

**AGENDA  
BOARD OF ADJUSTMENT  
CITY HALL COUNCIL CHAMBERS  
116 WEST NEEDLES  
BIXBY, OK 74008  
March 02, 2015 6:00 PM**

CALL TO ORDER

MINUTES

1. Approval of Minutes for February 02, 2015

OLD BUSINESS

NEW BUSINESS

2. **BBOA-598 – Rob Bunch for R.K.B. Properties, LLC.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7C-2 Table 1 to allow one (1) Use Unit 6 single-family dwelling per lot for both Lots 16 and 17, Block 1, *Devine-Ellard Addition*, located within the OL Office Low Intensity District.  
Property located: 101 & 103 W. Stadium Rd.

ADJOURNMENT

Posted By: Emyank  
Date: 02/23/2015  
Time: 11:45 PM

**MINUTES**  
**BOARD OF ADJUSTMENT**  
**CITY HALL COUNCIL CHAMBERS**  
**116 W. NEEDLES AVE.**  
**BIXBY, OK 74008**  
**February 02, 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  
Patrick Boulden, Esq., City Attorney

**ATTENDING:**

Rebecca Coffee  
Fred Keas  
See attached Sign-in Sheet

**CALL TO ORDER**

Meeting called to order by Chair Jeff Wilson at 6:00 PM.

**ROLL CALL**

Members Present: Jeff Wilson, JR Donelson, Larry Whiteley, Murray King, and Darrell Mullins.

Members Absent: None.

**MINUTES**

1 Approval of Minutes for November 03, 2014

Chair Jeff Wilson introduced the item and made a MOTION to APPROVE the Minutes of November 03, 2014 as presented by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

OLD BUSINESS

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

NEW BUSINESS

- 2. **BBOA-597 – Rebecca Coffee for Dorothy L. Biggers Trust.** Discussion and possible action to approve a Variance from certain bulk and area requirements in the AG Agricultural District to allow for a Lot-Split for property in the NE/4 of Section 21, T17N, R13E.

Property located: 15400 S. Yale Ave.

Chair Jeff Wilson 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, January 28, 2015  
**RE:** Report and Recommendations for:  
 BBOA-597 – Rebecca Coffee for Dorothy L. Biggers Trust

**LOCATION:** – 15400 S. Yale Ave.  
 – Part of the NE/4 of Section 21, T17N, R13E

**LOT SIZE:** 139 acres, more or less

**ZONING:** AG Agricultural District & CS Commercial Shopping Center District

**SUPPLEMENTAL ZONING:** Corridor Appearance District (partial)

**EXISTING USE:** Agricultural land and a single-family dwelling

**REQUEST:** Variance from certain bulk and area requirements in the AG Agricultural District to allow for a Lot-Split for property in the NE/4 of Section 21, T17N, R13E

**SURROUNDING ZONING AND LAND USE:**

**North:** (across 151<sup>st</sup> St. S.) AG, CS, RD, RS-3, OL, OM, and IL, with PUDs 3, 12, 12-D, and 55; To the northwest is agricultural and vacant/wooded land in PUD 12-D with multiple zoning classifications and the 300'-wide AEP-PSO overland transmission powerline right-of-way zoned AG, partially unplatted and partially within Sitrin Center Addition; to the north is vacant/wooded land along the west side of Kimberly-Clark Pl. zoned CS, OL, OM, and IL with PUD 12; to the north on the east side of Kimberly-Clark Pl. is vacant land zoned CS and RD/RS-3/PUD 3 in Sitrin Center Addition, the The Auberge' Village residential subdivision zoned RS-3 with PUD 55, and the White Hawk Golf Villas residential subdivision zoned RS-3 with PUD 3; to the northeast across Yale Ave. is a commercial building and vacant commercial lots in Hendrix Business Park zoned CS and OM with PUD 3 and vacant land and the White Hawk Golf Club zoned OM, RM-2, and RS-3 with PUD 3.

**South:** AG; 160-acres of agricultural land, the SE/4 of this section, zoned AG.

**East:** (across Yale Ave.) AG, CG, OM, RM-3, RE, & AG; The 150-acre Lutheran Church Extension Fund-Missouri Synod agricultural tract to the zoned CG, OM, RM-3, and RE and rural residential to the southeast zoned AG.

**West:** AG, RS-2, RD, CS, and CS/PUD 41; The 300'-wide AEP-PSO overland transmission powerline right-of-way zoned AG, an 8-acre agricultural tract zoned CS with PUD 41, the New Beginnings Baptist Church on 16.8 acres zoned AG, and agricultural, vacant/wooded land, and rural residential zoned RS-2, AG, CS, & RD.

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

PREVIOUS/RELATED CASES:

BZ-162 – J.C. Biggers – Request for rezoning from AG to CS for the NE/4 NE/4 NE/4 of this section, consisting of the northeast approximately 10 acres of subject property – PC recommended Approval 04/29/1985 and City Council Approved 05/14/1985 (Ord. # 528).

RELEVANT AREA CASE HISTORY:

BACKGROUND INFORMATION:

Per BL-396, the owner is seeking Lot-Split approval to separate approximately 2.09 acres with the existing dwelling addressed 15400 S. Yale Ave. from the balance of the agricultural tract. The proposed tract does not meet the minimum land area requirements, and potentially other bulk and area standards of the existing AG district. The buyer of the smaller tract does not want the zoning changed, such as to a Residential district that would allow for the Lot-Split to be approvable. The buyer and seller are seeking a Variance from the bulk and area standards in the AG district to allow the Lot-Split to be approved. The Planning Commission Continued the Lot-Split from the January 20, 2015 meeting to the February 17, 2015 meeting, pending the disposition of BBOA-597.

ANALYSIS:

Subject Property Conditions. The subject property consists of the NE/4 of Section 21, T17N, R13E, Less & Except right-of-way and other tracts sold. It contains 139 acres, more or less, and is zoned AG Agricultural District, except for the NE/4 NE/4 NE/4, approximately 10 acres, which is zoned CS Commercial Shopping Center District. It contains a house addressed 15400 S. Yale Ave. It contains branches of an upstream tributary to Posey Creek along its westerly side, and generally slopes downward and drains to the west toward same. It also contains a few farm ponds, an AEP-PSO overhead electric transmission line, fences, and miscellaneous farm and oil extraction structures.

Tests and Standard for Granting Variance. Oklahoma State Statutes Title 11 Section 44.107 and Bixby Zoning Code Section 11-4-8.A and .C together provide the following generalized tests and standards for the granting of Variance:

- Unnecessary Hardship.
- Peculiarity, Extraordinary, or Exceptional Conditions or Circumstances.
- Finding of No Substantial Detriment or Impairment.
- Variance would be Minimum Necessary.

Nature of Variance. The Applicant is requesting a Variance from certain bulk and area requirements of the AG Agricultural District to allow for a Lot-Split. Per statements from the Applicant, Staff understands that the intent of the Lot-Split would be to allow for the sale of the proposed 2.09-acre tract with the existing dwelling, which the application states will be used for “AG / residence.” Per the submitted drawing and the Applicant’s statements, the proposed 2.09-acre tract would not meet the 2.2-acre minimum land area requirement of the AG district. Staff has not yet received the survey for the Lot-Split, and these area and so this estimated acreage may change upon the completion of the survey. It is also possible that there would be other bulk and area standards which would be compromised by the Lot-Split.

Zoning Code Section 11-2-1 defines “land area” as:

“LAND AREA: The area of a lot plus one-half (1/2) or thirty feet (30’), whichever is less, of the right of way of any abutting street to which the lot has access.”

The subject property is unplatted and the only right-of-way in place would appear to be the 24.75’-wide Statutory Sectionline R/W for Yale Ave. The subject property’s legal description and Assessor’s parcel reflect ownership to the Sectionline. If the 24.75’-wide Statutory Sectionline right-of-way was subtracted from the subject property, it would have less than 2.09 acres of lot area, and less than the 2.0 acres lot area required in the AG district. This could be another bulk and area standard from which Variance would be required, and it would be included with any approval of this application, but it is reflexive with the land area standard and so not analyzed separately here.

The land area has different purposes within the Zoning Code, but in the case of unplatted tracts, may be designed to account for the future dedication or acquisition of attendant right-of-way.

Based on the dimensions provided, it appears that the subject property would meet the 200’ minimum lot width standard in the AG district. The lot width is defined by Zoning Code Section 11-2-1 as:

“LOT WIDTH: The average horizontal distance between the side lot lines.”

The subject property is "L"-shaped, being wider at the back/west end and narrower at the front end. Using the proportional share of widths, Staff calculated the lot width to be approximately 218'. This number may change upon completion of the survey. If it should fall below the 200' minimum required, it would need a new Variance, as that Variance is not explicitly requested or analyzed here.

Unnecessary Hardship. The Applicant claims that an Unnecessary Hardship would be caused by the literal enforcement of the Zoning Code because "Would require a larger tract of ground. Do not want to add more land to this tract at this time. This property is under real estate contract."

The Board must find that this argument, or other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting, adequately satisfy this test and standard provided in State Statutes and the Bixby Zoning Code.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. The Applicant responded to the question asking how the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional by stating, "It does not. Zoning is AG for this parcel and when split adjoining property will remain AG."

Although the Applicant's statement appears to disclaim peculiar, extraordinary, and/or exceptional conditions or situations, it appears that the tract configuration, for the most part, is intended to correspond to the existing white pipe fence, which contains the residential yard area of the subject property. However, the rear yard line does not appear to correspond to existing site conditions, and may be variable and expandable to achieve the 2.2 acres minimum land area standard. There may be an oil access drive partially lying in the way of farther westward expansion. The survey and/or the Applicant may have additional information on this possibility.

To the extent the arguments are found lacking, the Board may wish to consider other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting.

Finding of No Substantial Detriment or Impairment. The Applicant claims that the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan because "It is currently zoned AG. It has been zoned AG for many years. Remaining zoned AG should cause no one any problems."

The response does not appear to address this test and standard for the Variance requested.

Of the several fundamental purposes for imposing minimum lot size and land area requirements, Staff believes the primary reason is for the prevention and mitigation of overcrowding, blight, substandard housing, inadequate sunlight, air, and open space, and other such historic urban problems which originally inspired these standards. Other intended results may have included the maintenance and promotion of aesthetics and property values. Regardless of time period in which constructed, house value is typically corollary to house size, which is itself corollary to lot size. Property values may also be maintained or promoted by the value added to individual properties when located in a neighborhood with regularity, uniformity, and basic minimum standards for lot and house sizes.

In sum, the regulations from which the Variance seeks relief were likely originally designed to:

1. Prevent and mitigate overcrowding, blight, substandard housing, inadequate sunlight, air, and open space,
2. Maintain and promote aesthetics,
3. Maintain and promote property values, and
4. Create meaningful open space for private use and recreation and privacy between domestic neighbors.

Overcrowding in this area of Bixby does not appear to be the case here, and in any event does not compare to the extreme densities and crowding issues experienced by older, highly urban centers of the late 1800s and early 1900s, when the Zoning laws regulating such bulk and area standards were originally designed.

The subject property is located in a small area around the 15300-block of S. Yale Ave. that has a divergent mix of land uses, lot sizes, and substandard lots of record. Abutting to the north of the proposed 2.09-acre tract with the house on it is an approximately 1-acre tract with a telephone exchange and/or other communications service building owned by Bixby Telephone Company. To the north of that is an approximately 2.5-acre agricultural/vacant tract. To the north of that is an approximately 2.5-acre rural residential/agricultural tract at 15230 S. Yale Ave. To the north of that is an approximately 2.5-acre rural residential tract at 15220 S. Yale Ave. Any additional activities which may occur on the rural residential tracts has not been researched here. All of these tracts to the north have less than the 200' of

lot width required in the AG district, and typically measure about 165' in width. When considering the enumerated purposes above, Staff believes that the allowance of the proposed 2.09-acre tract would not detract from the neighborhood, which has little regularity or uniformity in land uses or metrics.

For minimum lot size and land area standards in AG districts, the intended purposes may also include an estimation of the minimum amount of land needed for effective agricultural operations, and to ensure premature residential development does not encroach established agricultural districts. The proposed 2.09-acre tract is not presently being farmed, and already contains a house, bounded by a white pipe fence establishing a meaningful domestic area, and which house is evidently is no longer used as a farmhouse for the balance of the agricultural land. Thus these additional AG district purposes do not appear to be the case here.

For all the reasons set forth above, Staff believes that that approval of the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan.

Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the Minimum Necessary to Alleviate the Unnecessary Hardship because "There is not adequate size per real estate contractual terms, to meet necessary standards. Seller is not willing to sell more land on this contract."

If approved for Variance, the Board must determine that the difference between the 2.2-acre minimum land area standard and the approximately 2.09-acres proposed, approximately 0.11 acres, would be the Minimum Necessary to Alleviate the Unnecessary Hardship.

Staff Recommendation. Except as noted otherwise hereinabove, Staff believes that the arguments provided by the Applicant and Staff appear to substantially meet some of the tests and standards of the Zoning Code and State Statutes. To the extent the arguments are found lacking, the Board may wish to consider other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting. If the Board should approve, it should be subject to the Lot-Split application resulting in not more than two (2) tracts, the smaller of which shall be not less than 2.05 acres upon the findings of the final survey.

Erik Enyart noted that he had provided to the Board members, prior to the meeting, copies of the legal description from the surveyor, which he had received today, showing the smaller tract would be 2.088 acres.

Erik Enyart noted that the north-south width seemed to be defined by existing geometries, including the pipe fence, but the east-west dimension [appeared to be unbounded on the west]. Mr. Enyart stated that there was an oil field access drive there that may be an obstacle for farther westward expansion. Mr. Enyart stated that this matter, and other matters where the arguments for justification may be presently lacking, should be explored between the Applicant and Board during the discussion of this item.

Applicant Rebecca Coffee confirmed that there was an oil equipment road behind the barn that was in the way, and noted that the oil field equipment that used it was wider than the road itself. Ms. Coffee expressed that she wanted to "keep the road to the pumpjack," did not want to "give up more land," and that she would "prefer not to do that."

JR Donelson and Erik Enyart clarified with Murray King that an aerial map showing the proposed property and site features could be found on the back page of the agenda packet.

JR Donelson confirmed with Rebecca Coffey that the property was being defined by the existing fences, and that this area of S. Yale Ave. was "rural."

Chair Jeff Wilson and Murray King noted that the amount of Variance being requested was small, a little over 1/10 of an acre, and clarified with Erik Enyart that the Applicant would not even need to come in [to the Board of Adjustment] if the lot/land area was 2.2 acres.

Upon a question with Patrick Boulden, Erik Enyart explained that, per the Zoning Code, the “Land Area” was the lot area plus ½ of the abutting right-of-way. Mr. Enyart stated that the Land Area had certain Zoning Code functions in different contexts, but that for these purposes, it could be seen as allowing the lot area to meet the minimum requirements upon the dedication or acquisition of right-of-way. Mr. Enyart noted that the subject property was unplatted, and so extended to the Sectionline. Mr. Enyart stated that, upon the dedication or acquisition of right-of-way, the typical AG-zoned property having 2.2 acres of Land Area would still have 2.0 acres minimum lot area. Mr. Enyart stated that these standards “work together that way.”

JR Donelson clarified with Erik Enyart that the property met the minimum requirement for lot area [at this time]. Mr. Donelson stated that he had a similar case in Tulsa County, pertaining to an individual’s house at 171<sup>st</sup> St. S. and Yale Ave. where, if the street was widened, they would have to tear the house out.

Larry Whiteley asked if the property extended to the center of the road. Erik Enyart stated that the property extended to the Sectionline, which more or less corresponded to the middle of the roadway.

There being no further discussion, Larry Whiteley made a MOTION to APPROVE BBOA-597 subject to the Lot-Split application resulting in not more than two (2) tracts, the smaller of which shall be not less than 2.05 acres upon the findings of the final survey. Darrell Mullins SECONDED the Motion. Roll was called:

ROLL CALL:

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

ADJOURNMENT

Chair Jeff Wilson asked to entertain a Motion to Adjourn. Darrell Mullins made a MOTION to ADJOURN. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

Meeting was Adjourned at 6:09 PM.

APPROVED BY:

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Chair

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Date

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City Planner/Recording Secretary

COLLINS LAND SURVEYING, INC.  
3340 West 151<sup>st</sup> Street South  
P.O. Box 250  
Kiefer, Ok 74041  
Ph. 918-321-9400 Fax 321-9404

REF. NO. 14-12-059

LEGAL DESCRIPTION

A tract of land within the Northeast Quarter (NE/4) of Section Twenty-one (21), Township Seventeen North (17N), Range Thirteen East (13E) of the Indian Base and Meridian, Tulsa County, State of Oklahoma, more particularly described by metes and bounds as follows, to wit: BEGINNING at the Southeast corner of the North 132 feet of the East Half of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (E/2 S/2 S/2 SE/4 NE/4 NE/4) of said Section 21; thence S 00°00'00" W along the East line thereof a distance of 168.80 feet; thence S 89°32'03" W a distance of 443.97 feet; thence N 0°22'03" W a distance of 307.24 feet to a point on the North line of the South Half of the South Half of the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (S/2 S/2 SE/4 NE/4 NE/4) of said Section 21; thence S 89°37'57" E along said North line thereof a distance of 110.83 feet to the Northwest corner of said North 132 feet; thence S 00°00'41" E along the West line thereof a distance of 132.00 feet to the Southwest corner of said North 132 feet; thence S 89°38'14" E along the South line thereof a distance of 331.19 feet to the POINT OF BEGINNING, containing 2.088 acres of land, more or less.

CITY OF BIXBY

FEB 02 2015

RECEIVED

By Enyark

f. BL-396

BB0A-597

BIXBY BOARD OF ADJUSTMENT  
SIGN IN SHEET  
DATE: February 02, 2015

NAME	ADDRESS	ITEM
1. <i>Becky Coffee</i>	<i>3501 W. Atlanta Cr.</i>	<i>variance</i>
2. _____	_____	_____
3. _____	_____	_____
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17. _____	_____	_____
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20. _____	_____	_____



CITY OF BIXBY  
P.O. Box 70  
116 W. Needles Ave.  
Bixby, OK 74008  
(918) 366-4430  
(918) 366-6373 (fax)

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## STAFF REPORT

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**To:** Bixby Board of Adjustment  
**From:** Erik Enyart, AICP, City Planner *EE*  
**Date:** Monday, February 23, 2015  
**RE:** Report and Recommendations for:  
BBOA-598 – Rob Bunch for R.K.B. Properties, LLC

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LOCATION: – 101 & 103 W. Stadium Rd.  
– Lots 16 and 17 (Less right-of-way), Block 1, *Devine-Ellard Addition*

LOT SIZE: 0.4 acres, more or less

ZONING: OL Office Low Intensity District

REQUEST: Special Exception per Zoning Code Section 11-7C-2 Table 1 to allow one (1) Use Unit 6 single-family dwelling per lot for both Lots 16 and 17, Block 1, *Devine-Ellard Addition*, located within the OL Office Low Intensity District

SURROUNDING ZONING AND LAND USE:

North: RS-3; The St. Clement of Rome Catholic Church on a 9.5-acre campus and single-family residential along W. Bixby St. in *Ramsey Terrace* and the [Original Town of] *Bixby*.

South: CS, RD, & RS-3; Vacant commercial lots in Block 3 of *Devine-Ellard Addition*. To the southeast is single-family residential along Rachel St. zoned RS-3, and farther south across Rachel St. is the South Town Nursing & Rehabilitation facility at 76 W. Rachel St. (perhaps also 14625 S. Memorial Dr.) zoned RD, all in *Devine-Ellard Addition*.

East: RS-3; Single-family residential along Stadium Rd. and to the southeast along Rachel St., all in *Devine-Ellard Addition*; a single-family dwelling, under construction on the lot abutting to the east, is being constructed by the Applicant.

West: CS; Vacant commercial lots in Block 1 of *Devine-Ellard Addition*. Farther west across Memorial Dr. are houses and vacant commercial areas zoned CS.

COMPREHENSIVE PLAN: Development Sensitive + Residential Area

PREVIOUS/RELATED CASES:

BZ-25 – Irvin & Louise Ellard – Request for rezoning from RS-3 to CS for “business” for Lots 16 : 20, inclusive, Block 1, *Devine-Ellard Addition* (including subject property and 3 lots abutting to the west) – PC recommended Approval of CS zoning for the western 3 lots and OL zoning for the subject property 04/29/1974 and Board of Trustees Approved CS and OL zoning as recommended 05/07/1974 (Ord. # 275 dated 06/18/1974).

RELEVANT AREA CASE HISTORY: (not a complete list; does not include cases west of Memorial Dr.)

BBOA-176 – Steve Todoroff – Request for (1) Special Exception to allow a carport, (2) Variance from the 50’ setback from the centerline of Stadium Rd., and (3) Variance from the all-weather, dust free parking surface requirement for property located 1 block to the east of subject property at 26 W. Stadium Rd. – BOA Approved 09/08/1986.

BBOA-238 – Vera Young – Request for (1) Special Exception to allow a carport and (2) Variance from the setback from the centerline of Bixby St. from 50’ to 32’ for property located to the north of subject property at 24 W. Bixby St. – BOA Approved 05/06/1991.

BZ-218 – Red & Betty Stevenson – Request for rezoning from CS to RM-3 for senior citizens’ apartments for Lots 7 : 10, inclusive, Block 3, *Devine-Ellard Addition* to the south of subject property across Stadium Rd. – Withdrawn by Applicant 02/19/1996.

BBOA-316 – Edward Davis – Request for (1) Special Exception to allow a muffler shop in the CS district and (2) a 10’ Variance from the 150’ Arterial Street frontage requirement for Lots 1 : 4, inclusive, Block 3, *Devine-Ellard Addition* to the south of subject property across Stadium Rd. – BOA Denied 05/06/1996.

BZ-221 – Edward Davis – Request for rezoning from CS to CG for a muffler shop for Lots 2, 3, and 4, Block 3, *Devine-Ellard Addition* to the south of subject property across Stadium Rd. – PC Recommended Denial 06/17/1996 and either Denied or not appealed to City Council.

BZ-285 – Rev. Daniel Muggenberg for St. [Clement of Rome] Catholic Church – Request for rezoning from RS-3 to CG to allow for sale for commercial use for the St. Clement of Rome Catholic Church campus of 9.5 acres abutting subject property to the north – PC (06/17/2002) Continued to a date uncertain “to consider the possibility of a PUD.” No record found of further consideration.

BBOA-581 – Steve Olsen for St. Clement of Rome Catholic Church – Request for Special Exception per Zoning Code Section 11-7B-2 Table 1 to allow an existing Use Unit 5 church in an RS-3 Residential Single-Family District, in order to allow for a building expansion for the St. Clement of Rome Catholic Church campus of 9.5 acres abutting subject property to the north – BOA Conditionally Approved 08/05/2013.

## BACKGROUND INFORMATION:

The Applicant also owns vacant Lots 18, 19, and 20 (Less & Except right-of-way), Block 1, *Devine-Ellard Addition*, abutting to the west and zoned CS, and Lot 15 (Less & Except right-of-way), Block 1, *Devine-Ellard Addition* abutting to the east and zoned RS-3. On Lot 15, a single-family house is under construction. All lots contain some amount of 100-Year (1% Annual Chance) Regulatory Floodplain, and must comply with the Bixby Floodplain Regulations. The house under construction to the east has been permitted in compliance with the Floodplain Regulations.

## ANALYSIS:

Property Conditions. The subject property consists of two (2) lots, Lots 16 and 17 (Less right-of-way), Block 1, *Devine-Ellard Addition*, both zoned OL Office Low Intensity District. Located west of Louise Ave., Lot 16 is addressed 101 W. Stadium Rd., and Lot 17 is addressed 103 W. Stadium Rd. Each contains approximately 0.2 acres in lot area.

The subject property lots are both vacant, and both were originally platted as rectangular lots having 140' in lot depth and 62.5' of frontage on Stadium Rd. Both have since, however, had right-of-way acquired from them, evidently as a part of the Stadium Rd. and Memorial Dr. intersection and signalization improvement some years ago. Lot 17 now has a lot depth of 125.85', and Lot 16, with angled frontage on the widened right-of-way, has an average depth of 129.42'. The subject property lots appear to drain southerly to the borrow ditches along Stadium Rd., which ultimately drain south to Bixby Creek.

Special Exception Request. The Applicant is requesting a Special Exception per Zoning Code Section 11-7C-2 Table 1 to allow one (1) Use Unit 6 single-family dwelling per lot for both Lots 16 and 17, Block 1, *Devine-Ellard Addition*, located within the OL Office Low Intensity District. The Applicant has provided a project narrative, survey, and photograph of the house under construction on adjacent Lot 15. It is understood that the proposed houses on the subject property lots would be of similar construction design and quality. This can be made a Condition of Approval.

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

The Special Exception requests approval for one (1) Use Unit 6 single-family dwelling per lot for both lots in the OL District. The same effect could be achieved by rezoning the lots to an RS district, most likely RS-3. However, Staff considered that rezoning would not be as appropriate as a Special Exception allowing single-family house construction with Conditions of Approval appropriate for the site. Secondly, Staff considers the existing zoning pattern to be the most appropriate for the concerned properties: CS zoning and potential commercial use along Memorial Dr. and OL zoning for the subject property buffering RS-3 zoning and single-family use to the east. Upon researching the Zoning history of the subject property (BZ-25 – Irvin & Louise Ellard), Staff found that the OL district was specifically designed, by Staff and Planning Commission recommendation and Board of Trustees approval, to serve as a buffer between the commercial to the west and single-family residential to the east. Finally, rezoning

also triggers additional planning and development exercises which may be excessive due to the limited scale of the infill house construction proposed for these existing platted lots. Since the zoning/land use approval as requested here would be similar to rezoning to RS-3, the Comprehensive Plan's "Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan" ("Matrix") on page 27 of the Comprehensive Plan can be used to inform this land use decision.

The Development Sensitive designation appears to correspond to the 100-year (1% Annual Chance) Regulatory Floodplain. Floodplain areas may sometimes have soils which are not naturally conducive to construction, and may require remedial soil chemical work and/or special construction methods. In this case, the depth of flooding may be so shallow that onsite modifications, complying with Compensatory Storage requirements, may allow for the houses to be built at the required one (1) foot above the 100-year Base Flood Elevation using a slab-on-grade foundation design, as was done with the house under construction on Lot 15 abutting to the east. Otherwise, the houses may be required to be constructed on an elevated, flow-through foundation with openings sized to meet FEMA specifications for same. This will ensure (1) the First Finished Floor of the houses would be at least one (1) foot above the 100-year Base Flood Elevation, and (2) the area underneath the floor will allow the water underneath the structure during flooding, so as not to displace floodwaters onto other properties. These are required by FEMA and City of Bixby Floodplain Regulations.

The "Matrix" on page 27 of the Comprehensive Plan provides that RS-3 zoning (a proxy for single-family dwelling use) *May Be Found In Accordance* with the Development Sensitive 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.

Staff believes that RS-3 zoning would be, and the proposed single-family residential use is consistent with the Residential Area land use designation of the Comprehensive Plan Land Use map.

Surrounding Zoning and Land Use. To the north of the subject property is the St. Clement of Rome Catholic Church on a 9.5-acre campus and single-family residential along W. Bixby St. in *Ramsey Terrace* and the [Original Town of] *Bixby*, all zoned RS-3.

Across Stadium Rd. to the south of the subject property are vacant commercial lots in Block 3 of *Devine-Ellard Addition* (between Stadium Rd., Louise Ave., Rachel St., and Memorial Dr.). To the southeast is single-family residential use along Rachel St. zoned RS-3 in *Devine-Ellard Addition*. Farther south across Rachel St. is the South Town Nursing & Rehabilitation facility at 76 W. Rachel St. (perhaps also 14625 S. Memorial Dr.) zoned RD in *Devine-Ellard Addition*.

Abutting to the east is a single-family dwelling, Lot 15, Block 1, *Devine-Ellard Addition*, under construction by the Applicant. Farther east and southeast of the subject property is single-family residential use along Stadium Rd. and Rachel St., all in *Devine-Ellard Addition*.

West of the subject property are vacant commercial lots in Block 1 of *Devine-Ellard Addition*, also owned by the Applicant. Farther west across Memorial Dr. are houses and vacant commercial areas zoned CS.

Staff believes that the proposed single-family dwelling use would be compatible and consistent with surrounding zoning and land use patterns.

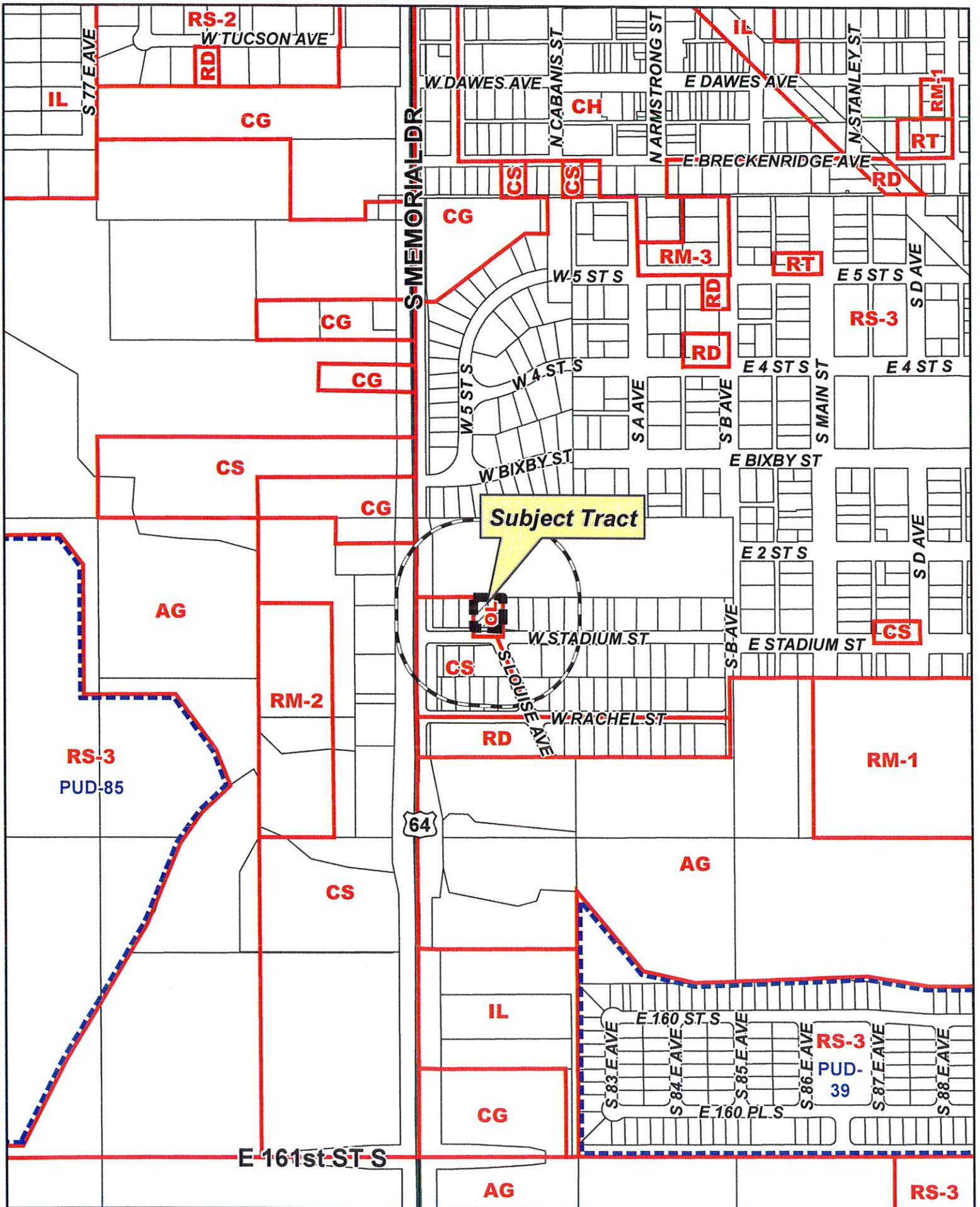
If single-family houses are constructed on the subject property, the intent of the OL district buffer (and likely office use) will have been lost. However, the Applicant owns all the concerned lots, and has evidently determined the current market sees the highest and best use to be single-family residential. The Applicant should know also that constructing single-family residential on the subject property may cause future commercial entitlements on the Applicant's commercial lots to be subject to higher standards for buffering and otherwise in respect to established residential uses. When the CS-zoned lots are developed commercial, and as the neighborhood evolves through time, the OL-zoned dwellings may be converted to office uses, which would then serve the buffering needs as originally intended. The official Zoning Map is due notice to the Public of the land uses which different properties may be used for now, and developed for in the future.

The Zoning Code requires screening and other buffering measures be employed when commercial is being developed abutting an R district. However, it does not require the same buffering when abutting OL zoning. Thus, Staff believes a minimum 6'-tall opaque screening fence should be erected on the west line of Lot 17, when a house is constructed thereon, to screen from future commercial, and to buffer the noise and other effects produced by traffic on Memorial Dr. / U.S. Hwy 64 in the interim. See recommendations for details.

Almost all of the houses along Stadium Rd. in *Devine-Ellard Addition* appear to be full brick, and the house under construction on adjacent Lot 15 is a brick house as well. Staff recommends that approval be conditioned upon the new houses being compatible with surrounding brick houses, by being in substantial conformance to the design and quality of the house under construction on Lot 15 to the east. See recommendations for details.

Staff Recommendation. Due to the Comprehensive Plan and surrounding zoning and land use patterns, and for all the other reasons outlined above, Staff recommends Approval subject to:

- (1) The house plans must substantially conform to the design and quality of the house under construction on Lot 15, meaning within 15% of house size and masonry content,
- (2) The houses shall comply fully with the Floodplain Regulations, and
- (3) A minimum 6'-tall opaque screening fence or wall shall be erected along the west line of Lot 17, at the time of house construction thereon, to serve as a screening fence to future commercial, and from Memorial Dr. / U.S. Hwy 64 in the interim, and continued maintenance in good condition shall be a continuing condition of occupancy of the dwelling on Lot 17.



**Subject Tract**

64

**RS-3**  
PUD-85

**RM-1**

**RS-3**  
PUD-39

**RS-3**

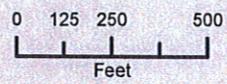


300' Radius



Subject Tract

**BBOA-598**



24 17-13





# City of Bixby Board of Adjustment Application

Applicant: R.K.B. PROPERTIES L.L.C.  
Address: P.O. Box 994 Bixby OK 74008  
Telephone: \_\_\_\_\_ Cell Phone: 918-638-1037 Email: WILDFIREWT@GMAIL.COM

Property Owner: R.K.B. PROP. If different from Applicant, does owner consent? \_\_\_\_\_  
Property Address: 33 & 35 W. STADIUM RD.  
Existing Zoning: LIGHT OFFICE Existing Use: N/A Use Unit #: \_\_\_\_\_  
Proposed Use: RS1 SINGLE FAM. RES.

LEGAL DESCRIPTION (If unplatted, attach a survey with legal description or copy of deed):

L-16 & 17 BLOCK 1 DEVINE ELLARD ADDITION,  
CITY OF BIXBY TULSA CO, OKLAHOMA.

Does Record Owner consent to the filing of this application?  YES  NO

If Applicant is other than Owner, indicate interest: \_\_\_\_\_

Is subject tract located in the 100 year floodplain?  YES  NO

Application for:  Variance  Special Exception  Appeal  Interpretation

**SET OUT BELOW THE SPECIFICS OF YOUR APPLICATION. WHERE APPLICABLE, INDICATE PERTINENT ORDINANCES, PROVISIONS, USES, DISTANCES, DIMENSIONS, ETC. YOU SHOULD ATTACH ANY PLOT PLANS, PHOTOGRAPHS, AND OTHER FACTUAL INFORMATION WHICH WILL ASSIST THE BOARD IN DETERMINING THE MERIT OF YOUR APPLICATION:**

**APPLICANTS FOR VARIANCE COMPLETE THE FOLLOWING: (attach a longer narrative if desired)**

- a. Why would the literal enforcement of the Zoning Code create an unnecessary hardship?  
\_\_\_\_\_  
\_\_\_\_\_
- b. What makes your property peculiar, extraordinary, or exceptional as compared to other properties in the same district?  
\_\_\_\_\_  
\_\_\_\_\_
- c. Explain why the granting of a variance will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Zoning Code or Comprehensive Plan.  
\_\_\_\_\_  
\_\_\_\_\_
- d. Explain why the variance would be the minimum necessary to alleviate the unnecessary hardship.  
\_\_\_\_\_  
\_\_\_\_\_

# City of Bixby Board of Adjustment Application

**APPLICANTS FOR A SPECIAL EXCEPTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)**

Describe the Special Exception and the Use Unit for the Special Exception as indicated in the Bixby Zoning Code. Explain why the Special Exception will be in harmony with the spirit and intent of this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

see attached

~~**APPLICANTS MAKING AN APPEAL OF A BUILDING OFFICIAL ACTION COMPLETE THE FOLLOWING: (attach a longer narrative if desired)**~~

~~Describe the nature of the appeal in detail:~~

~~**APPLICANTS REQUESTING AN INTERPRETATION OF THE ZONING CODE OR MAP COMPLETE THE FOLLOWING: (attach a longer narrative if desired)**~~

~~Describe the nature of the request in detail:~~

BILL ADVERTISING CHARGES TO: \_\_\_\_\_ (NAME)  
 \_\_\_\_\_ (ADDRESS) \_\_\_\_\_ (CITY) \_\_\_\_\_ (PHONE)

I do hereby certify that the information submitted herein is complete, true and accurate:

Signature: *[Signature]* Date: 1-30-2015

**APPLICANT – DO NOT WRITE BELOW THIS LINE**

BBOA-598 Date Received 01/30/2015 Received By Enyark Receipt # 01223666  
 Board of Adjustment Date 03/02/2015

1 Sign(s) at \$ 50.00 each = \$ 50.00; Postage \$ —; Total Sign + postage \$ 50.00

FEES: Variance \$75.00 or Special Exception \$100.00 or Appeal/Interpretation \$25.00 BASE FEE ADD. TOTAL  
 = 100 + 50 = \$150.00

BOA Action: \_\_\_\_\_ Conditions: \_\_\_\_\_  
 Date: \_\_\_\_\_ Roll Call: \_\_\_\_\_  
 Staff Rec. \_\_\_\_\_



January 30, 2015

To: City of Bixby Board of Adjustment

Re: Lot 16 and 17 Block 1 Devine Ellard Addition

R.K.B. Properties, LLC currently owns Lots 15-20, Block 1, Devine Ellard Addition in the city of Bixby. We are building a single family home on Lot 15.

Lots 16 and 17 are currently zoned light office. However, we would ask that the Board grant an exception allowing single family homes to be built on both lots.

When the exception is granted, lots 18-20 will continue to be available for future commercial development, keeping with the city's objectives. We feel this falls within the master plan for growth and development, and should serve as a catalyst for new interest in an area of town that has been dormant for many years.

Thank You,

Robert Bunch

Rob Bunch  
638-1037

P.O. Box 994  
Bixby, OK 74008-0994  
918-366-7939 • Fax 918-366-8108

Karen Bunch  
694-4723

# PLAT OF SURVEY

## LEGAL DESCRIPTION

LOTS 15-20, BLOCK 1, DEVINE ELLARD ADDITION,  
CITY OF BIXBY, TULSA COUNTY, STATE OF  
OKLAHOMA.

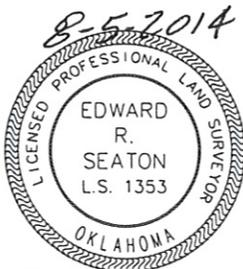
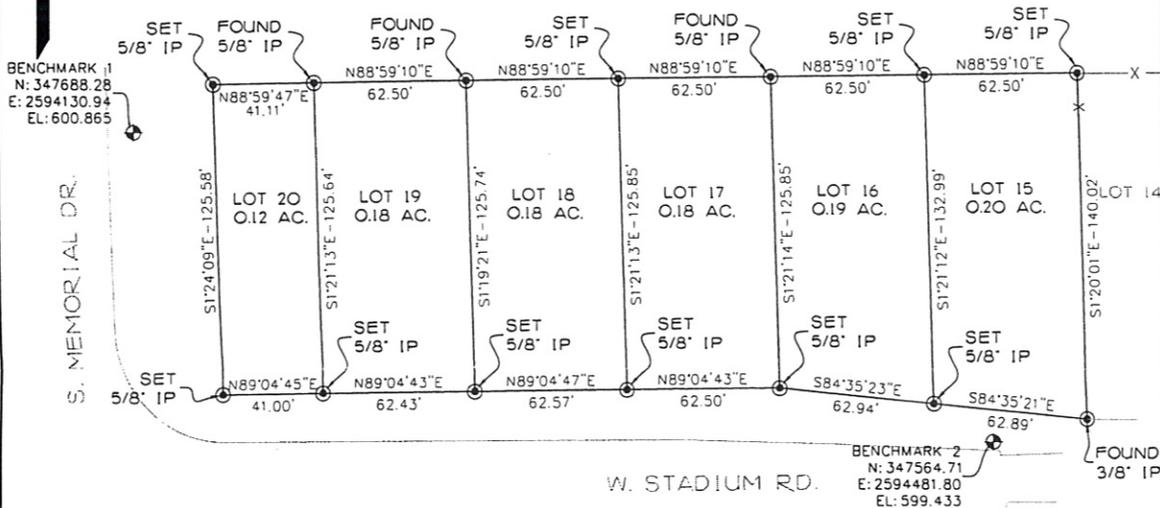
## LOCATION MAP

SEC. 24 T 17 N, R 13 E

SCALE: 1" = 60' *Reduced*

⊙ = IRON PIN

—x— = FENCE



*Edward R. Seaton*  
EDWARD R. SEATON, LAND SURVEYOR NO. 1353

**Heartland Surveying & Mapping, PLLC**

CA #4849

600 Emporia St., Ste. "C"  
Muskogee, Oklahoma 74401

(918) 682-7796

FOR: ROB BUNCH

DATE: 7/31/14

BEARINGS ARE BASED ON  
NAD83(93) OKLAHOMA  
STATE PLANE COORDINATE  
SYSTEM, NORTH ZONE.

W.O.# 4225

SURVEYED BY: RT/RG

DRAWN BY: AM

Last Site Visit: 7/25/14

FILE NAME  
Aug. 05, 2014 - 2:07pm  
S:\CAD - HEARLAND - FILES\W04225.dwg

THIS SURVEY MEETS MINIMUM TECHNICAL SURVEY STANDARDS.



31 W STADIUM  
L-15 BIK-1