklahoma County.

Mr. Richey assured Commissioner Roth that he was making no accusations toward him or that he was doing any illegal activities connected with the re-zoning.

Mr. Roth stated that the Planning Commissioners had two choices today: 1) Set a precedent that for every special meeting they automatically vote no and don't second the motion or 2) there will be no special meetings scheduled as the Commissioners move forward. He asked that the Planning Commissioners look at the project on its merit and vote accordingly.

Ms. Dorrance stated that there was still a motion on the floor in need of a second.

Mr. Wynn stated that he would like to second the motion, but felt like the applicant should wait his turn to go before the Commission and abide by the same rules that govern the general public. He also stated that he would vote in favor of the applicant if another member seconded the motion.

Motion died for lack of a second.

No action was taken on the application for rezoning.

Mr. Gammon stated that the Planning Commission's recommendation had to be presented to the Board of County Commissioners. He also stated that the Board had the power to override the any decision made by the Planning Commission.

A recess was taken to allow Ms. Gretchen Crawford, Assistant District Attorney, to consult the statutes regarding whether the proposed rezoning would be submitted to the County Commissioners whether it was approved or not approved by the Planning Commission.

The Planning Commission reconvened and Ms. Crawford reported that the statutes require a hearing before the Planning Commission. She stated that there does not have to be a formal denial from the Planning Commission in order for the application to move forward to the Board of County Commissioners.

Ms. Dorrance reiterated that motion for approval of the application for rezoning died due to a lack of a second. She stated that the item goes forward to the Board of County Commissioners without a recommendation for approval or denial from the Planning Commission.

Other Business:

None

Adjournment:

Mr. Roberts motioned for adjournment. Mr. Wynn seconded the motion. Vote taken: Dorrance - Aye; Wynn - Aye; Richey - Aye; Roberts - Aye; Thomason - Aye.

The meeting was adjourned at 2:00 P.M.