

MINUTES
JENKS PLANNING COMMISSION
7:00 P.M. THURSDAY, JULY 27, 2017
COUNCIL CHAMBERS, JENKS CITY HALL, 211 NORTH ELM STREET
JENKS, OKLAHOMA

The meeting was called to order by Chairman Carol Minden. A roll call vote was taken by Planning Director Robert Bell as follows:

Larry Wewers	Present
Ray Stephenson	Present
John Brown	Present
Gary Isbell	Present
Matt Lay	Present
Scott West	Present
Chairman Carol Minden	Present

Request to approve minutes of July 13, 2017. Larry Wewers made a motion to approve the minutes of July 13, 2017. Seconded by Gary Isbell. A roll call vote of members was taken as follows:

Larry Wewers	Yes
Ray Stephens	Yes
John Brown	Yes
Gary Isbell	Yes
Matt Lay	Yes
Scott West	Yes
Chairman Carol Minden	Yes

Motion carried.

Old Business

1. ARC-440 Request by Greg Dickens for placement of a 7' x 14' wall sign located within an Appearance Review District under the terms of the Corridor Appearance District Guidelines on property described as:

A Tract of Land that is a Part of Lot 9 Block I of "Melody Lane Center", an addition to the City of Jenks, Oklahoma and more particularly described as Beginning at the southwest corner of Lot 9 Block I of "Melody Lane Center", Thence north 129.03 feet; Thence west 125 feet; Thence south 148.50; Thence west along the right of way line for 9th Street for 127.11 feet to the point of beginning. Less and except that portion of the tract along the south boundary that has been dedicated for road right of way.

Generally known as: 705 West Main Street, City of Jenks, Oklahoma. Robert Bell gave an overview of the proposed project from the Planning Commission meeting of July 13, 2017. Robert Bell stated the applicant has changed the background of the sign from white to maroon, and the lettering from maroon to white, which satisfied Staff's concerns. The Appearance Review Committee recommended approval of the application with the modification of the maroon background of the sign and noted that a Change of Occupancy Permit would be required for the projected use of the building. It was noted at the ARC review that the wiring within the existing building would likely require updates, and that came from the Chief Building Inspector. The applicant is present. John Brown asked the applicant is it your intent to utilize this facility as Jenks Auto Center separate from your property with the car wash? Marty Brown of 11725 S. Elm St. addressed the Commission and stated initially, yes. I'm not aware of any Code violations and the City just came out and gave us a green sticker on the wiring, so everything's up to Code. Right now, I will only use the car center. If it grows we may or may not use the car wash. The car lot may lease some space from the car wash. John Brown said my general concern is about existing violations with the car wash. My understanding is the car wash is not in operation, is that correct? Marty Brown said I could open it back up tomorrow if I wanted to. The only reason it hasn't been is because the deal with Braum's has been back and forth. I held off for 3 years. I've had people make me offers, and the last offer was greater than Braum's. I've had 2 people that wanted to lease the car wash to open and run it. I turned them down for Braum's, and now we're tired of being in a holding pattern for Braum's. When they looked for another site that was it. I'm done and I won't wait for them. John Brown asked when was the last time the car wash was in operation? Marty Brown replied 3 years. I'm guessing. John Brown said under City Zoning Codes and enforcement codes, when the commercial facility ceased operation commercial signage should have come down within 30 days. The other concern I've got is it appears we have vehicles that are being stored in the bays, you've got what looks like refuse being stored on the property, and all of these things are outside of Code. Marty Brown said the refuse is Jenks people come dump stuff. I've called the Police. I've sent my brother down there to clean it up. The only time they've ever seemed to catch anyone was they caught my brother cleaning it up. I keep the dumpster there to keep it cleaned up, but people show up there just to throw stuff away. I put the vehicles there and let Council know it. I never got rebuked or anything, so I assumed that was okay. John Brown said the perspective

that I have, you're in the corridor that's for the Appearance Review Committee. The concern that I've got is the fact that this property has not been utilized commercially for quite some time, there's a myriad of other Appearance Review requirements that we have stipulated with other commercial businesses within the same corridor, masonry, landscaping, shielding of any dumpsters or refuse, fencing, lighting, and while we've got the request for the sign I've got a concern right now about all of the other stipulations that we place upon the rest of the commercial community in the same area. I'd like to hear what your intent is about those other requirements. Marty Brown said list which ones you want. Robert Bell said the building is an existing building and it's authorized. It's a storefront. If what they lease to the car lot, the car lot would be responsible for the condition. I would have a problem with the condition of the car wash because it's not up to Jenks standards whatsoever, though we don't have a property maintenance code. For a car wash facility it's close to being dilapidated. There's paint discoloration, trash on the property, but where the Code can come into play is stuff like landscaping. To approve an occupancy permit for a business to establish in that building, even though there's no building permit associated with the use the City could, through the Planning Commission, come in and say you have to have landscaping and meet criteria like the enclosure of a trash dumpster. John Brown said if this is going to be utilized for the sale of vehicles, based upon the size of the lot if you're not including the car wash it does not appear based on the number of spaces that would be required for off-street parking or for parking on the property, I'd like to see a plan that shows you have the space to do that without having to lease back space on the second property. Part of the process that we have as Commissioners is to ensure that any developments like this or anything that comes before us is aesthetically beneficial to the community, to the commercial district, to the residents, and that it's beneficial to development. I've got questions, again, whether or not this can be done. A sign request does not answer all of the other questions. Marty Brown said there has been no changes to that building since it's been there. More people came in and out when it was a restaurant. It has a drive-thru facility. There's more than ample parking. And I can lease parking, so there can't be a parking issue. I've been around Jenks a long time. I hear what you're saying, but I don't see any need for change because it's an existing building and it's grandfathered in. It's the same use. It's consumer use. I don't know why we're reaching so far to make a lot of changes on it, because it's unnecessary. We have wonderful runoff. The property west of me comes on me. I'm not kicking about that or fussing. That building's a wonderful building. It's got terrazzo floors, the bathrooms are good. A family member of my wife has owned it forever. I really don't see where you're coming from other than there's a reason not to do it. I don't see why you guys can price us out of business by putting all these regulations and saying things, but you've got to give people a chance to grow instead of break us and stop us and shut the doors just because. I've got my neck on the line on this. John Brown said again my concern on this is these are things that we have required of every other

business that has come into the community that's come before this Commission since I've sat on here. Everyone has to conform to landscaping and parking requirements, signage, lighting, these are all things we address on a regular basis with every person that comes before this Commission with an application. Again, the concern we have right now is the fact that these properties, and the property you're currently maintaining now that is commercially zoned, is out of compliance. As was stated earlier it is in a state of disrepair that could be close to condemnation. The question is why should we approve the signage without having the understanding of what you're intention is with all of the other things we have required by business owners. Marty Brown replied because it's been the same way since 1970. It's existing, it's grandfathered in. John Brown stated it's not necessarily grandfathered in, because the property has changed ownership. You have recently retained ownership of it, and the commercial use of it has changed and has not maintained operation. We've got to look at all the other stipulations that are required under the Appearance Review Committee. I'd just like to hear what's your plan on landscaping and lighting and masonry and other things that we require in the District. Marty Brown said the masonry is perfect on it. The landscaping, it's all asphalt. Scott West asked it's concrete isn't it? Marty Brown said yes, it's concrete and asphalt on the west side. I don't know what else to do. There's no landscape on the property next to it and businesses move in and out of there all the time. There never has been landscape and I don't see why there needs to be. It has existing perimeter lighting that works. Gary Isbell asked on this property or on both properties? Is it the car wash that has the lighting? Marty Brown said it's lit all the way around. We can add some lighting. We'd like the sign to be white to put lighting out on the parking lot, but you guys said that was too much light. I could put some lights on the corners of the building to shine on the lot. John Brown asked have you worked with a developer, an engineer, an architect, along with the City Planning office to look at all of the other areas within the Appearance Review District to make sure everything is conforming before we move forward? Your request is for a sign to launch a business, but it appears to me that the sign is putting the cart before the horse. We've got all the other issues with this property to conform with everything else we've required of every other business, as well as the current condition of your other commercial property that is adjacent to this. I have a built structure that is fine. I don't know how to answer any more plain than that. I'm not going to tear that building down and build another one. Matt Lay said it appears the request is specific to the placement of the 7 x 14 wall sign located within an Appearance Review District. We have a recommendation. How much of this pertains to this specific sign? Robert Bell said Commissioner Brown's comments are worthy to a degree that we approve the sign and he goes down the road and operates the business. The question is is this thing going to stay looking like it does. I think the building is an existing building, and including masonry on it I don't think is necessary. It's been there since before the Appearance Review. However, I recognize that you just purchased this property 2 months ago. But some of

this is related to how the car wash has looked. If your car wash was pristine and you purchased this property people would think you were going to bring this property up to standard, but that's not the case. The site itself does not meet with the Appearance Review. Dumpsters aren't supposed to be visible from Main Street. A commercial business is supposed to have 15 percent landscaping on the site. I told you all along there were Code Enforcement issues there that I didn't address because we were waiting on Braum's. Even though you weren't forced to move the trucks and hide the trash on the property, you should have done it. There's a Code criteria here related to the change of occupancy from the restaurant to the car lot that Commissioner Brown is saying it's weak in regards to landscaping, it's weak in regards to the trash, and he's saying what can you do to help bring this along. The current sign's in violation and should have been gone the minute the restaurant went out of business. Your proposed sign will fix that violation. Larry Wewers said clean it up. I've been by that place and it looks like a junk yard. And that's why people throw junk in there. Why are the cars sitting there? Do they run? Marty Brown replied 2 do and one doesn't, and it's my brother's. I told him a week ago to get it out of there. Larry Wewers asked why don't you clean it up now? Scott West said it's got to look better before you get it running. We're not going to get it running and then clean it up. Marty Brown said when we called to get the power turned on, and after a month PSO called and saying somebody from the City has said that building is condemned and not to hook up the power. We called the City for an electrical inspection to get that satisfied. Then someone at the City bored through the water main and they pulled our water meter and never hooked it back up. Then we got that fixed. If you think we're going to run a broken down business there, we're not. Ray Stephens asked are you turning the car wash back on? Marty Brown said I'm talking about this building. John Brown said you can go north on Elm and you can see an existing property that is zoned exactly the same that came before this Commission, and we required upgrades to approve their request. We require these things of every business that brings a request before this Commission. John Brown said your existing property in the back is out of compliance. The sign with the car wash not being in operation, the sign that's on Main Street should have come down, should have been removed within 30 days of the time it stopped operating. The current use that you have for that property is not in conformity, and as a Commission if we are going to operate in good faith for the community we serve what you need to know is that you as a commercial business is going to be held to the same standard that we apply to all other businesses. Based upon your existing property we don't see that you have operated in good faith to follow the City Codes. We need to see from you the things we would normally hear from the other commercial developers that work within the City, because you are in the heart of the commercial district. We need to know that this is going to be aesthetically beneficial to all the other businesses that are investing in their properties based upon the requirements we place, and we need to know that it's going to promote development within the community. At this point in time I

don't see where we have anything to go on that tells us that this will be beneficial. Marty Brown said you may only have my word on it, but I'm not going to set up for failure there. I've got about every penny of my money invested in Jenks. I think you need to let me go forward and then judge me in a year. John Brown said everybody else that comes before this Commissions gives us a full plan. They show us the parking layout, the signage, description of everything that will be done. We have information that we can make sound judgment on. Robert Bell said what triggers it in my office is the building permit. If it requires a building permit, it requires an Appearance Review. There is a clause in the Appearance Code that says if there is activity there that doesn't require a building permit, it could be determined that it needs to go through the Planning Commission through an Appearance Review. Marty Brown said we can enclose the trash dumpster and put some flower pots out there if that will make it. We're still in first gear on this. It's only going to improve. If you guys require it, I'll do it. Robert Bell said to try to bridge the gap here the Planning Commission wants to review the site. They want to see the trash dumpster enclosed, see a parking plan, put some landscaping in. John Brown said we are prohibited from approving any permit, any request that does not conform with the Code or does not conform with the Comprehensive Plan. For us to approve your sign request, that makes us culpable when it comes to the use and occupancy moving forward, because then if you've invested the money in the sign we said you could put up but we say the rest of the building and the use of the site is not conforming and we're not going to approve your other request then you've made an investment based on our initial reaction. That's why we're trying to stop it at the sign and say bring us the rest of the plan and do what every other commercial developer has done so that we have assurance that it's going to comply. Robert Bell said the Planning Commission can made a determination that the change of occupancy of the building requires the landscaping, including the dumpster enclosure, the resurfacing, planters. He needs to come in with a plan for the rest of that and he needs to do that within the 30 day period and tell us what that plan is, but I think you can still move forward with the sign. John Brown said we can, and from my perspective I trust your office and the full Appearance Review Committee to determine what things need to be brought up to standard to conform, and if you came back with a recommendation in the change of occupancy, with a list of requirements, we would likely support the recommendations for that. Robert Bell said if the Planning Commission makes that determination, then I've got the teeth to go to him and say you have to submit this. What I was hoping is for you to approve the sign, then my office can force him to get the other stuff up to speed. Ray Stephens asked what are the plans on the car wash? Marty Brown said if the car lot is very successful we'd like to do it. If it doesn't go good I'm going to have a bunch of cars. Larry Wewers said it would make a lot of us happy if you'd move the junk cars. It's a pure eyesore. Scott West said we have people complaining about it every day and asking what's happening with that property. How many vehicles can you fit on the property to sell? Marty Brown replied

probably about 25. Scott West said so with 25 vehicles what would you expect to make annually on car sales? Marty Brown said it will be very substantial. Scott West said you said about an hour ago that you had an additional buyer in addition to Braum's in excess of Braum's number. How many years will it take you to make that up to break even, assuming you make the maximum off of your cars? Marty Brown replied I'll tend to make a whole lot more than from Braum's. I can't forecast, but I'll make more than I would off Braum's. A guy offered me \$30,000.00 more than Braum's. I contact Braum's and asked them will you match this. No call, no response from Braum's. We didn't ask them to beat it. Scott West asked so you want to go through all of this process for \$30,000.00 off \$700,000.00? Marty Brown said we just asked them to meet the price. It wasn't anything, we just had the offer. We wanted Braum's. The other guy wanted to put in a Comet Car Wash. Robert mentioned he didn't like a tunnel car wash there, so I didn't do it. Gary Isbell asked with respect to the sign, if I approve the sign today, then you get your dealership license which is waiting on the signage, when do you plan on opening for business? Marty Brown said as soon as we can. Gary Isbell asked next week, August 1? Marty Brown replied yeah. Gary Isbell said I have a concern with that, because the rest of the Code is not up where it needs to be. Marty Brown said I don't mind blacktopping this, but we have a road improvement project coming through. I come there and there are trucks parked there, and there are guys parked in the car wash that are working on that project, and I know there's going to be some tearing up going on. I hate to say let's blacktop it and then them tear it up. But if you guys say that's what you want, I'll do that. I wish there would be some consideration for the construction. There's already some residual effects from the construction like backhoe scrapes on my parking lot and dirt that was never cleaned up after the water line break. Gary Isbell asked do you know what the entry is going to look like after the street work is complete? Marty Brown replied they showed us pictures and it will look basically the same. Gary Isbell said to accompany this plat layout I'd like to see some type of entryway picture that they might have provided for you. Marty Brown said it's been so long that I don't remember what it looked like, but it wasn't much different. Scott West asked Robert Bell if this sign gets approved, he gets his license, he can open the business in 7 days? Is that accurate? Robert Bell replied that's accurate. Chairman Carol Minden closed the floor. John Brown made a motion that the recommendation be made that a full occupancy plan and analysis be presented to the City Planning office to look at the full Appearance Review requirements that we have stipulated with all of the other plans that come before this Commission so we can see what the site plan is prior to approval of the signage, and that would include a plan to show if there are any contingencies between this property and the adjacent property that is in Code violation and what the owner will present as a plan to resolve those Code violations on the adjacent property before we approve the sign. Seconded by Larry Wewers. Matt Lay said I'm still struggling with how this grew from the scope from the original sign request when all we've got on condition of approval from Staff is dark

background to dilute the light. Then we heard a solution earlier about getting together to approve the CO we can have other steps provided to the City. Now it seems like we've diverted back to we're going to do all of that ahead of the sign. I'm just trying to clarify. Is that not an option? Robert Bell replied I think it's an option. What I think is on the table right now is that the Planning Commission is making a motion to determine that since the Change of Occupancy from the nothing or the restaurant to the car lot is a change that has an effect upon the Appearance Review District and therefore requires a full review based upon what the criteria is. I can say right away the brick, the glass of the building is not in play here, but eh appearance of the site in regards to the lack of the trash dumpster container being blocked from the road, the lack of the parking lot being established even though there are parking bumpers out there, the lack of landscaping, is all criteria that could be required under that Appearance Review. Matt Lay said I guess I'm struggling with why didn't the Appearance Review Committee take that into advisement in their decision to recommend approval. Robert Bell said it's not something we do on a general basis, but I would also say that the condition of this property is not the type we deal with under a business. Normally when someone purchases a property like this and moves a business in it and it's been in the condition it's been in for years, we've got a building permit, we've got changes, we've got activity in there. That's not the case here. It's not something that triggered, and I don't think the Appearance Review Committee has the authority to trigger. The Planning Commission does have that authority to trigger this to say even though a building permit's not required, this is having an effect and has to be reviewed for its overall site plan. I'm okay with where it's going. What I've heard the Commission say is if we let them go down the road they're concerned that he won't follow through with those other things that you're requiring. The motion was related to wanting to see that application before we approve the sign. John Brown said exactly, because the property is no longer conforming to the corridor for the Appearance Review District. Robert Bell said that's a trust factor. You asked me what are the options here. The option is I think we can approve the sign and tell him that he's got to have this plan back to us in 2 week, or we can say we're not going to approve the sign but bring this plan back in 2 weeks and we can approve both. Matt Lay asked would the maker of the motion entertain that as a friendly amendment to see the approval of the sign contingent upon the submission of said items in 2 weeks? Is 2 weeks enough? Marty Brown said 2 weeks is enough. Robert Bell addressed Marty Brown and said what they're looking for is the full site plan. How's the site going to be cleaned up, the dumpster's got to be enclosed, the parking lot's going to have new base on it. What they're asking for is that plan in 2 weeks. When you bring that plan before them in 2 weeks you need to say I'm going to enact this plan in so many days. When Nabholtz comes through that area there's an easement they have a right to be on. Gary Isbell asked does he have any rights making sure they stay off his property where they don't damage it further than the easement? Robert Bell said that's what I was going to say. Marty

Brown said I know you guys have a lot of questions, but I'm not a hardhead. If you guys will give me some time I'll put that sign up, I'll blacktop that, but my only concern was the construction company. Robert Bell said they want to hear you say you're going to clean this thing up. John Brown said my concern is I want to be consistent with everybody that comes before this Commission. When we made requirements for fencing, raising the fencing, lowering the fencing, changing where they're going to put parking, typically those recommendations and things that we require of other commercial businesses are coming from recommendations from Mr. Bell's office. I think the fact that we have the sign, the ARC-440, in front of us is because the request was for the sign. They based their judgment on the sign, but because this does fall into Appearance Review I'd like to see this go back to your office to come back with a full proposal like we would normally see from every other applicant that addresses all of the Appearance Review requirements. You bring a recommendation with all those things. Whether or not an applicant can conform to those we base it on good faith that whatever is presented to your office and whatever requirements that you stipulate that we approve, it's a trust but verify situation. If you've come back and said we've got 20 requirements that we feel like will turn this property and the adjacent property into a positive area of development for the community then I'll support it. Again, my concern is the sign is a preemptive decision. We need to go back to the bigger issue at hand of the occupancy and use before we approve anything. Robert Bell said we have a motion by John to require that the applicant bring a full plan back and to meet those timeframes. Ray Stephens said I'm with Matt on approving it, having them come back in 2 weeks with a proposal on what he's going to do as far as getting this out of the way. Why is this holding up the dealer's license? Marty Brown said that's a State requirement is a sign. Robert Bell said you have to have a sign, and you have to have a building to hang it on. Robert Bell said let's structure what we're doing. First off the only thing here that requires an Appearance Review approval is the sign. So the application came in as a sign. What's being determined by the Planning Commission is that even though the rest of this site in its fulfillment of the use that's proposed doesn't require a building permit. The Planning Commission is saying it rises to the level of requiring the review process. John Brown asked if we approve this sign application, what is our recourse if he doesn't comply with other requirements? Robert Bell replied I think we're in a better position after our finding than what it is going into it, because right now I'd have to determine that the property is in violation and have to address it under the violation of Code. There's nothing in there up to this point that says that he has to do the Appearance Review process, except our procedure that says we can make that determination. Once you make that determination that it needs Appearance Review you've established that the Code now applies to him, so that gives me more authority to go in there and say you need to submit. As a part of this by allowing him to have the sign and move forward is a step towards cleaning that up. John Brown said then I will amend my motion. Robert Bell said he needs to have this

turned in to me by August 7. Scott West asked Marty Brown do you have any other Code Enforcement issues on other properties? Marty Brown answered I do. On my residence. They gave me 2 months. Scott West said that's kind of the good faith thing that we're dealing with. You're saying let me do this and I'll clean it up, but we've got other issues and the history of the car wash. I'm not blaming you, but I'm saying that's what I'm trying turning that way. Marty Brown said I don't fight with you guys and whatever you say I do. This is what I'd like to propose. Let me go ahead and if I don't they can come out and fine me. They can enforce it. Chairman Carol Minden said right now we have a motion on the floor. John Brown said I will make a step in good faith following the request by Commissioner Lay to make it amicable and we want to see the full plan. Robert Bell said if he doesn't follow through with the full plan then we can go through the Zoning violation as an Appearance Review and I can issue tickets or whatever. Larry Wewers said if I second it and we all vote and it's approved, he can go put the sign up, he can go get his license, he can go start parking cars, but if he doesn't give you the plan then you're going to go fine him. Robert Bell said I'll start writing tickets and he will give us a plan. Seconded by Larry Wewers. A roll call vote of members was taken as follows:

Larry Wewer	Yes
Ray Stephens	Yes
John Brown	Yes
Gary Isbell	Yes
Matt Lay	Yes
Scott West	No
Chairman Carol Minden	No

Motion carried.

Correspondence from Staff. No correspondence from Staff.

Adjournment.