

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
December 07, 2015 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

ATTENDING:
See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Murray King at 6:00 PM.

ROLL CALL

Members Present: Larry Whiteley, Richard Altmann, JR Donelson, Murray King, and Darrell Mullins.

Members Absent: None.

MINUTES

1. Approval of Minutes for November 02, 2015

Chair Murray King introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of November 02, 2015 as presented by Staff. Richard Altmann SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Altmann, Whiteley, & Mullins

NAY: None.

ABSTAIN: Donelson.

MOTION CARRIED: 4:0:1

OLD BUSINESS

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

NEW BUSINESS

- 2. **BBOA-607 – Joseph Guy Donohue.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7D-2 Table 1 to allow a Use Unit 15 plumbing contractor business in the CS Commercial Shopping Center District for part of the NE/4 of the NW/4 of Section 23, T17N, R13E.
Property located: 7102 & 7106 E. 151st St. S.

Chair Murray King introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: *Bixby Board of Adjustment*
From: *Erik Enyart, AICP, City Planner*
Date: *Wednesday, December 02, 2015*
RE: *Report and Recommendations for:
 BBOA-607 – Joseph Guy Donohue*

LOCATION: – 7102 & 7106 E. 151st St. S.
 – Part of the NE/4 of the NW/4 of Section 23, T17N, R13E

LOT SIZE: 2.5 acres, more or less

ZONING: CS Commercial Shopping Center District

SUPPLEMENTAL ZONING: Corridor Appearance District

EXISTING USE: A nonresidential building (former location of the Living Water Family Church) at 7102 E. 151st St. S. and the Bethesda Girls Home at 7106 E. 151st St. S.

REQUEST: Special Exception per Zoning Code Section 11-7D-2 Table 1 to allow a Use Unit 15 plumbing contractor business in the CS Commercial Shopping Center District

SURROUNDING ZONING AND LAND USE:

North: (Across 151st St. S.) AG; An approximately 150-acre tract of vacant/wooded and agricultural land.

South: RMH & RS-3/PUD 85; The Shadow Valley Manufactured Home Community zoned RMH. Farther south is 136.48 acres of agricultural and vacant/wooded land zoned RS-3/PUD 85 “Conrad Farms”.

East: IL, CH, RMH, and AG; A 1-acre tract with a single-family house at 7108 and 7110 E. 151st St. S. zoned IL, the “Spectrum Plaza” trade center zoned CH, the Shadow Valley Manufactured Home Community zoned RMH, and the former Conrad Farms’ farmland farther to the east and southeast zoned AG.

West: CS, AG, & RS-1; The Bixby Chiropractic at 7100 E. 151st St. S., and vacant/wooded and agricultural land at the southeast corner of 151st St. S. and Sheridan Rd. Across 151st St. S. to the northwest is rural residential along 68th E. Ave. and 149th / 148th St. S. in an unplatted subdivision possibly known as “Abbett Acres” zoned AG, the Leonard & Marker Funeral Home zoned CS and AG, a house on a 0.81-acre tract zoned RS-1 at 15015 S. Sheridan Rd., a church campus on a 1-acre tract zoned RS-1 (the new location of Living Water Family Church) at 15025 S. Sheridan Rd., and agricultural land zoned AG.

COMPREHENSIVE PLAN: Corridor + Vacant, Agricultural, Rural Residences, and Open Land + Regional Trail

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

BBOA-70 – Luther Metcalf for Melvin Skaggs – Request for Special Exception to allow a single family dwelling (site built) in an RMH district for approximately 3 ¾ acres including subject property and the Bixby Chiropractic now addressed 7100 E. 151st St. S. – BOA Approved 01/08/1980.

BZ-199 – Dan Stilwell – Request for rezoning from RMH to CG for approximately 3 ¾ acres including subject property and the Bixby Chiropractic now addressed 7100 E. 151st St. S. – PC recommended Approval 05/18/1992 and City Council Approved 05/25/1992 (Ord. # 667). However, the legal description used may not have closed and the ordinance did not contain the approved Zoning District. The official Zoning Map reflects CS instead of CG. Any interested property owner may petition the City of Bixby to reconsider a CG designation as an amendment to Ordinance # 667 per BZ-199, subject to the recommendations and instructions of the City Attorney.

BBOA-252 – Dan Stilwell – Request for Special Exception to allow horses as a Use Unit 20 use in the (then requested) CG district for property of approximately 3 ¾ acres including subject property and the Bixby Chiropractic now addressed 7100 E. 151st St. S. – BOA Approved 06/01/1992.

BL-236 – Dan Stilwell – Request for Lot-Split approval to separate the subject property from the Bixby Chiropractic now addressed 7100 E. 151st St. S. – PC Approved 04/19/1999.

BL-275 – David & Sandra Nelson – Request for Lot-Split approval for subject property – Apparently given Prior Approval with a date of 01/07/2003. It does not appear, however, that the Planning Commission ever ratified the Prior Approval.

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

BZ-81 – Jerry Green – Request for rezoning from RMH to IL for approximately 4.8 acres abutting subject property to the east and including a 1-acre tract at 7108 and 7110 E. 151st St. S. and the (now) 3.4-acre “Spectrum Plaza” property – PC Recommended Approval 03/31/1980 and City Council Approved 04/21/1980 (Ord. # 395).

BBOA-137 – Lee Fox – Request for Special Exception to allow a mobile home on a previously 10.3-acre tract located to the northwest of subject property at 15015 S. Sheridan Rd. – BOA Denied 12/10/1984.

BL-107 – Jerry Green – Request for Lot-Split approval to separate approximately 4.8 acres abutting subject property to the east into (1) a 1 acre tract with a house and (2) the (now) 3.4-acre “Spectrum Plaza” at 7220/7222/7224 E. 151st St. S. – PC Approved 10/28/1985 and City Council Approved 11/12/1985 per case notes.

BBOA-230 – Twilah A. Fox, M.D. – Request for Special Exception per Zoning Code Section 310 to allow a Use Unit 5 church (now known as the Living Water Family Church at 15025 S. Sheridan Rd.) on the Southwest approximately 1.16 acres of a previously 10.3-acre tract located to the northwest of subject property at 15015 S. Sheridan Rd. – BOA Approved 09/04/1990.

BBOA-293 – Lee & Twila[h] Fox – Request for Variance from the minimum size and width bulk and areas standards of the AG district, to allow a Lot-Split (BL-184) on a previously 10.3-acre tract located to the northwest of subject property at 15015 S. Sheridan Rd. – BOA Approved 04/17/1995.

BL-184 – Joe Donelson for Lee & Twilah A. Fox – Request for Lot-Split approval to separate a 1-acre tract at 6668 E. 148th St. S. from an original tract of 10.3 acres located to the northwest of subject property at 15015 S. Sheridan Rd. – PC Approved 04/17/1995.

BBOA-345 – Twilah Fox – Request for “Special Exception” from Zoning Code Section 310 to allow a Use Unit 9 mobile home to be temporarily placed in the AG district for a formerly 9-acre tract located to the northwest of subject property at 15015 S. Sheridan Rd. – BOA Conditionally Approved 07/06/1999.

BZ-283 – Mike Marker – Request for rezoning from AG to CS for a 1.3-acre tract to the west of subject property and containing the Leonard & Marker Funeral Home main building at 6521 E. 151st St. S. – PC Recommended Approval 02/19/2002 and City Council Approved 03/11/2002 (Ord. # 848).

BBOA-381 – Mike Marker – Request for Variance from the parking standards of Zoning Code Chapter 10 Section 1011.4 for a 1.3-acre tract to the west of subject property and containing the Leonard & Marker Funeral Home main building at 6521 E. 151st St. S. – BOA Approved Variance, to include requiring 62 parking spaces, 05/06/2002.

BBOA-389 – Joe Donelson for Mike & Pam Marker – Request for Variance from the sign setback requirement of Zoning Code Chapter 2 Section 240.2(e) for a 1.3-acre tract to the west of subject

property and containing the Leonard & Marker Funeral Home main building at 6521 E. 151st St. S. – BOA Approved 08/05/2002.

BZ-287 – Randy King – Request for rezoning from AG to CG for a 4-acre tract to the northwest of subject property at 6825 E. 151st St. S. – PC (09/16/2002) Recommended Denial and suggested that the item be brought back as a PUD; denial recommendation evidently not appealed to City Council.

AC-05-01-01 – Commercial buildings for the 3.4-acre “Spectrum Plaza” property abutting subject property to the east at 7220/7222/7224 E. 151st St. S. – Architectural Committee Approved 01/27/2005.

BZ-325 – The Porter Companies, Inc. for Claxton/Clayton Broach Trust – Request for rezoning from AG to CS for a 150-acre tract located to the north of subject property in the 6900 : 7700-block of E. 151st St. S. – PC Recommended Approval 01/16/2007. Withdrawn by Applicant by letter dated 02/05/2007 (letter requested the application be “postponed... until such time that the Porter Companies take title to the property).”

AC-07-08-06 – Architectural Committee (08/20/2007) reviewed the building plans for a proposed new building for the 3.4-acre “Spectrum Plaza” property abutting subject property to the east and Continued the case pending the resolution of Zoning issues. AC took no action on 09/17/2007 due to discovery of lack of jurisdiction (building not within 300’ Corridor Appearance District).

BBOA-460 – JR Donelson for Oman Guthrie – Request for Special Exception per Zoning Code Section 11-11-8 for an alternative compliance plan to parking and screening requirements in the CH Commercial High Intensity District for the 3.4-acre “Spectrum Plaza” property abutting subject property to the east at 7220/7222/7224 E. 151st St. S. – BOA Approved 10/01/2007.

BZ-335 – JR Donelson for Oman Guthrie – request for rezoning from IL to CH for the 3.4-acre “Spectrum Plaza” property abutting subject property to the east at 7220/7222/7224 E. 151st St. S. – PC Recommended Approval 10/15/2007 and City Council Approved 11/12/2007 (Ord. # 982).

BLPAC-1 – JR Donelson for Oman Guthrie – Landscaping Plan Alternative Compliance plan per Zoning Code Section 11-12-4.D for the 3.4-acre “Spectrum Plaza” property abutting subject property to the east at 7220/7222/7224 E. 151st St. S. – PC Conditionally Approved 11/19/2007.

BZ-356 – K.S. Collins for Lee & Twilah A. Fox – Request for rezoning from AG to RS-1 for a 0.81-acre tract section of a former 9-acre tract located to the northwest of subject property at 15015 S. Sheridan Rd. which 0.81-acre tract was then created per BL-384 – PC Recommended Approval 05/21/2012 and City Council Approved 06/11/2012 (Ord. # 2084).

BL-384 – K.S. Collins for Lee & Twilah A. Fox – Request for Lot-Split approval to separate a 0.81-acre tract from a then 9-acre tract located to the northwest of subject property at 15015 S. Sheridan Rd. – PC Conditionally Approved 05/21/2012.

BZ-369 – Lee & Twilah A. Fox – Request for rezoning from AG to RS-1 for a proposed 1-acre tract (containing a church campus at 15025 S. Sheridan Rd., which church is now known as the Living Water Family Church) section of a former 9-acre tract located to the northwest of subject property at 15015 S. Sheridan Rd. – PC Recommended Approval 12/16/2013 and City Council Approved 01/13/2014 (Ord. # 2125).

BL-389 – Lee & Twilah A. Fox – Request for Lot-Split to separate a 1-acre tract (containing a church campus, which church is now known as the Living Water Family Church at 15025 S. Sheridan Rd.) proposed for rezoning to RS-1 per BZ-369 – PC Conditionally Approved 12/16/2013.

BCPA-8, PUD 75 “LeAnn Acres,” & BZ-359 – JR Donelson, Inc. / Roger & LeAnn Metcalf – request to (1) amend the Comprehensive Plan Land Use Map to redesignate those parts of the property presently designated “Low Intensity” and/or “Special District # 4” to “Medium Intensity” and remove the “Special District # 4” designation, (2) rezone from AG to RM-2, and (3) approve PUD 75 for a multifamily development on approximately 25 acres to the southwest of subject property at 15329 S. Sheridan Rd. – PC Recommended Conditional Approval 01/21/2013 and City Council Conditionally Approved 01/28/2013. However, ordinance not approved because the PUD package presented was not in its final form / did not incorporate the required Conditions of Approval. To date, the final PUD package has not been received. All applications were recognized as “inactive” and filed away on 04/29/2014.

BZ-376 – Joseph Guy Donohue for J.C. & Lila Morgan – Request for rezoning from IL to CH for a 1-acre tract abutting subject property to the east at 7108 and 7110 E. 151st St. S. – PC Recommended Denial absent a PUD 08/18/2014. Not appealed to City Council.

BCPA-12, PUD 85, & BZ-377 – Conrad Farms Holdings, LLC – Request to amend the Comprehensive Plan to remove the Special District # 4 designation, rezone from AG to RS-3, and approve PUD 85 for a single-family residential development on 136 ½ acres to the south of subject property – PC recommended Conditional Approval 09/15/2014. City Council Conditionally Approved 11/10/2014 (Ord. # 2143).

PUD 85 – Conrad Farms – Minor Amendment # 1 – Request for approval of Minor Amendment # 1 to PUD 85 for a single-family residential development on 136 ½ acres to the south of subject property – On 02/17/2015, as requested by Applicant, PC Tabled and provided that the Applicant may return the applications to any Planning Commission agenda within one (1) year, provided the Applicant gives the City at least one (1) month's advance notice of the next agenda placement.

Sketch Plat of “Conrad Farms” – Request for approval of a Sketch Plat for a single-family residential development on 136 ½ acres to the south of subject property – On 02/17/2015, as requested by Applicant, PC Tabled and provided that the Applicant may return the applications to any Planning Commission agenda within one (1) year, provided the Applicant gives the City at least one (1) month's advance notice of the next agenda placement.

PUD 87 “Shadow Valley” & BZ-381 – Khoury Engineering, Inc. – Request for rezoning from RMH to RM-3 and approval of PUD 87 for a multifamily redevelopment of the existing Shadow Valley Manufactured Home Community for approximately 21.1 acres abutting subject property to the south at 7500 E. 151st St. S. – PC recommended Conditional Approval 05/18/2015 and City Council Denied 05/26/2015.

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property consists approximately 2.5 acres in p Part of the NE/4 of the NW/4 of Section 23, T17N, R13E. It is zoned CS Commercial Shopping Center District¹ and contains a nonresidential building (the former location of the Living Water Family Church) at 7102 E. 151st St. S. and the Bethesda Girls Home at 7106 E. 151st St. S. The Tulsa County Assessor's records indicate the latter was constructed in or around 1972, and it was approved for a building addition in 2013 connected with the Bethesda Girls Home occupancy.

Per the Bethesda Girls Home site plan, the property is served by overhead electric (and also telephone and/or communications) lines along the south side of 151st St. S. Per the Applicant, sewer service is provided from the system located to the south in the Shadow Valley Manufactured Home Community, and both properties have water service provided (for 7106 E. 151st St. S., the connection is under 151st St. S. / State Hwy 67 to the waterline on the north side of the street).

The subject property is relatively flat and immediate drainage patterns are not evident, but the area ultimately drains easterly to Bixby Creek. Borrow ditches attend 151st St. S. to provide street and streetside drainage.

The two (2) buildings share a singular driveway connection to 151st St. S. / State Hwy 67.

Special Exception Request. The Applicant is requesting a Special Exception per Zoning Code Section 11-7D-2 Table 1 to allow a Use Unit 15 plumbing contractor business in the CS Commercial Shopping Center District. Per the Applicant, the prospective tenant is Stevenson Plumbing, Inc. of 7226 E. 151st St. S. in the “Spectrum Plaza” trade center. The Applicant may bring a narrative describing the prospective tenant's planned business activities and/or property improvements to the Board of Adjustment meeting. Any future building expansions or site improvements will have to comply with the Zoning Code and other development standards.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Corridor (2) Vacant, Agricultural, Rural Residences, and Open Land, and (3) Regional Trails. The existing CS zoning is In Accordance with the Corridor, and is not inconsistent with the other designations of the

¹ CG zoning was requested and advertised to the Public per BZ-199 – Dan Stillwell, which application included the subject property and the Bixby Chiropractic at 7100 E. 151st St. S. It was approved by Bixby Ordinance # 667 on May 26, 1992. However, the ordinance did not specify the approved zoning district, and the properties were designated CS on the official Zoning Map. Any interested property owner may petition the City of Bixby to reconsider a CG designation as an amendment to Ordinance # 667 per BZ-199, subject to the recommendations and instructions of the City Attorney.

Comprehensive Plan. Staff believes that the proposed Use Unit 15 plumbing contractor's business by Special Exception should be found not inconsistent with the Comprehensive Plan.

Surrounding Zoning and Land Use Compatibility. *Surrounding zoning is primarily CS, CH, IL, RMH, AG, RS-1, and RS-3/PUD 85, as depicted on the case map and as described in further detail in the paragraphs that follow.*

Across 151st St. S. to the north is an approximately 150-acre tract of vacant/wooded and agricultural land.

To the south is the Shadow Valley Manufactured Home Community zoned RMH. Farther south is 136.48 acres of agricultural and vacant/wooded land zoned RS-3/PUD 85 "Conrad Farms."

Abutting to the east is the Applicant's 1-acre tract zoned IL with a single-family house at 7108 and 7110 E. 151st St. S. and the 3.4-acre "Spectrum Plaza" trade center property, zoned CH. Further south and east is the Shadow Valley Manufactured Home Community zoned RMH. Beyond this to the east and southeast is the former Conrad Farms' farmland. Farther east is the entrance to the Shadow Valley Manufactured Home Community zoned RMH, and the former Conrad Farms' farmland beyond that zoned AG.

The Bixby Chiropractic abuts to the west on a 1-acre tract at 7100 E. 151st St. S. zoned CS. A large vacant/wooded and agricultural acreage, zoned AG, is located farther west at the southeast corner of 151st St. S. and Sheridan Rd. Across 151st St. S. to the northwest is rural residential along 68th E. Ave. and 149th / 148th St. S. in an unplatted subdivision possibly known as "Abbott Acres" zoned AG, the Leonard & Marker Funeral Home zoned CS and AG, a house on a 0.81-acre tract zoned RS-1 at 15015 S. Sheridan Rd., a church campus on a 1-acre tract zoned RS-1 (the new location of Living Water Family Church) at 15025 S. Sheridan Rd., and agricultural land zoned AG.

The proposed Use Unit 15 use would be compatible with the abutting IL, CH, and CS zoning. Further, the subject property is already developed commercially, and both buildings were previously occupied for many years with heavy commercial use (used auto sales, Go Bob Pipe and Steel, etc.), with no evident detriment to the surrounding area. The proposed Use Unit 15 use should be compatible with surrounding commercial and other nonresidential uses, and future uses anticipated by surrounding zoning patterns.

Staff Recommendation. *Unless constructive criticism from neighbors reveals need for additional approval conditions, for all the reasons outlined above, Staff recommends Approval subject to:*

- 1. If the subject property is divided, the Special Exception approval shall only attach to the lot or lots on which the plumbing contractor business is located.*
- 2. Special Exception approval shall expire and be automatically vacated if the presently-anticipated Use Unit 15 plumbing contractor business use ceases occupancy for a period of 12 months.*
- 3. If the operation fails to respect neighboring properties and the use and enjoyment of neighboring properties by their respective owners, due to excessive traffic, parking, or any other effect, or if it otherwise adversely affects the subject property or neighboring properties, the City of Bixby, at the direction of the City Council, may require the vacation of the Special Exception use, or other such remedies at law as deemed necessary and appropriate.*

Erik Enyart stated that the subject property contained two (2) buildings, the eastern of which was occupied as the Bethesda Girls Home and the western of which was the subject of this application. Mr. Enyart stated that the owner would like to lease that building to a Use Unit 15 plumbing contractor, which required a Special Exception.

JR Donelson confirmed with Erik Enyart that the contractor was *Stevenson Plumbing[, Inc.]*.

Erik Enyart stated that the zoning to the east was CH and IL, and that the property was in the middle of a commercial area. Mr. Enyart stated that he believed the proposed use was a good fit for the area. Mr. Enyart stated that the Applicant planned to make improvements to the property, which may be described as having two (2) phases. Mr. Enyart stated that he had handed out copies of printouts of building and site plans for the property. Mr. Enyart stated that he had

received these plans and discussed the proposed improvements with the Applicant prior to the meeting. Mr. Enyart stated that the first phase would include re-facing the existing building with stucco, or another material yet to be determined, removing an entrance and dormer, and installing a privacy fence around the backside of the property. Mr. Enyart stated that, in what could be considered the second phase, the Applicant would build a storage building in the back of the property, and may build other buildings and/or expand the existing building. Mr. Enyart stated that the first phase improvements could be done fairly easily, but new buildings or any building expansions would cause a whole battery of platting and other planning and engineering exercises. Mr. Enyart read the recommended Conditions of Approval and noted that the first was specific to this property but the other two (2) were in recognition that “zoning is forever,” and that things change over long time periods, and so reasonable sunset clauses are in order. Mr. Enyart stated that he would be happy to answer any questions the Board may have, and that the Applicant and Robby Stevenson of *Stevenson Plumbing[, Inc.]* were also present.

JR Donelson asked Erik Enyart if a Plat Waiver would not be an alternative to a plat. Mr. Enyart indicated agreement and stated that a new building or a building addition would trigger the platting requirement and other planning and engineering exercises, and, under the appropriate circumstances, a Plat Waiver, as Mr. Donelson had pointed out. Mr. Donelson confirmed with Mr. Enyart that the Applicant could have this use by right if zoned CG[or CH].

Richard Altmann asked if there would be any chemicals stored onsite, and Robby Stevenson indicated there would not except for gasoline stored for vehicles or equipment.

Murray King asked if there would be any outside storage, and Robby Stevenson indicated there would not be much other than things such as his “three (3) 25’ gooseneck trailers.”

There being no further discussion, JR Donelson made a MOTION to APPROVE BBOA-607 with all of the Conditions of Approval as recommended by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE:	King, Altmann, Donelson, Whiteley, & Mullins
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	5:0:0

Murray King and Erik Enyart explained the Decision of Record process to Guy Donohue.

ADJOURNMENT

There being no further business, Darrell Mullins made a MOTION to ADJOURN. JR Donelson SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Altmann, Donelson, Whiteley, & Mullins
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

Meeting was Adjourned around 6:09 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary