

**MINUTES
PLANNING COMMISSION
116 WEST NEEDLES
BIXBY, OKLAHOMA
December 15, 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
Patrick Boulden, Esq., City Attorney

OTHERS ATTENDING:

See attached Sign-In Sheet

CALL TO ORDER:

Prior to the meeting, the Commissioners recognized Bixby Metro Chamber of Commerce's Leadership Bixby XIII intern Julie Lovelace. (Bixby Metro Chamber of Commerce's Leadership Bixby XIII intern Valerie Watson was not able to attend).

Chair Thomas Holland called the meeting to order at 6:07 PM.

ROLL CALL:

Members Present: Larry Whiteley, Steve Sutton, Thomas Holland, and Lance Whisman.
Members Absent: Jerod Hicks.

CONSENT AGENDA:

1. Approval of Minutes for the November 17, 2014 Regular Meeting
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Chair Thomas Holland introduced the Consent Agenda item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of the November 17, 2014 Regular Meeting as presented by Staff. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

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

PUBLIC HEARINGS

2. (Continued from 11/17/2014)

PUD 53-B – WoodMere – Major Amendment # 2 – Sack & Associates, Inc. Public Hearing, discussion, and consideration of a rezoning request for approval of Major Amendment # 2 to Planned Unit Development (PUD) # 53 for Lot 11, Block 1 and Lot 1, Block 4, *WoodMere*, to be known and designated on the official Zoning Map as “PUD 53-B” with underlying zoning CS Commercial and RS-2 Residential.
Property Located: 6810 E. 121st St. S. and 12155 S. 68th E. Ave.

Chair Thomas Holland introduced the item and confirmed with Erik Enyart that the application had been Withdrawn. Mr. Enyart stated, “As of this afternoon, Ted Sack Withdrew his application, so it is no longer in contention.” A Commissioner asked whether something should be done to document the Withdrawal, and Mr. Enyart responded, “The Minutes will so reflect.”

No action taken.

3. **BZ-378 – Bridle Creek Ranch, LLC, care of AAB Engineering, LLC.** Public Hearing, Discussion, and consideration of a rezoning request from AG Agricultural District to RS-3 Residential Single-Family District for approximately 50.76 acres in part of the N/2 of the N/2 of Section 25, T17N, R13E.
Property located: 9040 E. 161st 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, December 02, 2014 (Redacted version 12/15/2014)*
RE: *Report and Recommendations for:
BZ-378 – Bridle Creek Ranch, LLC, care of AAB Engineering, LLC*

LOCATION: – 9040 E. 161st St. S.
– Part of the N/2 of the N/2 of Section 25, T17N, R13E
LOT SIZE: 50.76 acres, more or less
EXISTING ZONING: AG Agricultural District
EXISTING USE: Agricultural
REQUESTED ZONING: RS-3 Residential Single-Family District
SUPPLEMENTAL ZONING: None
SURROUNDING ZONING AND LAND USE:

North: (Across 161st St. S.) AG, CS, RS-3/PUD 39; The Bixby Public Schools’ landholding and school facilities located between Riverview Rd. and Mingo Rd. zoned AG and CS, Bixby Creek, and a 2.6-acre rural residential tract at 703 S. Riverview Rd. zoned AG; the Bixby

Central Intermediate campus is located immediately across the street at 9401 E. 161st St. S. To the north/northwest are single-family homes in The Territory zoned RS-3 with PUD 39 and Bixby Creek and its right-of-way further north zoned AG.

South: AG; Agricultural land.

East: AG, OL, CS, RM-1, RS-2, & RS-3; Rural residential along 161st St. S. and agricultural land; Farther southeast across Mingo Rd. is additional agricultural land and single-family residential homes and vacant lots in Johns Park Addition and Johns Park Addition Revised zoned RS-3; Other than the Johns Park Addition area and Bixby Creek, all other areas to the east of Mingo Rd. are in unincorporated Tulsa County.

West: AG, RMH, & CS; Agricultural land, and to the southwest: the Pecan Park manufactured home park at 164th St. S. and Memorial Dr. zoned RMH, additional agricultural land, and the Southside Mobile Village manufactured home park at 16601/16609/16613/16619 S. Memorial Dr. zoned RMH and CS.

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

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

BBOA-303 – J.C. Devine – Request for Variance from certain bulk and area requirements to allow a Lot-Split (BL-199) to separate from the subject property a 4-acre tract, now abutting subject property to the east and north at 8710 E. 161st St. S. – BOA Conditionally Approved 10/02/1995.

BL-199 – J.C. Devine, Trustee for the J.E. Devine Trust – Request for Lot-Split approval to separate from the subject property a 4-acre tract, now abutting subject property to the east and north at 8710 E. 161st St. S. – PC Conditionally Approved 10/16/1995 subject to the dedication of 50' of R/W along 161st St. S. from the 4.09-acre tract.

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

BZ-20 – Chester Cue – Request for rezoning from R-1 to C-1 and R-3 for commercial and multifamily development for 5 acres to the north of subject property at the southwest corner of Stadium Rd. and Riverview Rd. – PC recommended Denial of C-1 zoning and Approval of R-3 zoning 10/06/1973 and Board of Trustees Denied C-1 zoning and Approved R-3 zoning 01/08/1974 (Ord. # 269 dated 02/05/1974).

BZ-22 – Robert Leikam – request for rezoning from AG to CS, OL, RM-2, and RS-2 for approximately 75 acres abutting subject property to the east, the E/2 NE/4 Less & Except the W/2 NW/4 NE/4 NE/4 of this Section – PC Recommended Approval, to include amending the RM-2 part to RM-1, on 05/07/1974 and City Council Approved with the amendment on 06/18/1974 (Ord. # 274).

BZ-95 – Morgan Jones for Sam Fryer, Jr. – request for rezoning “RS-2” to “AG” for approximately 75 acres abutting subject property parent tract to the south, the N/2 SE/4 of this Section Less & Except approximately 5 acres at 16590 and 16600 S. Mingo Rd. –Withdrawn 10/27/1980 per case notes. Circumstances were not found in the record, but contemporary case maps show the property was already zoned AG. See BBOA-79.

BBOA-79 – Morgan Jones for Sam Fryer, Jr. – request for approval of a Special Exception for oil well drilling in the AG district for approximately 75 acres abutting subject property parent tract to the south, the N/2 SE/4 of this Section Less & Except approximately 5 acres at 16590 and 16600 S. Mingo Rd. – BOA Approved 11/10/1980.

BBOA-92 – Triple “S” Drilling Company for Clifton W. Brown – Request for Special Exception to allow oil well drilling on the SE/4 SE/4 of Section 24, T17N, R13E located to the northeast of subject property at 9013/9017 E. 161st St. S. – BOA Conditionally Approved 11/09/1981.

BZ-117 – Frank Watkins for Watkins Sand Co. – request for rezoning from AG to RMH for approximately 20 acres abutting subject property parent tract to the southwest (now the Pecan Park manufactured home park at 164th St. S. and Memorial Dr.) – PC recommended Approval 03/29/1982 and City Council Approved 04/05/1982 (Ord. # 455).

BBOA-106 – William P. Pittman – Request for Special Exception to allow mobile homes in the AG district for a part of the Southside Mobile Village manufactured home park to the southwest of subject property parent tract at 16601/16609/16613/16619 S. Memorial Dr. – BOA Approved 06/14/1982.

BZ-192 – Deborah Andrews – request for rezoning from RMH to CG for an RV park for approximately 2½ acres of the 20-acre Pecan Park manufactured home park at 164th St. S. and Memorial Dr. abutting subject property parent tract to the southwest – PC recommended Denial 10/16/1989 and Board of Trustees Denied 11/13/1989 upon appeal.

BBOA-217 – [Deborah Andrews] – request for Special Exception to allow an RV park in the CG district for approximately 2½ acres of the 20-acre Pecan Park manufactured home park at 164th St. S. and Memorial Dr. abutting subject property parent tract to the southwest – Per case notes: No action taken since BZ-192 was Denied.

BBOA-198 – Bixby Public Schools – request for Variance from the 26' height restriction to allow up to 30' in height, to permit an addition to an existing school for the formerly 8- or 10-acre school property tract located to the north of subject property at 501/515/601 S. Riverview Rd. – BOA Approved 01/11/1988 per case notes.

BBOA-228 – Lisa Graves for Violet D. Young – Request for Variance from certain bulk and area requirements to allow a Lot-Split (BL-154) for approximately 5 acres to the north of subject property, including the tracts at 703/707 and 711 S. Riverview Rd. and an approximately 0.8-acre tract located just south of 711 S. Riverview Rd. – BOA Conditionally Approved 08/06/1990.

BBOA-282 – Bixby Public Schools – Request for Special Exception to allow a Use Unit 5 school on part of the SW/4 SE/4 of Section 24, T17N, R13E (appears to include all of the school-owned tracts in the SW/4 SE/4 lying south of Bixby Creek) across 161st St. S. to the north of subject property – BOA Approved 08/01/1994.

BBOA-294 – Carlene Hall for Mary V. Moore – request for Variance from bulk and area requirements of the AG district to allow for a Lot-Split (BL-185) separating approximately 2.7 acres at 8899 and 8899½ E. 171st St. S. from an approximately 71-acre tract abutting subject property parent tract to the south – BOA Approved 04/17/1995.

BBOA-299 – Carolyn Wagnon – request for (1) a Special Exception to permit Use Unit 15 in a CS district, and (2) a Variance of certain bulk and area requirements in the AG district to permit a Lot-Split for property located to the north of subject property at 711 S. Riverview Rd. – BOA Approved 06/05/1995.

BL-192 – Wagnon Construction – request for Lot-Split for an approximately 0.8-acre tract to the north of subject property located just south of 711 S. Riverview Rd. – PC Approved 06/19/1995.

BZ-213 – Carolyn Wagnon – request for rezoning from AG to CS for an approximately 0.8-acre tract to the north of subject property located just south of 711 S. Riverview Rd. – PC Recommended Approval 06/19/1995 and City Council Approved 07/24/1995 (Ord. # 720).

BZ-224 – Carolyn Wagnon – request to rezone from AG to CG approximately 1 acre to the north of subject property from AG to CG at about 703/707 S. Riverview Rd. – Withdrawn in 1996.

BBOA-314 – Guy & Wendy McCoy – Request for Special Exception to allow a Use Unit 9 mobile home in the AG district for an approximately 20-acre tract (now 16-acres after the acquisition of Bixby Creek right-of-way) to the northeast of subject property at 9013/9017 E. 161st St. S. – BOA Conditionally Approved 03/04/1996.

BBOA-321 – Carolyn Wagnon – request for Special Exception to allow Use Unit 23 in the CS district for land to the north of subject property at about 703/707 S. Riverview Rd. – Withdrawn in 1996.

BBOA-340 – Bixby Public Schools – request for Special Exception for a Use Unit 5 school on approximately the west half of the Bixby Public Schools property to the north of subject property at 9401 E. 161st St. S. (now the Central Intermediate campus) – BOA Approved 08/03/1998.

BBOA-338 – James H. Powell – request for Variance to allow a Use Unit 9 mobile home on a former approximately 1.15-acre tract (now school property) to the northeast of subject property approximately at the 15700-block of S. Mingo Rd. – Denied 08/03/1998.

BZ-245 – James H. Powell – Request for rezoning from AG to RMH for a former, approximately 1.15-acre tract to the northeast of subject property approximately at the 15700-block of S. Mingo Rd. (now school property) for a mobile home site – Approved in November, 1998 (Ord. # 783).

Plat Waiver for Bixby Public Schools – Request for Waiver of the platting requirement per Zoning Code Section 11-8-13 for 32 acres of the school property to the northeast of subject property – City Council Approved 03/08/2010 after accepting right-of-way and U/E dedications at the same meeting.

BBOA-519 – JR Donelson for Bixby Public Schools – request for Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 school facility in an AG Agricultural District on 32 acres of the school property to the northeast of subject property at the 15600/15700-block of S. Mingo Rd. – BOA Approved 04/05/2010.

BLPAC-6 – JR Donelson, Inc. for Bixby Public Schools – request for approval of a Landscaping Plan Alternative Compliance plan per Zoning Code Section 11-12-4.D for a Vocational-Agriculture

building for Bixby Public Schools on 32 acres of the school property to the northeast of subject property at the 15600/15700-block of S. Mingo Rd.– PC Conditionally Approved 04/19/2010.

BZ-348 – JR Donelson, Inc. for Bixby Public Schools – request for rezoning approximately 20 acres at approximately 15600 S. Mingo Rd. and the former approximately 1.15-acre tract to the northeast of subject property at the approximately 15800-block of S. Mingo Rd. from RMH to AG for school land use and development purposes – PC recommended Approval 04/19/2010 and City Council Approved 05/10/2010 (Ord. # 2037).

BBOA-579 – Paul & Jimme Beth Hefner for Mary Elizabeth Brown – request for Special Exception per Zoning Code Section 11-8-5 to allow an Accessory Dwelling Unit in an AG Agricultural District on a 16-acre tract to the northeast at 9013/9017 E. 161st St. S. – BOA Conditionally Approved 07/01/2013.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property of approximately 50.76 acres is zoned AG and is agricultural in use. It has approximately 1,443.64' of frontage on 161st St. S.

The subject property parent tracts consist of three (3) existing parcels:

- (1) An approximately 40-acre tract, the NE/4 of the NW/4 of this Section, Assessor's Parcel Account # 97325732517190; the subject property includes the east 20 acres of this parcel,
- (2) An approximately 20-acre tract, the W/2, NW/4, NE/4, Assessor's Parcel Account # 97325732509690; Until earlier this year, it had a house, addressed 9040 E. 161st St. S., and various agricultural/accessory buildings. Until it was acquired by Bridle Creek Ranch, LLC by deed dated June 04, 2014, this 20-acre tract was a part of a larger parcel also containing the SE/4 of the NW/4 and the S/2 of the SW/4 of the NW/4 (80 acres total),
- (3) An approximately 51-acre tract with a "flag-lot" configuration, having a 60'-wide "handle" extending to 161st St. S., Assessor's Parcel Account # 97325732511690. It is, essentially, the SW/4 of the NE/4 and the SE/4 of the NW/4 of the NE/4 and the Westerly 60' of the W/2 of the NE/4 of the NW/4 of the NE/4. The subject property area, the northerly approximately 11 acres, excludes the SW/4 of the NE/4 of the parent tract. It contains an existing barn/storage building toward the northern end of the 60'-wide "handle." Per BL-199, the 60'-wide "handle" was intended to allow a future collector street to provide access to the back acreage when the 4-acre tract with the house was separated from the subject property parent tract.

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

The subject property is relatively flat. Easterly portions of the property appear to drain to the south and southeast, ultimately to Little Snake Creek, and westerly portions appear to drain to the southwest toward Memorial Dr., which would ultimately drain to Little Snake Creek or Bixby Creek (this is not clear).

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Low Intensity/Development Sensitive (2) Vacant, Agricultural, Rural Residences, and Open Land, and (3) Community Trail.

The "Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan" ("Matrix") on page 27 of the Comprehensive Plan provides that the requested RS-3 district is In Accordance with the Low Intensity and May Be Found In Accordance with the Development Sensitive designations 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.

The Matrix does not indicate whether or not the requested RS-3 district 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.

The Comprehensive Plan Land Use Map designates a Community Trail more or less east of and paralleling the north-south Half-Sectionline from 161st St. S. to 171st St. S. The Matrix only includes, and the Zoning Code only requires consistency with the land use elements for rezoning purposes, not the Public Facilities / Urban Design Elements such as trails. It remains to be seen whether future development plans will include any private or public trail elements.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning is primarily AG, RMH, RS-2, and RS-3/PUD 39, but there are also CS, OL, RM-1, and RS-3 districts in the area, all as depicted on the case map and as described in further detail in the paragraphs that follow.

Across 161st St. S. to the north is the Bixby Public Schools’ landholding and school facilities located between Riverview Rd. and Mingo Rd. zoned AG and CS, Bixby Creek, and a 2.6-acre rural residential tract at 703 S. Riverview Rd. zoned AG. The Bixby Central Intermediate campus is located immediately across the street at 9401 E. 161st St. S. To the north/northwest are single-family homes in The Territory zoned RS-3 with PUD 39 and Bixby Creek and its right-of-way further north zoned AG. The Territory has six (6) Reserve Areas which are used for stormwater detention and/or private recreation, including a playground and sports field/court, a unified screening fence along 161st St. S. and Riverview Rd., and enhanced entrance features including signage and landscaping.

South of the subject property is primarily agricultural land zoned AG. Agricultural land in the SE/4 of this Section is primarily tree farmland, and is mostly in the 100-year (1% Annual Chance) Regulatory Floodplain.

To the east along 161st St. S. is rural residential and agricultural land zoned AG, OL, CS, RM-1, and RS-2. Further southeast across Mingo Rd. is additional agricultural land zoned AG and single-family residential homes and vacant lots in Johns Park Addition and Johns Park Addition Revised zoned RS-3. Other than the Johns Park Addition area and Bixby Creek, all other areas to the east of Mingo Rd. are zoned AG in unincorporated Tulsa County.

The approximately 50-acre RS-2 district abutting to the east and the approximately 33-acre RS-3/PUD 39 district across 161st St. S. to the north are the nearest RS precedents. While The Territory has typically 52’ X 112.5’ lots (5,850 square feet; as afforded by PUD 39), the RS-2 requires a 75’ minimum lot width and 9,000 square foot minimum lot area, compared to the 65’ and 6,900 square foot minimums, respectively, in the requested RS-3 district. Beyond the approximately 50-acre RS-2 district abutting to the east, there is an approximately 20-acre RS-3 district containing Johns Park Addition and Johns Park Addition Revised. The former contains typically 115’ X 122’ (12,880 square feet) lots and the latter contains typically 80’ X 122’ (9,760 square feet) and 90’ X 124’ (11,160 square feet) lots.

Immediately to the west is agricultural land zoned AG. The Pecan Park manufactured home park, zoned RMH, is located to the southwest at 164th St. S. and Memorial Dr. Further southwest is additional agricultural land zoned AG and the Southside Mobile Village manufactured home park at 16601/16609/16613/16619 S. Memorial Dr. zoned RMH and CS.

The surrounding zoning and land use patterns appear to support the requested rezoning to RS-3, but care should be taken to ensure compatibility, consistency, and overall development quality.

Whether residential or nonresidential, the City of Bixby has observed that better development outcomes result when properties develop by either PUD or through the use of minimum building standards. These methodologies typically secure better planning and site design and afford the community the ability to provide more input into the design, minimum construction standards, and development amenities.

Conceptual plans for the development have not been provided. The application does not specify what minimum construction standards may be proposed for houses, or whether any neighborhood amenities are planned (Reserve areas for passive or active private recreation such as pools, clubhouses, playgrounds, water features, walking trails, etc., or Reserve Areas or easements along 161st St. S. to contain enhanced subdivision walls/fences, common landscaping, entrance features, etc.), or whether the development planned to include a trail such as is designated on the Comprehensive Plan. A PUD or strict minimum

construction standards would provide what is planned in this regard, and would give the City a better understanding of what it is being asked to approve.

Please note, "Contract/conditional rezoning" is not allowed by law, and so offers and promises made by the Applicant are not enforceable and can only be made part of the Zoning entitlement if included in a PUD.

Staff Recommendation. For the reasons outlined above, Staff is supportive of RS-3 zoning, but with a PUD or through the adoption of strict minimum construction standards if determined necessary by the City Council upon Planning Commission recommendation.

Erik Enyart stated that the redacted version of the Staff Report was the result of further City Staff discussion after the original report had been published on Thursday. Mr. Enyart stated that the primary change to the report was to state that, in addition to rezoning along with PUDs to secure higher-quality development outcomes, when granting zoning entitlement for new housing additions, City Staff would also support minimum building standards included in the Restrictive Covenants of the subdivision plats. Mr. Enyart noted that this was what the City did when it considered the Preliminary Plats of "Seven Lakes V" and "Seven Lakes VI" the previous month. Mr. Enyart stated that the Subdivision Regulations specifically required that plats include "land use restrictions," which are included in the Deed of Dedication and Restrictive Covenants.

Chair Thomas Holland recognized Applicant Alan Betchan from the Sign-In Sheet. Mr. Betchan stated that [he and his clients] would prefer [the option of] Restrictive Covenants in the plat. Mr. Betchan stated the lots would be 65'- and 70'-wide, and 120'- and 125'-deep, and so would exceed RS-3 standards. Mr. Betchan stated that his clients were intentionally trying to meet the [Zoning] Code so that they would not have to do a PUD. Mr. Betchan stated that the request would fit in with the surrounding/abutting zoning. Mr. Betchan stated that the covenants would include that homes would be 1,600 square feet minimum for one-story, and 2,000 square feet minimum for two-story houses, and would be full masonry to the top plate. Mr. Betchan stated that all of this would be brought forward in the [Deed of Dedication and Restrictive Covenants] of the Preliminary Plat.

Alan Betchan provided a printout of conceptual plans for the development and described same.¹

Chair Thomas Holland asked if there was an acreage [threshold] for requiring a PUD, and Erik Enyart responded that a PUD was not required. Mr. Enyart noted that "Most have come to us as PUDs" in recent years, and that it had been a "long time since one was done with straight zoning. But most have needed flexibility—they want to reduce lot widths or do other things." Mr. Enyart indicated that this was not the case here, and that all lots would meet requested RS-3 district standards.

Alan Betchan stated that, for marketing purposes, they would be advertised as a \$200,000 and up product. Mr. Betchan stated that the market was "underserved" for this "middle ground" [price point]. Mr. Betchan stated that [he and his clients] did not need to change anything here. Mr. Betchan stated that there would be "more to come...more details, such as where the [presently-planned] basketball courts go," and that there would be "more because it was brought up with the zoning case." Mr. Betchan noted that this would "come back as a Preliminary Plat to the Planning Commission and City Council." Erik Enyart noted that the Preliminary Plat could be seen as "reinforcing what they are saying now."

¹ Mr. Betchan did not leave a copy for the Minutes.

Patrick Boulden asked Alan Betchan whether [the Restrictive Covenants would provide that,] if the Restrictive Covenants “ever come up for amendment, they would come back to us.” Mr. Betchan responded, “Yes, and they will be enforceable by the City.”

Alan Betchan stated that this would be a 170-plus lot development.

Steve Sutton clarified with Erik Enyart that he was okay with the recommendation as provided in the redacted version of the Staff Report.

There being no further discussion, Steve Sutton made a MOTION to RECOMMEND APPROVAL of RS-3 zoning as recommended in the Staff Report, including through the use of minimum development standards. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

PLATS

OTHER BUSINESS

4. **PUD 60 – Brisbane Office Park – Minor Amendment # 1.** Discussion and possible action to approve Minor Amendment # 1 to PUD 60 for approximately 10 acres in part of the W. 10 Ac. of the E. 20 Ac. of Government Lot 1, Section 31, T18N, R14E, with underlying zoning OL Office and AG Agricultural, which amendment proposes relaxing certain signage and building height restrictions and making certain other amendments.
Property Located: 9900-block of 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: Wednesday, December 10, 2014
RE: Report and Recommendations for:
PUD 60 – “Brisbane Office Park” – Minor Amendment # 1

LOCATION: – 10422 E. 111th St. S. (existing parcel address)
– 9900-block of E. 111th St. S.
– Part of the W. 10 Ac. of the E. 20 Ac. of Government Lot 1, Section 31, T18N, R14E
– All of proposed “Brisbane Office Park” subdivision

SIZE: 9.87 acres, more or less

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

EXISTING USE: A house and vacant/wooded land

REQUEST: Approval of Minor Amendment # 1 to Planned Unit Development (PUD) # 60 ("Brisbane Office Park"), with underlying zoning OL Office Low Intensity District and AG Agricultural District, which amendment proposes relaxing certain signage and building height restrictions and making certain other amendments.

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" / "Brisbane Office Park" – Matt Means of Landmark Constructive Solutions – Request for approval of Major Amendment # 1 to Planned Unit Development (PUD) # 60 for subject property – changed the name of the PUD to "Brisbane Office Park" – PC recommended Conditional Approval 06/16/2014 and City Council Conditionally Approved application 06/23/2014 and Approved by ordinance with Emergency Clause 08/11/2014 (Ord. # 2140).

Preliminary Plat of Brisbane Office Park – Request for approval of a Preliminary Plat and Modification/Waiver to allow Lot 2, Block 1, to have no frontage on a private or public street for subject property – PC recommended Conditional Approval 07/21/2014 and City Council Conditionally Approved plat and Modification/Waiver 08/11/2014.

Final Plat of Brisbane Office Park – Request for approval of a Final Plat and partial Modification/Waiver from 17.5' perimeter U/E requirement for subject property – PC recommended Conditional Approval 08/18/2014. City Council consideration pending 01/12/2015.

BSP 2014-03 – “Brisbane Office Park” – Matt Means of StoreTulsa.com (PUD 60) – Request for approval of a PUD Detailed Site Plan for subject property – PC recommended Conditional Approval 09/15/2014. City Council consideration pending 01/12/2015.

RELEVANT AREA CASE HISTORY:

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 elevation contours represented on the site plan, contains a ridgeline oriented north-south along the west side of the tract, apparently roughly coterminous with the property's westerly line. This ridgeline forms a watershed (drainage divide) separating the Fry Creek Ditch # 1 and the Haikey Creek drainage basins. Per the elevation contours on the Preliminary Plat, all or almost all of the subject property naturally drains to the east and south to the Haikey Creek drainage basin. Upon completion of grading, paving, stormwater drainage and detention, and masonry screening wall improvements, all of the property will drain to the east and south.

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 and PUD 60 Major Amendment # 1 were both approved by ordinances of the City Council, PUD 60 has been recognized as being In Accordance with the Comprehensive Plan as a zoning district.

Due to the relatively limited scope of proposed changes, the proposed PUD 60 Minor Amendment # 1 should be recognized as being not inconsistent with the Comprehensive Plan.

General. The Applicant is requesting a Minor Amendment to PUD 60 “Brisbane Office Park,” which amendment proposes relaxing certain signage and building height restrictions and making certain other amendments. This Minor Amendment would do two (2) things:

1. Replace with "One Story" the 8.5' building height restriction in Development Area B (ministorage element), and
2. Allow a ground sign located within Development Area A (office element) to advertise the ministorage business in Development Area B (ministorage element), which relaxes the "billboard" prohibition of the Zoning Code in this instance.

The underlying zoning is OL and Zoning Code Section 11-7C-4 Table 3 does not provide any height restriction in the Office districts (however, another City Code provision may provide a citywide height restriction). The original PUD 60, as approved, included "One Story" here, and this Minor Amendment proposes to restore this language. It was the Major Amendment # 1 which restricted the height to 8.5', and that specific number was based on the conceptual building height listed on the site plan exhibit during Major Amendment # 1. The plans were refined during the preparation of the PUD Detailed Site Plan per BSP 2014-03. The plans show the buildings at 8.5' in height, but they will have a pitched roof shown at 10' 1" +/- in total height. Any further plan changes would have to be approved by the Planning Commission and City Council per the requirement for same in the PUD. Since the Zoning Code would allow the additional height by right, and the original PUD allowed "One Story" of height, the relaxation of the self-imposed 8.5' height restriction appears to be a reasonable accommodation by Minor Amendment, as requested here.

The BSP 2014-03 site plans represent the locations of the one (1) proposed ground sign at the northwest lot corner. The ground sign would advertise both the "Brisbane Office Park" and "Brisbane Mini-Storage" business. The Zoning Code (Section 11-2-1, etc.) would recognize the signage element advertising the ministorage business, located on the office park lot, as a "billboard," prohibited by the Zoning Code. However, signage advertising the ministorage business along 111th St. S. was to be expected by the specific allowance of the "back" ministorage development area / lot per the PUD. This is a common situation and relief from this restriction has commonly been done within PUDs either at the time of their initial approval or by amendment (PUD 65 Major Amendment # 1, PUD 73, PUD 76, PUD 47-C, PUD 81, etc.). This minor matter is proposed to be relieved by this Minor Amendment # 1.

The Technical Advisory Committee (TAC) was sent a comment response form seeking comments on this PUD Minor Amendment application and other items by December 03, 2014. Of the responses received, there were no objections to or relevant comments upon this application.

Access & Circulation. See Staff Reports for the Final Plat of "Brisbane Office Park" and the PUD Detailed Site Plan per BSP 2014-03.

Surrounding Zoning and Land Use. See summary hereinabove.

Staff Recommendation. For all the reasons outlined above, Staff recommends Approval subject to the following corrections, modifications, and Conditions of Approval:

1. Title Page: Please update to reflect this Minor Amendment # 1 is being proposed, or otherwise replace PUD document with a smaller document more narrowly tailored to the parts of the PUD that are actually affected.
2. PUD Text: Please update to reflect this Minor Amendment # 1 is being proposed, or otherwise replace PUD document with a smaller document more narrowly tailored to the parts of the PUD that are actually affected.
3. PUD Text: Development Concept: Introduction: Whether using the entire PUD document or a smaller document more narrowly tailored to the parts of the PUD that are actually affected, please provide the proposed scope of this Minor Amendment # 1 that specifies the number and nature of the changes proposed and provides that no changes are made to PUD 60 except as specifically amended in this document. In the event a smaller document is used, this will ensure no ambiguity that the omitted informational elements are not superseded but remain in effect except as specifically modified.
4. PUD Text: Development Standards for All Lots: Signs: Please restore item # 1, but integrate the new relaxation provision here, by suffix appended to the sentence, by asterisk text, by adding a subsequent subsection, or by other method as appropriate.
5. PUD Text: Development Standards for All Lots: Signs: Please clarify wording of new relaxation provision here, such as "signage advertising uses located within Development Area B shall be permitted to be located within Development Area A."
6. Exhibit A: Please update with latest site plan or otherwise remove.

Erik Enyart noted that the Applicant had submitted a revised PUD amendment document, copies of which he had provided to the Commissioners prior to the meeting. Mr. Enyart noted that it satisfied the recommendations in the Staff Report. Steve Sutton confirmed with Mr. Enyart that he was okay with the revised document. Mr. Enyart stated that the new document “replaces what was in the agenda packet.”

Chair Thomas Holland expressed concern about the continued intent to use masonry siding for the ministorage buildings. Erik Enyart responded that there were “several details in the Site Plan yet to be addressed,” but for “any sides of the building subject to the masonry requirement, I’m certain I covered that.”

There being no further discussion, Steve Sutton made a MOTION to APPROVE the revised PUD 60 Minor Amendment # 1 as per the Staff recommendations. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

5. **BL-394 – Allen Locke.** Discussion and possible action to approve a Lot-Split for Lot 24, Block 3, *Amended Deer Run Estates*.
Property located: 13200-block of E. 183rd Cir. 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: Monday, December 08, 2014
RE: Report and Recommendations for:
BL-394 – Allen Locke

LOCATION: – 13200-block of E. 183rd Cir. S.
– Lot 24, Block 3, *Amended Deer Run Estates*

LOT SIZE: 0.9 acres, more or less

ZONING: RS-1 Residential Single-Family District

SUPPLEMENTAL ZONING: None

EXISTING USE: Vacant

REQUEST: Lot-Split approval

COMPREHENSIVE PLAN: Low Intensity + Residential Area

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

BZ-133 – Clinton Miller for M & M Development – Request for rezoning from AG to RS-1 and CS for approximately 90 acres, more or less, which became Amended Deer Run Estates (includes subject property) – PC Recommended Approval of RS-1 only 02/28/1983 and City Council Approved RS-1 only 03/07/1983 (Ord. # 476) (that portion of the future subdivision lying northwesterly of the centerline of 129th E. Ave., requested for CS zoning, was completely omitted from legal description in Ordinance).

BZ-143 – Clinton Miller for M & M Development – Request for rezoning from AG to RS-1 for approximately 90 acres, more or less, which became Amended Deer Run Estates (includes subject property) – same as BZ-133 but the initial annexation (reportedly January, 1983) was deemed invalid and the property had to be re-annexed (reportedly 06/06/1983) and rezoned – PC Recommended Approval 06/27/1983 and City Council Approved 07/05/1983 (Ord. # 488) (that portion of the future subdivision lying northwesterly of the centerline of 129th E. Ave. included).

Final Plat of Amended Deer Run Estates – Request for Final Plat approval for Amended Deer Run Estates (includes subject property) – City Council Approved 07/05/1983 (per the plat approval certificate) (Plat # 4366 recorded 07/06/1983) (Preliminary Plat and PC approvals not researched) (existence of a subdivision name prior to the “Amended” plat not known).

BL-214 – Allen Locke – Request for Lot-Split approval to split a part of Lot 25, Block 3, (13222 E. 183rd Cir. S.) abutting subject property to the south, to provide for access to part of Reserve B abutting subject property to the east, all in Amended Deer Run Estates (southerly portion of subject property proposed to be attached to this property) – Record of PC consideration not found; property does not appear to have been split pursuant to sketch and description found in case file.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property consists of Lot 24, Block 3, Amended Deer Run Estates, and is zoned RS-1. It has over 55’ of frontage on the cul-de-sac turnaround of 183rd Cir. S. and is vacant and wooded. The property has a moderate downward slope to the east to a creek along its rear yard line.

General. The Applicant owns the property abutting the subject property to the south, Lot 25, Block 3, Amended Deer Run Estates (13222 E. 183rd Cir. S.), and adjacent land to the east and south. The Applicant and another property owner to the north/west, Nielsen, who owns Lot 22 (13219 E. 183rd Cir. S.) and the vacant Lot 23, have agreed to acquire the subject property. They intend to split it, with the Applicant retaining the southerly portion and Nielsen acquiring the northerly portion. The RS-1 district requires a minimum of 100’ of lot width and a minimum lot area of 13,500 square feet. The southerly proposed tract would not meet all the requirements for the RS-1 district or the 30’ minimum street frontage requirement of Zoning Code Section 11-8-4, and so it must be legally combined with the adopting Lot 25, Block 3 to the south. 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) was sent a comment response form seeking comments on this Lot-Split application and other items by December 03, 2014. Of the responses received, there were no objections to or relevant comments upon this application.

Staff Recommendation. Staff recommends Approval, subject to the southerly or 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 25 or 27]

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.

Chair Thomas Holland recognized Applicant Allen Locke from the Sign-In Sheet. Mr. Locke described the situation and agreement with his neighbor to acquire and divide the property.

There being no further discussion, Larry Whiteley made a MOTION to APPROVE the Lot-Split per BL-394 subject to all the attachments as recommended in the Staff Report. Steve Sutton SECONDED the Motion. Roll was called:

ROLL CALL:

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

6. **BL-395 – SpiritBank care of AAB Engineering, LLC.** Discussion and possible action to approve a Lot-Split for part of Lot 4, Block 1, *Regal Plaza*.
Property located: 10423 S. Memorial Dr., 10424 S. 82nd E. Ave., and 10438 S. 82nd 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: Wednesday, December 10, 2014
RE: Report and Recommendations for:
BL-395 – SpiritBank care of AAB Engineering, LLC

LOCATION: – 10423 S. Memorial Dr. and 10424 and 10438 S. 82nd E. Ave.
– Lot 4, Block 1, Regal Plaza

LOT SIZE: 1.4 acres, more or less

ZONING: CS Commercial Shopping Center District / PUD 40

SUPPLEMENTAL ZONING: PUD 40 and Corridor Appearance District

EXISTING USE: Multitenant strip shopping center buildings at 10424 and 10438 S. 82nd E. Ave. and a parking lot formerly containing a small retail building addressed 10423 S. Memorial Dr.

REQUEST: Lot-Split approval

COMPREHENSIVE PLAN: Medium Intensity + Commercial Area + Corridor

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

BZ-92 – Allen G. Oliphant – Request for rezoning from AG to CS for an area platted as Wildwood Garden Center, since vacated in favor of Regal Plaza (includes subject property) – Recommended for Approval by PC 08/25/1980 and Approved by City Council 09/02/1980 (Ord. # 411).

Final Plat of Wildwood Garden Center – Request for Final Plat approval for part of what was latter platted as Regal Plaza (includes subject property) – Approved by PC 09/29/1980, subsequently approved by City Council, and recorded 11/07/1980 (since vacated in favor of Regal Plaza).

BZ-244 – Gertrude Oliphant et al. – Request for rezoning from AG to CS for part of what later was platted as Regal Plaza (includes subject property) (related to PUD 24) – City Council Approved 02/22/1999 (Ord. # 787).

PUD 24 – Oliphant Center – Request for PUD approval for part of what later was platted as Regal Plaza (includes subject property) (related to BZ-244) – City Council Approved 02/22/1999 (Ord. # 788).

PUD 40 – Regal Plaza – Request for PUD approval for all of what later was platted as Regal Plaza (includes subject property) – Recommended for Approval by PC 05/16/2005 and Approved by the City Council 06/13/2005 (ordinance approved but not executed; approved ordinance document signed, sealed, assigned Ord. # 981, and recorded 11/21/2007) (Replaced PUD 24).

PUD 40 Minor Amendment # 1 – Request for approval of a Minor Amendment to PUD 40 for what later was platted as Regal Plaza (includes subject property) – PC Approved 12/19/2005.

Preliminary Plat of Regal Plaza – Request for Preliminary Plat approval for Regal Plaza (includes subject property) – PC Approved 08/15/2005 (older version of the plat, apparently) and then a revised, final version was approved by PC 02/21/2006 and by the City Council 02/27/2006.

Final Plat of Regal Plaza – Request for Final Plat approval for Regal Plaza (includes subject property) – PC Approved 06/19/2006 and City Council Approved 07/10/2006 (Plat # 6019 recorded 07/18/2006).

PUD 40 Minor Amendment # 2 – Request for approval of a Minor Amendment to PUD 40 for what later was platted as Regal Plaza (includes subject property) – PC Approved 05/21/2007.

BL-355 – Home Ventures, Inc. – Request for Lot-Split to create (1) an approximately 0.27-acre tract from Lot 4 to be attached to Lot 3 for the development of a Chick-fil-a restaurant and (2) the subject property – PC Approved 06/23/2008.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. Per BL-355, the original 1.67-acre Lot 4, Block 1, Regal Plaza was approved to be split, allowing the separation of the South 57.32 Memorial Dr. frontage-feet of the Westerly 210 feet of said Lot 4. That approximately 0.27-acre tract was added to the north side of Lot 3, Block 1, Regal Plaza, which combined lot was conveyed by a singular deed to Chick-fil-a, Inc., and it was subsequently developed as a Chick-fil-a restaurant. The remaining approximately 1.4-acre subject property contains multitenant strip shopping center buildings at 10424 and 10438 S. 82nd E. Ave. and a parking lot formerly containing a small retail building addressed 10423 S. Memorial Dr. The building, since removed, was originally the Coppertown coffee business and subsequently an Elmer's BBQ Express satellite/pickup store. The ground sign advertising the former Elmer's store remains in place. This area is now used as a parking lot and contains an east-west internal driveway connecting Memorial Dr. and the private 82nd E. Ave.

General. This Lot-Split is intended to allow for the separation of a 38' X 199.3' strip of land, containing the angled parking lot strip and north-south internal drive immediately east of the Chick-fil-a restaurant property, from the balance of Lot 4. The Chick-fil-a restaurant property is composed of Lot 3 and a part of Lot 4, Block 1, Regal Plaza. Staff understands that the strip is to be conveyed to the owner of the Chick-fil-a restaurant property. The The Shoppes at Regal Plaza shopping center building at 10438 S. 82nd E. Ave. continues to be served by the parking lot strip along the east side of the building, there are other parking spaces elsewhere on the lot, and there may be mutual parking privileges agreement(s) between various lots within the Regal Plaza plat area. This parking arrangement is evident already at the shopping center building at 10424 S. 82nd E. Ave., where approximately five (5) of the eight (8) parking spaces in front of that building are located on the Popeyes restaurant lot.

Lot 4 is in part of PUD 40 Development Areas A and B. Development Area A requires a minimum of 150' of street frontage (same as required by the underlying CS district). Development Area B has no frontage requirement.

At the time BL-355 was approved, it was noted that Lot 4 was originally platted with less than 150' of frontage on Memorial Dr., and was only being left with 68.06 frontage-feet upon the Lot-Split. However, it was also noted that it would continue to maintain approximately 600 frontage-feet along 82nd E. Ave. and Regal Place (perhaps, at that time or still, also known as 105th St. S.).

However, the "streets" within Regal Plaza consist of a parcel of land mutually exclusive from the development lots, which was dedicated as the "Mutual Access Easement" by the plat. The plat did not give names to the "Mutual Access Easement." The "Regal Place," "Regal Boulevard," "Regal Court," and "S. 82nd E. Ave." names became associated with the main four (4) such "street" segments at some point. The addresses used within the "back" areas only having frontage on these private ways are all addressed using these [street] names. Although not dedicated as "streets" per se, they were obviously intended as either streets or private mutual access drives. If they are not "streets," the subject property could be interpreted as having a frontage deficiency. Lot 4 was not platted with 150' of frontage on Memorial Dr., and has less since BL-355. However, since the lot exists simultaneously in two (2) Development Areas, and since the preponderance of the lot area and all existing buildings are located within Development Area B, the fact that the lot extends into Development Area A and has less than 150' of frontage for that westerly part is inconsequential. Staff believes that the intent was for commercial lots exclusively within Development Area A, the "outparcel" or "pad site" lots, to have 150' of frontage. In cases of ambiguity, deference should be given to that interpretation affording the landowner the most property rights.

If the proposed 38' X 199.3' strip of land became a discrete lot of record, it would have 38' of "frontage" on Regal Place. It is not required to have any frontage as it is within Development Area B.

However, if it is being conveyed to the Chick-fil-a property owner, it could be attached thereto by deed restriction language such as recommended below.

For all the reasons outlined above, Staff believes that both lots would conform to the frontage requirements of PUD 40.

Per the Lot-Split exhibits, as the subject property is proposed to be divided, the The Shoppes at Regal Plaza shopping center building at 10438 S. 82nd E. Ave. would fall below the 10' setback, from the new westerly property line, required within Development Area B of PUD 40. Also, it is not known whether the minimum required parking would be compromised, or compromised further, upon the separation and conveyance of the parking lot strip. Since the underlying CS zoning has no setback required between CS-zoned lots, since the shopping center is built and no parking spaces are expected to be added or lost within the shopping center, and presuming there are mutual parking privileges in place, these matters may be addressed by a PUD Minor Amendment.

The Technical Advisory Committee (TAC) was sent a comment response form seeking comments on this Lot-Split application and other items by December 03, 2014. Of the responses received, there were no objections to or relevant comments upon this application.

Staff Recommendation. Staff recommends Approval, subject to a PUD Minor Amendment resolving setback, parking, and any other minor deficiencies to be caused by the Lot-Split.

If the buyer and seller choose to do so, the proposed 38'-wide tract could be attached to the Chick-fil-a adopting lot by deed restriction language such as:

[INSERT THE LEGAL DESCRIPTION OF THE NEW 38'-WIDE TRACT] .

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

[INSERT THE LEGAL DESCRIPTION OF ADOPTING CHICK-FIL-A LOT]

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 concurrence.

Chair Thomas Holland recognized Applicant Alan Betchan from the Sign-In Sheet. Mr. Betchan stated that there was an agreement [between the original developer and] *Chick-fil-a* to sell [this tract to *Chick-fil-a*], the date [for the sale] had not [yet come], and it “doesn’t discuss intent.” Mr. Betchan described the situation as being an “awkward dance as we went through the title.” Mr. Betchan stated that this would resolve and clean up the title issue. Mr. Betchan stated that the sale was already guaranteed.

There being no further discussion, Larry Whiteley made a MOTION to APPROVE the Lot-Split per BL-395 subject to the Minor Amendment as recommended in the Staff Report. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	Holland, Whiteley, Hicks, and Whisman
NAY:	None.
ABSTAIN:	Sutton.
MOTION PASSED:	3:0:1

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 further 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 6:37 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary