

**MINUTES
PLANNING COMMISSION
116 WEST NEEDLES
BIXBY, OKLAHOMA
December 17, 2012 6:00 PM**

STAFF PRESENT:

Erik Enyart, AICP, City Planner
Patrick Boulden, Esq., City Attorney

OTHERS ATTENDING:

See attached Sign-In Sheet

CALL TO ORDER:

Chair Thomas Holland called the meeting to order at 6:00 PM.

ROLL CALL:

Members Present: Larry Whiteley, Thomas Holland, Lance Whisman, and John Benjamin.
Members Absent: Jeff Baldwin.

CONSENT AGENDA:

1. Approval of Minutes for the November 19, 2012 Regular Meeting
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Chair Thomas Holland introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE to the Minutes as presented by Staff. John Benjamin SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Benjamin, Whiteley, & Whisman
NAY: None.
ABSTAIN: Holland.
MOTION CARRIED: 3:0:1

During the Roll Call, Chair Thomas Holland explained that he was voting "Abstain" as he was not present at that meeting.

PUBLIC HEARINGS

2. **BCPA-7 – JR Donelson, Inc. for Clinton Miller and Roger Metcalf.** Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Comprehensive Plan of the City of Bixby,

Oklahoma, specifically to redesignate certain property on the Comprehensive Plan Land Use map from “Water” to “Medium Intensity” with no specific land use designation.

Property Located: North dead-end of Riverview Rd.; Northwest corner of the intersection of Riverview Rd. and E. Westminster Pl. N.

3. **PUD 74 – RiverLoft ADDITION – JR Donelson, Inc.** Public Hearing, discussion, and consideration of a rezoning request for approval of a Planned Unit Development (PUD) for part of Government Lot 7 lying West of the Centerline of Old U.S. Hwy 64 and lying North of Bentley Park in Section 13, T17N, R13E.

Property Located: North dead-end of Riverview Rd.; Northwest corner of the intersection of Riverview Rd. and E. Westminster Pl. N.

4. **BZ-362 – JR Donelson, Inc. for Clinton Miller and Roger Metcalf.** Public Hearing, Discussion, and consideration of a rezoning request from RS-2 Residential Single-Family District to RM-1 Residential Multi-Family Medium Density District for part of Government Lot 7 lying West of the Centerline of Old U.S. Hwy 64 and lying North of Bentley Park in Section 13, T17N, R13E.

Property located: North dead-end of Riverview Rd.; Northwest corner of the intersection of Riverview Rd. and E. Westminster Pl. N.

5. **BCPA-8 – JR Donelson for Roger & LeAnn Metcalf.** Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Comprehensive Plan of the City of Bixby, Oklahoma, specifically to redesignate certain property on the Comprehensive Plan Land Use map from “Low Intensity” and/or “Special District # 4” to “Medium Intensity” and to remove the “Special District #4” designation.

Property Located: 15329 S. Sheridan Rd.

6. **PUD 75 – LeAnn Acres – JR Donelson, Inc.** Public Hearing, discussion, and consideration of a rezoning request for approval of a Planned Unit Development (PUD) for part of the W/2 of the NW/4 of Section 23, T17N, R13E.

Property located: 15329 S. Sheridan Rd.

7. (Continued from October 15 and November 19, 2012)

BZ-359 – Roger & LeAnn Metcalf. Public Hearing, Discussion, and consideration of a rezoning request from AG Agricultural District to RM-2 Residential Multi-Family District for part of the W/2 of the NW/4 of Section 23, T17N, R13E.

Property located: 15329 S. Sheridan Rd.

Chair Thomas Holland introduced Agenda Items Numbered 1 through 7, inclusive. Erik Enyart stated that a State Law was passed in 2009 that requires additional Public Notice for rezoning applications seeking approval of multifamily zoning, as is the case in all of these items. Mr. Enyart stated that he had only sent notices to property owners within a 300’ radius, rather than the ¼ mile radius as now required, and that he would have to readvertise the Public Hearing to the new requirement for the January 21, 2013 Regular Meeting. Mr. Enyart recommended all the items be Continued to the January 21, 2013 Regular Meeting.

John Benjamin made a MOTION to CONTINUE Agenda Items Numbered 1 through 7, inclusive, to the January 21, 2013 Regular Meeting. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Benjamin, Holland, Whiteley, & Whisman
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 4:0:0

Chair Thomas Holland announced that there was a Sign-In Sheet that would be used to recognize people who want to speak on an item. Mr. Holland asked that those speaking on items refrain from repeating things that others have already said.

8. **BZ-363 – Kevin Blake.** Public Hearing, Discussion, and consideration of a rezoning request from RS-1 Residential Single-Family District to RT Residential Townhouse District for the W. 100’ of Lot 7, Block 1, *Clyde Miller Acreage*.
Property located: 7739 E. 129th St. S.

Chair Thomas Holland introduced the item and asked Erik Enyart for the Staff Report and recommendations. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Monday, December 10, 2012
RE: Report and Recommendations for:
BZ-363 – Kevin Blake

LOCATION: – 7739 E. 129th St. S.
– The W. 100’ of Lot 7, Block 1, Clyde Miller Acreage
LOT SIZE: 1 acre, more or less
EXISTING ZONING: RS-1 Residential Single-Family District
EXISTING USE: Single-family dwelling partitioned into two (2) dwelling units
REQUESTED ZONING: RT Residential Townhouse District
SUPPLEMENTAL ZONING: None
SURROUNDING ZONING AND LAND USE:

North: CS/PUD 37 & AG; Heavy commercial uses within the Crosscreek “trade center” with the Fry Creek Ditch north of that zoned AG.

South: RS-1; Residential in Clyde Miller Acreage.

East: RS-1 & CG; Residential, with commercial businesses along Memorial Dr., all in Clyde Miller Acreage.

West: RS-1 & RS-2; Residential in Poe Acreage, Village Ten Addition, and unplatted residential areas fronting along E. 129th St. S.

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES: None found.

RELEVANT AREA CASE HISTORY: (not necessarily a complete list)

BZ-116 – Carl Ketchum for Land Development Corporation – Request for rezoning from RS-2 to RMH for 6 of the 10 lots in Village Ten Addition to the west of subject property – PC recommended Denial 03/29/1982 and appealed to the City Council (letter dated 04/07/1982), but evidently not approved as no ordinance was found.

PUD 37 – Crosscreek – Randall Pickard for Remy Co., Inc. – Request for rezoning from AG to CS and PUD 37 for Crosscreek, abutting to the north of subject property – Recommended for Approval by PC 03/21/2005 and Approved by City Council April 11, 2005 (Ord. # 980 – number assigned to the approved blank ordinance in the year 2007 after discovery of the discrepancy).

Preliminary Plat of Crosscreek – Request for Preliminary Plat approval for Crosscreek, abutting to the north of subject property – Recommended for Approval by PC 06/20/2005 and Approved by City Council 06/25/2005.

Final Plat of Crosscreek – Request for Final Plat approval for Crosscreek, abutting to the north of subject property – Recommended for Approval by PC 11/21/2005 and Approved by City Council 11/28/2005.

AC-06-04-01 – Request for Architectural Committee [Site Plan and building plans] approval for Phase 1, consisting of buildings 1 through 5, inclusive, of Crosscreek, abutting to the north of subject property – Believed to have been approved by AC April 17, 2006 (Minutes not found in case file).

BZ-327 – Doeksen Real Estate, LLC – Request for rezoning from RS-1 to RT for Lot 2, Block 1, Clyde Miller Acreage (just behind/west of the commercial lots on Memorial Dr.) located to the east of subject property – PC recommended Denial 03/19/2007, and evidently not appealed to the City Council.

BBOA-453 – Dennis Larson – Request for Special Exception to allow a Use Unit 17 indoors sales of used automobiles in the CS district with PUD 37 for the land platted as Crosscreek, and specifically, 12804 S. Memorial Dr. Unit # 109, abutting to the north of subject property – Approved by BOA 05/07/2007 on the condition that sales be indoors with no storage of automobiles outside of the building.

BBOA-487 – Keith Whitehouse for Cross Creek Office Warehouses, LLC – Request for Special Exception to allow a Use Unit 17 internet-based/indoor used automobile sales in the CS district with PUD 37 for Lot 2, Block 1, Crosscreek, and specifically, 12818 S. Memorial Dr. Unit # 111 abutting to the north of subject property – Approved by BOA 08/04/2008.

BBOA-494 – David Owens for Cross Creek Office Warehouses, LLC – Request for Special Exception to allow a Use Unit 17 indoor lawnmower and small engine repair business in the CS district with PUD 37 for Lot 3, Block 1, Crosscreek, and specifically, 12806 S. Memorial Dr. Unit # 115, located northwest of subject property – Withdrawn by Applicant in October/November 2008.

BBOA-498 – Cross Creek Office Warehouses, LLC and/or Remy Enterprises – Request for Special Exception to allow a Use Unit 19 indoor gymnasium, health club, baseball and basketball practice and training, enclosed commercial recreation establishments not elsewhere classified, and other such related uses within Use Unit 19, in the CS Commercial Shopping Center District with PUD 37 for Crosscreek abutting to the north of subject property – Approved by BOA 03/02/2009.

PUD 37 – Crosscreek – Minor Amendment # 1 – Request for Minor Amendments to PUD 37 for Crosscreek abutting to the north of subject property – PC recommended Denial 05/18/2009 and City Council Approved on appeal 05/26/2009.

PUD 37 – Crosscreek – Minor Amendment # 2 – Request for Minor Amendments to PUD 37 for Crosscreek abutting to the north of subject property – PC Conditionally Approved 05/16/2011.

BACKGROUND INFORMATION:

The subject property contains a house at the south end of the parcel, which the Applicant has remodeled and partitioned to allow for living quarters in the front and back ends of the house. If occupied as partitioned, the Zoning Code would recognize the structure as a “duplex,” which is not allowed in the RS-1 district. The lowest-intensity Zoning districts in which a duplex is allowed “by right” are the RD Residential Duplex and RT Residential Townhouse districts. The Applicant has expressed to Staff the desire to get the property “zoned” to allow for the use of the building as a two-family residential structure.

The Applicant’s submitted narrative and other information, attached to this report, helps explain the request and situation.

ANALYSIS:

Subject Property Conditions. The subject property is an approximately 1-acre tract with 100’ of frontage on 129th St. S. Abutting to the east is a 50’-wide right-of-way parcel belonging to the City of Bixby, which contains a gravel drive. It may be known as 78th E. Ave. The subject property has 435.2’ of frontage on this right-of-way parcel, and thus the rectangular parcel measures 100’ X 435.2’.

The subject property contains a house at the south end of the parcel, which the Applicant has remodeled and partitioned to allow for living quarters in the front and back ends of the house.

The subject property appears to drain to the west, via a low-lying drainageway along the back/north sides of the lots fronting on 129th St. S. It ultimately empties into Fry Ditch around the north dead-end of 73rd E. Ave. The subject property is entirely located within Shaded Zone X, the 500-year (0.2% Annual Chance) Floodplain.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Low Intensity and (2) Residential Area.

RT zoning was adopted (Ord. # 845) after the Comprehensive Plan in or around 2002 so it is not included in the “Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan” (“Matrix”) on page 27 of the Comprehensive Plan. However, based on the Matrix’s treatment of similar districts, including RD, RT zoning should be recognized as May Be Found In Accordance with the Low Intensity designation of the Comprehensive Plan.

Page 7, item numbered 1 of the Comprehensive Plan states:

“The Bixby Comprehensive Plan map depicts desired land uses, intensities and use and development patterns to the year 2020. Intensities depicted for undeveloped lands are intended to develop as shown. Land uses depicted for undeveloped lands are recommendations which may vary in accordance with the Intensities depicted for those lands.” (emphasis added)

This language is also found on page 30, item numbered 5.

This text introduces a test to the interpretation of the Comprehensive Plan Land Use Map, in addition to the Matrix: (1) If a parcel is within an area designated with a specific “Land Use” (other than “vacant, agricultural, rural residences, and open land,” which cannot be interpreted as permanently-planned land uses), and (2) if said parcel is undeveloped, the “Land Use” designation on the Map should be interpreted to “recommend” how the parcel should be zoned and developed. Therefore, the “Land Use” designation of the Comprehensive Plan Land Use Map should also inform/provide direction on how rezoning applications should be considered by the Planning Commission and City Council.

Staff believes that the RT zoning and proposed duplex residential use is consistent with the Residential Area land use designation of the Comprehensive Plan Land Use map.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning includes CS/PUD 37, AG, RS-1, RS-2, and CG.

To the north is approximately 19-acre CS district containing heavy commercial uses within the Crosscreek “trade center” development, with the Fry Creek Ditch north of that zoned AG.

To the east, south, and west is primarily single-family residential in Clyde Miller Acreage, Poe Acreage, Village Ten Addition, and in unplatted residential areas fronting along E. 129th St. S., zoned RS-1 and RS-2.

Further to the east, along Memorial Dr. are commercial businesses zoned CG in Clyde Miller Acreage. The two (2) commercial lots on the north side of 129th St. S. include Rib Crib and a multitenant office building containing the Stumpff & Cooke Insurance and Valencia Salon & Spa businesses.

Single-family residential lots to the east and west are large, deep lots, and contain typically 1 acre in lot area. The lot abutting to the west contains over 1.5 acres. Lots on the south side of 129th St. S. in Clyde Miller Acreage are also fairly large, and contain typically 0.5 acres in lot area.

While it would be considered a buffer district between the CS district abutting to the north and the RS-1 to the south, the requested RT is not particularly compatible with RS-1 zoning or the single-family homes on large lots surrounding on three sides. While the RT zoning would “legalize” a former house converted to a two-family structure, it would also allow for the development of townhouses or other high-intensity land uses on the subject property, at a density far in excess of the surrounding context. Redevelopment and increasing the densities commensurate with that which RT zoning would allow should only be done with a PUD, designed to ensure that the development is maximally compatible with the surrounding neighborhood, by use of setbacks, screening, landscaping, and other such buffering measures.

A somewhat similar request was made in 2007. BZ-327 – Doeksen Real Estate, LLC was an application to rezone Lot 2, Block 1, Clyde Miller Acreage from RS-1 to RT, in order to “build duplex[es] and triplex[es].” That property is located just behind/west of the commercial lots on Memorial Dr., zoned CG. Per the approved Minutes of the March 19, 2007 meeting, the Staff at the time did not recommend the application based on the difficulty of providing access to the lot if developed, and the Applicant in that case did not attend the meeting. The Planning Commission recommended Denial, and evidently the

Applicant did not appeal the recommendation to the City Council. That property was arguably a better candidate for RT zoning than the subject property, as it was immediately behind CG zoning and businesses fronting on Memorial Dr., and could have provided a transitional zoning district and buffer use between the commercial and the balance of single-family residential uses to the west of it.

The subject property is located over 500' from the CG district along Memorial Dr., and is separated from it by the 50'-wide 78th E. Ave. right-of-way and four (4) lots platted in Clyde Miller Acreage. As such, the establishment of an RT district here would not be the most appropriate Zoning or land use pattern. However, recognizing the intent of the application is to "legalize" the use of an existing house partitioned into two (2) dwelling units, the same could be done by rezoning the subject property to RS-3 and being granted a Special Exception to allow the existing structure to be occupied as a duplex. The Board of Adjustment could place a Condition on the approval creating a sunset provision, such as the approval shall expire upon the substantial damage or destruction of the existing structure. RS-3 zoning should be found compatible with the surrounding Zoning and land use patterns and would be fully In Accordance with the Comprehensive Plan.

Zoning Code Section 11-5-4.B.1.a provides:

"Notice of a proposed RM-2 rezoning shall confer jurisdiction on the planning commission and city council to consider and act upon RM-2, RM-1, RD, RS-3, RS-2, RS-1 and RE, or combinations thereof, in the disposition of the application, and in like manner, notice of any R district, including RMH, shall confer jurisdiction to consider any less dense R district, except RMH." (emphasis added)

RS-3 zoning is a lesser-density district than the requested RT district.

Staff Recommendation. Using the flexibility afforded in Zoning Code Section 11-5-4.B.1.a, Staff recommends approval of RS-3 zoning, with the Planning Commission to give direction to the Applicant to seek the legalization of the two-family structure by subsequent Special Exception application.

Chair Thomas Holland asked if the Applicant was present and wished to speak on the item. Applicant Kevin Blake of 8812 E. 110th St. S. was present and stated that he and his partner had recently acquired the property—it was in bad shape—and they fixed it up. Mr. Blake stated that the previous owners tried to convert the house into a two-family dwelling, and that he and his partner finished that conversion when they bought the land. Mr. Blake stated that he and his partner would like to be able to rent out the back part of the house. Mr. Blake stated that there were about 400' [from the house] to *Crosscreek*, and that the property had a side road for access. Mr. Blake stated that the residents in the back could use the side road and park behind the house. Mr. Blake stated that no one in the neighborhood would know that the structure was a duplex. Mr. Blake stated that he had been working with Erik Enyart for the past year on this application, and that he would follow the Staff recommendation.

Chair Thomas Holland stated that the area was mostly RS-1 and RE in terms of lot sizes. Mr. Holland stated that he would be opposed to RT zoning. Mr. Holland stated that this was a small structure and it would be inappropriate to impose this Zoning on the rest of the neighborhood. Mr. Holland stated that there had been an upsurge in peoples' attitudes in the area, and that a number of other houses had been renovated. Mr. Holland stated that the lots in this area are typically an acre in size or bigger.

Larry Whiteley asked Kevin Blake why he did not pursue the zoning before buying the property. Mr. Blake stated that he and his partner acknowledged that they were taking on a little risk in doing it that way. Mr. Blake stated that he had consulted with Erik Enyart, but understood that there was no guarantee when it came to zoning. Mr. Blake stated that he thought it would be allowed based on what was there: *Crosscreek*, a church in the neighborhood, an RV in the neighbor's yard, etc. Mr. Blake stated that a neighboring property has a house rented in the back, and that they drive

across the back of his lot. Mr. Blake stated that [the subject property] had five (5) mobile home lot/pads in the back, and they used to be rented at one time.

Larry Whiteley asked Kevin Blake why he did not check out the property before buying it. Mr. Blake stated that he did consult with Erik Enyart on this matter. Mr. Blake stated, “We tried to do the right thing.” Mr. Blake stated, “I knew we would run a little risk.”

Dr. Tena Trotter of 560 N. Jeff Davis Dr., Atlanta, GA, asked where the property was located. Someone responded, “129th Street, behind *Rib Crib*.” Dr. Trotter stated that she owned a house in this area.

One Commissioner asked Kevin Blake “How much trouble” it would be to convert the house back to a single-family dwelling. Mr. Blake responded that it was a large, six (6) bedroom, two (2) bath[room] house, and that it would not be without some difficulty. Mr. Blake stated that [he and his partner] did not want to rent out the whole thing as a single unit, because it was “not set up for that.” Mr. Blake stated that there was a lack of availability of affordable housing in Bixby. Mr. Blake stated that rents were \$1,000 per month for everything else, and that this one would be affordable.

Chair Thomas Holland stated that [approving the use] would be an “inappropriate buffer.” Mr. Holland stated that there were metal buildings [to the north in *Crosscreek*] stretching about ½ a mile long. Mr. Holland expressed concern for the “integrity of the neighborhood,” and stated that there was “some rental property in the area, but” this use would not be appropriate for multifamily RS-3 or RM-3 zoning. Erik Enyart stated that his recommendation was for RS-3 zoning, not RM-3. Mr. Enyart stated that RS-3 was a single-family district and was the most common single-family district throughout the city. Mr. Enyart stated that it was not a multifamily district. Mr. Enyart stated that, if approved for RS-3, to allow a duplex, it would still require a Special Exception from the Board of Adjustment, and the Board may impose a sunset clause, permitting the duplex only as long as this structure exists. Mr. Holland expressed concern that the Board of Adjustment would not hesitate to approve it. Mr. Holland stated that he had just returned from Louisiana, and saw there lax building code and enforcement issues.

Kevin Blake asked what was done to get approval of the duplexes to the east of City Hall. Larry Whiteley asked for clarification on the location of the duplexes Mr. Blake was referring to. After some discussion, Erik Enyart stated that he believed Mr. Blake was referring to the four (4) duplex buildings at Dawes Ave. and Parker St. that encircle half the block to [Breckenridge Ave.]. Mr. Enyart stated that there were another two (2) duplex buildings constructed on the old Railroad right-of-way at Breckenridge Ave. Mr. Enyart stated that some of those were zoned RT, which allows duplexes, and some were zoned RD Residential Duplex [District]. Chair Thomas Holland stated that this neighborhood was not the downtown area. Lance Whisman asked about the age of the neighborhood Mr. Blake was referring to, and Mr. Enyart responded that it was in *Midland Addition* in the old part of town and was platted about 100 years ago. Discussion ensued.

Kevin Blake stated that he just wanted to rent out the back part of the house, and that he had consulted with Erik Enyart on the matter for at least a year. Larry Whiteley asked Erik Enyart how long he had been talking to Mr. Blake, and Mr. Enyart confirmed he had been talking to Mr. Blake

“at least a year.” Mr. Enyart stated that he originally suggested RT zoning, as it was more palatable than RD zoning, but after reviewing the application in detail, he was now recommending RS-3 zoning with a Special Exception. Mr. Enyart stated that, in his opinion, RT zoning was not necessarily inappropriate, but that RS-3 zoning with a Special Exception was appropriate.

Lance Whisman and John Benjamin asked about zoning precedent in the area. Mr. Enyart referred to the case map in the Agenda Packet and stated that there was no precedent for RS-3 zoning in the neighborhood. Mr. Enyart stated that there was CS zoning abutting to the north in *Crosscreek* and that that was a commercial development, there was commercial use zoned CG to the east on Memorial Dr., and that most of the surrounding neighborhood was zoned RS-1. Mr. Enyart stated that there was an RS-2 zoning district to the west, which was something between an RS-1 and RS-3 district. Mr. Whisman confirmed with Mr. Enyart that there was no RS-3 zoning in the neighborhood. Mr. Whisman asked where the RS-2 zoning was located. Mr. Enyart referred to the case map and stated that it was in the *Village Ten Addition* to the west of the subject property. Chair Thomas Holland asked Mr. Enyart about *Village Ten Addition*. Mr. Enyart stated that it was an older subdivision and was not developed, except, perhaps, the first couple lots fronting on 129th St. S.

Larry Whiteley stated that the map did not show the back of the property as having any mobile home pads. Kevin Blake stated that they were there.

Dr. Tena Trotter stated that she was from Atlanta and owned a house within two (2) blocks of the subject property, and that it sits on an acre. Ms. Trotter stated that she would not have known about this application if she had not been here about another application. Ms. Trotter expressed objection to the rezoning, and stated that if it was approved, “I could subdivide mine” also.

Lance Whisman asked if the neighborhood had been notified. Mr. Enyart stated that he had mailed out notices to property owners within a 300’ radius of the subject property. Mr. Enyart referred to the case map on page 28 of the Agenda Packet and stated that the circular area around the subject property was the 300’ radius line, indicating which property owners received notice by mail.

Dr. Tena Trotter stated, “If you get zoned, I’m [going to] apply.” John Benjamin asked Dr. Trotter what she would apply for. Dr. Trotter responded, “Rezone mine.” Mr. Benjamin stated that he would vote against it. Dr. Trotter expressed objection.

Kevin Blake stated, “The house we acquired was the worst in the neighborhood. We just finished it out. We took a little risk without the zoning.”

Chair Thomas Holland expressed doubt that the road beside the property was a public street. Erik Enyart stated that it was owned by the City of Bixby per the Tulsa County Assessor, but he did not know the history behind it. Mr. Holland stated that it was not to code, and was gravel. Kevin Blake and Mr. Enyart stated that it was a gravel road with a little asphalt.

Chair Thomas Holland called for a recommendation. Larry Whiteley made a MOTION to DENY BZ-363.

Lance Whisman expressed concern that others would apply to rezone their land too if this was approved.

Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Whiteley, & Whisman
NAY: Benjamin.
ABSTAIN: None.
MOTION CARRIED: 3:1:0

9. **BZ-361 – City of Bixby.** Public Hearing, Discussion, and consideration of a rezoning request to extend the Corridor Appearance District overlay district, 600’ in width along the centerline of 151st St. S. from Memorial Dr. east to Riverview Rd., pursuant to Zoning Code Section 11-7G.

Property located: Along 151st St. S. from Memorial Dr. east to Riverview Rd.

Chair Thomas Holland introduced the item and asked Erik Enyart for the Staff Report and recommendations. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Monday, December 10, 2012
RE: Report and Recommendations for:
BZ-361 – City of Bixby

LOCATION: Along 151st St. S. from Memorial Dr. east to Riverview Rd
AREA: 36 acres, more or less
EXISTING ZONING: Multiple / various
EXISTING USE: Multiple / various
REQUESTED ZONING: Corridor Appearance District overlay district
BACKGROUND INFORMATION:

The Corridor Appearance District and similar Central Business District overlay districts were established by Ordinance # 814 passed 05/08/2000. They are now found in Title 11 Zoning Code Chapters 7G and 7H. The primary effect of those overlay districts was to mandate Planning Commission approval of a Detailed Site Plan, and to allow for the application of architectural / appearance standards. Design standards (“Guidelines”) were adopted by the Architectural Committee, but they had no ordinance authority; they were “Guidelines” and have been treated as such.

The Corridor Appearance District currently exists along Memorial Dr. and 151st St. S. west of Memorial Dr., along 131st St. S. east of Memorial Dr., and 171st St. S. east of Memorial Dr. The Central Business District is defined as: “The “downtown area” of Bixby, to include the areas adjoining Needles, Dawes, and Breckenridge Avenues, up to and including the alleys north of and parallel to Needles Avenue and south of and parallel to Breckenridge Avenue, from Memorial Drive to Riverview Road.”

In a City Staff meeting held September 04, 2012, the Mayor and City Staff discussed and reached a consensus on the propriety of replacing the Corridor Appearance District and Central Business District “guidelines” with enforceable Minimum Standards as follows:

- (1) Prohibiting bare metal sides of buildings facing public streets, requiring the same be full masonry to the first floor top plate, to include brick, stucco, EIFS or similar masonry-like product, stone, finished concrete tilt-up panels, or some combination thereof,
- (2) An Appeal/Waiver provision: Applicant can appeal the interpretation of the masonry/finish standard or ask the Council to reduce or Waive it altogether, and

- (3) *City Council prerogative on exceptional architecture: The City Planner may refer a proposed structure to the Council for approval if determined to be of exceptional character, iconic, or potentially offensive.*

This matter was an outgrowth of a recent Zoning Code Text Amendment, which the Planning Commission reviewed and recommended on August 20, 2012. The overlay districts were amended by Ordinance # 2091, approved by the City Council on September 10, 2012. Among other things, that amendment did the following:

- *Removed the requirement for Planning Commission approval of Detailed Site Plans within the overlay districts.*
- *Removed the requirement for Planning Commission approval of all signs within the overlay districts.*
- *Required a site plan application for building permits for buildings other single-family and duplex residential structures and those used agriculturally. Such site plans are approved by City Staff in the context of a Building Permit application.*
- *Replaced the suggestive “guidelines” in each overlay district with new, enforceable “Minimum Standards,” to be promulgated and adopted by the City Council later.*

This final item is what is being presented to the Planning Commission for review and recommendation at this time. On October 16, 2012, the City Manager directed Staff to proceed with the Minimum Standards amendment to the Zoning Code.

Also in that September 04, 2012 meeting, the Mayor expressed favor for extending the Corridor Appearance District overlay district along 151st St. S. from Memorial Dr. to Riverview Rd. On October 25, 2012, the City Manager signed the rezoning application BZ-361, to extend the Corridor Appearance District.

Also as related to this matter, Staff prepared a site plan application capturing all the information needed by the different departments to compare development plans to the requirements of the Zoning Code, Building Code, Fire Code, and other applicable codes. To ensure the most efficient and expeditious development project reviews, architects, engineers, planners, or other design professionals can use the form as a checklist of information to submit with the Building Permit application. Staff also updated the other planning- and zoning-related application forms to create a consistency of design, including the City’s logo, and to reconcile the forms with the information actually required for each application. The City Manager indicated his approval of the site plan application form by email on 11/08/2012 and reported his approval of all the application forms to the City Council at a recent meeting.

ANALYSIS:

The public’s recent investment in the widening of this section of 151st St. S. appears to have set the stage for redevelopment pressures. This section of 151st St. S. is a “gateway” into the heart of Bixby, and is used by citizens and visitors to access the Bixby Public Schools’ sports facilities and the City’s Bentley Park Sports Complex. Ensuring a basic minimum standard for quality of design in new developments should add to the aesthetic value of the City, and help leave a good “first impression” for all new visitors using this widened corridor. Staff recommends Approval of the extension of the Corridor Appearance District overlay as per BZ-361.

Larry Whiteley asked what would happen to the taxes of the people who were rezoned. Erik Enyart stated that he had talked to the Assessor’s Office and was assured that they do not base their assessments on the Zoning of the property. Mr. Enyart stated that the Assessor’s Office bases taxes on their assessment of the value of the land, using whatever methods they use, but that adding improvements to a property or building onto a structure will cause the taxes to go up in accordance with the added value. Mr. Enyart reiterated that the taxes would not be affected by this rezoning.

Chair Thomas Holland asked if anyone wished to speak on the item.

Anita Temple asked if the rezoning would affect properties on McKennon Ave. Erik Enyart showed Ms. Temple the case map and indicated the location of the area subject to BZ-361. Mr. Enyart confirmed properties fronting on McKennon Ave. would be included. Mr. Enyart stated that

the Corridor Appearance District would not affect residential properties. Mr. Enyart stated that the District was designed to ensure that non-residential developments within it, along Bixby's commercial corridors, are built to at least a minimum standard for quality. Mr. Enyart stated that it would not affect residential property owners would want to rebuild their houses, or build a house on a vacant lot, or build an accessory building. Mr. Enyart stated that the affected residential properties would only be affected if the owners agree to sell their lots to a developer, who in turn applies to rezone the lots to commercial, at which point they would have to build their commercial buildings to a higher standard for quality. Ms. Temple asked what this would mean for the townhouses on 151st St. S. Mr. Enyart reminded the Planning Commissioners that they had, in the previous year, considered a request to amend the Comprehensive Plan [BCPA-6] for the three (3) blocks along 151st St. S. left over after that street was widened. Mr. Enyart stated that the houses that were on them had been removed to allow for the widening, and that there was leftover land north of the new right-of-way. Mr. Enyart stated that the City wanted to dispose of the land, and had sent out notice that they wanted to offer it to sale or lease for development. Someone asked if the land could be developed commercial. Mr. Enyart stated that the City had approved the Comprehensive Plan amendment but specifically left the Residential designation, so that the [highest intensity use likely to develop] would be townhouses, or duplexes, based on how narrow the leftover land was. Mr. Enyart stated that this could be changed, but it was planned for residential at this time. Mr. Enyart stated that that Comprehensive Plan amendment was not affected by this rezoning application.

Don Branscum of 325 E. Needles Ave. stated that his mother-in-law, Maxine Prince, lived at this address. Mr. Branscum asked if this land was included in the proposed district. Mr. Enyart referred to the case map and stated that lots fronting on Needles Ave. would not be part of the district. Mr. Branscum confirmed with Mr. Enyart that this property was not part of [BZ-361].

Robert Founds of 303 E. Washington St. stated that he also owned the house at 221 E. Washington St. Mr. Founds discussed the application briefly.

Someone asked if this application was an "end run" around [BCPA-6] to turn that land into commercial, and Erik Enyart responded that it was not, and that anyone that would buy the land from the City would have to apply to change [the Comprehensive Plan and] the zoning to commercial, and notice would be given to the neighborhood in that event. Mr. Enyart stated that [BZ-361] would impose higher standards for development than would be otherwise required.

A woman who did not give her name asked why the rezoning included the residential areas instead of only the commercial areas. Erik Enyart responded that, since the City widened 151st St. S., it has observed that this has generated interest in redevelopment along this new street, that now provides improved access. Mr. Enyart stated, "The transformation has already begun." Mr. Enyart stated that there were two (2) houses along 151st St. S. at Armstrong St. that were acquired by a business, demolished, and rezoned for a new commercial building. Mr. Enyart stated that there has been additional redevelopment along 151st St. S. Mr. Enyart stated that the City of Bixby wanted to get out ahead of redevelopment and put rules in place to ensure that new, non-residential development was built to at least a minimum standard for quality.

Bryan Reed of 215 E. McKennon Ave. asked if the affected properties would stay residential or be rezoned commercial. Erik Enyart responded that the residential properties would stay zoned residential with this rezoning. Mr. Enyart explained that the Corridor Appearance District was an “overlay district that sits on top” of the regular zoning. Mr. Enyart stated that the areas zoned residential would stay zoned residential, and areas zoned commercial would stay zoned commercial. Mr. Enyart stated that homeowners would not be affected by this, but that if they sold their houses to someone, and the buyer rezones the land “to commercial, then this would affect that.” Mr. Reed stated that he would not oppose this application if it raised property values. Mr. Enyart stated that he was not a real estate professional, but that he believed that new construction, if built to a reasonably good level of quality, may help improve property values. Someone asked if the neighborhood would know if a property was going to be rezoned commercial, and Mr. Enyart confirmed that notice would be given to the neighborhood in that case. Mr. Enyart reiterated that no property was going to be rezoned to commercial by this application. Patrick Boulden stated that the change “could improve the value [of the area] with brick” or other masonry.

Chair Thomas Holland recalled that there was a building built along 151st St. S. recently that was not upgraded architecturally. Mr. Holland stated that the Planning Commission tried to get the building upgraded but that the decision was ultimately out of the Commission’s control.

James Turney of 302 E. McKennon Ave. stated that he also owned property at 151st St. S. and Sheridan Rd., across from the *Leonard & Marker Funeral Home*. Mr. Turney stated that he had talked to Erik Enyart about his plan to “sell portable buildings [from the property] to supplement my income.” Mr. Turney stated that Mr. Enyart told him that, “if I build a building [within this Corridor Appearance District], I would have to match the aesthetics of the surrounding buildings,” and make it look as good as the *Leonard & Marker [Funeral Home]*. Mr. Turney stated, “I don’t have the money at this time; as a startup, I have had not progressed to that point, and am limited to what I can do.” Mr. Turney stated that he was aware of the new “lumber company” down [McKennon Ave.] from his house. Mr. Turney complained that, even at that distance, “at 7:30 AM, I can hear the saws cutting timber [from with]in my home.” Mr. Turney indicated that he understood the need for rules to ensure new buildings were not “unpalatable,” and stated that he was “in favor of improved values.”

Dr. Tena Trotter confirmed with Erik Enyart that, if a homeowner remodeled their home, they would not have to upgrade the house. Mr. Enyart responded, “Yes. Houses are not affected by this.”

Chair Thomas Holland stated, “The noise concerns me,” and asked if it had anything to do with the large overhead doors. A man who did not give his name stated that it was not the doors but the fact that they saw cut outside, and the saw[dust] suction unit “squeals like crazy.” Mr. Holland stated that the City had a noise nuisance ordinance and one could complain about the noise. Larry Whiteley stated that, in his experience, if one wanted to get something done, they needed to go up and down the street to all the neighbors and get them to sign a petition to ask the City Council to do something.

Chair Thomas Holland asked Erik Enyart if the Comprehensive Plan was due to be updated. Mr. Enyart responded, “We can update it at any time the Council so directs.” Mr. Holland asked if there

would be Public Notice, and Mr. Enyart responded, “Yes, if and when it is to be updated, I would recommend it be advertised to the Public as broadly as possible to get all interested people to participate in the planning process.”

Lance Whisman summarized the application thus: “This would not affect residential property, and if commercial, we can make it better than we can now.” Erik Enyart indicated agreement.

Chair Thomas Holland asked if there was anyone else who wanted to speak on the item. No one else spoke on the item.

Chair Thomas Holland asked to entertain a Motion. John Benjamin made a MOTION to Recommend APPROVAL of BZ-361. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Benjamin, Holland, Whiteley, & Whisman
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 4:0:0

10. **Zoning Code Text Amendment.** Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Zoning Code of the City of Bixby, Oklahoma, pursuant to Oklahoma Statutes Title 11 Section 43-101 et seq. and Bixby Zoning Code/City Code Title 11 Section 11-5-3, to replace the guidelines with new minimum standards within the Corridor Appearance District and Central Business District overlay districts, pursuant to Zoning Code Sections 11-7G and 11-7H.

Chair Thomas Holland introduced the item and asked Erik Enyart for the Staff Report and recommendations. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Tuesday, December 11, 2012
RE: Report and Recommendations for:
Zoning Code Text Amendment – Minimum Standards in Corridor Appearance District and Central Business District overlay districts

AGENDA ITEM:

Zoning Code Text Amendment. Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Zoning Code of the City of Bixby, Oklahoma, pursuant to Oklahoma Statutes Title 11 Section 43-101 et seq. and Bixby Zoning Code/City Code Title 11 Section 11-5-3, to replace the guidelines with new minimum standards within the Corridor Appearance District and Central Business District overlay districts, pursuant to Zoning Code Sections 11-7G and 11-7H.

BACKGROUND INFORMATION:

The Corridor Appearance District and similar Central Business District overlay districts were established by Ordinance # 814 passed 05/08/2000. They are now found in Title 11 Zoning Code Chapters 7G and 7H. The primary effect of those overlay districts was to mandate Planning Commission approval of a Detailed Site Plan, and to allow for the application of architectural / appearance

standards. Design standards (“Guidelines”) were adopted by the Architectural Committee, but they had no ordinance authority; they were “Guidelines” and have been treated as such.

The Corridor Appearance District currently exists along Memorial Dr. and 151st St. S. west of Memorial Dr., along 131st St. S. east of Memorial Dr., and 171st St. S. east of Memorial Dr. The Central Business District is defined as: “The “downtown area” of Bixby, to include the areas adjoining Needles, Dawes, and Breckenridge Avenues, up to and including the alleys north of and parallel to Needles Avenue and south of and parallel to Breckenridge Avenue, from Memorial Drive to Riverview Road.”

In a City Staff meeting held September 04, 2012, the Mayor and City Staff discussed and reached a consensus on the propriety of replacing the Corridor Appearance District and Central Business District “guidelines” with enforceable Minimum Standards as follows:

- (1) Prohibiting bare metal sides of buildings facing public streets, requiring the same be full masonry to the first floor top plate, to include brick, stucco, EIFS or similar masonry-like product, stone, finished concrete tilt-up panels, or some combination thereof,
- (2) An Appeal/Waiver provision: Applicant can appeal the interpretation of the masonry/finish standard or ask the Council to reduce or Waive it altogether, and
- (3) City Council prerogative on exceptional architecture: The City Planner may refer a proposed structure to the Council for approval if determined to be of exceptional character, iconic, or potentially offensive.

This matter was an outgrowth of a recent Zoning Code Text Amendment, which the Planning Commission reviewed and recommended on August 20, 2012. The overlay districts were amended by Ordinance # 2091, approved by the City Council on September 10, 2012. Among other things, that amendment did the following:

- Removed the requirement for Planning Commission approval of Detailed Site Plans within the overlay districts.
- Removed the requirement for Planning Commission approval of all signs within the overlay districts.
- Required a site plan application for building permits for buildings other single-family and duplex residential structures and those used agriculturally. Such site plans are approved by City Staff in the context of a Building Permit application.
- Replaced the suggestive “guidelines” in each overlay district with new, enforceable “Minimum Standards,” to be promulgated and adopted by the City Council later.

This final item is what is being presented to the Planning Commission for review and recommendation at this time. On October 16, 2012, the City Manager directed Staff to proceed with the Minimum Standards amendment to the Zoning Code.

Also in that September 04, 2012 meeting, the Mayor expressed favor for extending the Corridor Appearance District overlay district along 151st St. S. from Memorial Dr. to Riverview Rd. On October 25, 2012, the City Manager signed the rezoning application BZ-361, to extend the Corridor Appearance District. BZ-361 is also on this December 17, 2012 Planning Commission agenda for consideration.

Also as related to this matter, Staff prepared a site plan application capturing all the information needed by the different departments to compare development plans to the requirements of the Zoning Code, Building Code, Fire Code, and other applicable codes. To ensure the most efficient and expeditious development project reviews, architects, engineers, planners, or other design professionals can use the form as a checklist of information to submit with the Building Permit application. Staff also updated the other planning- and zoning-related application forms to create a consistency of design, including the City’s logo, and to reconcile the forms with the information actually required for each application. The City Manager indicated his approval of the site plan application form by email on 11/08/2012 and reported his approval of all the application forms to the City Council at a recent meeting.

ANALYSIS:

While imposing absolute minimum standards for architectural / construction quality is the prerogative of the City Council, Staff believes the same should add to the aesthetic value of the City. The proposed amendments are the product of City Staff consensus, and are thus recommended for Approval.

Erik Enyart stated that, since the publication of the Staff Report, someone had asked him about the possibility of using wood, but that had not been previously discussed among City Staff. Mr. Enyart stated that it may be worthy of the Commission’s discussion and consideration.

Chair Thomas Holland expressed concern that the proposed amendment had language allowing the masonry requirement to be appealed to City Council. Erik Enyart stated, "My response to that is, it's better to have something than nothing. Developers can always appeal these things" to the City Council or otherwise. Mr. Enyart stated that, even if that provision was not included, they could appeal the masonry requirement to the Board of Adjustment. A Commissioner asked why the appeal would go to the City Council. Mr. Enyart stated, "Architectural aesthetics are most definitely a legislative function, and to take an appeal to the Board of Adjustment as a Variance doesn't do justice to the intent behind this."

The Commissioners discussed, for a time, the use of wood as an exterior material. Chair Thomas Holland noted that *The Refuge [Lifestyle]* business on 151st St. S. had a wood-faced building, and suggested other businesses may want this kind of look as well. Mr. Holland asked if wood construction was allowed under the Building Code. Erik Enyart stated that he did not know if it was allowed by the new Building Code or Fire Code. Mr. Holland clarified that he was not referring to a concrete building with wood siding attached. Mr. Enyart deferred to City Attorney Patrick Boulden, who had recently administered the adoption of new commercial Building Codes. Mr. Boulden described the new Building Codes and fire wall requirements. Mr. Enyart stated that wood had not been discussed by City Staff when they determined a consensus opinion, and in the rare event that a commercial business wanted to use wood siding, they could always appeal to the City Council. Mr. Enyart stated that, in that case, he would think they would have a good argument for the Council, if wood was a planned part of their architectural motif.

Chair Thomas Holland expressed concern that, the way the amendment was written, it would be too easy to get the City Council to waive the masonry requirement. Lance Whisman stated that he was pleased that the City Council listened to the Commission when it recommended retaining the guidelines, and indicated he considered this a step in the right direction.

Lance Whisman made a MOTION to Recommend APPROVAL of the proposed Zoning Code Text Amendment as recommended by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	Benjamin, Holland, Whiteley, & Whisman
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	4:0:0

Chair Thomas Holland asked if anyone else was signed in to speak that had not yet had a chance. Two (2) people asked about Agenda Item Number 3. Chair Thomas Holland and Erik Enyart stated that the Commission had Continued Agenda Items Numbered 2 through 7 to the January 21, 2012 meeting. The two (2) people left at this time.

Chair Thomas Holland asked if there were any [Bixby Metro Chamber of Commerce's Leadership Bixby XI interns] present to be recognized. There were none at this time.

PLATS

OTHER BUSINESS

11. **BSP 2012-02 – “Andy’s Frozen Custard” – Lewis Engineering, P.L.L.C. (PUD 63).**

Discussion and consideration of a Detailed Site Plan and building plans for “Andy’s Frozen Custard,” a Use Unit 12 restaurant development for Lot 2, Block 3, 101 South Memorial Plaza.

Property located: 8251 E. 102nd St. S.

Chair Thomas Holland introduced the item and asked Erik Enyart for the Staff Report and recommendations. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Friday, November 30, 2012
RE: Report and Recommendations (*Revised 12/17/2012 to reflect the revised plans and information received 12/14/2012*) for:
BSP 2012-02 – “Andy’s Frozen Custard” – Lewis Engineering, P.L.L.C.

LOCATION: – Approximately the 11900-block of S. Memorial Dr.
– Lot 7 and the N. 42’ of Lot 8, Block 1, Bixby Centennial Plaza

LOT SIZE: 1 acre, more or less, in two (2) parcels

LOCATION: – Lot 2, Block 3, 101 South Memorial Plaza
– 8251 E. 102nd St. S.

SIZE: 0.73 acres, more or less

EXISTING ZONING: CG General Commercial District & CS Commercial Shopping Center District with PUD 63 for “101 South Memorial Plaza”

DEVELOPMENT TYPE: Approval of Detailed Site Plan including as elements: (1) Detailed Site Plan, (2) Detailed Landscape Plan, and (3) Detailed Lighting Plan, (4) Detailed Sign Plan, and (5) building plans and profile view / elevations pursuant to PUD 63 for a Use Unit 12 frozen custard restaurant development

SURROUNDING ZONING AND LAND USE:

North: CS/PUD 65; The Sprouts Farmers Market specialty grocery store (under construction), the CVS/Pharmacy, and the vacant commercial Lot 5, Block 1, 101 Memorial Square.

South: (South of 102nd St. S.) CS, CG, & PUD 63; vacant commercial Lot 1, Block 2, 101 South Memorial Plaza and the ALDI grocery store in 101 South Memorial Center.

East: (east of 83rd E. Ave.) CS & CS/PUD 63; The Holiday Inn Express & Suites Tulsa South/Bixby in 101 South Memorial Plaza, the vacant Tract D in 101 South Memorial Center east of 85th E. Ave., the vacant north balance of Tract C in 101 South Memorial Center to the northeast, the Warren Clinic doctor’s office in Landmark Center to the northeast across 85th E. Ave., and the Dickinson Starworld 20 movie theater to the southeast in 101 South Memorial Center.

West: CG, CS, & PUD 65; The new Whataburger fast-food restaurant, the Schlotzsky’s Deli restaurant and the vacant commercial Lot 1, Block 1, 101 South Memorial Plaza to the southwest across 102nd St. S., and Memorial Dr.

COMPREHENSIVE PLAN: Corridor + Medium Intensity + Commercial Area

PREVIOUS/RELATED CASES: (Not a complete list and does not include TMAPC-jurisdiction areas)
BZ-89 – Ron Koepp – Request for rezoning from AG to CG for 3.6 acres, which included most of subject property – Recommended for Approval by PC 04/28/1980 and Approved by City Council 05/19/1980 (Ord. # 401).

BZ-231 – American Southwest Properties, Inc. & Memorial Drive, LLC – Request for rezoning from RM-2 to CS for approximately 6 acres, which included part of the east side of subject property – PC Recommended Approval 05/17/1997 and City Council Approved 12/08/1997 (Ord. # 761).

BL-352 – American Southwest Properties, Inc. – Request for Lot-Split to separate northern part of Tract C of 101 South Memorial Center from balance of property, which was later included in PUD 63 and the plat of 101 South Memorial Plaza (PUD and plat include subject property) – Conditionally approved by PC 04/21/2008.

PUD 63 – 101 South Memorial Plaza – American Southwest Properties, Inc. – Request for PUD approval for land later platted as 101 South Memorial Plaza (includes subject property) – Conditionally approved by PC and City Council in April/May of 2008 (Ord. # 1004).

Preliminary Plat of 101 South Memorial Plaza – Request for Preliminary Plat approval for 101 South Memorial Plaza (includes subject property) – Conditionally approved by PC and City Council in April of 2008. The City Council also approved a Modification/Waiver from the street right-of-way widths to allow the 30' to 40' right-of-way widths as proposed.

Final Plat of 101 South Memorial Plaza – Request for Final Plat approval for 101 South Memorial Plaza (includes subject property) – PC recommended Conditional Approval on 10/20/2008 and City Council Conditionally Approved 10/27/2008.

Revised Final Plat of 101 South Memorial Plaza – Request for Revised Final Plat approval for 101 South Memorial Plaza (includes subject property) – PC recommended Conditional Approval on 04/19/2010 and City Council Conditionally Approved 04/26/2010 (plat recorded 07/30/2010).

BACKGROUND INFORMATION:

On Friday, December 14, 2012, the Applicant submitted revised electronic copies of the “Site Plan” and “Landscape Plan” drawings by Bill Lewis of Lewis Engineering, P.L.L.C. Included were two (2) different versions: One showing the site laid out essentially as originally submitted, and the other reducing the number of parking spaces to the maximum allowable under the Zoning Code, 16. Printouts of both version sets have been attached to this revised report.

ANALYSIS:

Property Conditions. The vacant subject property consists of Lot 2, Block 3, 101 South Memorial Plaza and is zoned CG with a narrow strip of CS along the easterly side, and is within PUD 63. The subject property is gently sloped and will drain through an underground stormsewer system in a southeasterly direction to an upstream tributary of Fry Creek # 1, which tributary flows to the southeast through 101 South Memorial Center, Regal Plaza, South Country Estates, and the Legacy additions before its confluence with Fry Creek No. 1 near 107th St. S. and 91st E. Ave.

Tract F in 101 South Memorial Center, located immediately south of the Dickinson Starworld 20 movie theater, contains a stormwater detention facility. This facility has been enlarged, and the stormsewer pipe systems have been extended and enlarged, to accommodate the additional stormwater detention and drainage capacity necessary to serve the new commercial developments in 101 South Memorial Plaza and 101 Memorial Square.

General. The submitted plan-view Site Plan drawings consist of (1) a “Site Plan” drawing by Bill Lewis of Lewis Engineering, P.L.L.C. and (2) a “Site Plan” drawing A101 by architect Hufft Projects. Per building footprint dimensions on the Lewis Engineering, P.L.L.C. “Site Plan” drawing and the number reported on the “Landscape Plan,” the building will have 2,150 square feet of floor area. Based on building “Elevations” drawings A301 and A302, the building will not exceed 15' 2 1/8” in overall height.

The Site Plan represents a conventional, suburban-style design and indicates the proposed internal automobile traffic and pedestrian flow and circulation and parking. The subject property lot conforms to PUD 63 and, per the plans generally, the 1-story building would conform to the applicable bulk and area standards for PUD 63 and the underlying CG and CS districts.

Fire Marshal's and City Engineer's memos are attached to this Staff Report. Their comments are incorporated herein by reference and should be made conditions of approval where not satisfied at the time of approval.

The Technical Advisory Committee (TAC) reviewed this Detailed Site Plan on December 05, 2012. The Minutes of the meeting are attached to this report.

Access and Internal Circulation. The development will have a driveway entrances on 102nd St. S. and 83rd E. Ave., both private streets located within Mutual Access Easements (MAEs).

The provided drawings indicate driveway access points and the widths of the proposed driveways and their curb return radii. All these dimensions must comply with applicable standards and City Engineer and/or Fire Marshal requirements.

Both 102nd St. S. and 83rd E. Ave. are subject to 8'-wide Sidewalk Easements per the plat of 101 South Memorial Plaza. The Sidewalk Easements **have been represented on the Lewis Engineering, P.L.L.C. drawings but need to be represented on A101 along both streets** if they are not already, and labeled as appropriate. The Site Plans ~~do not currently, and~~ need to show the sidewalks to be constructed along both streets within the Sidewalk Easements. **The revised "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. now represent 5'-wide sidewalks along both streets as required. A revised site plan has not been received from the Architect.**

A sidewalk will flank the south/front and east/side of the building, and will connect pedestrians between the parking lots to the building entrances on these sides (reference Zoning Code Section 11-10-4.C). The sidewalks are not dimensioned on the plans, but appear appropriate in width.

Parking Standards. The provided drawings indicate parking lots on the east and west sides of the building with a total of 31 parking spaces. Zoning Code Section 11-9-12.D requires a minimum of 14 parking spaces for a 2,150 square foot building. Zoning Code Section 11-10-2.H provides a "minimum plus 15%" maximum parking number cap, to prevent excessive parking that results in pressure to reduce greenspaces on the development site. The maximum number of parking spaces allowed for this property, for 2,150 square feet, is 16 parking spaces (reference Zoning Code Section 11-9-12.D), and a total of 31 parking spaces is proposed. Therefore, a Special Exception or PUD Major Amendment may be requested to allow the additional parking spaces proposed. **The revised "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. include alternative versions showing only 16 parking spaces.**

The proposed 8.5' X 18' regular parking space dimensions (most at a 90° angle but the strip along the west property line at ~~an undefined, acute~~ **a 45°** angle) comply with the minimum standards for the same per Zoning Code Section 11-10-4.A, or otherwise are appropriate and may be approved by this Detailed Site Plan per Section 11-10-4. ~~However, the proposed angle of the parking needs to be labeled.~~

Two (2) handicapped-accessible parking spaces are indicated on the provided Site Plans, one (1) of which is stated will be of a van-accessible design. At 31 spaces, the two (2) handicapped-accessible parking spaces meet the minimum number required by ADA standards (Table 208.2 Parking Spaces / IBC Table 1106.1 Accessible Parking Spaces).

ADA guidelines require one (1) van-accessible design for the handicapped-accessible space, for up to seven (7) accessible spaces (reference New ADAAG Section 208.2.4, DOJ Section 4.1.2(5)b, and IBC/ANSI Section 1106.5). The Site Plan indicates one (1) ADA space will be of van-accessible design, as required.

The Applicant has provided Parking Space Detail showing the regular and van-accessible handicapped-accessible parking spaces and access aisle with dimensions as required. While the van-accessible space does, the regular accessible space does not indicate compliance with the 4" "hairpin" striping standards Zoning Code Section 11-10-4.C Figure 3. During the design of these features, the Applicant should confirm with the Building Inspector that the parking and the entire site complies with applicable ADA requirements, including accessible parking spaces and access aisles, appropriate signage reserving the spaces, etc.

The provided Parking Space Detail indicates the signs reserving the van-accessible space will be **posted in front of each space, as appropriate.** ~~mounted to the building. However, based on the relative location of the access aisle to the front/south end of the building on the Lewis Engineering, P.L.L.C. "Site Plan" drawing, and recognizing the surface of this part of the building is glass panel, building mounting would not appear possible. It is possible that the accessible parking spaces will be located further north, as per the "Site Plan" drawing A101. At that location, the building exterior is still glass panel, and the sign location centered on the access aisle centerline would put it on the main entrance doors. The provided photo of the Joplin example indicates a standard pole-mounted sign. Whether building mounted or pole mounted, signage to be used for reserving the spaces needs to be provided and approved as a part of this PUD Detailed Site Plan.~~

Zoning Code Section 11-10-3.B Table 1 would normally require a 7.5' minimum parking lot setback from both 102nd St. S. and 83rd E. Ave. However, those streets have no public or private right-of-way per the plat of 101 South Memorial Plaza. The setback cannot be reduced less than 5', however, due to minimum landscaping requirements (see landscaping analysis in this report).

The plans show internal drives and parking spaces being paved over certain Utility Easement areas along the north and west sides of the subject property. If allowed, paving over such easements requires the specific approval of the City Engineer and Public Works Director.

A loading berth is **indicated as** ~~not indicated.~~ ~~A minimum of one (1) loading berth is required per Zoning Code Section 11-9-12.D. The 12' X 30' loading area is planned within the drive-through lane, as allowable, and appears to~~ ~~and the same must~~ comply with the dimensional standards of Zoning Code Section 11-10-5.A, ~~or a Variance or PUD Major Amendment may be requested in order to remove the loading berth requirement.~~

Screening/Fencing. The subject property does not abut an R district, and so the Zoning Code and PUD 63 do not require sight-proof screening for any of the property lines. No fences are proposed.

PUD 63 Section E.4.a provides:

"There shall be no storage of recyclable materials, trash or similar material outside a screened receptacle. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level."

A "Trash Container" area will be placed at the northwest corner of the site within a three-sided screening enclosure. However, it does not indicate a gate, as required by PUD 63. Further, the dumpster area enclosure is not detailed in profile view / elevations or plan view on any of the provided drawings. It is represented on both Site Plan drawings, but its composition, dimensions, color, and other such details have not been indicated. These details need to be provided and approved as a part of this Detailed Site Plan.

~~Recognizing the curblin indicated, the "Trash Container" area does not appear to be shown on a paved surface. The "Site Plan" drawing by Lewis Engineering, P.L.L.C. indicates an extra paving thickness for "dumpster concrete," suggesting paving is intended (and paving is necessary to function properly, anyway). This should be addressed as appropriate, including adjusting paved versus non paved surface calculations if/as required.~~

Depending on the particular waste disposal needs of the respective restaurants, the Applicant may want to consider approaching the adjacent Whataburger restaurant to see if agreement can be reached to share the usage and costs of their waste facility.

Landscape Plan. The Landscape Plan consists of the "Landscape Plan" drawing by Bill Lewis of Lewis Engineering, P.L.L.C. The proposed landscaping is compared to the Zoning Code as follows:

1. 15% Street Yard Minimum Landscaped Area Standards (Section 11-12-3.A.1): Standard is not less than 15% of the Street Yard area shall be landscaped. The westerly curblin of 83rd E. Ave. may ~~not~~ be located west of the 15' Mutual Access Easement, as Staff has noted elsewhere in this report. Provided the westerly curblin along 83rd E. Ave. is coterminous with the 15' setback line along same, by interpretation or, if slightly west of the 15' line, by the Planning Commission's approval of this Site Plan using the flexibility afforded by language pertaining to landscaping in PUD 63, the landscaped strip west of and including this line will be recognized as a connected, extended Street Yard landscaped area for purposes of compliance with this and related landscaping standards. However, percentage calculations for Street Yard landscaped area have not been provided, and parking lot setbacks have not been provided along ~~either 102nd St. S. or~~ 83rd E. Ave., which would allow for determination by Staff. **Compliance with this standard cannot be determined.**
2. Minimum Width Landscaped Area Strip Standards (Section 11-12-3.A.2 and 11-12-3.A.7): Standard is minimum Landscaped Area strip width shall be 7.5', 10', or 15' along abutting street rights-of-way. The subject property does not have the typical 7.5' landscaped strip requirement along non-arterial streets 102nd St. S. or 83rd E. Ave., as those streets have no right-of-way and the setback applies to the property lines (presumably the centerlines) per PUD 63. However, the landscaped areas must have a minimum diameter or strip width of 5' per Zoning Code Section 11-12-3.B.1 and contain at least one (1) tree. Landscaped strip widths along the north, south, and east property lines have not been provided. If it is not wide enough to meet the minimum standard, the deficiency must be corrected. **Compliance with this standard cannot be determined.**
3. 10' Buffer Strip Standard (Section 11-12-3.A.3): Standard requires a minimum 10' landscaped strip between a parking area and an R Residential Zoning District. There are no R districts abutting. **This standard is not applicable.**

4. Building Line Setback Tree Requirements (Section 11-12-3.A.4): Standard is one (1) tree per 1,000 square feet of building line setback area. Building setbacks per Development Area B of PUD 63 are as follows:

From the west boundary 11 feet
From the east boundary 15 feet (presumably also the centerline of 83rd E. Ave.)
From the north boundary 11 feet
From the south boundary 25 feet (presumably also the centerline of 102nd St. S.)

Resultant tree requirement calculations are as follows:

West Boundary Setback Tree Requirements: 11' setback X west property line at 165' = 1,815 square feet / 1,000 square feet = 2 trees required in the West Boundary Setback Area. Two (2) trees not otherwise allocated are proposed in this Setback Area. **This standard is met for the West Boundary Setback Area.**

East Boundary Setback Tree Requirements: 15' setback X width of 83rd E. Ave. frontage at 164.59' = 2,469 square feet / 1,000 square feet = 3 trees required in the East Boundary Setback Area. By interpretation (see above), three (3) trees **not otherwise allocated** are proposed in this Setback Area. **This standard is met for the East Boundary Setback Area.**

North Boundary Setback Tree Requirements: 11' setback X north property line at (192 feet – West Boundary Setback width of 11' – East Boundary Setback width of 15' =) 166' = 1,826 square feet / 1,000 square feet = 2 trees required in the North Boundary Setback Area. **Two (2)** are proposed in this Setback Area. **This standard is not met for the North Boundary Setback Area.**

South Boundary Setback Tree Requirements: 25' setback X width of E. 102nd St. S. frontage at (192 feet – West Boundary Setback width of 11' – East Boundary Setback width of 15' =) 166' = 4,150 square feet / 1,000 square feet = 5 trees required in the South Boundary Setback Area. Three (3) trees not already counted are proposed in this Setback Area. **This standard is not met for the South Boundary Setback Area.**

Due to the ~~North and~~ South Boundary Setback Areas, which ~~are each~~ **is** missing two (2) trees, **this standard is not met.**

5. Maximum Distance Parking Space to Landscaped Area Standard (Sections 11-12-3.B.1 and 11-12-3.B.2): Standard is no parking space shall be located more than 50' or 75' from a Landscaped Area, which Landscaped Area must contain at least one (1) or two (2) trees. ~~75' radii have been added, centered on certain landscaping trees (though not required to be).~~ For a lot containing 0.73 acres, the standard calls for a maximum of 50' spacing, with one (1) tree. ~~The spaces along the north side of the parking lot strip immediately east of the building may not comply with this standard. Compliance with this standard cannot be determined.~~ **Per the revised "Landscape Plan," this standard is met.**
6. Street Yard Tree Requirements (Section 11-12-3.C.1.a): Standard is one (1) tree per 1,000 square feet of Street Yard. The Street Yard is the Zoning setback along an abutting street [right-of-way]. Because neither 102nd St. S. nor 83rd E. Ave. have rights-of-way and PUD 63 provided setbacks applicable to Development Area boundaries instead, and because the tree ratio standard is the same as required for Setback Areas per Section 11-12-3.A.4, analysis for this standard is provided in the section pertaining to Section 11-12-3.A.4.
7. Tree to Parking Space Ratio Standard (Section 11-12-3.C.2): Standard is one (1) tree per 10 parking spaces. 31 parking spaces proposed. $31 / 10 = 3.1 = 4$ (1/10 of a tree is not possible, and minimum numbers of required trees are not rounded-down) trees required by this standard. Excluding the Setback Area and Street Yard trees already accounted for, there ~~are no additional trees~~ **is one (1) tree** proposed **just north of the 25' Building Line at the southwest property corner.** **This standard is not met.**

8. Parking Areas within 25' of Right-of-Way (Section 11-12-3.C.5.a): Standard would be met upon and as a part of compliance with the tree standard per Section 11-12-3.C.1.a.
9. Irrigation Standards (Section 11-12-3.D.2): A note on the "Landscape Plan" drawing provides "~~Trees~~ **Landscaping** will be irrigated underground." Zoning Code Section 11-12-3.D.2 requires all required landscaping be irrigated, ~~not just trees~~. Zoning Code Section 11-12-4.A.7 requires the submission of plans for irrigation, **but plans have not been submitted. This standard is not met.**
10. Miscellaneous Standards (Sections 11-12-4.A.5, 11-12-3.C.7, 11-12-3.D, etc.): The tree planting diagram(s), reported heights and calipers of the proposed trees, the notes on the "Landscape Plan" drawing, and other information indicates compliance with other miscellaneous standards, with the following exceptions:
 - a. The proposed tree height is not provided (6' height minimum if Amur Maple is considered "ornamental," or otherwise 8' in height if considered a "canopy" tree).
 - b. A note on the Landscape Plan misspells "caliper" as "calipher."
 - c. Another note on the Landscape Plan uses numbers "~~5~~" and "~~8~~" in regard to the number of Amur Maple trees **required and proposed** to be planted. The incorrect "~~(5)~~" **should be removed numbers "11" should be corrected in both instances consistent with the interpretation provided in this report.**

Until the above are resolved, **this standard is not met.**

11. Lot Percentage Landscape Standard (Section 11-7I-5.F; PUDs only): Standard is 10% of a commercial lot must be landscaped open space. Per the notes on the plan, 4,896 square feet would be landscape area, which would be approximately 15% of the lot area of approximately 0.73 acres. However, Staff is not confident in the numbers provided since the lot area reported was 0.661 acres, which is not consistent with the 0.73 acres reported on the recorded plat of 101 South Memorial Plaza. Further, these numbers ~~may~~ **did not** change with the addition of the required sidewalks, dumpster area concrete, **and rounded corners with this revised plan,** ~~and any other amendments which may be determined necessary to comply with code requirements.~~ **Compliance with this standard cannot be determined.**

Exterior Materials and Colors. "Elevations" drawings A301 and A302, an un-named conceptual artists' rendering with page number "5," a daytime photo of an Andy's location in Joplin, MO, and an evening photo of the same location, indicate the proposed exterior materials and colors. The exterior material will primarily consist of (1) glass panels mounted to an "EFCO 5500 curtain wall system," (2) "reclaimed masonry veneer," and (3) "Western Red Cedar siding." Color information was not specified, but is no longer required within the Corridor Appearance District per Ordinance # 2091 approved September 10, 2012, and is not required by PUD 63. Based on the un-named conceptual artists' rendering with page number "5," the "reclaimed masonry veneer" would appear to be mottled mix of different shades of brown and tan bricks or brick veneer. Based on the photos of the Joplin, MO location, the bricks/veneer may be more uniformly colored dark brown. Based on the same sources, the "Western Red Cedar siding" appears to be just that with a finish.

Based on building "Elevations" drawings A301 and A302, the building will have an architecturally-distinctive concave roofline, extended beyond the building to form a large overhanging eave to the south and east, and will not exceed 15' 2 1/8" in overall height. The roof will not be visible at ground level. Outdoor Lighting. The lighting plans consist of (1) "Site Lighting Plan," and (2) "cut sheets" showing the proposed sizes and models of pole-mounted lights, which appear typical for a suburban restaurant application.

The eave trim will include red and white runs of neon lights, per the elevations drawings and other exhibits. Also, what appear to be recessed dome lights will be located on the undersides of eaves.

PUD 63 limits lighting to 20' in vertical height. The words "(ON 20' SQUARE STEEL POLE)" used in each case of pole-mounted lights suggests a 20' pole light height. **At the TAC meeting, the Architect indicated the poles will be mounted on three (3) foot concrete base, and so the pole height would be reduced to 17' in width. This needs to be reflected on the lighting plans.**

Assuming a 20' mounting height and recognizing the short stature of the building, the proposed lighting complies with applicable standards. As there are no single family residential areas within relatively close proximity, and recognizing the location of the property in relation to existing and planned

commercial in all directions, the proposed lighting appears appropriate for this development in its context.

Signage. As per PUD 63 Section E.2.b, the required PUD “detail sign plan” is recognized as consisting of (1) a wall sign plan by Pinnacle Sign Group, (2) a pylon ground sign plan by Pinnacle Sign Group, and (3) representation of signage information on other plan sheets.

The building “Elevations” drawings A301 and A302 indicate the locations and relative sizes of the five (5) wall signs: one (1) neon-lighted identification sign on the east/side elevation, one (1) neon-lighted identification sign on the west/side elevation, and three (3) “movie poster” signs to advertise sale products. The Pinnacle Sign Group represents the appearance of the identification sign, and the Joplin, MO example photos indicate the likely appearance of the “movie poster” signs. In aggregate, the wall signage complies with the maximum display surface area standards for PUD 63.

The “Site Plan” drawing ~~A101~~ **by Lewis Engineering, P.L.L.C.** indicates the location of one (1) “monument” (actually a pylon) ground sign at the southwest corner of the lot, ~~and~~ two (2) menuboard signs north of the building at the drive-through ~~entrance~~, **another menuboard sign at the southeast corner of the building, and incidental signage about the internal drives.** The “Site Plan” drawing **A101 indicates only the “monument” sign and two (2) menuboard signs, located differently than the “Site Plan” drawing** by Lewis Engineering, P.L.L.C. ~~indicates the location of this ground sign, but does not identify it, and does not indicate or identify either menuboard sign.~~

Because the “Site Plan” drawing by Lewis Engineering, P.L.L.C. is more detailed and contains required information that the “Site Plan” drawing A101 does not, it is recognized as the primary site plan, and A101 is an ancillary site plan providing the same, but less information. ~~Therefore, the primary “Site Plan” drawing by Lewis Engineering, P.L.L.C. needs to have the all the critical features listed on A101, including the ground sign and menuboard signs.~~

None of the sign plans represent dimensions or details of the menuboard signage. Presuming they face north toward the driver’s side windows of ~~and~~ **queued** cars, as supported by interpretation of the “Site Plan” drawing A101, the signs would not appear visible from a public street, and so appear to be permit-able per Zoning Code Sections 11-7I-4.B.2.f.3 and 11-9-21.C.3.d. However, these menuboard signs need to be represented on **all sign relevant site** plans and approved as a part of this PUD Detailed Site Plan (PUD 63 Section E.2.b).

A structure is indicated on the building “Elevations” drawings A301 and A302, which the provided Joplin, MO example photos indicate may be a menuboard sign, which would likely face east in this case. The structure is not labeled on drawings A301 or A302, and is not indicated on ~~A101 the plan view site plan drawings.~~ The Applicant should label as appropriate and provide signage information, ~~if it is to be a sign, or remove from plans if not actually proposed for this site.~~ **If it is a menuboard sign, and if facing east, it would not appear visible from a public street, and so would appear to be permit-able per Zoning Code Sections 11-7I-4.B.2.f.3 and 11-9-21.C.3.d.**

The Pinnacle Sign Group sign plan represents the one (1) proposed pylon ground sign. It appears to have a main identification sign element measuring approximately 8’ horizontally by 8’ horizontally by approximately 4’ vertically. Thus, it forms a cube-like design, with opposing sides having the same copy, alternating between “Andy’s” and “Frozen Custard.” The pylon will also support, underneath the main identification sign, a changeable-letter message board sign element measuring 7 1/3’ X 4’. Finally, at the top, the pylon would support a large, 50” X 105”, 3-dimensional frozen custard cone. The total sign height has not been provided. Although there is no maximum height restriction in the underlying CG district, Zoning Code Section 11-7I-4.B.2.d restricts ground signs to 25’ in height in PUDs.

The ground sign’s aggregate display surface area has not been provided. When counting the sign faces of the 4-sided main identification sign all four (4) times (not allowing for the double-faced sign exclusion per Zoning Code Section 11-7I-4.B.2.e) and recognizing the 3-dimensional cone signage element’s reported dimensions (50” X 105”) as if each facet from every possible **horizontal** direction will contain an equal visible display surface area, but counting it only once because it is only humanly possible to see one facet at a time, Staff calculated the aggregate display surface area at approximately 197 square feet, well shy of the 576 square feet allowable for 192’ of street frontage in the CG district with PUD 63.

~~Per the “Site Plan” drawings, it appears that the ground sign is proposed to be placed within the 15’-wide Utility Easement platted with 101 South Memorial Plaza. If allowed, placement of signage in such easements requires the specific approval of the City Engineer and Public Works Director. Otherwise, the signs must be relocated out of the easements.~~

~~Also, the sign would appear to overhang 8' wide Sidewalk Easement platted with 101 South Memorial Plaza, and may be in conflict with the sidewalk which is required there (but not yet represented on the plans). The Applicant should check the mounting height of the changeable letter message board sign element and compare it to applicable sidewalk clearance standards for pedestrians and those covered by ADA standards, and make adjustments as required.~~

Most restaurants and other developments of this size will have incidental signage for traffic control and general identification information. The photographs of the Joplin, MO example indicate incidental signage. Standard directional signs at a maximum of 3 square feet in display surface area (reference Zoning Code Section 11-9-21.C.3.k), signs reserving the ADA accessible parking spaces, and any other such incidental signage must be provided for review for conformance to applicable Zoning standards.

Staff Recommendation. The Detailed Site Plan adequately demonstrates compliance with the Zoning Code and is in order for approval, subject to the following corrections, modifications, and Conditions of Approval:

1. Subject to compliance with all Fire Marshal and City Engineer recommendations and requirements.
2. The proposed driveways and their curb return radii must comply with applicable standards and City Engineer and/or Fire Marshal requirements.
3. Both 102nd St. S. and 83rd E. Ave. are subject to 8'-wide Sidewalk Easements per the plat of 101 South Memorial Plaza. The Sidewalk Easements need to be represented **on A101 along both streets** if they are not already, and labeled as appropriate.
4. The Site Plans ~~do not currently, and~~ need to show the sidewalks to be constructed along both streets within the Sidewalk Easements. **The revised "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. now represent 5'-wide sidewalks along both streets as required. The Architect's revised site plan has not been received.**
5. Per Zoning Code Section 11-10-2.H, the maximum number of parking spaces allowed for this property, for 2,150 square feet, is 16 parking spaces (reference Zoning Code Section 11-9-12.D), and a total of 31 parking spaces is proposed. Therefore, a Special Exception or PUD Major Amendment may be requested to allow the additional parking spaces proposed.

On Friday, December 14, 2012, the Applicant submitted revised electronic copies of the "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. Included were two (2) different versions: One showing the site laid out essentially as originally submitted, and the other reducing the number of parking spaces to the maximum allowable under the Zoning Code, 16. Approval of this Detailed Site Plan shall only attach to the site plan version as ultimately constructed.

- ~~6. Please label the angle of the parking spaces along the west property line.~~
7. For the regular handicapped-accessible parking space, please add to the Parking Space Detail the 4" "hairpin" striping per Zoning Code Section 11-10-4.C Figure 3.
8. During the design of the parking lots, the Applicant should confirm with the Building Inspector that the parking and the entire site complies with applicable ADA requirements, including accessible parking spaces and access aisles, appropriate signage reserving the spaces, etc.
9. The provided Parking Space Detail indicates the signs reserving the van-accessible space will be **posted in front of each space, as appropriate.** ~~mounted to the building. However, based on the relative location of the access aisle to the front/south end of the building on the Lewis Engineering, P.L.L.C. "Site Plan" drawing, and recognizing the surface of this part of the building is glass panel, building mounting would not appear possible. It is possible that the accessible parking spaces will be located further north, as per the "Site Plan" drawing A101. At that location, the building exterior is still glass panel, and the sign location centered on the access aisle centerline would put it on the main entrance doors. The provided photo of the Joplin example indicates a standard pole-mounted sign. Whether building-mounted or pole-mounted,~~ **Signage to be used for reserving the spaces** needs to be provided and approved as a part of this PUD Detailed Site Plan.
10. Please dimension the proposed parking lot setbacks along ~~both 102nd St. S. and 83rd E. Ave. and~~ increase to 5' in width if not that already.

11. The plans show internal drives and parking spaces being paved over certain Utility Easement areas along the north and west sides of the subject property. If allowed, paving over such easements requires the specific approval of the City Engineer and Public Works Director.
- ~~12. Please add a minimum of one (1) loading berth per Zoning Code Section 11-9-12.D; the same must comply with the dimensional standards of Zoning Code Section 11-10-5.A, or a Variance or PUD Major Amendment may be requested in order to remove the loading berth requirement.~~
13. For the "Trash Container" area at the northwest corner of the site, please indicate a gate to be used to comply with the screening requirement of PUD 63 Section E.4.a.
14. For the "Trash Container" area at the northwest corner of the site, please provide, in profile view / elevations or plan view on any of the provided drawings, information on proposed composition, dimensions, color, and other such details, to be approved as a part of this Detailed Site Plan.
15. As described in the analysis above, please ~~address the paving configuration to attend the "Trash Container" area as appropriate.~~ Adjust paved versus non-paved surface calculations if/as required.
16. Please resolve the 15% Street Yard Minimum Landscaped Area Standards (Section 11-12-3.A.1) matter as described in the Landscape Plan analysis above.
17. Please resolve the Minimum Width Landscaped Area Strip Standards (Section 11-12-3.A.2 and 11-12-3.A.7) matter as described in the Landscape Plan analysis above.
18. Please resolve the Building Line Setback Tree Requirements (Section 11-12-3.A.4) matter as described in the Landscape Plan analysis above.
- ~~19. Please resolve the Maximum Distance Parking Space to Landscaped Area Standard (Sections 11-12-3.B.1 and 11-12-3.B.2) matter as described in the Landscape Plan analysis above.~~
20. Please resolve the Tree to Parking Space Ratio Standard (Section 11-12-3.C.2) matter as described in the Landscape Plan analysis above.
21. Please resolve the Irrigation Standards (Section 11-12-3.D.2) matter as described in the Landscape Plan analysis above.
22. Please resolve the Miscellaneous Standards (Sections 11-12-4.A.5, 11-12-3.C.7, 11-12-3.D, etc.) matter as described in the Landscape Plan analysis above.
23. Please resolve the Lot Percentage Landscape Standard (Section 11-7I-5.F; PUDs only) matter as described in the Landscape Plan analysis above.
24. Please correct "monument" qualifier of the ground sign on the "Site Plan" drawing A101 **and on the "Site Plan" drawing by Lewis Engineering, P.L.L.C.** to "pylon" or "ground" sign.
- ~~25. On the "Site Plan" drawing by Lewis Engineering, P.L.L.C., please label the one (1) ground sign and indicate and label the two (2) menuboard signs along the north side of the property.~~
26. Please represent all proposed menuboard signs on the sign plans for approval as a part of this PUD Detailed Site Plan (PUD 63 Section E.2.b).
27. A structure is indicated on the building "Elevations" drawings A301 and A302, which the provided Joplin, MO example photos indicate may be a menuboard sign, which would likely face east in this case. The structure is not labeled on drawings A301 or A302, and is not indicated on **A101** the plan view site plan drawings. The Applicant should label as appropriate and provide signage information, if it is to be a sign, or remove from plans if not actually proposed for this site. If it is a menuboard sign, and if facing east, it would not appear visible from a public street, and so would appear to be permit-able per Zoning Code Sections 11-7I-4.B.2.f.3 and 11-9-21.C.3.d.
28. On the ground sign plan by Pinnacle Sign Group, provide the proposed total ground sign height and reduce if/as required to comply with the 25' maximum height restriction of Zoning Code Section 11-7I-4.B.2.d.
- ~~29. Per the "Site Plan" drawings, it appears that the ground sign is proposed to be placed within the 15' wide Utility Easement platted with 101 South Memorial Plaza. If allowed, placement of signage in such easements requires the specific approval of the City Engineer and Public Works Director. Otherwise, the signs must be relocated out of the easements.~~
- ~~30. The ground sign would appear to overhang 8' wide Sidewalk Easement platted with 101 South Memorial Plaza, and may be in conflict with the sidewalk which is required there (but not yet represented on the plans). The Applicant should check the mounting height of the changeable~~

~~letter message board sign element and compare it to applicable sidewalk clearance standards for pedestrians and those covered by ADA standards, and make adjustments as required.~~

31. Most restaurants and other developments of this size will have incidental signage for traffic control and general identification information. The photographs of the Joplin, MO example indicate incidental signage. Standard directional signs at a maximum of 3 square feet in display surface area (reference Zoning Code Section 11-9-21.C.3.k), signs reserving the ADA accessible parking spaces, and any other such incidental signage must be provided for review for conformance to applicable Zoning standards.
32. Please correct minor errors as follows:
 - a. Both "Site Plan" drawings represent certain linework indicating easements, but only a few are labeled along with their respective widths and applicable Document # citations on the "Site Plan" drawing by Lewis Engineering, P.L.L.C. All easements need to be labeled as to type, width, and Document # citations on all site plan drawings. Linetypes may be included in the Legend in lieu of labeling.
 - b. The "CS Zoning" label on both the "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. ~~do not appear to point to the correct linetype per the recorded plat of 101 South Memorial Plaza.~~ **was removed on the revised plans, without notice. Information should not be removed between versions of submitted plans absent specific notice.**
 - c. ~~The relative location of the linetypes and labels for the 8' Sidewalk Easement and (presumably) a Utility Easement on both the "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. appear to be off as compared to the recorded plat of 101 South Memorial Plaza.~~
 - d. The curblineline for 83rd E. Ave. appears to exceed the 15' Mutual Access Easement width **on A101**. Unless it is being widened by the developer as a part of this project or is skewed, this relative representation may be off. This is based on the street section showing a 26' total width roadway per Exhibit A of PUD 65 and the 13' half-street roadway indicated by the easement lines designated on the plat of 101 Memorial Square. Please adjust as appropriate.
 - e. South 83rd E. Ave. is not labeled on any of the site plan drawings – please add.
 - f. "Site Plan" drawing by Bill Lewis of Lewis Engineering, P.L.L.C.: Please include word "(Private)" next to 102nd St. S.
 - g. The building "Elevations" drawings A301 and A302 appear to have the following errors:
 1. South-facing elevation labeled "East Elevation"
 2. East-facing elevation labeled "South Elevation" and appears inverted
 3. North-facing elevation labeled "West Elevation"
 4. West-facing elevation labeled "North Elevation" and appears inverted
 - h. The handicapped-accessible parking spaces on the two "Site Plan" drawings are inconsistent – please reconcile. Considering the building elevations drawings indicate the main entrance on the [east] side will be toward the center of the building (notwithstanding the possible building elevations mislabeling and inversion on the elevations drawings), the accessible spaces as indicated (albeit without access aisle) seem more appropriately situated on the "Site Plan" drawing A101.
 - i. Any changes made to site plan drawings made by either Lewis Engineering, P.L.L.C. or Hufft Projects need to correspondingly be made to all other drawings affected by the change.
 - j. The width of the bypass lane west of and paralleling the drive-through lane is inconsistent on the "Site Plan" drawings by Lewis Engineering, P.L.L.C. and Hufft Projects.
 - k. A 22'-wide linetype is indicated on "Site Plan" drawing A101 and on the "Site Plan" drawing by Lewis Engineering, P.L.L.C., but at 22' 2" in that case. The linetype does not appear to correspond to any geospatial features on the plat of 101 South Memorial Plaza. The linetypes need to be labeled and, if pointing to the same geospatial feature, they need to be reconciled as to width.
 - l. Any other existing inconsistencies between drawings, even if missed from this list, must be reconciled.

33. *To complete the application submittal, please submit two (2) full-size copies and one (1) 11" X 17" copy (if any of them have a native size being 11" X 17", submit only 3 in that size in that case; if any of them have a native size 8.5" X 11", submit only 3 in that size in that case):*
 - a. *"Detailed Site Plan" cover sheet*
 - b. *"Site Plan" drawing A101*
 - c. *Conceptual rendering with page number "5"*
 - d. *Daytime photo of Andy's location in Joplin*
 - e. *Evening photo of Andy's location in Joplin*
 - f. *Pinnacle Sign Group wall sign plan*
 - g. *Pinnacle Sign Group ground/pylon sign plan*
34. *Please submit complete, corrected copies of the Detailed Site Plan incorporating all of the corrections, modifications, and conditions of approval as follows: Two (2) full-size hard copies, one (1) 11" X 17" hard copy, and one (1) electronic copy (PDF preferred).*
35. *Minor changes in the placement / locating individual trees or parking spaces, or other such minor site details, are approved as a part of this Detailed Site Plan, subject to administrative review and approval by the City Planner. The City Planner shall determine that the same are minor in scope and that such changes are an alternative means for compliance and do not compromise the original intent, purposes, and standards underlying the original placement as approved on this Detailed Site Plan, as amended. An appeal from the City Planner's determination that a change is not sufficiently minor in scope shall be made to the Board of Adjustment in accordance with Zoning Code Section 11-4-2.*
36. *At the TAC meeting, the Architect indicated the poles will be mounted on three (3) foot concrete base, and so the pole height would be reduced to 17' in width. This needs to be reflected on the lighting plans.*

Erik Enyart noted that, prior to the meeting, he had presented to the Commissioners a revised Staff Report reflecting a revised set of site plans, attached, and attaching a copy of the TAC Minutes, which had not been attached to the Staff Report in the Agenda Packet. Mr. Enyart noted that the Applicant had submitted two (2) different versions of the plans, one showing the 31 parking spaces as originally proposed, and one showing the 16 parking spaces allowed at maximum by the Zoning Code.

Chair Thomas Holland asked if the Applicant was present and wished to speak on the item. Bill Lewis of Lewis Engineering, P.L.L.C., and Kimball Hales, AIA, LEED AP, of Hufft Projects, 321 W. 40th St., Kansas City, MO, were present. Mr. Lewis stated that he would speak first, as his name was on the application. Mr. Lewis introduced Mr. Hales and Andy Kuntz, owner of *Andy's Frozen Custard*. Mr. Lewis stated that he and his client agreed with the standards [as expressed by Staff], but that their biggest concern was the number of parking spaces. Mr. Lewis stated that this restaurant required more parking spaces, since a lot of people like to get their frozen custard and sit down outside to enjoy it. Mr. Lewis stated that the problem normally is that [developers] don't want to have to build so many parking spaces, but this business wants them. Mr. Lewis stated that he and his client would be back to the Planning Commission for an Amendment to the PUD to cover the parking issue. Mr. Lewis stated that, at this time, he and his clients were seeking approval of both site plans, [one version showing only the maximum 16 parking spaces].

Bill Lewis stated that the PUD limits [ground] signs to 25' in height, but that there was no limit [in the underlying CG district] in the Zoning Code. Mr. Lewis stated the other item in the PUD Amendment would clarify that.

Kimball Hales of Hufft Projects, 321 W. 40th St., Kansas City, MO, stated that his company was working with Andy Kuntz on several of their new stores, the most recent of which was just

constructed in Joplin. Mr. Hales stated that this would be similar to the Joplin location and would be their latest prototype plan, but that they try to improve on them each time. Mr. Hales stated that, also in attendance was Steve Owens, the franchisee. Mr. Hales stated that *Andy's* was a great business to work with. Mr. Hales stated that he appreciated the TAC process, which helped him and his design team to understand how they could meet the [regulatory review] process. Mr. Hales stated that *Andy's* needed a lot of parking, and at the peak business times of Friday and Saturday nights, the parking lots fill up quick. Mr. Hales stated that it would be safer to have the additional parking, as you will not have so many cars backing up or circling the parking lot waiting for parking spaces to open up. Mr. Hales stated that *Andy's* would like to have a 35'-high [ground] sign with the PUD Amendment. Mr. Hales stated that, at that height, it would be more visible from Memorial Dr, considering this is an interior lot. Mr. Hales stated that the [ground] sign would be well below the maximum [display surface area allowable], and so he and his client were talking to the sign company about locating a second sign at 83rd E. Ave., a monument sign. Mr. Hales asked the Commission for favorable consideration of the application.

Andy Kuntz of Springfield, MO, stated that he was proud to propose building his first store in the State of Oklahoma in Bixby. Mr. Kuntz stated that he was passionate about what he did, and that this store would have a family-owned franchisee. Mr. Kuntz stated that *Andy's* was involved in local elementary schools, and had been in business for 27 years this summer. Mr. Kuntz stated that *Andy's* gives frozen custard cups to kids on the last day of school, last year giving out 21,000 cups of custard. Mr. Kuntz stated that his philosophy was, if the business is not involved in the community, it will not succeed. Mr. Kuntz stated that he wanted this to be a place where, 10 years from now, people will be happy to take their kids to. Mr. Kuntz stated that there were 17 stores now, and he continued to build new ones.

Larry Whiteley asked if Andy Kuntz if he sold food, and Mr. Kuntz stated that he sold frozen custard, vanilla, chocolate, and seasonal flavors, assorted cones and toppings, drinks, etc., but not food.

A Commissioner asked Andy Kuntz if the new *Sprouts* grocery store would block the view of his store, and Mr. Kuntz stated that, actually, there were great sight lines between this site and CVS. The Commissioners discussed the location of the site from *ALDI* to the south. Erik Enyart and Kimball Hales clarified with the Commissioners that the subject property was located between *Whataburger* and the *Holiday Inn Express* hotel. Mr. Hales stated that, since it was an interior lot, they would need additional height for the signage. Mr. Hales explained that it was the frozen custard cone that would extend that high, not the main sign cabinet. Mr. Hales stated that the Joplin sign was 38' in height. Chair Thomas Holland stated that Joplin had a lot of tall signs. Mr. Hales stated that he had observed several tall signs in Bixby, as well. Mr. Holland acknowledged and expressed concern over sign heights in Bixby.

Erik Enyart clarified with Chair Thomas Holland and the other Commissioners that, with the two (2) site plan versions submitted and the way the recommendations were worded in the Staff Report, if the Commissioners Approved the Detailed Site Plan with the Conditions of Approval as recommended, it would not have to deal with the parking or signage issues at this time, and could take them up at the next meeting.

John Benjamin made a MOTION to APPROVE BSP 2012-02 subject to the Conditions of Approval as recommended by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Benjamin, Holland, Whiteley, & Whisman
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 4:0:0

OLD BUSINESS:

Chair Thomas Holland asked if there was any Old Business to consider. Erik Enyart stated that he had none. No action taken.

NEW BUSINESS:

Chair Thomas Holland asked if there was any New Business to consider. Erik Enyart stated that he had none. No action taken.

ADJOURNMENT:

There being no further business, Chair Thomas Holland declared the meeting Adjourned at 7:34 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary