

**MINUTES
PLANNING COMMISSION
116 WEST NEEDLES
BIXBY, OKLAHOMA
July 15, 2013 6:00 PM**

In accordance with the Oklahoma Open Meeting Act, Title 25 O.S. Section 311, the agenda for this meeting was posted on the bulletin board in the lobby of City Hall, 116 W. Needles Ave., Bixby, Oklahoma on the date and time as posted thereon, a copy of which is on file and available for public inspection, which date and time was at least twenty-four (24) hours prior to the meeting, excluding Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

STAFF PRESENT:

Erik Enyart, AICP, City Planner

OTHERS ATTENDING:

See attached Sign-In Sheet

CALL TO ORDER:

Chair Thomas Holland called the meeting to order at 6:05 PM.

ROLL CALL:

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

CONSENT AGENDA:

1. Approval of Minutes for the May 20, 2013 Regular Meeting
 2. Approval of Minutes for the June 17, 2013 Regular Meeting
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Chair Thomas Holland introduced the Consent Agenda items.

Lance Whisman and John Benjamin observed that there was a quorum present of those in attendance at the May 20, 2013 meeting, but not of those in attendance at the June 17, 2013 meeting. Mr. Benjamin stated that he would have to Abstain on the vote on that item.

Larry Whiteley asked if the Minutes could be approved if there was not a quorum of those in attendance at a particular meeting, and Erik Enyart responded that the Commissioners may do so if they trust that they were accurate.

Larry Whiteley made a MOTION to APPROVE the Minutes of the May 20 and June 17, 2013 Regular Meetings as presented by Staff. Chair Thomas Holland SECONDED the Motion. Roll was called:

ROLL CALL:

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

Larry Whiteley noted that, a few months prior, there were several months' worth of Minutes that could not be approved due to quorum issues, that were finally passed [in a similar manner].

PUBLIC HEARINGS

3. **Preliminary Plat – Trails at Whitehawk – Tulsa Engineering & Planning, Inc. (PUD 62).** Discussion and consideration of a Preliminary Plat and certain Modifications/Waivers for “Trails at Whitehawk” for 75 acres in part of the W/2 SE/4 of Section 15, T17N, R13E. Property located: Northwest corner of the intersection of 151st St. S. and Kingston Ave.
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Chair Thomas Holland introduced the item asked Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Wednesday, July 10, 2013
RE: Report and Recommendations for:
Preliminary Plat of “The Trails at Whitehawk” (PUD 62)

LOCATION: – Northwest corner of the intersection of 151st St. S. and Kingston Ave.
– Part of the W/2 SE/4 of Section 15, T17N, R13E

SIZE: 75 acres, more or less

EXISTING ZONING: CG, OL, & RS-3 and PUD 62

SUPPLEMENTAL – PUD 62 for “Hawkeye”

ZONING: – Corridor Appearance District (partial)

EXISTING USE: Vacant/Agricultural

REQUEST: Preliminary Plat approval

SURROUNDING ZONING AND LAND USE:

North: RS-3/PUD 46; Residential single family homes and vacant lots in The Ridge at South County.

South: AG, CG, OM; Agricultural and rural residential to the south, the Bixby Cemetery to the southeast, and a 150-acre Lutheran Church Extension Fund-Missouri Synod agricultural tract to the southwest zoned CG, OM, RM-3, and RE.

East: AG, CG, & RS-3/PUD 72; Agricultural, rural residential, and commercial on several unplatted tracts along Kingston Ave. and 151st St. S. The Mountain Creek Equipment Sales (formerly the Allison Tractor Co. Inc.) tractor/farm equipment sales business is to the east on approximately 2.4 acres zoned CG. The vacant Southridge at Lantern Hill subdivision abuts to the east on 40 acres zoned RS-3 with PUD 72.

West: RS-3, RM-2, CS, & AG; The White Hawk Golf Club, residential in Celebrity Country and White Hawk Estates in PUD 3, and vacant, rural residential, and agricultural tracts fronting on 151st St. S. zoned CS and AG.

COMPREHENSIVE PLAN: Corridor/Low Intensity/Development Sensitive + Vacant, Agricultural, Rural Residences, and Open Land + Community Trail

PREVIOUS/RELATED CASES: (Not necessarily a complete list)

PUD 62 – Hawkeye – Hawkeye Holding, LLC – Request for rezoning to CG and RS-3 for a residential and commercial development for the subject property – PC Recommended Conditional

Approval of CG, OL, and RS-3 01/21/2008 and City Council Approved CG, OL, and RS-3 02/11/2008 (Ord. # 991).

PUD 62 – Hawkeye – Major Amendment # 1 – Request for Major Amendment to PUD 62 for subject property – PC Recommended Conditional Approval 06/17/2013 and City Council Approved 06/24/2013 (Ord. # 2122).

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property contains approximately 75 acres consisting of two (2) tracts of land, which appear to share a common lot line corresponding to the northerly line of a 130'-wide AEP-PSO overhead electrical transmission powerline right-of-way easement. The northerly tract is zoned RS-3 and the southerly tract is zoned CG, with the west 330' thereof zoned OL. The entire acreage is supplementally zoned PUD 62.

The subject property is moderately sloped and primarily drains to the west to an unnamed tributary of Posey Creek. Just north of the northerly dead-end of Kingston Ave., the subject property contains part of the top of a small hill located west of the ridgeline at Sheridan Rd. A small portion of the north side of the east line appears to drain to the east into Southridge at Lantern Hill. The property is presently pasture land. There is some 100-year (1% Annual Chance) Regulatory Floodplain within westerly and southwesterly portions of the acreage corresponding to the tributary of Posey Creek.

It appears that part of the Kingston Ave. roadway falls along and within the east side of the subject property. Per aerial and GIS data, a fenceline is located along the west side of the roadway, and is located several feet within the subject property. See the Access and Internal Circulation section of this report for additional information.

Comprehensive Plan. The subject property is designated Corridor, except for the west approximately 330', which is designated Low Intensity. A portion of the southerly area of the acreage is designated Development Sensitive. CG zoning may be found in accordance with the Corridor designation, but is not in accordance with the Low Intensity designation. Therefore, in 2008 as recommended by Staff, the westerly 330' of Development Area B was zoned OL, which may be found in accordance with Low Intensity designation.

RS-3 zoning may be found in accordance with the Corridor designation, and is in accordance with the Low Intensity designation.

All three (3) existing zoning districts may be found in accordance with the Development Sensitive designation.

Thus, the current zoning patterns are consistent with the Comprehensive Plan.

At its June 17, 2013 Regular Meeting, the Planning Commission held a Public Hearing and recommended Conditional Approval of PUD 62 Major Amendment # 1 by unanimous vote, and to additionally recommend that "the City Council consider the Comprehensive Plan as it pertains to trails in this PUD Major Amendment."

The Comprehensive Plan Land Use Map designates a Community Trail more or less along a line paralleling 330' from the westerly line of the subject property through its entire north-south length. It is more likely that any future trail here would follow the course of the tributary of Posey Creek, which only "clips" the southwest corner of the acreage. This area is designated as Reserve A on the Preliminary Plat, and is to be used for stormwater detention, which would appear to be conducive to future trail development, as compared to residential or commercial/office development. The site plan provided with the Major Amendment states that no trails are proposed at this time, and this plat does not propose trail construction through the subject property. However, the Deed of Dedication and Restrictive Covenants (DoD/RCs) provide that the Reserve Areas may be used for "passive and active open space" uses, such as "...recreation, ...sidewalks, and ingress and egress."

The Bixby Comprehensive Plan shows a trail connecting Bixby Creek to the Arkansas River through Conrad Farms, various tracts along Sheridan Rd. and 151st St. S. and the City of Bixby's cemetery expansion acreage, the subject property and The Ridge at South County, certain other tracts along 141st St. S., and Eagle Rock. An amendment to the Comprehensive Plan would not have been required to approve the Major Amendment, because the Zoning Code requires only consistency with the land use elements for rezoning purposes, not the Public Facilities / Urban Design Elements such as trails. At its regular meeting held June 24, 2013, the City Council Approved the Major Amendment and did not make any special requirements pertaining to trails.

The Trail designation notwithstanding, the single-family residential and commercial developments anticipated by this plat would be not inconsistent with the Comprehensive Plan.

General. This subdivision of 1.11 acres proposes 262 Lots, nine (9) Blocks (however, recommendations in this report would cause there to be more), and five (5) Reserve Areas. With the exceptions outlined in this report, the Preliminary Plat appears to conform to the Zoning Code and Subdivision Regulations and PUD 62.

The Fire Marshal's, City Engineer's, and City Attorney's review correspondence are attached to this Staff Report (if received). 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) discussed this application at its regular meeting held July 03, 2013. Minutes of that meeting are attached to this report.

Access. Access to the residential subdivision would be via a proposed collector street connection to 151st St. S., which would be routed through the subdivision to connect to the Lakewood Ave. stub-out street in The Ridge at South County. It would have a secondary emergency-only access drive connecting to Kingston Ave. per the Fire Marshal. When the commercial development area is built, a cul-de-sac design may be employed to improve this connection. The commercial Development Area B would have access via the said collector street connection to 151st St. S., and may also access that street via Kingston Ave. The site plan submitted with Major Amendment # 1 indicates a singular access drive connection to 151st St. S. toward the center of the frontage, which was previously shown on the Conceptual Development Plan for the original PUD 62. This plat has Limits of No Access (LNA) along the 151st St. S. frontage, with the exception of an access opening corresponding to the drive connection as shown on the site plan. Although City Staff do not object to this connection, both the City of Bixby and ODOT would have to allow a curb cut / driveway permit on this State Highway 67. The subject property is on the (westbound) downward slope of the hill at Sheridan Rd., and the speed limit is 55 MPH. The plat's representation of LNA and Access openings onto 151st St. S. / State Hwy 67 here does not guarantee the curb cut / driveway permit will be approved.

The subject property's Kingston Ave. frontage and particulars have been the source of question for this development since it was first rezoned and approved for PUD 62 in 2008. At the TAC meeting held July 03, 2013, the City Planner, City Engineer, Fire Marshal, Fire Code Enforcement Official, and the developer's engineer were presented with right-of-way dedication documents from 1959 and 1960 reflecting a 25'-wide, half-street road right-of-way for Kingston Ave. along the east side of the common line separating the subject property from the rural residential and undeveloped tracts to the east. It was generally agreed by all that:

- (1) Commercial traffic for the commercial Lot 1, Block 9 will primarily use the driveway connection onto 151st St. S. as may then be approved, and not so much the residential collector street in this development or Kingston Ave.,*
- (2) The City of Bixby recognizes Kingston Ave. as currently functionally classified as a local minor residential street,*
- (3) The subject property's right-of-way dedication should be based on its current functional classification; i.e. 25' as the balance of the 50' total width right-of-way,*
- (4) If properties to the east of the subject property develop more intensively than single-family residential, as would be expected at this time, they would be responsible for dedicating additional right-of-way width commensurate with their intensity,*
- (5) City Staff will support a Modification/Waiver of the right-of-way dedication requirement north of the cul-de-sac turnaround, based on its superior design and the fact that continued legal access will be maintained for the residence at 14800 S. Kingston Ave. in the existing half-street right-of-way to the east,*
- (6) The cul-de-sac turnaround, represented on a certain Major Amendment # 1 site plan as to be located within the 130'-wide PSO easement, may be constructed with the commercial development at the time of that development. Connection to, and not improvement of, Kingston Ave. will be required at this time with the residential Development Area the only one now proposed for development,*
- (7) North of the cul-de-sac turnaround, Kingston Ave. will continue to be a Public street to the extent the roadway exists within the existing 25'-wide half-street right-of-way and/or prescriptive right-of-way/easement that may exist on the subject property (but the existence of, and extent of which has not been determined here).*

However, because the fenceline and the roadway itself appear to extend onto the subject property, and may have implications for prescriptive right-of-way/easement, the fence should not be removed, unless agreed to by the affected property owner at 14800 S. Kingston Ave., and any other affected property owners not having a boundary agreement in place, and the City of Bixby. An easement over the affected area would be in order to secure the continued maintenance of the fenceline and roadway on the new residential lots platted, and is hereby recommended.

No trails are indicated as proposed in the "Trails at Whitehawk" development at this time.

Staff Recommendation. Staff recommends Approval of the Preliminary Plat subject to the following corrections, modifications, and Conditions of Approval:

1. Subject to the satisfaction of all outstanding Fire Marshal, City Engineer, and/or City Attorney recommendations.
2. Subject to a Modification/Waiver from Subdivision Regulations Section 12-3-4.F, as certain lots appear to exceed this 2:1 maximum depth to width ratio standard. The Modification/Waiver may be justified by citing the appropriate plan to plat deeper lots along the White Hawk Golf Club, and certain configurations necessitated by the geometries of the 130' PSO easement and Kingston Ave.
3. Subject to a Modification/Waiver from Subdivision Regulations Section 12-3-2.C to provide no stub-out streets to unplatted tracts abutting to the west and east. The Modification/Waiver may be justified by the limited extent of the common line shared by the residential Development Area and the tract to the east and its existing access on Kingston Ave. A justification would be required for not providing a stub-out street to the 8-acre tract to the west.
4. Subject to a Modification/Waiver from Subdivision Regulations Section 12-3-4.H to have double-frontage for Lots 26 and 27, Block 2, whose rear lines abut Kingston Ave. City Staff is supportive of this design, which is incidental and unavoidable due to existing geometries.
5. Subject to a Modification/Waiver from Subdivision Regulations Section 12-3-3.A to reduce the widths of the standard 17.5' Perimeter U/Es along the north and east boundary lines as evident on the plat. To the extent they abut existing 17.5' U/Es in The Ridge at South County and Southridge at Lantern Hill, Staff would support reducing them to 11', as the combined widths would exceed 22', the generally accepted standard for utility corridors on subdivision boundaries. However, see next item.
6. Block 2: 17.5' Perimeter U/E not represented. Linework suggesting an easement observed, but it is not labeled as such. To the extent it abuts Southridge at Lantern Hill, which has a 17.5' U/E along its westerly line, an 11' U/E would be in order (with a Modification/Waiver). For the balance of the east line abutting unplatted properties, 17.5' would be the minimum. Please add U/Es as appropriate.
7. Subject to a Modification/Waiver from Subdivision Regulations Section 12-3-2.F to be released from the half-street right-of-way dedication for Kingston Ave. north of the PSO easement, as described in this report. City Staff will support this Modification/Waiver, based on the cul-de-sac's superior design and the fact that continued legal access will be maintained for the residence at 14800 S. Kingston Ave. in the existing half-street right-of-way to the east. However, see next item.
8. Because the fenceline and the Kingston Ave. roadway itself appear to extend onto the subject property, and may have implications for prescriptive right-of-way/easement, the fence should not be removed, unless agreed to by the affected property owner at 14800 S. Kingston Ave., and any other affected property owners not having a boundary agreement in place, and the City of Bixby. An easement over the affected area would be in order to secure the continued maintenance of the fenceline and roadway on the new residential lots platted, and is hereby recommended.
9. Presupposing the approval of the Modification/Waiver from Subdivision Regulations Section 12-3-2.F to be released from the half-street right-of-way dedication for Kingston Ave. north of PSO easement, subject to a Modification/Waiver from Subdivision Regulations Section 12-3-2.N to be released from the sidewalk construction requirement along the half-street right-of-way dedication for Kingston Ave. north of PSO easement.
10. Subdivision Regulations Section 12-3-2.O prohibits the approval of building lots within the 100-year Regulatory Floodplain, as designated by FEMA and adopted as part of Bixby's Floodplain Regulations by ordinance; by Modification/Waiver, platting Reserve Areas may be permitted, provided their use is passive and use restrictions prohibit building construction. Parts of the back/west sides of current Lots 10, 11, and 12, Block 1 are in the 100-year Floodplain, as well as part of the back/west side of Reserve C. Unless there is intent to go through the FEMA Letter Of Map Amendment (LOMA) based on more accurate and favorable survey data, or the Conditional/Letter Of Map Revision based on Fill (C/LOMR-F) process to remove the parts of the building lots from the

100-year Floodplain, a redesign is in order. A Modification/Waiver will be required if redesigned such that the 100-year Floodplain is fully contained by Reserve Areas, and is required for the balance of Reserve C and for Reserve A, the latter which contains the upstream tributary of Posey Creek.

11. Please label the 100-year Floodplain designation as represented on and about Lots 10, 11, and 12, Block 1, and Reserve C.
12. All Modification/Waiver requests must be submitted in writing.
13. "Owner/Developer" block on face of plat, DoD/RCs Preamble, and Owner Signature Block: These data provide "OneFifty One Partners, L.L.C." is the owner of the subdivision. According to the Tulsa County Assessor's parcel data, as of a website query July 10, 2013, this name in title is correct for the southerly part of the subject property (lying south of the northerly line of the 130' PSO easement), but is not correct for the northerly acreage parcel, which the Assessor recognizes to be "Whitehawk Parnters, LLC."
Secondly, the legal description of the land being platted does not differentiate between what part of the underlying land is owned by which property owner name in title. For clear title and tax purposes, Staff believes that each dedicating owner should have their respective legal description specified in the DoD/RCs.
Alternatively, all of this would appear to be reconcilable by conveying that part of the subject property plat area from one owner name in title to the other, and using that for all instances required on the plat.
14. Lots 12 through 51, inclusive, Block 1, are completely separated from the balance of Block 1 by Reserve Area C. Per the definition of "Block" in the Subdivision Regulations and the typical block numbering conventions, the two (2) areas need to be separate blocks.
15. Lots 28 through 42, inclusive, Block 2, are completely separated from the balance of Block 2 by Reserve Area B. Per the definition of "Block" in the Subdivision Regulations and the typical block numbering conventions, the two (2) areas need to be separate blocks.
16. DoD/RCs Preamble: Please update the number of blocks to incorporate new blocks as recommended hereinabove.
17. In the TAC meeting held July 03, 2013, the TAC requested consistent front-yard U/Es throughout the subdivision, and the Applicant agreed to add these. Front yard B/Ls are 20' and the TAC, Applicant, and City Staff agreed that the front yard U/Es should be 15' in width, to provide a 5' buffer area to protect the integrity of the foundation and supporting wall, in the event of excavation of the U/E up to its interior edge.
18. Present Block 1, Lots 1 : 32, inclusive, and Block 2, Lots 24 through 27, inclusive: Consider increasing the rear-yard B/Ls to 20', to provide a 2.5' buffer area to protect the integrity of the foundation and supporting wall, in the event of excavation of the 17.5'-wide U/E up to its interior edge.
19. Block 3: Please label the widths of the rear yard U/Es.
20. Lot 1, Block 3: Please label the width of the B/L & U/E along the south line.
21. Lot 1, Block 3: Survey data not included to specify the extent of the PSO easement affecting the southerly side of the lot. For example, does the northerly line of the easement intersect precisely at its southeasterly lot corner? Please clarify as appropriate.
22. Lot 11, Block 3: Please label the width of the U/E along the south line at its westerly full extent, and the angle/bearing, so that it can be precisely located on the lot without scaling.
23. Lots 1 & 2, Block 1: Please label the angle/bearing along the back/westerly lines.
24. Title Block: Please remove the "-1" qualifier from PUD 62, as the PUD 62 Major Amendment # 1 approving ordinance did not redesignate the PUD on the official Zoning Map.
25. PUD 62 provides a 100' zoning setback from the centerline of 151st St. S. This plat proposes a 35' front setback from same. The centerline of 151st St. S. is not indicated, labeled, or dimensioned as to distance to the southerly line of commercial Development Area B / Lot 1, Block 9. Please confirm that the 35' setback is not less than 100' from the centerline of the street for the entire frontage of Lot 1, Block 9.
26. Per SRs Section 12-4-2.A.5, the Location Map must include a scale at 1" = 2,000'.
27. Please rename the street separating current Blocks 2 and 3 to S. Irvington Ave. to avoid duplicate street name "S. Hudson Ave."
28. Please add proposed addresses to the lots. A table may be used if needed for map clarity.

29. Please add the standard address caveat/disclaimer: "Addresses shown on this plat were accurate at the time this plat was filed. Addresses are subject to change and should never be relied on in place of the legal description."
30. Consider making the common lot line between Lots 18 and 19, Block 4, and Lots 30 and 31, Block 2, perpendicular/radial to the arc of the curved street in order to eliminate the 2.05' variance (in both cases) between the westerly points of tangent/curvature of C28 and C14 and the common lot corners. It is not clear if the 2.05' variances are to the west or to the east of the common lot corners, due to their exceptionally small size and the scale of the plat.
31. Consider adjusting southward, or otherwise making the south line of Lot 42, Block 2 perpendicular/radial to the arc of the curved street in order to eliminate the 2.57' variance between the northerly point of tangent/curvature of C16 and the common lot corner. It is not clear if the 2.57' variance is to the north or south of the southwest lot corner, due to its exceptionally small size and the scale of the plat.
32. Please confirm the accuracy of the relative representation of the Southeast Quarter Corner, which appears significantly to the east of the Kingston Ave. alignment.
33. Along the west line of Reserve A, consider using arrows to indicate the extent of the 225.84' and 577.93' dimensions (e.g. to the PSO easement north line, centerline, or south line).
34. DoD/RCs Preamble: Missing critical wording such as "And has caused the above described land to be surveyed, staked, platted, granted, donated, conveyed, and dedicated, access rights reserved, and subdivided ..." as per customary platting conventions and the City Attorney's recommendations regarding fee simple ownership of rights-of-ways.
35. DoD/RCs Section 1.1: Missing critical wording such as "The Owner/Developer does hereby grant, donate, convey, and dedicate to the public the street rights-of-way..." as per the City Attorney's recommendations regarding fee simple ownership of rights-of-ways.
36. DoD/RCs Section 1.1: Please qualify this section as follows: "...nothing herein shall be deemed to prohibit properly-permitted drives, parking areas, curbing, landscaping and customary screening fences that do not constitute an obstruction."
37. DoD/RCs Section 1.2.1: Word possibly omitted: "...may be served by overhead line or underground cable here and elsewhere throughout the subdivision."
38. DoD/RCs Section 1.12.6 – occurrence of "potion" instead of "portion," as presumed intended.
39. DoD/RCs Section 1.3.1 – Words "certificate of dedication" used in place of "Deed of Dedication."
40. DoD/RCs Section 1.5: Please qualify this section as follows: "...nothing herein shall be deemed to prohibit properly-permitted drives, parking areas, curbing, and landscaping; that do not constitute an obstruction."
41. DoD/RCs Section 1.8: Please clarify qualifying text in this section as follows: "...along the ~~private streets~~ reserve areas..."
42. DoD/RCs Section 1.9: Please remove term "Metropolitan" from the name of the Bixby Planning Commission.
43. DoD/RCs Section 1.12.3: Please qualify this section as follows: "Properly-permitted [r]ecreational equipment and fixtures will be allowed in the Detention Easement Area."
44. DoD/RCs Section 1.12.4.d: Possibly redundant word "channel" may be removed.
45. DoD/RCs Section 2.1.1 and 2.1.2: "Owners' Associations" may be unintentionally plural, unless there is intent to establish a secondary Owners Association for the commercial Lot 1, Block 9, and/or any lots subdivided therefrom.
46. DoD/RCs Section 2.1.1: Period missing from end of sentence.
47. DoD/RCs Section III (3) Preamble: Please replace "Ordinance" with "Code" as in "Zoning Code."
48. DoD/RCs Section III (3) Preamble: Please complete blanks with date information intended.
49. DoD/RCs Section III (3) Preamble: Please remove term "Metropolitan" from the name of the Bixby Planning Commission.
50. DoD/RCs Section III (3) Preamble: Please revise wording such as "WHEREAS, the Planned Unit Development (PUD) provisions of the Bixby Zoning Code.....compliance with the approved PUD, and"
51. DoD/RCs Section 3.2.1.9: Second occurrence of "two" misspelled.
52. DoD/RCs Section 3.3.2.4: Setback from non-arterial increased from 50' in PUD 62 to 100' here, which is inconsistent with the B/L as shown on the plat from Hudson Ave.

53. *DoD/RCs Section IV (4): Private restrictions should be submitted for review for conflicts with City Codes and enhanced quality control.*
54. *DoD/RCs Section 6.1: Provides "The Owner/Developer has formed or caused to be formed the" HOA. If this has occurred or will have occurred prior to plat recording, please submit a copy of the Secretary of State incorporation documents for placement in the permanent file and for notification to the Bixby Neighborhood Coordinator. If otherwise, the wording may more appropriately be tensed "...shall form or cause to be formed..."*
55. *DoD/RCs Section 6.3: "Owners' Associations" may be unintentionally plural.*
56. *DoD/RCs Section 6.3: "An assessment shall be a lien on the lot..." Please clarify if the assessment = a lien at the time of assessment, or only if unpaid after a time, or only if unpaid after a time and after an instrument is duly recorded with the County Clerk.*
57. *DoD/RCs Section 6.3: Occurrence of "Board of Directions," evidently without definition here or elsewhere.*
58. *DoD/RCs Owners' Notary Block: Please update 2009 date.*
59. *Copies of the Preliminary Plat, including all recommended corrections, modifications, and Conditions of Approval, shall be submitted for placement in the permanent file (1 full size, 1 11" X 17", and 1 electronic copy).*

Chair Thomas Holland opened the item for questions or comments from any of the Commissioners or those in attendance, before he shared his own comments. No one spoke at this time.

Chair Thomas Holland recognized Dean Christopoulos from the Sign-In Sheet. Mr. Christopoulos stated that he had his engineer with him and would defer to him if the Commission had any questions.

Chair Thomas Holland recognized Tim Terral of Tulsa Engineering & Planning, Inc., 9820 E. 41st St. S., Suite 102, Tulsa. Mr. Terral stated that he was working with Erik Enyart to satisfy all of the requirements.

John Benjamin asked Erik Enyart about the Kingston Ave. issue. Mr. Enyart stated that there were some design issues pertaining to accessing the commercial development area, and some stemming from the Fire Marshal's requirement to connect to it for emergency ingress and egress purposes. Mr. Enyart stated that there was no discussion at the Staff level to require improvements to Kingston Ave. at this time.

Chair Thomas Holland noted that the Fire Marshal had a recommendation pertaining to the need for the road to support [a fire apparatus weighing] 75,000 pounds. Mr. Enyart stated it was his understanding of the Fire Marshal's intent that this comment apply to the new [drive] connection only. Tim Terral stated that the emergency lane would have a crash gate on it and would not be used for regular traffic. Chair Thomas Holland stated that he thought it was unfortunate, as [Kingston Ave.] would have provided good access to the residential area, rather than have traffic go around using the new entrance road.

Chair Thomas Holland expressed concern over the number of review comments, and stated that he considered some to be [more minor than others].

Chair Thomas Holland referred to recommendation # 5 from the Staff Report and expressed concern that the Perimeter Utility Easements (UEs) would be reduced to 11' in width when abutting U/Es in other subdivisions. Tim Terral stated that this was common for subdivision design. Erik

Enyart stated that this was “very standard,” and that subdivisions normally need a 22’-wide U/Es for major utility corridors. Mr. Enyart stated that it was “very standard around the metro area to require a 17.5’ U/E on the perimeter when you’re the first one out there.” Mr. Enyart stated that, in this case then, “the 11’ U/E added to that will exceed the 22’ standard [width].”

Chair Thomas Holland referred to recommendation #s 17 and 18 from the Staff Report, and expressed concern that the foundations of the houses would be too close to the U/Es, and stated that this was because the setbacks were reduced and due to the lack of lot depth.

Chair Thomas Holland referred to recommendation # 25 from the Staff Report and expressed concern that the setback would not be achieved from 151st St. S. Tim Terral indicated that he had measured this matter and stated, “We’re definitely well past 100 feet” with the 35’ setback shown. Mr. Terral stated that the centerline of 151st St. S. was not the Sectionline, and that the right-of-way was quite wide at this point.

A Commissioner expressed concern that the Deed of Dedication and Restrictive Covenants would allow overhead electric lines in certain areas. Tim Terral stated that *OG+E* had an overhead line along the west side of Kingston Ave., but that it would “be relocated anyway because it is outside of easement.” Mr. Terral stated that there would be an overhead electrical line along Kingston Ave. Erik Enyart addressed Mr. Terral and asked if the overhead lines were being relocated to the east side of Kingston Ave., and Mr. Terral indicated agreement. Mr. Enyart stated that, in that case, the lines would be relocated outside the plat. Mr. Terral stated that he thought the overhead lines may still be along the common line shared with [*Southridge at*] *Lantern Hill*.

Chair Thomas Holland referred to the fourth paragraph on page 78 of the agenda packet, a page from the Technical Advisory Committee minutes of July 03, 2013, pertaining to sidewalks and Kingston Ave., and asked why the City would have to Waive the sidewalk construction requirement. Erik Enyart stated that, if the right-of-way dedication requirement was Waived north of the cul-de-sac turnaround, which may be constructed on the PSO easement in the future with the commercial development, it would presuppose the Waiver of the sidewalk construction requirement there, “because the sidewalk is supposed to be in the right-of-way that won’t be there.” A Commissioner asked why a Modification/Waiver would be required, and Mr. Enyart stated that a sidewalk was required along all streets regardless of the presence of right-of-way, but that it did not make sense to require one if the right-of-way, in which it was to be located, was not there.

Tim Terral provided Erik Enyart a copy of the PUD site plan, “Exhibit ‘A’ Hawkeye Conceptual Development Plan” dated June 17, 2013, which showed the cul-de-sac design, and Mr. Enyart provided it to Chair Thomas Holland and he and Mr. Terral described the area of concern. Mr. Enyart indicated on the exhibit the Kingston Ave. roadway extending north of the cul-de-sac turnaround. Mr. Holland noted that this roadway would be in the backyards of the houses and withdrew his concern.

Chair Thomas Holland referred to the new emergency access drive and stated, “I’m thinking about it as an amenity,” and asked if pedestrians would be able to use it. Mr. Terral stated that it would not be walled off so it could be accessed by pedestrians. Mr. Holland and Mr. Terral discussed the

likely design of the drive with crash gate; Mr. Terral indicated the fence/gate could have a pedestrian opening.

Chair Thomas Holland expressed concern over the U/E situation, and Tim Terral reiterated that this situation was “very common.” Mr. Holland expressed concern over the sizes of the lots. Erik Enyart stated that he had observed a new “dynamic” wherein “lots are getting smaller, [while] houses are getting bigger, and this creates a lot of competition for available space.”

Chair Thomas Holland asked about the livability space reduction per the PUD Major Amendment. Erik Enyart stated that the livability space was the unpaved “greenspace” on the lot. Mr. Enyart stated that, since the setbacks were pushed out toward both rear and front lot lines, this allowed the houses to [cover more of the lot area], necessitating a livability space reduction. John Benjamin and Larry Whiteley simultaneously asked what size the houses would be. Tim Terral responded to Larry Whiteley and said he did not know and deferred to Dean Christopoulos. Mr. Christopoulos responded to Mr. Benjamin and stated that the house sizes would be similar to those found in *The Auberge* [Village].

Lance Whisman asked Erik Enyart to clarify why a Modification/Waiver would be required when the 100-year Floodplain would be contained in Reserve Areas. Mr. Enyart stated that the Subdivision Regulations expressly prohibit platting building lots in the 100-year Floodplain, but the text goes on to suggest that plats can contain Floodplain, as long as they are contained in Reserve Areas [prohibiting development], but that it still required a Modification/Waiver. Mr. Enyart stated that Bixby’s Subdivision Regulations were somewhat unique in this regard. Upon a question as to why, Mr. Enyart stated that it appeared to him that the City leadership, when it wrote [the Subdivision Regulations], had a high priority on compliance with FEMA requirements and building safely out of the Floodplain. Mr. Enyart stated that Bixby’s Subdivision Regulations were unique in the area for having such strong language prohibiting platting in the Floodplain. Mr. Whisman asked again why a Modification/Waiver would be required when the 100-year Floodplain would be contained in Reserve Areas, and Mr. Enyart responded that the Subdivision Regulations still required a Modification/Waiver to allow Reserves in the 100-year Floodplain.

Upon a question, Erik Enyart stated that some of the lots along the west side of the subdivision had 100-year Regulatory Floodplain on them, and that the City could either disapprove those lots in the subdivision or design around them, such as by reconfiguring the area or converting to a Reserve Area to contain them, even if temporary and subject to being replatted as building lots. Chair Thomas Holland clarified with Tim Terral that this situation would be resolved, and Mr. Terral stated, “It’s not significant but has to be dealt with.” Mr. Holland stated that FEMA does regular audits of communities to find development in the floodplains, and stated that “They will review all your Building Permits” going back through the years. Mr. Enyart stated, “I’ve been through a FEMA audit.”

Lance Whisman indicated concern over the number of Modifications/Waivers, and stated that this was the most he had seen in a plat. Tim Terral stated that Bixby does this differently and that some cities do not require Waivers for such things.

Chair Thomas Holland asked if the Commissioners could recommend [Approval] Conditions regarding the amount of masonry on the houses. Erik Enyart responded, “You can give any recommendation on that with this Preliminary Plat, but I think it would be misplaced.” Mr. Enyart stated that the time to make such recommendations was at the PUD stage “if they open that door.” Mr. Holland asked if the Commission could not make this recommendation now, and Mr. Enyart stated that it could but that it should be done at the PUD stage “if you wanted to or if they open that door themselves.” Mr. Enyart stated, “I pointed that [possibility] out in the Staff Report [for the PUD Major Amendment] and in the City Council’s report, but they made no comment on that.” Mr. Holland asked “What did they say on the trail?” Mr. Enyart responded that they had “no comment.” Mr. Enyart stated, “I provided an exhibit in their agenda packet that showed that the [Comprehensive Plan’s] planned trail” would go through Conrad Farms, various tracts, the City’s cemetery expansion tract, this subdivision, the *Ridge at South County*, and even *Eagle Rock*. Mr. Enyart stated, “It doesn’t seem to me to be a tenable route for a trail.”

Chair Thomas Holland asked if the commercial development would go to the Fire Marshal, and Erik Enyart indicated affirmatively and stated, “As I recall, the PUD requires the Detailed Site Plan with the commercial development.” Tim Terral confirmed with Erik Enyart that the PUD Detailed Site Plan would contain all of the customary plans, including lighting, landscaping, etc. A Commissioner noted that it was reported there are not enough fire hydrants at the present time.

Chair Thomas Holland asked to entertain a Motion. John Benjamin made a MOTION to RECOMMEND APPROVAL of the Preliminary Plat of “The Trails at Whitehawk,” subject to the recommendations as listed in the Staff Report. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

4. **Preliminary Plat / Final Plat – Panda Express – Crafton Tull & Associates, Inc. (PUD 67).** Discussion and consideration of a Preliminary Plat and a Final Plat and certain Modifications/Waivers for “Panda Express,” part of the NW/4 SW/4 of Section 25, T18N, R13E.
 Property Located: 10535 S. Memorial Dr.

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

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Monday, July 08, 2013
RE: Report and Recommendations for:
 Preliminary Plat & Final Plat of “Panda Express” (PUD 67)

LOCATION: – 10535 S. Memorial Dr.
 – Part of the NW/4 SW/4 of Section 25, T18N, R13E

SIZE: 48,352 square feet; 1.11 acres, more or less
EXISTING ZONING: CS Commercial Shopping Center District
SUPPLEMENTAL – PUD 67 for “SourceOne Carwash Company”
ZONING: – Corridor Appearance District
EXISTING USE: Vacant
REQUEST: Preliminary Plat and Final Plat approval
SURROUNDING ZONING AND LAND USE:

North: CS & PUD 40; The Applebee’s restaurant, the Hampton Inn & Suites hotel, and a commercial strip shopping center, all in Regal Plaza.

South: CS; The Home Hardware / Builder’s Center / JWI Supply / CWC Interiors hardware, interiors, and supply store in the Grigsby’s Carpet Center subdivision.

East: RS-3; Residential in South Country Estates.

West: (Across Memorial Dr.) CS/PUD 619 and CS/PUD 370; The First Priority Bank, the Avalon Park commercial/office development, and the Life Time Fitness and other businesses being developed in Memorial Commons and/or “The Vinyards on Memorial,” all in the City of Tulsa.

COMPREHENSIVE PLAN: Medium Intensity + Commercial Area

PREVIOUS/RELATED CASES: (Not necessarily a complete list)

BBOA-283 – L.C. Neel – Request for Special Exception for a Use Unit 17 used car sales lot – Approved by BOA 08/01/1994.

PUD 67 –SourceOne Carwash Company – Crafton Tull Sparks – Request for PUD approval for subject property – PC Recommended Conditional Approval 12/15/2008 and City Council Conditionally Approved 01/28/2009 (Ord. # 2008 [1008]).

Preliminary Plat of Legend’s Carwash – Request for Final Plat approval for the “Legend’s Carwash” subject property – PC Recommended Conditional Approval 12/15/2008 and City Council Conditionally Approved 01/05/2009.

Final Plat of “Legend’s Carwash” / “Boomerang Carwash” – Request for Final Plat approval for “Legend’s Carwash” for the subject property – PC Recommended Conditional Approval 03/16/2009 and City Council Conditionally Approved 03/23/2009. Approval expired 03/23/2010 per Subdivision Regulations / City Code Section 12-2-6.F. By memo dated 04/14/2010, Developer requested City Council re-approve the Final Plat, to be renamed “Boomerang Carwash.” City Council re-approved Final Plat 04/26/2010. Final Plat approval expired 04/26/2011 per Subdivision Regulations / City Code Section 12-2-6.F.

BSP 2009-02 & AC-09-02-02 – “Legend’s Carwash” – Crafton Tull Sparks – Request for PUD Detailed Site Plan approval for a carwash and retail development as required by PUD 67 – Conditionally Approved by the Planning Commission and Architectural Committee 02/17/2009.

BSP 2010-02 / AC-10-06-01 – Boomerang Carwash – The McLain Group, LLC (PUD 67) – Request for PUD Detailed Site Plan approval for a carwash and retail development as required by PUD 67 – PC Conditionally Approved 06/21/2010.

BSP 2013-02 – Panda Express – Bannister Engineering, LLC (PUD 67) – Request for PUD Detailed Site Plan approval for a Use Unit 12 restaurant development as required by PUD 67 – PC Conditionally Approved 05/20/2013.

BACKGROUND INFORMATION:

The subject property was previously a small used car sales lot, previously operated by Nelson Mazda, occupying the front/west approximately 120’. It was previously Conditionally Approved for a Use Unit 17 “Legend’s Carwash” / “Boomerang Carwash” development, including PUD 67, Preliminary and Final Plats, and PUD Detailed Site Plans. However, that proposal was not ultimately developed. The current application is to develop a Use Unit 12 Panda Express restaurant. PUD 67 allows the proposed use. The Planning Commission Conditionally Approved the Detailed Site Plan per BSP 2013-02 on May 20, 2013.

ANALYSIS:

Subject Property Conditions. The subject property moderately slopes downward to the south and east, in the watershed that drains to the Oliphant Drainage and Detention system (an upstream portion of Fry Creek # 1). It is presently vacant and zoned CS with PUD 67. It is bordered on the north by a private drive separating it from the Applebee’s restaurant and the Hampton Inn & Suites hotel in Regal Plaza, on the south by the existing or former Home Hardware / Builder’s Center / JWI Supply / CWC Interiors

hardware, interiors, and supply store in the Grigsby's Carpet Center subdivision, on the east by residential in South Country Estates, and on the west by Memorial Dr.

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

The Use Unit 12 commercial restaurant use anticipated by this plat would be consistent with the Comprehensive Plan.

General. This subdivision of 1.11 acres proposes one (1) Lot, one (1) Block, and no (0) Reserve Areas. The lot appears consistent with the PUD 67 Development Standards.

With the exceptions outlined in this report, the Preliminary Plat and Final Plat appear to conform to the Zoning Code and Subdivision Regulations and PUD 67.

The Applicant may request a Modification/Waiver of Subdivision Regulations/City Code Section 12-3-3.A to reduce or remove the 17.5' Perimeter Utility Easement along certain property lines. For comparison, when this property was last approved for plat ("Boomerang Carwash"), the City Council approved a Modification/Waiver to reduce the northerly and westerly U/Es to 15' in width. AEP-PSO and ONG serve the subject property from lines along the north line, and a 17.5' U/E is represented there. At the TAC meeting, neither company objected to the lack of easements shown on the balance of the plat, and no other utility companies have raised any objection; however, the City Engineer has requested a U/E along the east line, and City Staff are all in agreement on this matter. Staff would be supportive of a Modification/Waiver, subject to receiving the request in writing, as long as there was no objection raised by any concerned utility company or the City Engineer or Public Works Department.

The Fire Marshal's, City Engineer's, and City Attorney's review correspondence are attached to this Staff Report (if received). 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) discussed this application at its regular meeting held July 03, 2013. Minutes of that meeting are attached to this report.

Access and Internal Circulation. The development will access Memorial Dr. via driveways connecting to private drives to the north and south. The north access is a private drive along the south side of Applebee's in Regal Plaza. At the south end, the driveway will connect to the Home Hardware / Builder's Center / JWI Supply / CWC Interiors hardware, interiors, and supply store parking lot in the Grigsby's Carpet Center subdivision. Any private access easements or agreements necessary to accomplish this should be secured as needed, and submission of cop(ies) of same is respectfully requested. The preexisting driveway connection to Memorial Dr. would appear to be removed under this plan. Limits of No Access (LNA) are indicated across the entire Memorial Dr. frontage on the plat.

Staff Recommendation. Staff recommends Approval of the Preliminary Plat and Final Plat subject to the following corrections, modifications, and Conditions of Approval:

1. Please add a perimeter U/E to the east side at a width as requested by the City Engineer and Public Works Department.
2. Staff would be supportive of a Modification/Waiver for reducing or removing standard 17.5' Perimeter U/Es along the east, south, and/or west property lines, subject to receiving the request in writing, as long as there was no objection raised by any concerned utility company or the City Engineer or Public Works Department.
3. Subject to the satisfaction of all outstanding Fire Marshal, City Engineer, and/or City Attorney recommendations.
4. Please provide copy of recorded version of any necessary and appropriate easement or agreement pertaining to access to and/or through the properties to the north and south.
5. Per SRs Section 12-4-2.A.5, a Location Map is required and must include all platted additions within the Section; the following need to be corrected as follows:
 - a. 101 Memorial Square (missing)
 - b. 101 South Memorial Plaza (missing)
 - c. First National (missing)
 - d. Sterling House (misrepresented as to configuration)
 - e. Landmark Center (misspelled)
 - f. Stone Creek Park (misspelled)
 - g. 101 South Memorial Center (misspelled)
 - h. Grigsby's Carpet Center (misspelled)
 - i. Trinity Presbyterian Church USA (misspelled)

- j. *Silverwood Amended (missing)*
- k. *Block 2 Lots 8-13 The Enclave at Legacy (missing)*
- l. *The Enclave at Legacy (misrepresented as to configuration)*
- 6. *Grigsby's Carpet Center appears to be incorrectly spelled in situ.*
- 7. *Property address, 10535 S. Memorial Dr., is Tulsa 74133 and not Bixby 74008.*
- 8. *Plat missing standard address caveat/disclaimer: "Addresses shown on this plat were accurate at the time this plat was filed. Addresses are subject to change and should never be relied on in place of the legal description."*
- 9. *DoD/RCs Preamble: Please correct wording "And the [the Owner/Developer] has caused the above described tract of land to be surveyed, staked, platted..."*
- 10. *DoD/RCs Section I.D.1 – Words "certificate of dedication" used in place of "Deed of Dedication."*
- 11. *DoD/RCs Section I.F: Please qualify this section as follows: "...damage to **properly-permitted** landscaping and paving occasioned...."*
- 12. *DoD/RCs Section I.J – Discusses Mutual Access Easements (MAEs) but no such easements are represented on the plat.*
- 13. *DoD/RCs Section I.K – Discusses a "Landscape Easement" but no such easement is represented on the plat.*
- 14. *DoD/RCs Section I.K – leaves a blank for the plat name – please add if this section remains in the DoD/RCs.*
- 15. *DoD/RCs Section II Preamble – Update PUD approval language using the case history contained within this report.*
- 16. *DoD/RCs Section II – It appears that the previously-planned "Lot 2" portion of the Development Standards was simply removed. Since the subject property is being platted as a singular lot but containing both of the two (2) PUD Development Areas (DAs), please restore missing DA B language and re-title the sections as "Development Area A" and "Development Area B," respectively.*
- 17. *Certificate of Survey signature block appears to have text shifted above signature line.*
- 18. *Final Plat: Elevation contours, floodplain boundaries, physical features, underlying Zoning district boundaries, minimum improvements acknowledgement, and other such mapping details as required per SRs Section 12-4-2.B.6, by approval of this Final Plat, shall not be required on the recording version of the Final Plat, as such would be inconsistent with Final Plat appearance conventions and historically and commonly accepted platting practices.*
- 19. *Please submit complete, corrected copies of the Detailed Site Plan (BSP 2013-02) 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).*
- 20. *Copies of the Preliminary Plat, including all recommended corrections, modifications, and Conditions of Approval, shall be submitted for placement in the permanent file (1 full size, 1 11" X 17", and 1 electronic copy).*
- 21. *Copies of the Final Plat, including all recommended corrections, modifications, and Conditions of Approval, shall be submitted for placement in the permanent file (1 full size, 1 11" X 17", and 1 electronic copy).*

Chair Thomas Holland recognized Brady Watson of Crafton Tull & Associates, Inc., 220 E. 8th St. S., Tulsa, OK 74119, from the Sign-In Sheet and asked how he was related to the project. Mr. Watson stated that he was the surveyor of record A. B. Watson.

Erik Enyart noted that the Commissioners may recall Conditionally Approving the Detailed Site Plan on May 20, 2013, but was just now seeing the plat. Mr. Enyart stated that the project was proceeding "a little out of normal order, but here we are." Mr. Enyart stated that this was a simple one (1) Lot, one (1) Block plat, and that the property was "developed all around."

Chair Thomas Holland addressed Erik Enyart and stated, "I recall the engineer had said lighting would be done to your satisfaction," and asked if this had been done. Mr. Enyart responded, "Not yet. I think they may be waiting on this, and thought they had a little more time. I will make sure it complies in full with the Site Plan Conditions."

Chair Thomas Holland asked to entertain a Motion. Lance Whisman made a MOTION to RECOMMEND APPROVAL of the Preliminary and Final Plats of "Panda Express," subject to the Staff recommendations numbered 1 through 21 in the Staff Report. John Benjamin SECONDED the Motion. Roll was called:

ROLL CALL:

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

OTHER BUSINESS

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

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 6:50 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary