

**MINUTES
PLANNING COMMISSION
116 WEST NEEDLES
BIXBY, OKLAHOMA
July 21, 2014 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, Jerod Hicks, Steve Sutton, Lance Whisman, and Thomas Holland.

Members Absent: None.

CONSENT AGENDA:

1. Approval of Minutes for the June 16, 2014 Regular Meeting
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Chair Thomas Holland introduced the Consent Agenda item and asked to entertain a Motion. Lance Whisman made a MOTION to APPROVE the Minutes of the June 16, 2014 Regular Meeting as presented by Staff. Larry Whiteley SECONDED the Motion.

Steve Sutton stated that he was not at the meeting in question and discussed with Chair Thomas Holland the Minutes and whether anyone wished to make any amendments to them to reflect discussion during that meeting. Mr. Sutton stated that he had received a couple phonecalls on the matter. Discussion ensued regarding the discussion at that meeting pertaining to histories and the roles of the City Council and Planning Commission.

Jerod Hicks in at 6:06 PM.

Steve Sutton asked Erik Enyart if he was satisfied with the Minutes and their completeness as far as whether anything “material” was missing. Mr. Enyart responded that, unlike many of his

colleagues in other communities, he did his best to prepare fairly comprehensive and detailed Minutes of meetings. Mr. Enyart stated that he believed the Minutes he had prepared were done to the best of his ability and confirmed he believed that nothing “critical” or “material” was missing. Mr. Enyart noted that, while detailed, he often uses generalities to reduce [extended and complicated] discussions to their “essential essence.” Mr. Enyart noted that there was a City Councilor in attendance at that meeting, so [the Council was aware of what had been said].

Roll was called:

ROLL CALL:

AYE: Holland, Sutton, Whiteley, Hicks, and Whisman
NAY: None.
ABSTAIN: None.
MOTION PASSED: 5:0:0

PUBLIC HEARINGS

2. (Continued from 04/21/2014, 05/19/2014, and 06/16/2014)
PUD 84 – “Sheridan Cottages” – Haynes Reynolds for 118th & Sheridan, LLC. Public Hearing, discussion, and consideration of a rezoning request for approval of a Planned Unit Development (PUD) for “Sheridan Cottages” for approximately 8 acres in part of the SW/4 of the SW/4 of Section 35, T18N, R13E.
Property Located: 11909 and/or 11919 S. Sheridan Rd.

3. (Continued from 04/21/2014, 05/19/2014, and 06/16/2014)
BZ-373 – Haynes Reynolds for 118th & Sheridan, LLC. Public Hearing, Discussion, and consideration of a rezoning request from AG Agricultural District to RS-2 Residential Single Family District for approximately 8 acres in part of the SW/4 of the SW/4 of Section 35, T18N, R13E.
Property located: 11909 and/or 11919 S. Sheridan Rd.

Chair Thomas Holland introduced related Agenda Item #s 2 and 3 and confirmed with Erik Enyart that the Applicant had Withdrawn both applications.

Lance Whisman asked Erik Enyart about the connection between this development and the other next to it. Mr. Enyart stated that, in the Preliminary Plat of “Somerset,” the roadway connection required by the PUD was shown between “Somerset” and this property. Mr. Whisman confirmed with Mr. Enyart that this access was being retained.

4. **BZ-375 – Lou Reynolds for Warren Clinic, Inc.** Public Hearing, Discussion, and consideration of a rezoning request from OL Office Low Intensity District to CS Commercial Shopping Center District for approximately 3.25 acres, Lot 1, Block 1, *Landmark Center*.
Property located: 8414 E. 101st St. S.

Chair Thomas Holland introduced the item and 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 16, 2014
RE: Report and Recommendations for:
BZ-375 – Lou Reynolds for Warren Clinic, Inc.

LOCATION: – 8414 E. 101st St. S.
– Lot 1, Block 1, Landmark Center
LOT SIZE: 3.25 acres, more or less
EXISTING ZONING: OL Office Low Intensity District
EXISTING USE: Warren Clinic medical offices
REQUESTED ZONING: CS Commercial Shopping Center District
SUPPLEMENTAL ZONING: None
SURROUNDING ZONING AND LAND USE:

North: (across 101st St. S.) CO (Corridor)/PUD-411C; To the northwest is the “South Town Market” commercial development, including Super Target, in the South Town Market subdivision, directly to the north is a stormwater detention pond in Reserve E of Ridge Pointe Villas, and further north and to the northeast are single-family residential homes in Ridge Pointe Villas and Ridge Pointe, all in the City of Tulsa.

South: CS; Vacant Tract D and the Dickinson Starworld 20 movie theater in 101 South Memorial Center.

East: OL/PUD 23 & RS-3; The Park Place Office Suites multitenant office park in Lot 1, Block 1, Sterling House zoned OL with PUD 23 and single-family residential homes in Legacy Park.

West: (Across 85th E. Ave.) CS, CG, CS/PUD 63, & CS/CG/PUD 65; The vacant north balance of Tract C in 101 South Memorial Center, the Holiday Inn Express & Suites Tulsa South/Bixby and the Andy’s Frozen Custard frozen custard restaurant in 101 South Memorial Plaza, the new Sprouts Farmers Market specialty grocery store, the new Grand Bank and J. David Jewelry businesses, CVS/Pharmacy, and the new Whataburger fast-food restaurant, all in 101 Memorial Square, and further west and southwest are a vacant commercial lot and other businesses.

COMPREHENSIVE PLAN: Corridor + Commercial Area

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

BZ-137 – Roy D. Johnsen – Request for rezoning from AG to CS, OM, and RM-2 for approximately 16 acres, which included subject property – PC Recommended Approval of CS, RM-2, and OL 04/25/1983 and City Council Approved 05/02/1983 (Ord. # 481) – subject property rezoned to OL by this application.

Final Plat of Landmark Center – Request for Final Plat approval for Landmark Center for subject property – City Council Approved 07/06/1983 per City Council approval certificate (Plat # 4370 recorded 07/13/1983; Preliminary Plat and PC approval history not researched).

RELEVANT AREA CASE HISTORY: (not necessarily a complete list and does not included cases in the City of Tulsa)

BZ-89 – Ron Koeppe – Request for rezoning from AG to CG for 3.6 acres to the west of subject property along what later became 102nd St. S. at Memorial Dr. – PC Recommended Approval 04/28/1980 and City Council Approved 05/19/1980 (Ord. # 401).

BZ-165 – Pittman-Poe & Associates, Inc. for Allen G. Oliphant – Request to rezone approximately 383 acres from AG to RS-3, RD, RM-2, & CS for a residential and commercial development for parts of the NW/4, NE/4, and SE/4 of this Section (abutting subject property to the east) – PC recommended Approval of an amended request (including RS-2 instead of RS-3) 05/28/1985 and the City Council Approved the amended request 06/11/1985 (Ord. # 530).

PUD 11 – Edgewood Farm – Pittman-Poe & Associates, Inc. for Allen G. Oliphant – Request to approve PUD 11 for approximately 383 acres for a residential and commercial for parts of the NW/4,

NE/4, and SE/4 of this Section (abutting subject property to the east) – PC recommended Approval 05/28/1985 and the City Council Approved 06/11/1985 (Ord. # 531).

BZ-202 – W. Douglas Jones for Tercero Corporation – Request to rezone 382 acres, more or less, from RS-3, RD, RM-2, & CS to AG (abutting subject property to the east) – PC recommended Approval 10/19/1992 and City Council Approved 10/26/1992 (Ord. # 673).

PUD 11 Abandonment – W. Douglas Jones for Tercero Corporation – Request to abandon PUD 11 – PC recommended Approval 10/19/1992 and City Council Approved 10/26/1992 (Ord. # 674).

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

BZ-248 – Tanner Consulting, LLC – Request to rezone what later became Lot 1, Block 1, Sterling House (abutting subject property to the east) from “CS” [AG] to RM-2 for a Sterling House residential care facility (not actually built) – PC recommended Approval 10/19/1998 and City Council Approved 11/23/1998 (Ord. # 785).

PUD 23 – Sterling House Clare Bridge – Tanner Consulting, LLC – Request to approve a PUD for what later became Lot 1, Block 1, Sterling House (abutting subject property to the east) for a Sterling House residential care facility (not actually built) – PC recommended Approval 11/16/1998 and City Council Approved 05/10/1999 (Ord. # 792).

Preliminary Plat of Sterling House – Request for Preliminary Plat approval for Sterling House (abutting subject property to the east) – Recommended for Approval by PC 11/16/1998.

Final Plat of Sterling House – Request for Final Plat approval for Sterling House (abutting subject property to the east) – Recommended for Approval by PC 06/21/1999 and Approved by City Council sometime afterward (Plat # 5382 recorded 08/23/1999 and bears a signed, but undated City Council approval certificate).

BZ-271 – L.C. Neel for Alterra Healthcare Corporation – Request to rezone Sterling House (abutting subject property to the east) from RM-2 to CS in order to market the property for sale for commercial development – PC recommended Denial 04/16/2001. Applicant Appealed and City Council Denied 04/23/2001.

BZ-284 – Tim Remy for Home Ventures, Inc. – Request to rezone Sterling House (abutting subject property to the east) from RM-2 to OL for the Park Place Office Suites multitenant office park – PC recommended Approval 05/20/2002 and City Council Approved 06/10/2002 (Ord. # 851).

AC-03-04-04 – Request for Architectural Committee approval for a 30-foot-tall ground sign for Sterling House / Park Place Office Suites (abutting subject property to the east) – AC Approved 04/21/2003.

BBOA-420 – Todd Mathis – Request for Special Exception for Sterling House / Park Place Office Suites (abutting subject property to the east) to allow a Use Unit 5 “day spa,” to include hairstyling and massage services – Withdrawn in 2004.

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, included in PUD 63, which became the Holiday Inn Express & Suites Tulsa South/Bixby in 101 South Memorial Plaza (to the west of subject property across 85th E. Ave.) – PC Conditionally Approved by 04/21/2008.

PUD 63 – 101 South Memorial Plaza – American Southwest Properties, Inc. – Request for PUD approval for what became 101 South Memorial Plaza (to the west of subject property across 85th E. Ave.) – 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 (to the west of subject property across 85th E. Ave.) – 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 (to the west of subject property across 85th E. Ave.) – PC recommended Conditional Approval on 10/20/2008 and City Council Conditionally Approved 10/27/2008.

BSP 2009-03 / AC-09-12-05 – Holiday Inn Express – ArcTech Incorporated, PC – Request for PUD Detailed Site Plan approval for the Holiday Inn Express & Suites Tulsa South/Bixby in 101 South Memorial Plaza (to the west of subject property across 85th E. Ave.) – PC Conditionally Approved 12/21/2009.

Revised Final Plat of 101 South Memorial Plaza – Request for Revised Final Plat approval for 101 South Memorial Plaza (to the west of subject property across 85th E. Ave.) – PC recommended Conditional Approval on 04/19/2010 and City Council Conditionally Approved 04/26/2010 (Plat # 6355 recorded 07/30/2010).

BBOA-551 – Currington Mortgage for Park Place Office Suites, LLC – Request for Variance from the one (1) sign limitation and maximum display surface area standards of Zoning Code Section 11-7C-3.B.4 and any other Zoning Code regulation preventing the erection of a second ground sign at approximately nine (9) feet in height and 75 square feet in display surface area for property in the OL district with PUD 23 for Sterling House / Park Place Office Suites (abutting subject property to the east) – BOA Approved 12/05/2011.

BACKGROUND INFORMATION:

Warren Clinic is constructing a new medical office facility on the west side of Memorial Dr. around its intersection with 103rd St. S. in Tulsa and will be marketing the subject property for sale.

ANALYSIS:

Subject Property Conditions. The subject property is zoned OL and consists of Lot 1, Block 1, Landmark Center, and contains the Warren Clinic medical offices. The subject property is a rectangular lot with 300' of frontage on 101st St. S. and approximately 471' of frontage on 85th E. Ave. It contains approximately 3.25 acres. Per the Tulsa County Assessor's parcel records

The subject property is moderately sloped and drains in a southwesterly direction. It utilizes an underground stormsewer system which drains to a stormwater detention facility in Tract F in 101 South Memorial Center, located immediately south of the Dickinson Starworld 20 movie theater. 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.

This drainage system is in the drainage basin of 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.

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

The "Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan" ("Matrix") on page 27 of the Comprehensive Plan provides that the requested CS district is In Accordance with the Corridor designation of the Comprehensive Plan Land Use Map.

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.

Although the site is developed, the requested CS district and commercial use is consistent with the Commercial Area land use designation of the Comprehensive Plan Land Use map.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning is primarily CS, CG, CO (Corridor), OL, and RS-3, as described in further detail in the paragraphs that follow.

To the north (across 101st St. S.) is CO (Corridor) zoning under PUD-411C. This area includes: (1) to the northwest is the "South Town Market" commercial development, including Super Target, in the South Town Market subdivision, (2) directly to the north is a stormwater detention pond in Reserve E of Ridge Pointe Villas, and (3) further north and to the northeast are single-family residential homes in Ridge Pointe Villas and Ridge Pointe, all in the City of Tulsa.

The vacant Tract D abuts to the south, and further south is the Dickinson Starworld 20 movie theater, both zoned CS in 101 South Memorial Center.

East of the subject property is the Park Place Office Suites multitenant office park in Lot 1, Block 1, Sterling House zoned OL with PUD 23. Further east and to the southeast are single-family residential homes in Legacy Park zoned RS-3.

Across 85th E. Ave. to the west is the vacant north balance of Tract C in 101 South Memorial Center zoned CS, the Holiday Inn Express & Suites Tulsa South/Bixby and the Andy's Frozen Custard frozen custard restaurant in 101 South Memorial Plaza zoned CS with PUD 63, the new Sprouts Farmers Market specialty grocery store, the new Grand Bank and J. David Jewelry businesses, CVS/Pharmacy, and the new Whataburger fast-food restaurant, all in 101 Memorial Square zoned CS and CG with PUD 65, and further west and southwest are a vacant commercial lot and other businesses zoned CS and CG.

Staff Recommendation. For the reasons outlined above, Staff recommends Approval of CS zoning.

The rezoning should be done with a PUD, per the City's longstanding practice to request PUDs for intensive rezonings, per the new policy in the Comprehensive Plan preferring commercial rezonings within areas designated Corridor be done by PUD, and per the requirement to do so per the amended Zoning Code Section 11-5-2.

The amended Zoning Code Section 11-5-2, per the ordinance approved July 14, 2014, includes a new paragraph as follows:

"Within areas designated "Corridor" and "Commercial Area" or "Vacant, Agricultural, Rural Residences, and Open Land" on the Comprehensive Plan Land Use Map, it is City policy to require that a Planned Unit Development (PUD) application be processed along with any application for rezoning to commercial, provided, however, that the City Council may Waive this requirement upon finding of sufficient good cause."

The Applicant has addressed the PUD requirement matter by letter dated July 15, 2014, which provides as follows:

"Although likely not procedurally necessary as BZ-375 was filed prior to this week's Comprehensive Plan Amendment (BCPA-11), to avoid the possibility of any delay with the marketing of the property, this letter supplements the Application for Rezoning and respectfully requests that any requirement for a planned unit development in connection with the requested CS - Commercial Shopping Center District zoning be waived as provided in the now amended Comprehensive Plan."

By email on July 13, 2014, the Applicant addressed the matter of the Comprehensive Plan's new policy preferring retail use within areas designated Corridor as follows:

"With respect to this Application, the property is being sold subject to the following restriction:

- A. No Medical. The Property or any part thereof shall not be used for medical and related purposes, including without limitation, medical offices, clinics, laboratories and related research facilities, medical supply offices, pharmacies, dental offices and clinics, chiropractor offices and clinics, alternative medicine offices and clinics and the like.

This restriction has been placed on all of the Warren-entity property sold to third parties for some time. While the restriction does not address general office use in the CS District, with this restriction in place, most of the issues we discussed would be addressed without the need for a PUD. Let me know what you think. Best regards, Lou Reynolds"

If the City Attorney determines it is required for this application filed June 16, 2014, it is the City Council's prerogative to determine that there is sufficient good cause that the PUD requirement be Waived. If required, Staff would be supportive of this Waiver recognizing:

1. The application predated the new policy language in the Comprehensive Plan and new requirement in the Zoning Code.
2. The primary purpose and intent of the PUD requirement was to ensure that new developments being rezoned for retail commercial actually be developed for retail use. This is not a new development. Rather, the subject property was zoned OL office per BZ-137 in 1983 and has been used for medical offices since about that time.
3. Rezoning to CS would only increase the likelihood that the subject property may become used for commercial retail.

Chair Thomas Holland recognized that no one had signed the Sign-In Sheet to speak on the item.

After further discussion, Chair Thomas Holland asked to entertain a Motion. Larry Whiteley made a MOTION to RECOMMEND APPROVAL of CS zoning per BZ-375 and APPROVAL of a

Waiver of the PUD requirement as recommended by Staff. Steve Sutton SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Sutton, Whiteley, Hicks, and Whisman
NAY: None.
ABSTAIN: None.
MOTION PASSED: 5:0:0

5. **PUD 31-A – Bricktown Square – Minor Amendment # 1.** Discussion and possible action to approve Minor Amendment # 1 to PUD 31-A for 4.547 acres in part of the SW/4 NW/4 of Section 01, T17N, R13E, with underlying zoning CS Commercial, OL Office, and RS-1 Residential, which amendment proposes reducing the minimum Land Area per Dwelling Unit standard and making certain other amendments.
Property Located: 12409 S. Memorial Dr.

PLATS

6. **Preliminary Plat of “Bricktown Square” – Sisemore Weisz & Associates, Inc. (PUD 31-A).** Discussion and consideration of a Preliminary Plat and certain Modifications/Waivers for “Bricktown Square” for 4.547 acres in part of the SW/4 NW/4 of Section 01, T17N, R13E.
Property Located: 12409 S. Memorial Dr.

Chair Thomas Holland introduced related Agenda Item #s 5 and 6 and confirmed with Erik Enyart that the Applicant had requested a Continuance to the next meeting.

Steve Sutton made a MOTION to CONTINUE PUD 31-A Minor Amendment # 1 and the Preliminary Plat of “Bricktown Square” to the August 18, 2014 Regular Meeting as requested by the Applicant. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Whiteley, Hicks, and Whisman
NAY: None.
ABSTAIN: None.
MOTION PASSED: 4:0:0

7. **Preliminary Plat – “Memorial Square Amended” – JR Donelson, Inc. (PUD 6).** Discussion and consideration of a Preliminary Plat and certain Modifications/Waivers for “Memorial Square Amended” for 9.43 acres, a replat of all of *Memorial Square*, Plat # 4511.
Property Located: Northwest corner of 121st St. S. and 84th E. Ave.

Chair Thomas Holland introduced the item and 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: Thursday, July 10, 2014
RE: Report and Recommendations for:
Preliminary Plat of "Memorial Square Amended" (PUD 6)

LOCATION: – Northwest corner of 121st St. S. and 84th E. Ave.
– All of Memorial Square

SIZE: 9.43 acres, more or less

EXISTING ZONING: CS Commercial Shopping Center District, RM-1 Residential Multi-Family District, & PUD 6

SUPPLEMENTAL ZONING: Corridor Appearance District (partial) + PUD 6 "South Memorial Duplexes" / "Memorial Square"

EXISTING USE: Duplexes and vacant lots in Memorial Square

REQUEST: Preliminary Plat approval

SURROUNDING ZONING AND LAND USE:

North: RD & RS-1; Duplexes along 119th St. S. and single-family residential houses, all in Southern Memorial Acres Extended.

South: (Across 121st St. S.) CS, RS-1, & CS/RM-3/OL/PUD 81; 23 acres of vacant land recently approved for rezoning and PUD 81 "Chateau Villas PUD" for a "luxury apartments" and commercial development, commercial businesses and vacant land to the southwest in 121st Center, and the Bixby Fire Station #2 and single-family residential in the Houser Addition to the southeast.

East: RS-1; Single-family residential in Southern Memorial Acres Extended.

West: CS; The Town and Country Shopping Center in Southern Memorial Acres Extended.

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES:

BZ-140 – Patrick L. Murray – Request for rezoning from RM-1 to CS for approximately 1.6 acres consisting of Lots 7 through 12, inclusive, Block 17, Southern Memorial Acres Extended (later replatted as part of Memorial Square subject property) – PC Recommended Denial 05/31/1983 and City Council Approved 06/13/1983 (Ord. # 486).

B/PUD 6 – "South Memorial Duplexes" – Richard Hall & Associates for George E. Day – Request for PUD approval for a duplex development for subject property – PC Recommended Approval 11/28/1983 and City Council Approved 12/05/1983 (Ord. # 498).

Final Plat of Memorial Square – Request for Final Plat approval for Memorial Square for subject property – City Council Approved 02/1984 (per the plat approval certificate) (Plat # 4511 recorded 08/03/1984) (Preliminary Plat and PC approvals not researched).

PUD 6 Major Amendment # 1 "Memorial Square" & BZ-374 – JR Donelson, Inc. – Request for approval of Major Amendment # 1 to Planned Unit Development (PUD) # 6 and rezoning from CS and RM-1 to CS, RM-1, and RT for subject property – PC recommended Conditional Approval 05/19/2014 and City Council Conditionally Approved applications 05/27/2014. Ordinance approval pending receipt of PUD Amendment Text & Exhibits reflecting all the required corrections, modifications, and Conditions of Approval.

BACKGROUND INFORMATION:

The subject property was partially rezoned to CS and approved for PUD 6 "South Memorial Duplexes" in 1983, and was subsequently platted as Memorial Square on August 03, 1984. Ten (10) duplexes (20 duplex units) were constructed around the southerly end of the development. County Assessor's parcel data reflects the duplexes were constructed in 1984, after which point further development halted. Present City Staff has not supported further construction due to Floodplain and stormwater drainage issues. Critically, it has been reported that historical street flooding heights have rendered the existing dwellings and vacant lots inaccessible for emergency egress and response purposes.

Over the past seven (7) years, and likely extending long past the tenure of present City Staff, property owners, investors, real estate professionals, development design consultants, and other interested parties have met and had conversations with City Staff regarding the possibility of "building out" the undeveloped portion of Memorial Square. Time spent on such meetings, conversations, and preparing related correspondence likely sums to dozens, if not hundreds of City Staff hours during this period. An investor has submitted applications for PUD Major Amendment and rezoning, and now platting, and has engaged design professionals, including a hydrologist, in order to design methods to resolve Floodplain

and stormwater drainage issues. Preliminary plans for floodplain mitigation, stormwater drainage and detention, and infrastructure improvements have been prepared, and further such efforts continue.

ANALYSIS:

Subject Property Conditions. The subject property consists of all of Memorial Square, and is composed of duplexes and vacant lots. Per Tulsa County Assessor's parcel records, the existing duplex units each have typically 1,242 and 1,476 square feet, excluding two (2) car attached garages with each unit. A majority appear to have two (2) stories. They do not have masonry, but were recently repainted, and renovations have been made. Reserve Area A, Memorial Square, is presently used for stormwater drainage and detention. The balance of the existing lots not occupied by duplex units are vacant. Per a site inspection, it appears there remain several large trees in the area where new townhouses are proposed.

The subject property is fairly flat, and appears to drain south through the Reserve A stormwater pond to the southeast to an un-named upstream tributary of Fry Creek Ditch # 1. The subject property is primarily in the 100-year (1% Annual Chance) Regulatory Floodplain, so floodplain mitigation (building lot elevation, street elevation, and compensatory storage) will be required for development. Further, additional mitigation will be required in order to adequately address stormwater drainage and detention, and is expected to consist of upgrading the stormwater detention pond in Reserve A, creating new stormwater detention facilities in new Reserve Areas to be platted, and certain offsite improvements.

Per case research, including the case map for BZ-68 in 1978, the RM-1 zoning on the subject property appears to have been conferred by the original Zoning Ordinance. Per BZ-140 – Patrick L. Murray in 1983, the southerly approximately 1.6 acres of the subject property, consisting of Lots 7 through 12, inclusive, Block 17, Southern Memorial Acres Extended was rezoned from its original RM-1 zoning to CS. B/PUD 6 – “South Memorial Duplexes” – Richard Hall & Associates for George E. Day was approved December 05, 1983 (Ord. # 498), and proposed a duplex development for subject property.

The subject property appears to be presently served by the critical utilities (water, sewer, electric, etc.). Some of the utilities may have been installed in previous decades, and may need to be tested for adequacy as a part of the replatting and redevelopment.

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

The “Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan” (“Matrix”) on page 27 of the Comprehensive Plan provides that the existing CS and RM-1 districts are Not In Accordance with the Low Intensity designation of the Comprehensive Plan Land Use Map.

RT zoning was adopted (Ord. # 845) after the Comprehensive Plan in or around 2002 so it is not included in the “Matrix.” However, based on the Matrix's treatment of similar districts, including RD, RT zoning has been and 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 RM-1 and RT zoning, the existing duplex residential use, and the proposed townhouse residential use are all consistent with the Residential Area land use designation of the Comprehensive Plan Land Use map.

Unless the Applicant desires to seek an amendment to the Comprehensive Plan, the proposed commercial use of the Development Area corresponding to existing CS zoning is inconsistent with both the Low Intensity and Residential Area designations of the Comprehensive plan, and should be removed in favor of language restricting use to stormwater drainage and detention, streets and common areas, and duplex and townhouse residential uses.

Per the Matrix, PUDs (as a zoning district) May Be Found In Accordance with the Low Intensity designation of the Comprehensive Plan Land Use Map. Since the application for PUD 6 Major Amendment # 1 was Conditionally Approved by the City Council, it has been recognized as being In Accordance with the Comprehensive Plan as a zoning district.

Due to the fact that PUD 6, as recommended and Conditionally Approved, will maintain consistency with the Comprehensive Plan, it should be recognized as being consistent with the Comprehensive Plan.

The existing and proposed residential development anticipated by this plat would not be inconsistent with the Comprehensive Plan.

General. *This subdivision of 9.43 acres, more or less, is a proposed amended/replat of Memorial Square pursuant to PUD 6 Major Amendment # 1. It proposes 67 or 68 lots, five (5) blocks, and three (3) reserve areas. Lot 1, Block 1, is proposed to equal Lot 1, Block 1, Memorial Square, which composes the private street system. The other lots in Block 1 are proposed to equal their existing counterparts as well. Reserve Area A and the Block numbers as proposed will remain the same as they are currently platted. Lots 5 and 6 of Block 3, Memorial Square, are proposed to become Reserve Area B, and Lots 5, 6, 7, and 8, and possibly also Lots 3 and 4, of Block 5, Memorial Square, are proposed to become Reserve Area C. All three (3) reserve areas are intended to be used for floodplain Compensatory Storage and stormwater drainage and detention. The lots proposed in Blocks 2 and 4, Memorial Square, will be amended to allow for 40 townhouses.*

The subdivision reflects an urban design with creative features, primarily owing to its original design as platted. Narrow streets are laid out in a modified grid pattern, and are accessed via the singular, boulevard-style entrance street, 119th Ct. S. Excluding Lot 1, Block 1, Memorial Square, which composes the private street system, the balance of Block 1 contains six (6) lots, which are not for development but their original purposes are not clear. Lot 2, Block 1 was to be "Common Greens" per the original PUD, and Lot 3, Block 1 is now proposed to be "Common Greens" by this plat. These identities may change upon the final approval of Major Amendment # 1 by ordinance pursuant to the required Conditions of Approval.

The "duplex" lots are highly variegated and a "typical" lot cannot be clearly quantified. Typical, interior "townhouse" lots range from 30' X 88.5' (2,655 square feet, 0.06 acres) to 35' X 83.48' (2,922 square feet, 0.07 acres). Corner lots, "flag lots," and lots around street curves are typically significantly larger, but lot areas have not yet been provided for these. With the exception(s) as outlined elsewhere herein, the Preliminary Plat appears to conform to the Zoning Code, Subdivision Regulations, and PUD 6 as Conditionally Approved for amendment per Major Amendment # 1.

The Technical Advisory Committee (TAC) reviewed this Preliminary Plat on July 02, 2014. The Minutes of the meeting are attached to this report.

The Fire Marshal's, City Engineer's, and City Attorney's memos 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.

Access & Circulation. *The subject property has a private street network consisting of Lot 1, Block 1, Memorial Square, which connects to 84th E. Ave. at 119th Ct. S. (also private). Streets are proposed to remain private, but certain of them will be elevated to achieve required minimum street flooding requirements. Although the subject property has frontage on 121st St. S., the frontage all belongs to Reserve A, Memorial Square, which is presently, and is proposed to remain a stormwater drainage and detention facility.*

Plans for access can be further inferred from the proposed plat and the site plans for PUD 6 Major Amendment # 1.

Sidewalks are required by the Subdivision Regulations.

Limits of No Access (LNA) are currently proposed along 84th E. Ave. and 121st St. S. except for access point(s), which must be approved by the City Engineer and Fire Marshal.

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

- 1. Subject to the final approval of PUD 6 Major Amendment # 1 by ordinance.*
- 2. Subject to compliance with all Fire Marshal, City Attorney, and City Engineer recommendations and requirements.*
- 3. Limits of No Access (LNA) and Access Openings subject to City Engineer and Fire Marshal approval.*

4. Subject to a Partial Modification/Waiver from the Minimum 17.5' Perimeter Utility Easement as required by Subdivision Regulations Section 12-3-3.A for those plat boundaries where the full 17.5' of U/E width is not proposed. Justification for Modification/Waiver will likely include, inter alia, As-Built and as-platted geometries and abutting existing U/Es in Southern Memorial Acres Extended.
5. 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 existing geometries and the nature of townhouse developments.
6. Subject to a Modification/Waiver from Subdivision Regulations Section 12-3-4.H to have double-frontage for Lots 1 and 2 of Block 5 and certain lots in Blocks 2 and 3 whose rear lines abut 84th E. Ave. City Staff is supportive of this design, which is incidental and unavoidable due to existing geometries.
7. All requests for Modification/Waiver must be submitted in writing.
8. Additional U/E width may be required within Lot 2, Block 1, based on the location of the sanitary sewer manholes and discussion at the TAC meeting.
9. Front lot line dimension appears to be missing from Lot 2, Block 3.
10. Recognizing that duplex lots may be sold independently (subject to party wall¹ real estate laws), consider adjusting lot lines to correspond to built geometries (e.g. existing fences, driveways, mailboxes, etc.), and adjust PUD if additional flexibility is needed for this purpose.
11. Per SRs Section 12-4-2.A.5, please correct Location Map as follows:
 - a. Southern Memorial Acres Extended (mis-labeled)
 - b. 111th St. S. (mis-labeled)
12. Please identify intent of certain numbers which appear in front of certain duplex buildings (e.g. 38.0, 36.5, etc.).
13. Please add lowest permit-able Finished Floor elevation (BFE + 1') per SRs Section 12-4-2.B.5.
14. Elevation contours at one (1) foot maximum intervals are required per SRs Section 12-4-2.B.6. Contours appear to be represented but are not labeled, and intervals cannot be verified.
15. Please add missing underlying zoning district boundaries as required by SRs Section 12-4-2.B.3.
16. Please correct title of abutting subdivision (missing "Acres") at all three (3) instances.
17. Please add proposed addresses to the lots.
18. Plat missing notes pertaining to monumentation (reference SRs Section 12-1-8).
19. Subdivision Statistics: Please correct the number of lots (67 or 68 lots as per the analysis above).
20. Subdivision statistics: Please add number of Reserve areas.
21. Please add lot areas to allow for review for compliance with minimum lot area standards of PUD 6. A table/schedule may be used if space constraints do not allow within the lot boundaries.
22. The "L5B1" abbreviations need to be explained, in the Legend or elsewhere, to avoid ambiguity/confusion with other abbreviations used (e.g. "L" = "Length").
23. "L.N.A." and "A.O." as used on the plat do not match "LNA" or "AO" as used in the Legend – please reconcile.
24. 25'-wide U/E as represented along the rear line of the shopping center to the west – please clarify as being "per Plat # 2600" or cite Book/Page or Document # where recorded.
25. There appears to be a 7.5'-wide U/E along the south side of the duplex lots abutting to the north – please confirm and add, along with "per Plat # 2600" if/as may be the case.
26. Please supplement Legend with any missing linetypes, abbreviations, and symbols used (e.g. CenterLine, "AC," [certain utility type] box symbols, B/L linetype, etc.).
27. Please dimension curb face to curb face and curb widths as represented, and differentiate with 25' label as appears to indicate private street "right-of-way" width. May be qualified as "typical" if/as needed.
28. Missing sidewalk easements as may be necessary due to reduced private "street" widths, as noted during the PUD.

¹ Commonly known as a "demising wall."

29. *Please resolve text/linework conflict for reported frontage of "flag lot" "Lot 18," Block 2.*
30. *Please resolve text/linework conflicts throughout the plat, especially noted at "flag lot" and floodplain boundary areas.*
31. *Survey data appears to be missing along several curves. A curve data table may be used to ease text/linework congestion.*
32. *Curve data does not clearly point to street "right-of-way" geometries, and may be confused with As-Built curblin geometries, which are apparently not always consistent with the former.*
33. *Points of tangent/curvature not consistently indicated with "tick-marks."*
34. *Median in 119th Ct. S. should be labeled and/or have curblines indicated so that the solid black linetype used here is not mistaken for a propertyline.*
35. *Please dimension rear lot line of Lot 3, Block 2.*
36. *Please clarify meaning of "Temporary Easement."*
37. *Please add a Drainage Easement or widen the U/E such that it fully contains the concrete flume shown in Block 2.*
38. *LNA distance missing from frontage of Block 3.*
39. *Please represent existing buildings and dimension to nearest property lines as required by SRs Section 12-4-2.A.8. As noted during the PUD Major Amendment # 1 review, if any existing buildings do not meet proposed setbacks, the setbacks may be amended at this time to resolve such issue(s). Setbacks and other such details may be removed on Final Plat by standard Modification/Waiver written into Staff Report as a Condition of Approval.*
40. *Block 5 label may be more appropriately placed in surviving part of Block 5 (Lots 1 and 2).*
41. *Lot 1, Block 5: 3' B/L as per Memorial Square appears to have inappropriate label placement.*
42. *Please label south Sectionline and dimension from 121st St. S. Centerline if/as at variance.*
43. *Please dimension abutting 121st St. S. right-of-way and paving widths (can dimension to Centerline for the latter).*
44. *Please correct southerly 84th E. Ave. R/W label to 50' (total width), label 50' R/W as to Centerline of 121st St. S., and label additional 10' R/W for 121st St. S. R/W as per the plat of Memorial Square.*
45. *Street frontages of existing Lots 5 and 6, Block 3 should be consolidated or a common lot corner point should be added and dimensions indicated to respective frontages.*
46. *Apostrophes used to indicate "feet" and dimensional arrows missing throughout.*
47. *Certain side yard lot line dimensions missing in Block 2.*
48. *Angle/bearing appears to be missing from certain lines at the "handles" of "flag" lots.*
49. *Angle/bearing appears to be missing from east-west lines for lots fronting 84th E. Ave.*
50. *Angle/bearing appears to be missing from north-south lines between Reserve B and lots 7 through 14, Block 3.*
51. *Redundant angle/bearing labels between lots in which there is no angle/bearing change can be removed in accordance with customary platting conventions. Please place the angle/bearing on the "bookends" when this method is employed.*
52. *Front lot line dimension missing from Lot 4, Block 3.*
53. *Westerly north-south lot line dimensions missing from Lots 10 and 11, Block 4 and easterly ones of Lots 1 and 19, Block 4.*
54. *Rear lot line missing from Lots 5 through 15, inclusive, Block 2.*
55. *Westerly side yard lot line dimension missing from Lot 2, Block 5.*
56. *Side yard lot line dimensions missing from the "handles" of "flag" lots 15 and 16, Block 3.*
57. *Property lines appear to be missing from southeast corners of Lots 15 and 16, Block 3.*
58. *Please clarify several unidentified linetypes along and somewhat paralleling the easterly sides of lots fronting on 84th E. Ave., one of which is identified as an "Existing 6' Wooden Privacy Fence to Remain."*
59. *Common lot line between Lots 3 and 4, Block 3 appears to have a 1' variance to the point of tangent/curvature. Please clarify, such as by detail diagram, on which side of the common lot corner the 1' variance is located, due to its exceptionally small size and the scale of the plat. Alternatively, the common lot corner may be made coterminous with the point of tangent/curvature by moving the angle/bearing of the easternmost portion of the common lot line (such as that part easterly of the 17' B/L).*

60. DoD/RCs: Certain exclusions and/or separate CC&Rs need to be created for lots in Block 1 consistent with PUD 6 as amended by Major Amendment # 1. Please review all DoD/RCs for changes as may be needed.
61. DoD/RCs: Consider re-adopting, with any necessary amendments, DoD/RCs Sections III, IV, and V of Memorial Square as pertains to the "Common Area" Lot 2, Block 1, the "Emergency Access Area" of Lot 3, Block 1, and the "Parking Areas" of Lots 4, 5, 6, and 7, Block 1.
62. DoD/RCs Preamble: Owner must be in title to all of Memorial Square prior to Final Plat recording.
63. DoD/RCs Preamble: Confirm appropriateness of metes and bounds legal in addition to all of Memorial Square.
64. DoD/RCs Preamble: 20.16', 102.11', and 609.95' calls do not cite "along the [easterly/southerly] line of Memorial Square" as expected, creating somewhat of an ambiguity.
65. DoD/RCs Preamble: Metes and bounds portion of legal description includes 10' right-of-way for 121st St. S. already dedicated to the Public. This is acceptable for the re-dedication as fee simple right-of-way, if the City Attorney determines it was not done as such per the plat of Memorial Square (and in this case, see following item).
66. DoD/RCs Preamble: Missing critical wording such as "and has caused the above described tract of 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.
67. DoD/RCs Preamble: Should probably cite that this "Addition to the City of Bixby" is a replat of Memorial Square.
68. DoD/RCs Preamble: Title attorney or other qualified real estate expert should confirm that the language is appropriate for this replat of Memorial Square.
69. DoD/RCs Preamble: Use of person "I" is unconventional and inconsistent with balance of DoD/RCs which uses "Owner/Developer" in the third person. Owner/Developer "Woodard Homes, Inc." appears to be a corporate entity which may itself be owned by multiple individuals or other entities.
70. DoD/RCs Preamble: Please supplement as follows "...and do hereby guarantee clear title to all of the land that is dedicated, granted, donated, and/or conveyed..." as per City Attorney's recommendations regarding fee simple ownership of rights-of-ways.
71. DoD/RCs Section 1.A: Please correct: "The owner hereby dedicates..."
72. DoD/RCs Section 1.A: Please qualify this section as follows: "...nothing herein shall be deemed to prohibit properly-permitted drives, parking areas, ..."
73. DoD/RCs Section 1.C: Please qualify this section as follows: "...repair of damage to properly-permitted landscaping and paving occasioned ..."
74. DoD/RCs Sections 1.D and 1.E: Language in these sections is unexpected and may or may not be consistent with City of Bixby infrastructure and permitting requirements. Wording in this section is subject to the positive concurrence of the City Engineer, Public Works Director, and City Attorney.
75. DoD/RCs Section 1.E: Should probably mention that the "streets" refers to Lot 1, Block 1. See treatment of Lot 1, Block 1 in the DoD/RCs of Memorial Square for inspiration as needed (e.g. "private mutual access easements (shown on Plat as Lot One...)").
76. DoD/RCs Section 1.E: Refers to Section "I" (Roman numeral) instead of "1" (Arabic numeral).
77. DoD/RCs Section 1.K: Appears to have skipped subsection "J."
78. DoD/RCs Section 1.[J]: Consider specifying "...Storm Water drainage and Detention."
79. DoD/RCs Section 1.[J]: Does not appear to provide for passive recreational uses (such as walking trails) in Reserve Areas.
80. DoD/RCs Section 2: Subsections "(1)" do not appear necessary and are inconsistent with the numbering system used elsewhere throughout the DoD/RCs.
81. DoD/RCs Section 2: Please update with final PUD language upon City Council approval by ordinance.
82. DoD/RCs Section 3: Consider whether exclusions or separate CC&Rs should be applied to the existing duplex lots.
83. DoD/RCs Section 3 Preamble: "superseded" is misspelled.

84. DoD/RCs Section 3: Numbering system is inconsistent with that used in Sections 1, 4, and 5. Please reconcile all.
85. DoD/RCs Section 3.1.A or 3.A: Numbering system appears to be off.
86. DoD/RCs Section 3.1.A or 3.A: Title "Private Covenants and Restrictions Applicable to All Lots" appears out of place or otherwise may be an unintended artifact, as it is inconsistent with the following text.
87. DoD/RCs Section 3.[A./6]: Final sentence appears to have a grammatical deficiency.
88. DoD/RCs Section 3.[A./8]: This appears to be more appropriately located within DoD/RCs Section 5.C. Please reconcile appropriately.
89. DoD/RCs Section 3.[A./10]: This appears to be more appropriately located within DoD/RCs Section 5.C. Please reconcile appropriately.
90. DoD/RCs Section 3.[A./11]: Appears duplicative of DoD/RCs Section 1.[J].
91. DoD/RCs Section 3.[A./12]: Should be combined with DoD/RCs Section 1.[J].
92. DoD/RCs Section 3.[A./14]: Appears duplicative of DoD/RCs Section 1 and may conflict therewith – please remove or incorporate new elements into appropriate subsections of Sect. 1.
93. DoD/RCs Section 3.[A./18]: The State of Oklahoma does not do auto inspections.
94. DoD/RCs Section 3.[A./21]: Would logically precede DoD/RCs Section 3.[A./2].
95. DoD/RCs Section 3.[A./23]: Cannot conflict with PUD 6 as ultimately amended by Major Amendment # 1. This section must also acknowledge the PUD's/City's superiority of authority for masonry standards.
96. DoD/RCs Section 3.[A./24]: Please change to "...City and the Architectural Committee."
97. DoD/RCs Section 4.A: Provides "...Owner/Developer has formed the 'MEMORIAL SQUARE', Property Owners Association..." Please use the actual name of the intended corporate entity, to allow for differentiation with "Memorial Square Homeowners Association, Inc.," a current or former owner of part of the subject property.
98. DoD/RCs Section 4.A: Provides "...Owner/Developer has formed the 'MEMORIAL SQUARE', Property Owners Association..." 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..."
99. DoD/RCs Section 4.B: Please clarify such as "...membership in the Association as of the date..."
100. DoD/RCs Section 4.B: Should probably be amended to exclude lots in Block 1, which should be owned by the HOA, to avoid legal questions as to membership, rights, and responsibilities of the HOA as appurtenant to lot ownership.
101. DoD/RCs Section 4.E: Space missing between words "is made."
102. DoD/RCs Section 4.E: Check Oklahoma law to see if delinquent assessment liens can be made a "personal obligation" which "shall not pass through the successors-in-title..."
103. DoD/RCs Section 4.F: Occurrence of "bare" in lieu of "bear," as presumed intended.
104. DoD/RCs Section 5.A: Please add the City of Bixby as beneficiary of DoD/RCs Sections 1 & 2.
105. Prior to Final Plat approval, please provide release letters from all utility companies serving the subdivision as per SRs Section 12-2-6.B.
106. 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 recognized JR Donelson of 8410 E. 111th St. S., from the Sign-In Sheet. Mr. Donelson discussed the application with the Commissioners. Mr. Donelson requested the Commissioners put the plat on the August 11, 2014 City Council agenda, rather than the next one, to allow the City Staff more time to review it.

Lance Whisman asked Erik Enyart what happens when changes are made to plans after the Planning Commission has given its recommendations. Mr. Enyart stated that, if any changes are "substantive

or material, I'll take your recommendation to the City Council but will list [the substantive or material] changes [specifically]" for the Council's consideration.

Chair Thomas Holland recognized Janet Dyer of 12630 S. Mingo Rd., from the Sign-In Sheet. Ms. Dyer expressed concerns about drainage and noted that there was a lawsuit in 1995 between her and others over this issue in Memorial Square.

Upon questioning, Erik Enyart stated that Bill Smith, a hydrologist, had prepared the development designs for stormwater drainage and detention and Compensatory Storage for the [100-year Regulatory] Floodplain. Mr. Enyart stated that, conceptually, part of the property was being excavated for these purposes and to elevate the streets and the balance of the developable site out of the Floodplain, the bridge under 121st St. S. was being replaced with a larger one, and some additional modifications were being made to the drainage channel to make sure the property was properly engineered. Mr. Enyart stated that all of this would have to be reviewed and approved by the City Engineer. Mr. Enyart confirmed with JR Donelson that this was essentially correct.

JR Donelson stated that the water [Janet Dyer was referring to] comes from the Town & Country shopping center, and asserted that the drainageways were not being maintained.

Discussion ensued regarding the concrete trickle-channel along the north side of *Memorial Square*.

Upon questioning, Erik Enyart stated that he did not know the history of who constructed the trickle-channel or under what circumstances, other than what he had heard at this meeting. Mr. Enyart stated that the drainage on the developer's property would be the developer's responsibility, and it would be the developer's responsibility to maintain and make any modifications to the trickle-channel if and as required by the City Engineer.

Janet Dyer asserted that the City of Bixby put in the trickle-channel.

Steve Sutton asked JR Donelson if this development would be enhancing the stormwater issues, and Mr. Donelson responded affirmatively, "Big time."

Chair Thomas Holland asked about the trickle-channel. Discussion ensued. Erik Enyart stated that the whole system had to be modeled, the trickle-channel "must be shown to work, and if not, it would have to be enhanced, but I do not foresee any circumstances where they could remove it."

Lance Whisman asked Erik Enyart about a passage in the body of the Staff Report stating that commercial would not be consistent with the Comprehensive Plan. Mr. Enyart stated that that passage, pertaining to excluding commercial use from the PUD, "points back to the PUD," which was "still open until finalized and approved by ordinance." Mr. Enyart explained that the PUD Major Amendment # 1 was approved as an application by the City Council, but the ordinance effecting the approval was waiting until the City received the final version of the PUD package incorporating all of the corrections, modifications, and Conditions of Approval.

The Commissioners discussed with JR Donelson and Erik Enyart the timing of the placement of this application on the City Council agenda. Mr. Enyart stated that he had heard Mr. Donelson's request earlier, and interpreted that as his request to Mr. Enyart to place the application on the August 11, 2014 City Council agenda, which he planned to do.

Steve Sutton made a MOTION to RECOMMEND APPROVAL of the Preliminary Plat of “Memorial Square Amended” subject to all of the corrections, modifications, and Conditions of Approval as recommended by Staff, and to have the application placed on the August 11, 2014 City Council agenda. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Sutton, Whiteley, Hicks, and Whisman
NAY: None.
ABSTAIN: None.
MOTION PASSED: 5:0:0

8. **Preliminary Plat – “Brisbane Office Park” – JR Donelson, Inc. (PUD 60).** Discussion and consideration of a Preliminary Plat and certain Modifications/Waivers for “Brisbane Office Park” for approximately 10 acres in part of the W. 10 Ac. of the E. 20 Ac. of Government Lot 1, Section 31, T18N, R14E.
Property Located: 10422 E. 111th St. S.

Chair Thomas Holland introduced the item and 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: Tuesday, July 15, 2014
RE: Report and Recommendations for:
Preliminary Plat of “Brisbane Office Park” (PUD 60)

LOCATION: – 10422 E. 111th St. S.
– Part of the W. 10 Ac. of the E. 20 Ac. of Government Lot 1, Section 31, T18N, R14E

SIZE: 9.87 acres, more or less

EXISTING ZONING: OL Office Low Intensity District, AG Agricultural District, & PUD 60

SUPPLEMENTAL ZONING: PUD 60 “Riverside Group”

ZONING:

EXISTING USE: A house and vacant/wooded land

REQUEST: Preliminary Plat approval

SURROUNDING ZONING AND LAND USE:

North: (Across 111th St. S.) CG & R-2; Vacant/wooded land zoned R-2 and CG (perhaps pending residential development), and to the northeast, the Evergreen Baptist Church on a 40-acre campus at 6000 W. Florence St. in Broken Arrow (perhaps also addressed 10301 E. 111th St. S., “Bixby” per its website, www.evergreenbc.org), all in the City of Broken Arrow.

South: RS-2; Single-family residential in Southwood East.

East: AG & RS-3; An agricultural/rural residential 10-acre tract and single-family residential in The Park at Southwood 3rd.

West: AG & CS; Unplatted vacant and rural residential tracts fronting along S. Mingo Rd., the Cedar Ridge Kingdom Hall of Jehovah’s Witnesses at 11355 S. Mingo Rd., and the City’s water tower.

COMPREHENSIVE PLAN: Low Intensity + Vacant, Agricultural, Rural Residences, and Open Land

PREVIOUS/RELATED CASES:

BBOA-38 – Kenny Gibson – Request for Special Exception to allow Use Unit 4 utility building (Bixby Telephone) in the AG District on a 75’ X 75’ tract from and within the northeast corner of the subject property – BOA Approved with Conditions 01/14/1985.

BL-98 – Kenny Gibson – Request for Lot-Split to separate a 75' X 75' tract from and within the northeast corner of the subject property for a utility building (Bixby Telephone) – PC Approved with Conditions 01/28/1985.

PUD 60 – Riverside Group – Randy Pickard – Request to rezone from AG to CS and OL and approve PUD 60 for a ministorage and office development for subject property – replaced by an amended application for PUD 60 and rezoning application BZ-337.

Zoning Code Text Amendment – Applicant in PUD 60 proposed to the City Council that it amend the Zoning Code to allow ministorage in OL and OM office zoning districts by Special Exception / PUD. City Council directed Staff to prepare amendment 10/22/2007. PC reviewed 12/17/2007, 01/21/2008, 01/28/2008, 02/11/2008, 02/18/2008, and 03/06/2008, and recommended Approval of specific amendment on 03/17/2008. City Council Approved amendment 04/14/2008 (Ord. # 994). PC recommended City Council make changes to amendment 05/19/2008 but City Council struck from agenda 07/14/2008 per City Attorney.

PUD 60 & BZ-337 – Riverside Group – Randy Pickard (Amended Application) – Request to rezone from AG to OL and AG and to approve an amended application for PUD 60 for a ministorage and office development for subject property – PC Continued from 12/17/2007 to 01/21/2008 to 02/18/2008 to 05/19/2008. On 05/19/2008, PC voted 3:2:0 on a Motion to recommend approval of OL zoning per BZ-337, and failed to pass a Motion to recommend Conditional Approval of PUD 60 (Amended Application) by 2:3:0 vote. PC chose not to take a subsequent vote on the possible denial recommendation, choosing instead to allow the case to be taken to the City Council absent a recommendation. City Council Conditionally Approved by 3:2:0 vote 06/23/2008 (Ord. # 1001). Additional Condition of Approval by City Council was “8ft wall, and stucco or masonry finish.”

PUD 60 Major Amendment # 1 “Riverside Group” – Matt Means of Landmark Constructive Solutions – Request for approval of Major Amendment # 1 to Planned Unit Development (PUD) # 60 for subject property – PC recommended Conditional Approval 06/16/2014 and City Council Conditionally Approved application 06/23/2014. Ordinance approval pending receipt of PUD Amendment Text & Exhibits reflecting all the required corrections, modifications, and Conditions of Approval.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property consists of the West 10 Acres of the East 20 Acres of Government Lot 1 (NW/4 NW/4) of Section 31, T18N, R14E, Less and Except a 75' X 75' tract from its northeast corner which belongs to BTC Broadband and contains a fenced communications building. The subject property contains an old house and accessory building(s) toward its northwestern lot corner, and is otherwise vacant and wooded. The subject property is moderately sloped and, per the Preliminary Plat and, contains a ridgeline oriented north-south along the west side of the tract. Thus, it appears to drain primarily to the east, but has a small amount of land that naturally drains west of the watershed (drainage divide) separating the Fry Creek Ditch # 1 and the Haikey Creek drainage basins, per PUD 60 Exhibit E (but not per this Preliminary Plat).

The subject property appears to be presently served by the critical utilities (water, sewer, electric, etc.).

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Low Intensity and (2) Vacant, Agricultural, Rural Residences, and Open Land/Residential Area.

The “Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan” (“Matrix”) on page 27 of the Comprehensive Plan provides that the existing AG district is In Accordance and the existing OL district May Be Found In Accordance with the Low Intensity designation of the Comprehensive Plan Land Use Map. Since OL zoning was approved by ordinance of the City Council, it has been recognized as being 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.

The Matrix does not indicate whether or not the existing OL or AG districts would be in accordance with the Vacant, Agricultural, Rural Residences, and Open Land Land Use designation of the Plan Map. However, this Vacant, Agricultural, Rural Residences, and Open Land designation cannot be interpreted as permanently-planned land uses, and so the specific land use designation test as indicated on Page 7, item numbered 1 and page 30, item numbered 5 of the Comprehensive Plan, would not apply here.

Per the Matrix, PUDs (as a zoning district) May Be Found In Accordance with the Low Intensity designation of the Comprehensive Plan Land Use Map. Since PUD 60 was approved by ordinance of the City Council, it has been recognized as being In Accordance with the Comprehensive Plan as a zoning district.

Therefore, Staff believes that the office park and ministorage development anticipated by this plat would not be inconsistent with the Comprehensive Plan.

General. This subdivision of 9.87 acres, more or less, proposes two (2) lots, one (1) block, and one (1) reserve area, to be known as "Reserve A." Lot 1, Block 1, is proposed to be for the office park, and Lot 2, Block 1, is proposed to be the ministorage business. Reserve A will serve as the development's stormwater detention facility.

With the exception(s) as outlined elsewhere herein, the Preliminary Plat appears to conform to the Zoning Code, Subdivision Regulations, and PUD 60 as Conditionally Approved for amendment per Major Amendment # 1.

The Technical Advisory Committee (TAC) reviewed this application on July 02, 2014. The Minutes of the meeting are attached to this report.

The Fire Marshal's, City Engineer's, and City Attorney's memos 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.

Access & Circulation. The subject property has approximately 330' of frontage on 111th St. S., and the site plan proposes two (2) driveway connections thereto. Mutual Access Easement (MAE) drives would provide a connection and legal access to the street for the "back" Lot 2 and Reserve A.

No new streets, public or private, would be constructed. Thus, the stub-out street requirements of SRs Section 12-3-2.C is not applicable.

Plans for access can be further inferred from the proposed plat and the site plans for PUD 60 Major Amendment # 1.

Sidewalks are required along 111th St. S. by the Subdivision Regulations.

Limits of No Access (LNA) are currently proposed along 111th St. S. except for access point(s), which must be approved by the City Engineer and Fire Marshal.

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

- 1. Subject to the final approval of PUD 60 Major Amendment # 1 by ordinance.*
- 2. Subject to compliance with all Fire Marshal, City Attorney, and City Engineer recommendations and requirements.*
- 3. Limits of No Access (LNA) and Access Openings subject to City Engineer and Fire Marshal approval.*
- 4. Subject to a Modification/Waiver from Subdivision Regulations Section 12-3-4.B to allow Lot 2, Block 1, to have no frontage on a private or public street. This may be justified by citing the configuration of the subject property and the Approved PUD 60 and Conditionally Approved PUD 60 Major Amendment # 1 which specifically designed the development in this manner and provided that the frontage requirement was set aside.*
- 5. All requests for Modification/Waiver must be submitted in writing.*
- 6. The Minimum 17.5' Perimeter Utility Easement, as required by Subdivision Regulations Section 12-3-3.A, appears to be missing from Reserve A, which does not appear to also be dedicated as a U/E.*

7. *Please identify the east line of the “BTC” parcel with the muted and dashed linetype as used elsewhere on the plat to avoid confusion with the plat boundaries.*
8. *Please identify “right-of-way dedicated by this plat.”*
9. *Please remove the line separating the 50’ R/W to be dedicated from the 26.9’ of right-of-way to be dedicated from in front of the BTC Broadband parcel, or otherwise identify if the latter has already been dedicated, along with Book/Page or Document # citation.*
10. *Please clarify the arrows pointing to (rather than the extents of) the Minimum 17.5’ Perimeter Utility Easement, as required by Subdivision Regulations Section 12-3-3.A, especially in areas of significant linework congestion and where missing around the BTC Broadband parcel. It may be better that all arrows point out the extents of the U/Es, and not pointing to them. A line with double-arrows can sometimes be more spatially efficient.*
11. *Per SRs Section 12-4-2.A.5, please correct Location Map as follows:*
 - a. *Cypress Pointe (missing)*
 - b. *Southwood East, Southwood East Second, The Park at Southwood, The Park at Southwood 2nd, The Park at Southwood 3rd, Shannondale, and Shannondale South (misrepresented as to configuration)*
 - c. *Southwood East Second (misspelled)*
12. *2’ elevation contours provided, but SRs Section 12-4-2.B.6 requires 1’ elevation contours (with labels).*
13. *Please add missing underlying zoning district boundaries as required by SRs Section 12-4-2.B.3.*
14. *Please add proposed addresses to the lots.*
15. *Plat missing notes pertaining to monumentation (reference SRs Section 12-1-8).*
16. *Subdivision statistics: Please add number of Reserve areas.*
17. *Angle/bearing data appears missing from common lines with BTC parcel and between Lot 2 and Reserve A.*
18. *Please extend MAE to Reserve A for emergency response purposes and maintenance access by owners/contractors of Lots 1 and 2. Otherwise, please explain.*
19. *“L.N.A.” and “BL” as used on the plat do not match “LNA” or “B/L” as used in the Legend – please reconcile.*
20. *There appears to be a U/E abutting to the south in Southwood East – please label width and citation (“per Plat # _____”) if/as may be the case.*
21. *Please add different linetypes to the Legend for the sake of clarity and/or consider using shading or hatching to differentiate areas currently congested with multiple linetypes. In any event, please use different linetypes for different features if/where presently shared.*
22. *Please supplement Legend with any missing linetypes, abbreviations, and symbols used (e.g. CenterLine, [certain manhole] circle symbols, B/L linetype, etc.).*
23. *Please represent existing building(s) and dimension to nearest property lines as required by SRs Section 12-4-2.A.8. Setbacks and other such details may be removed on Final Plat by standard Modification/Waiver written into Staff Report as a Condition of Approval.*
24. *DoD/RCs: Does not provide for the formation of a property owners’ association (POA), such as would be made responsible for the stormwater detention pond in Reserve A, the MAEs, and any other common features developed within the addition, such as the balance of the stormwater drainage system. At a minimum, please update DoD/RCs Section 1.H and 3.A.2 to assign perpetual maintenance responsibility. Staff recommends a formula for the respective maintenance responsibilities of Reserve Area A and the MAEs (the latter, e.g.: only responsible for that part located within lot boundaries, or an equal share between the two (2) lot owners, or a proportional share based on lot areas or planned impervious surface, etc.). Please add clear and immutable formula language on the face of the plat in addition to the appropriate section(s) of the DoD/RCs (which may be fairly easily amended and commonly without City approval). DoD/RCs Section 1.D.4, regarding stormsewerlines, is explicit in this matter, but consistency should be used if forming a POA or using a formula for other common elements.*
25. *DoD/RCs: Please advise if landscaping, screening fences, or other potentially-common-elements will be owned/maintained commonly. If so, please amend appropriate part(s) of DoD/RCs accordingly.*

26. DoD/RCs Preamble: Owner, StoreTulsa.com, LLC, must be in title to the subject property prior to Final Plat recording.
27. DoD/RCs Preamble: Missing critical wording such as “and have 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.
28. DoD/RCs Section 1.B: Language providing for the regrading R/W and U/Es must specify that such actions are ultimately subject to City of Bixby approval.
29. DoD/RCs Section 1.B: Needs to specify that the City of Bixby shall have access to U/Es for sanitary sewer purposes; may mirror language provided specifying access for waterline purposes.
30. DoD/RCs Section 1.D.5: Please remove. In the unlikely future event that the City of Bixby assumes maintenance of the stormsewers, appropriate language can be used in the instrument(s) effecting the change, and the language would likely then be different.
31. DoD/RCs Section 1.F: Please qualify this section as follows: “...repair and replacement of any properly-permitted landscaping and paving within the utility easements ...”
32. DoD/RCs Section 1.H: Consider specifying “Stormwater Drainage and Detention” in title and throughout the subsections.
33. DoD/RCs Section 1.H: Does not appear to provide for passive recreational uses (such as walking trails or simply “open space”) in Reserve Area A. PUD 60 suggested this possibility by use of term “open space.”
34. DoD/RCs Section 2: Please update with final PUD language upon City Council approval by ordinance.
35. DoD/RCs Section 3.A: “superseded” is misspelled.
36. DoD/RCs Section 3.A.1: Does not contain mutual parking privileges as per PUD language under Access, Circulation and Parking. Please add.
37. DoD/RCs Section 3.A.3: Any unique elements of this section should be integrated with Section 1 for the sake of logical flow and to avoid conflict therewith.
38. DoD/RCs Section 3.A.3: Appears to be describing U/Es but does not specify them by name, leaving some ambiguity. Please clarify language.
39. DoD/RCs Section 3.A.3: Language would appear to prohibit landscaping within U/Es, but landscaping is normally expected within them and appears to be planned there per PUD site plans.
40. DoD/RCs Section 3.A.3: Please remove or modify appropriately the language suggesting that a “public authority or utility company” may be responsible for replacement of damaged parking lot paving.
41. DoD/RCs Section 3.A.4: Appears to correspond to the required “Maintenance Covenant” of PUD 60, but is not titled as such and does not appear to correspond entirely to the language used in the PUD for the “Maintenance Covenant.” Please title appropriately and reconcile language.
42. DoD/RCs Section 3.B.2: Please add to list of sections requiring City of Bixby concurrence the balance of Section 1 (1.F, 1.G, and 1.H), preferably by replacing all subsection citations with “all of Section 1,” and the balance of 3.A.
43. Section 3.B.4: May have a redundancy – please check and address if/as needed.
44. Section 3.B: Final paragraph should likely have a subsection number.
45. Prior to Final Plat approval, please provide release letters from all utility companies serving the subdivision as per SRs Section 12-2-6.B.
46. 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).

JR Donelson discussed the project with the Planning Commission. Mr. Donelson noted that the Preliminary Plat approval gave the authority to prepare plans for water, sewer, and stormwater detention. Mr. Donelson stated that there would be a small stormwater detention pond on Lot 1. Mr. Donelson stated that the water came from the church south across 111th St. S. and onto Ms.

Daniels' property. Mr. Donelson stated that [he and his client were] negotiating with her on an overland drainage easement. Mr. Donelson stated that the plan was to take the water to the stormwater detention facility in The Park at Southwood. Mr. Donelson stated that the development would have private waterlines, which would be looped.

Jerod Hicks discussed drainage plans with JR Donelson. Mr. Donelson noted that he had talked to *BTC [Broadband]* about working with them on drainage for their respective properties.

Chair Thomas Holland recognized Carl Snow of 11227 S. Mingo Rd., from the Sign-In Sheet. Mr. Snow expressed concerns for the development, including the plans to have the developer hire a lighting professional to certify compliance with the lighting restrictions. Matt Means of 10865 S. 94th E. Ave. stated that the professional must be certified and licensed with the State, and it would be a violation of ethics and code if they forged the report. Mr. Snow demurred. Discussion ensued between Mr. Snow, Mr. Means, and Chair Thomas Holland.

Chair Thomas Holland asked Erik Enyart if the Commission could defer to the City Attorney, and Mr. Enyart responded affirmatively.

Matt Means noted that the ministorage area would be that part which abutted Carl Snow's property. Mr. Means stated that this area would have an 8'-high fence, and the ministorage buildings would be 8' 6" in height to the eaves. Mr. Means described lighting plans to the Commissioners and Mr. Snow.

Carl Snow asked what would happen if his lighting professional's measurements were different than those of Matt Means. Erik Enyart stated that this outcome would be something he had not seen before, and was yet to be determined. Mr. Enyart speculated that, if the developer put together the lighting plan as a part of the Detailed Site Plan, and the Detailed Site Plan was presented to the Planning Commission and City Council as required, and if Mr. Snow's lighting plans were also presented but differed, then the City Attorney would have to advise how they should be reconciled. (At this time or later in the meeting, Mr. Snow noted that his plan was to have a lighting expert come to his property after the development was built and measure the lighting.)

Carl Snow referenced recommended Condition of Approval # 23 from the Staff Report and asked if the developer would be allowed to build up to the property line. Erik Enyart responded, "No," and said there would be "setbacks and easements."

Carl Snow stated that, at the City Council meeting, he had sat next to [the City Engineer], who agreed to meet with him on site to discuss the bridge on Mingo Rd., but that this had not yet occurred.

JR Donelson presented a copy of the Applicant's Architect's site plan and viewed and discussed it together with Carl Snow. Mr. Donelson stated that the preliminary site plan was required so that the easements could be placed on the Preliminary Plat.

Carl Snow referenced recommended Condition of Approval # 24 from the Staff Report and asserted that the box culvert was "blocked, 7/8 full with sediment." Mr. Snow stated that [this section of

Mingo Rd.] was old Highway 64, put in in the 1940s. Mr. Snow described it as a “dam” that “floods.”

Carl Snow referenced recommended Condition of Approval # 25 from the Staff Report and asked if the PUD included the 8’-high fence. Erik Enyart responded that it was “in there” [already or otherwise] “it has to be.” Mr. Enyart stated that the fence was required to satisfy the screening requirement of the Zoning Code.

Steve Sutton discussed with JR Donelson the drainage and bridge conditions of the area around the subject property. Mr. Donelson stated that the bridge culverts recently installed were done so by Tulsa County. Mr. Donelson described the drainage patterns from the north to south and west to east, due to the ridgeline. Mr. Donelson stated, “I cannot say 100% will go to the east, but it should with the 8’ masonry fence.” Steve Sutton confirmed with JR Donelson that the fence would have no holes.

Steve Sutton exhorted Carl Snow to “get your lighting consultant to meet with [Matt Means’] engineer and see if the math could be agreed upon on the front side.” Mr. Snow indicated agreement, and stated “I wanted to head it off myself.”

There being no further discussion, Steve Sutton made a MOTION to RECOMMEND APPROVAL of the Preliminary Plat of “Brisbane Office Park” subject to all of the corrections, modifications, and Conditions of Approval as recommended by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Sutton, Whiteley, Hicks, and Whisman
NAY: None.
ABSTAIN: None.
MOTION PASSED: 5:0:0

OTHER BUSINESS

9. **BL-392 – Randy Shoefstall of White Surveying, Inc. for Lowe’s Home Center, Inc.**
Discussion and possible action to approve a Lot-Split for Lot 2, Block 1, *Bixby Commons*.
Property located: 11114 S. Memorial Dr.

Chair Thomas Holland introduced the item and 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: *Thursday, July 17, 2014*
RE: *Report and Recommendations for:
BL-392 – Randy Shoefstall of White Surveying, Inc. for Lowe’s Home Center, Inc.*

LOCATION: – 11114 S. Memorial Dr.
– Lot 2, Block 1, *Bixby Commons*
LOT SIZE: 15.14 acres, more or less

ZONING: CS Commercial Shopping Center District
SUPPLEMENTAL ZONING: Corridor Appearance District (partial)
EXISTING USE: Lowe's home improvement store
REQUEST: Lot-Split approval
COMPREHENSIVE PLAN: Corridor/Medium Intensity + Vacant, Agricultural, Rural Residences, and Open Land
PREVIOUS/RELATED CASES: (not necessarily a comprehensive list)
BZ-269 – The Desco Group – Request for rezoning from AG to CS for the NE/4 NE/4 of this Section (including subject property), later platted as Bixby Commons – PC Recommended Approval 01/16/2001 and City Council Approved 02/12/2001 (Ord. # 821).
Preliminary Plat of Bixby Commons – Information not found.
Final Plat of Bixby Commons – Request for Final Plat approval for the NE/4 NE/4 of this Section (including subject property) – Possibly Approved by City Council by the development agreement on 06/11/2001 (as indicated by the plat approval date on the plat). Record of Planning Commission approval not found.
BACKGROUND INFORMATION:
ANALYSIS:
Subject Property Conditions. The subject property consists of Lot 2, Block 1, Bixby Commons, and contains a Lowe's home improvement store addressed 11114 S. Memorial Dr. It is zoned CS Commercial Shopping Center District and is partially located in the Corridor Appearance District overlay district. It appears to slope moderately downward to the west/southwest. The "Bixby Commons" shopping center utilizes an underground stormsewer system which drains to a stormwater detention facility in the "Reserved Area" in Bixby Commons, abutting the subject property to the south. This drainage system is in the drainage basin of Fry Creek # 2.
General. The Applicant is proposing to separate a 0.624-acre tract from the northeast corner of the subject property for sale for a Taco Bell development. The new, smaller lot would have 185' of frontage on 111th St. S. and 147' of frontage on Bixby Commons Dr. The area of the new, smaller lot is presently primarily extra parking lot area.
Both proposed lots would comply with the minimum bulk and area and other requirements of the Zoning Code.
The Technical Advisory Committee (TAC) reviewed this Lot-Split application on July 02, 2014. The Minutes of the meeting are attached to this report.
Staff Recommendation. Staff recommends Approval.

Lance Whisman discussed the location with Erik Enyart.

There being no further discussion, Larry Whiteley made a MOTION to APPROVE BL-392. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Sutton, Whiteley, Hicks, and Whisman
NAY: None.
ABSTAIN: None.
MOTION PASSED: 5:0:0

10. **BL-393 – Steven W. Hodges.** Discussion and possible action to approve a Lot-Split for Lot 2, Block 1, *Hickory Creek Estates*.
Property located: 12900-block of E. 181st St. S.

Chair Thomas Holland introduced the item and 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: Thursday, July 17, 2014
RE: Report and Recommendations for:
BL-393 – Jon Ward

LOCATION: – 12900-block of E. 181st St. S.
– Lots 2, Block 1, Hickory Creek Estates
LOT SIZE: ½ acre, more or less
ZONING: RS-1 Residential Single-Family District
SUPPLEMENTAL ZONING: None
EXISTING USE: Vacant
REQUEST: Lot-Split approval
COMPREHENSIVE PLAN: Low Intensity/Rural/Development Sensitive
PREVIOUS/RELATED CASES: (Not necessarily a complete list)

BZ-184 – Timothy Keim for Hickory Creek Estates – Request for rezoning from AG to RS-1 for 10 acres, more or less, which became Hickory Creek Estates (includes subject property) – PC Recommended Approval 01/25/1988 and City Council Approved 02/23/1988 (Ord. # 577) (that portion of the future subdivision lying within the SE/4 SE/4 of Section 32, T17N, R14E requested but omitted from legal description in Ordinance).

Final Plat of Hickory Creek Estates – Request for Final Plat approval for Hickory Creek Estates (includes subject property) – City Council Approved 06/27/1988 (per the plat approval certificate) (Plat # 4726 recorded 07/12/1988) (Preliminary Plat and PC approvals not researched).

BL-142 – Tim Keim – Request for Lot-Split approval to separate the east 100' of Lot 5 and add to Lot 1 of Hickory Creek Estates (which itself later included subject property) – Staff recommended Approval subject to attachment by inclusion of 100'-wide tract in the Warranty Deed to Lot [1] and PC [Conditionally] Approved as recommended 08/15/1988.

BL-388 – Jon Ward – Request for Lot-Split approval to separate, from Lot 1, Block 1, Hickory Creek Estates: the subject property (Lot 2; to sell to the Applicant) and the east 100' of Lot 5 (to sell to the owner of the balance of Lot 5) – PC Conditionally Approved 11/18/2014.

BACKGROUND INFORMATION:

Per the BZ-184 Staff Report, the land which became the Hickory Creek Estates subdivision was annexed December 08, 1987.

Per BL-388, on November 18, 2014, the Planning Commission approved a Lot-Split to separate a formerly combined tract (Lots 1 and 2 and the E. 100' of Lot 5, Block 1, Hickory Creek Estates) into three (3) parts: Lot 1, Lot 2, and the 100'-wide tract. Lot 2 was sold to the Applicant in this application. The 100'-wide tract was sold to the owner of the balance of Lot 5, on which a house was recently constructed. Per the approval condition, that 100'-wide tract was legally attached to the adopting lot by deed restriction. The subject property met the requirements of the Zoning Code and so was deeded without deed restriction.

Further surveying revealed the subject property lot contains a retaining wall and retained yard area associated with the house to the east at 13001 E. 181st St. S. The owner of the house is re-purchasing a "sliver tract" containing the retaining wall and retained yard area, along with some additional yard area.

ANALYSIS:

Subject Property Conditions. The subject property consists of Lot 2, Block 1, Hickory Creek Estates, and is zoned RS-1. It has 100' of frontage on 181st St. S. and is vacant and wooded. It contains a retaining wall and approximately 6.1' of retained yard area associated with Lot 1, Block 1, Hickory Creek Estates.

General. See the Background Information section of this report for details. The Applicant is proposing to split the subject property to sell the easterly 20' to the owner to the east, 13001 E. 181st St. S. The RS-1 district requires a minimum of 100' of frontage and a minimum lot area of 13,500 square feet. Neither proposed tract would meet all the requirements for the RS-1 district, and so both must be legally combined with their respective adopting lots. Provided this is done, all resulting lots would comply with the minimum bulk and area and other requirements of the Zoning Code.

The Technical Advisory Committee (TAC) reviewed this Lot-Split application on July 02, 2014. The Minutes of the meeting are attached to this report.

Staff Recommendation. Staff recommends Approval, subject to both resulting tracts being attached to their respective adopting lots by deed restriction language such as:

[INSERT THE LEGAL DESCRIPTION OF THE NEW TRACT] .

The foregoing is restricted from being transferred or conveyed as described above without including:

[INSERT THE LEGAL DESCRIPTION OF ADOPTING LOT 1 or 3]

unless otherwise approved by the Bixby Planning Commission, or its successors, and/or the Bixby City Council as provided by applicable State Law,

Or other language provided by the Applicant for this purpose subject to City Attorney approval.

There being no further discussion, Larry Whiteley made a MOTION to APPROVE BL-393 with the Conditions of Approval as recommended by Staff. Steve Sutton SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Sutton, Whiteley, Hicks, and Whisman
NAY: None.
ABSTAIN: None.
MOTION PASSED: 5:0:0

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 Old 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 7:17 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary