PLANNING COMMISSION MINUTES
DATE: JANUARY 3RD, 2018

The Planning Commission of the City of Shawnee, County of Pottawatomie, State of Oklahoma, met in the Commission Chambers, at City Hall, 9th and Broadway, on Wednesday, January 3rd, 2018 at 1:30 p.m., pursuant to notice duly posted as prescribed by law.

AGENDA ITEM NO.1: **Roll Call**

Upon roll call the following members were present:

Present: Matthews, Walker, Bergsten, Cowen, Kienzle, Rowell
Absent:

Meeting was called to Order.

AGENDA ITEM NO.2: **Consideration of approval of the minutes from the October 4th, 2017 Planning Commission Meeting**

Chairman Bergsten asked if there were any questions, comments or if anyone would like to entertain a motion. Commissioner Kienzle made a motion to approve, seconded by Commissioner Walker.

Motion passed:
AYE: Walker, Bergsten, Cowen, Kienzle, Rowell
NAY:
ABSTAIN: Matthews

AGENDA ITEM NO.3: **Consideration of approval of the minutes from the November 1st, 2017 Planning Commission Meeting**

Chairman Bergsten asked if there were any questions, comments, or if anyone would like to entertain a motion. Commissioner Matthews made a motion to approve, seconded by Commissioner Walker.

Motion passed:
AYE: Matthews, Walker, Bergsten, Cowen, Rowell
NAY:
ABSTAIN: Kienzle

AGENDA ITEM NO.4: **Swearing in of Cody Deem to the Planning Commission**

Cody Deem was sworn in.

AGENDA ITEM NO.5: **Citizens' Participation**

Chairman Bergsten opened the public portion of the meeting and announced that this is an open time for discussion for those with questions on topics not on the Agenda and asked if anyone would like to come forward. No one came forward and Chairman Bergsten closed the public portion of the meeting.

AGENDA ITEM NO.6: **Case #P01-18 – A public hearing for consideration of approval for the 19th Hole Planned Unit Development located at Country Club Heights Addition, Section 1, Shawnee, OK**

Applicant: The Landrun Group, LLC

Chairman Bergsten asked for the staff report. Justin Debruin presented staff report and informed board that the subject property is located on Highland Street, next to Bryan and north of Harbor Estates. Property is currently zoned R-1; single family residential and is two acres in size. Mr. Debruin explained the request is for a more high density concept on smaller lots around 4000 square feet. Justin Debruin discussed the previous R-1Z lots and the exceptions for the proposed R-2 development. Mr. Debruin explained amenities and requirements. Property Owner Association will be established. Justin Debruin spoke on the issues and necessary corrections as well as addressing the existing covenants. Mr. Debruin explained the comprehensive plan shows for the proposed area to be zoned residential which can be anywhere from single family to multi-family so request is in conformance. Justin Debruin informed board that two other surrounding properties were rezoned to the R-3; multi-family residential. Mr. Debruin stated staff generally has no objection to site if three conditions are met. Justin Debruin also informed board that the City Attorney, Mike Clover was present to answer any questions. Mr. Clover discussed information regarding the covenants and asked for any questions. Commissioner Matthews asked if rezone were approved today, the applicant would still not be able to go further until they satisfy the covenants. Mr. Clover stated that if board chose to rezone it, the owners of real property, who feel bound by the covenants, could initiate an order through court to stop what board approved if no agreement is met with developer. Commissioner Kienzle asked just as a matter of development practice, wouldn't the applicant want to address things like that before coming to city for a rezone and platting. Mr. Clover stated he did not know if he could answer her question, but if he were the developer then yes, he would want that resolved first before getting to this point. Chairman Bergsten asked if the board should take the covenants into consideration when making their decision. Mr. Clover stated he believed covenants were valid and in full effect govern use of property but if board approves it doesn't necessarily mean it stops there. Justin Debruin explained process for plats and amending the Planned Unit Development. Commissioner Kienzle asked if the surrounding multi-family rezone that was previously approved was actually constructed. Mr. Debruin stated he believed it was not. Commissioner Kienzle also asked if something was developed at the time covenants were constructed, with an overall scheme of future plan for area. Justin Debruin explained he did not have much content for Country Club Heights. Commissioner Matthews asked if the proposal fundamentally changed the feel of the existing neighborhood. Mr. Debruin stated conformance with surrounding properties did warrant the particular situation and meets staff's requirements, even with the higher density. Vice-Chairman Cowen asked if title was transferred from the people who put covenants together to the 19th Hole LLC. Mr. Clover was unaware. Bill Ford spoke and stated he was also not aware but mentioned it changed hands originally. Vice-Chairman asked if the intent was for these covenants to move forward and Mr. Ford agreed. Vice-Chairman asked Mr. Landes if they owned it and he confirmed ownership. Chairman Bergsten opened the public portion of the meeting and asked if anyone in opposition to the case would like to come forward to speak. William (Bill) Ford came forward and stated he helped put the covenants together in 1977 and have abided by them for forty years. No changes or exceptions have been made and he hoped that the Commissioners had a chance to review the documents. Commissioner Kienzle asked if he received a request by the building committee. He stated he did not and only started inquiring when the sign posted off highway was noticed. Chairman Bergsten asked if there was any conversation with developer and he said no. Commissioner Deem asked what the primary objection to rezoning was. Mr. Ford stated covenant was abided by for forty years and if one is changed, more start changing. Chris Lillard came forward and described his main concerns as being potential traffic hazards,

negatively affecting the neighboring property values, overloading the creek with storm water runoff, and the proposed homes being constructed too close to the golf course. Richard Finley came forward as a resident of the area and to answer Commissioner Deem's question. He stated the PUD by definition is a one lot, one house thing and was not in existence at time this was put in, while these were designed to be primarily single family houses. Mr. Finley believes the single family definition falls short of the original zoning.
Chairman Bergsten asked if anyone in favor would like to come forward. Steve Landes came forward to speak in favor as one of the owners of the project. Mr. Landes explained they were trying to keep the concept of single family homes but believes this design's amenities will appeal to many homeowners. Steve Landes discussed the amenities, detention and handed out floor plan designs. Chairman Bergsten informed Mr. Landes his time was up. Steven Landes stated the items he went through fit into the covenants. Commissioner Matthews asked about point four, regarding sixteen houses on two lots. Steve Landes discussed re-platting it and also mentioned he met with the Country Club owner. Commissioner Walker asked Mr. Landes to explain what he means when stating that covenants allow proposal, but also mentioned he didn't believe covenants were in effect because committee is perpetuated. Steve Landes stated he was kind of in between. Commissioner Walker asked if there was any attempt to resolve the matter with the surrounding homeowners. Mr. Landes stated his wife, an attorney, looked through the covenants and that was their interpretation, as well as discussing with the Country Club. Chairman Bergsten closed the public portion of the meeting and asked if there were any comments, questions or a motion from the Commissioners. Commissioner Walker mentioned how the issue should have been discussed in more detail before coming to the board. Chairman Bergsten discussed voting options for the new members of board. Vice-Chairman Cowen explained how he is pro development, but given these issues he doesn't believe they can go forward until issues are resolved with homeowners. Chairman Bergsten asked for confirmation that there has not been any effort made to meet and discuss with the surrounding homeowners. Mr. Landes agreed and stated he did get a call from Mr. Lillard. Vice-Chairman Cowen asked time frame for applicant to re-apply if denied. Mr. Debruin informed him it was six months. Commissioner Walker asked if approved, it could still be a civil matter. Mr. Clover agreed and City could be made a part of it. Commissioner Walker made a motion to defer to the March Planning Commission meeting, seconded by Vice-Chairman Cowen. Commissioner Kienzle asked for staff to request the overall development plan the Country Club is using and advertising to purchasers.

Motion deferred to March 7th, 2018 PC Meeting:
AYE: Deem, Matthews, Walker, Bergsten, Cowen, Kienzle, Rowell
NAY:
ABSTAIN:

AGENDA ITEM NO.7: **Case #P02-18 – A public hearing for consideration of approval for the Shawnee Trail Office Park Planned Unit Development located at the SE corner of East 45th Street and Hyatt Road, Shawnee, OK**

Applicant: Bonray Real Estate, LLC

Chairman Bergsten asked for the staff report. Justin Debruin presented staff report and stated location is on 45th Street, east of Harrison Avenue and property is around four acres, with a zoning of C-2. Mr. Debruin informed the board the primary intent for the Planned Unit Development was to clean up language regarding private roadways and parcel agreements. Justin Debruin explained exhibit one regarding the business offices and also discussed city requirements. Staff recommends approval for Planned Unit Development with two conditions. Mr. Debruin stated he would be combining the staff report for the preliminary plat and mentioned the plat adheres to the subdivision regulations. Staff has three conditions to add to approval. Justin Debruin explained what staff looks for on a preliminary plat. Staff recommends approval for Preliminary Plat with three conditions. Commissioner Walker asked if the only access was on the northern side of property. Mr. Debruin agreed and mentioned a commercial drive is not allowed on a residential road. Justin Debruin also discussed a property association taking care of maintenance on the site. Chairman Bergsten opened the public portion of the meeting and asked if anyone in opposition to the case would like to come forward to speak. No one came forward. Chairman Bergsten asked if anyone in favor would like to come forward. No one came forward and Chairman Bergsten closed the public portion of the meeting and asked if there were any questions, comments or a motion. Vice-Chairman Cowen made a motion to approve with conditions listed, seconded by Commissioner Kienzle.

Motion passed:
AYE: Deem, Matthews, Walker, Bergsten, Cowen, Kienzle, Rowell
NAY:
ABSTAIN:

AGENDA ITEM NO.8: **Case #S01-18 – Consideration of approval of a Preliminary Plat for Shawnee Trail Office Park, located at the SE corner of East 45th Street and Hyatt Road, Shawnee, OK**

Applicant: Bonray Real Estate, LLC

Combined staff report. Chairman Bergsten opened the public portion of the meeting and asked if anyone in opposition to the case would like to come forward to speak. No one came forward. Chairman Bergsten asked if anyone in favor would like to come forward. No one came forward and Chairman Bergsten closed the public portion of the meeting and asked if there were any questions, comments or a motion. Commissioner Matthews made a motion to approve with conditions listed, seconded by Commissioner Walker.

Motion passed:
AYE: Deem, Matthews, Walker, Bergsten, Cowen, Kienzle, Rowell
NAY:
ABSTAIN:

AGENDA ITEM NO.9: **Case #S02-18 – Consideration of approval of a Final Plat for Chicken Express Addition, located near the intersection of North Harrison Street and 45th Street, Shawnee, OK**

Applicant: Wilma Smith/Paul Pogue 2012 Trust

Chairman Bergsten asked for the staff report. Brittney Burton presented the staff report. Ms. Burton stated the final plat proposal is located south of 45th Street on the west side of Harrison Avenue. City Commission approved the preliminary plat on November 6th, 2017. Brittney Burton discussed the five conditions that were included in the approval of the Chicken Express preliminary plat. Since these were met, staff recommends approval of final plat with three conditions. Chairman Bergsten opened the public portion of the meeting and asked if anyone in opposition to the case would like to come forward to speak. No one came forward. Chairman Bergsten asked if anyone in favor would like to come forward. No one came forward and Chairman Bergsten closed the public portion of the meeting and asked if there were any questions, comments or a motion. Commissioner Walker made a motion to approve with conditions listed, seconded by Vice-Chairman Cowen.

Motion passed:
AYE: Deem, Matthews, Walker, Bergsten, Cowen, Kienzle, Rowell
NAY:

AGENDA ITEM NO.10: **Case #P03-18 – A public hearing for consideration of approval for a Conditional Use Permit located at 7109 N. Kickapoo Avenue, Shawnee, OK**

Applicant: Nelmon Brauning

Chairman Bergsten asked for the staff report. Justin Debruin presented staff report and informed board the subject site is located on the northeast corner of Kickapoo and Garrett's Lake Road, being roughly 157 acres in size. Site is located more in an industrial area, with request being a commercial type use. Mr. Debruin explained that the use is allowed with a conditional use permit in agricultural zoned areas. Staff considered a few items when reviewing request; including controlling and maintaining traffic, trash pickup and collection, providing adequate restroom facilities and adhering to city regulations. Justin Debruin stated he believed applicant had the land/space to make a request of this nature work. Staff requests applicant to provide documentation/plan prior to events, with a change to include providing a plan to be approved by staff. Vice-Chairman Cowen asked what time frame is listed to give staff enough time in advance to be notified and how long staff has to respond. Justin Debruin offered seven days prior to the event, giving staff two days to review. Vice-Chairman asked if they would plan an event seven days in advance. Mr. Debruin mentioned his intent would not having a new document each time, if event changed to a certain scope, staff would be able to keep track and discussed how code is open-ended for use. Commissioner Kienzle suggested a thirty day time frame and asked if it was specific to planning staff. Mr. Debruin agreed. Commissioner Kienzle asked if they could describe event and Justin Debruin agreed. Commissioner Kienzle also asked if a security plan was required. Mr. Debruin stated he did was not aware of one being required. Commissioner Kienzle mentioned the plan can be very limited or much larger when needed based on activities. Commissioner Kienzle asked if operator would be insured. Mr. Debruin agreed. Commissioner Kienzle asked if city regulation was written to show where they provide us with the certificate of insurance and meets state guidelines. Justin Debruin stated he had a question on if a special event permit would apply versus private property operations. Mr. Debruin offered possibly deferring to review more details. Chairman Bergsten opened the public portion of the meeting and asked if anyone in opposition to the case would like to come forward to speak. Jodi McKean came forward and stated she only noticed sign posted but thanked Commissioners for bringing security up. Traffic is a concern. Mrs. McKean spoke of bad experiences from sales she previously attended out of state and did not want such as her neighbor. She mentioned her concern for animals being left. Vice-Chairman Cowen asked Mrs. McKean how she would feel if animal sales were restricted. Mrs. McKean stated she would feel better but stated the term flea market could mean anything and Vice-Chairman Cowen stated he understood but that was the purpose of the board to talk to her and applicants to work out details in advance and believes it is a valid point. Mrs. McKean also mentioned firearm sales and what restrictions were. Vice-Chairman Cowen asked if City Attorney knew the requirements. Mike Clover stated he did not know if he could answer that right then but will get back to him with one. Vice-Chairman Cowen offered getting more details with proposed deferment regarding these issues. Doyle Short came forward to speak and stated he lives in the area and was just made aware of this last night. Mr. Short informed board his main concern would be his property value going down with a flea market located half a mile from his house on 157 acres. Mr. Short also mentioned Kickapoo street being inadequate, concerns regarding crime and didn't understand an agricultural zoned property having anything to do with flea markets. Chairman Bergsten asked if anyone in favor would like to come forward. No one came forward and Chairman Bergsten closed the public portion of the meeting and asked if there were any questions, comments or a motion. Commissioner Matthews asked if there were any points of access known. Justin Debruin informed him there is currently one point of access off Garrett's Lake Road that is a residential type drive and would suffice with city code. Commissioner Matthews also asked if they could specify what uses would go in and he mentioned he would like to hear more from the applicant. Mr. Debruin stated he could request a letter from applicant detailing all points. Commissioner Deem asked if conditional use permit is time limited. Justin Debruin explained it transfers with title. Commissioner Matthews asked if they could put a one year approval on it. Mike Clover informed board that if conditional use permit is approved, it will stay until brought before board to change. Commissioner Walker asked if there are any requirements with city for events to be permitted. Mr. Debruin stated public events are permitted, private events are not. Commissioner Walker asked if they would have to come forward with every event. Justin Debruin informed board he would get with City Attorney about that.

Commissioner Kienzle wanted to see about city regulations regarding fire danger. Vice-Chairman Cowen asked Mr. Clover and Mr. Debruin how long they needed. Sixty days was agreed upon. Vice-Chairman Cowen made a motion to defer for sixty days, seconded by Commissioner Kienzle.

Motion deferred to March 7th, 2018 PC Meeting:
AYE: Deem, Matthews, Walker, Bergsten, Cowen, Kienzle, Rowell
NAY:
ABSTAIN:

AGENDA ITEM NO.11: **Planning Director's Report**

Vice-Chairman Cowen asked for an update on the property next to the Owl Shoppe. Justin Debruin informed him the remodel permit is set to expire in February and will have to go back through the court system after. Mike Clover stated only a fine would be issued through that court if ordered. Vice-Chairman Cowen asked at what point could they condemn and Mr. Debruin explained it would explore next measures. Commissioner Kienzle discussed her concern with the steep drive going into the Elevated Grounds development. Justin Debruin stated he would speak with the engineering and traffic department. Commissioner Kienzle also expressed concern with the traffic issue at the intersection of I-40 and Kickapoo Avenue. Commissioner Walker expressed his concerns with the same area. Commissioner Matthews informed potential issue with the entrance/exit at the LifeChurch location.

AGENDA ITEM NO.12: **Commissioners Comments and/or New Business**

No comments and/or new business.

AGENDA ITEM NO. 13: **Adjournment**

Meeting was adjourned.

David Bergsten
Chairman/Vice-Chairman

Cheyenne Pettigrew
Planning Commission Secretary