

AGENDA
PLANNING COMMISSION
116 WEST NEEDLES
BIXBY, OKLAHOMA
January 21, 2013 **6:00 PM**

SPECIAL-CALLED MEETING

CALL TO ORDER

ROLL CALL

CONSENT AGENDA

1. Approval of Minutes for the December 17, 2012 Regular Meeting

PUBLIC HEARINGS

2. (Continued from December 17, 2012)
BCPA-7 – JR Donelson, Inc. for Clinton Miller and Roger Metcalf. Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Comprehensive Plan of the City of Bixby, Oklahoma, specifically to redesignate certain property on the Comprehensive Plan Land Use map from “Water” to “Medium Intensity” with no specific land use designation.
Property Located: North dead-end of Riverview Rd.; Northwest corner of the intersection of Riverview Rd. and E. Westminster Pl. N.
3. (Continued from December 17, 2012)
PUD 74 – RiverLoft ADDITION – JR Donelson, Inc. Public Hearing, discussion, and consideration of a rezoning request for approval of a Planned Unit Development (PUD) for part of Government Lot 7 lying West of the Centerline of Old U.S. Hwy 64 and lying North of Bentley Park in Section 13, T17N, R13E.
Property Located: North dead-end of Riverview Rd.; Northwest corner of the intersection of Riverview Rd. and E. Westminster Pl. N.
4. (Continued from December 17, 2012)
BZ-362 – JR Donelson, Inc. for Clinton Miller and Roger Metcalf. Public Hearing, Discussion, and consideration of a rezoning request from RS-2 Residential Single-Family District to RM-1 Residential Multi-Family Medium Density District for part of Government Lot 7 lying West of the Centerline of Old U.S. Hwy 64 and lying North of Bentley Park in Section 13, T17N, R13E.
Property located: North dead-end of Riverview Rd.; Northwest corner of the intersection of Riverview Rd. and E. Westminster Pl. N.

5. (Continued from December 17, 2012)
BCPA-8 – JR Donelson for Roger & LeAnn Metcalf. Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Comprehensive Plan of the City of Bixby, Oklahoma, specifically to redesignate certain property on the Comprehensive Plan Land Use map from “Low Intensity” and/or “Special District # 4” to “Medium Intensity” and to remove the “Special District #4” designation.
Property Located: 15329 S. Sheridan Rd.

6. (Continued from December 17, 2012)
PUD 75 – LeAnn Acres – JR Donelson, Inc. Public Hearing, discussion, and consideration of a rezoning request for approval of a Planned Unit Development (PUD) for part of the W/2 of the NW/4 of Section 23, T17N, R13E.
Property located: 15329 S. Sheridan Rd.

7. (Continued from October 15, November 19, and December 17, 2012)
BZ-359 – Roger & LeAnn Metcalf. Public Hearing, Discussion, and consideration of a rezoning request from AG Agricultural District to RM-2 Residential Multi-Family District for part of the W/2 of the NW/4 of Section 23, T17N, R13E.
Property located: 15329 S. Sheridan Rd.

8. **PUD 63 – 101 South Memorial Plaza – Major Amendment # 1.** Discussion and possible action to approve Major Amendment # 1 to PUD 63 for all of *101 South Memorial Plaza*, which amendment proposes the modification of the maximum parking space standard and sign height restriction, among other things.
Property located: Along 102nd St. S. between Memorial Dr. and 85th E. Ave.

PLATS

OTHER BUSINESS

OLD BUSINESS

NEW BUSINESS

ADJOURNMENT

Posted By: Emyart
 Date: 01/17/2013
 Time: 9:30 AM

MINUTES
PLANNING COMMISSION
116 WEST NEEDLES
BIXBY, OKLAHOMA
December 17, 2012 **6:00 PM**

STAFF PRESENT:

Erik Enyart, AICP, City Planner
Patrick Boulden, Esq., City Attorney

OTHERS ATTENDING:

See attached Sign-In Sheet

CALL TO ORDER:

Chair Thomas Holland called the meeting to order at 6:00 PM.

ROLL CALL:

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

CONSENT AGENDA:

1. Approval of Minutes for the November 19, 2012 Regular Meeting
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Chair Thomas Holland introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE to the Minutes as presented by Staff. John Benjamin SECONDED the Motion. Roll was called:

ROLL CALL:

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

During the Roll Call, Chair Thomas Holland explained that he was voting "Abstain" as he was not present at that meeting.

PUBLIC HEARINGS

2. **BCPA-7 – JR Donelson, Inc. for Clinton Miller and Roger Metcalf.** Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Comprehensive Plan of the City of Bixby,

Oklahoma, specifically to redesignate certain property on the Comprehensive Plan Land Use map from "Water" to "Medium Intensity" with no specific land use designation.

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6. **PUD 75 – LeAnn Acres – JR Donelson, Inc.** Public Hearing, discussion, and consideration of a rezoning request for approval of a Planned Unit Development (PUD) for part of the W/2 of the NW/4 of Section 23, T17N, R13E.
Property located: 15329 S. Sheridan Rd.
7. (Continued from October 15 and November 19, 2012)
BZ-359 – Roger & LeAnn Metcalf. Public Hearing, Discussion, and consideration of a rezoning request from AG Agricultural District to RM-2 Residential Multi-Family District for part of the W/2 of the NW/4 of Section 23, T17N, R13E.
Property located: 15329 S. Sheridan Rd.

Chair Thomas Holland introduced Agenda Items Numbered 1 through 7, inclusive. Erik Enyart stated that a State Law was passed in 2009 that requires additional Public Notice for rezoning applications seeking approval of multifamily zoning, as is the case in all of these items. Mr. Enyart stated that he had only sent notices to property owners within a 300' radius, rather than the ¼ mile radius as now required, and that he would have to readvertise the Public Hearing to the new requirement for the January 21, 2013 Regular Meeting. Mr. Enyart recommended all the items be Continued to the January 21, 2013 Regular Meeting.

John Benjamin made a MOTION to CONTINUE Agenda Items Numbered 1 through 7, inclusive, to the January 21, 2013 Regular Meeting. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

Chair Thomas Holland announced that there was a Sign-In Sheet that would be used to recognize people who want to speak on an item. Mr. Holland asked that those speaking on items refrain from repeating things that others have already said.

8. **BZ-363 – Kevin Blake.** Public Hearing, Discussion, and consideration of a rezoning request from RS-1 Residential Single-Family District to RT Residential Townhouse District for the W. 100' of Lot 7, Block 1, *Clyde Miller Acreage*.
Property located: 7739 E. 129th St. S.

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

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Monday, December 10, 2012
RE: Report and Recommendations for:
BZ-363 – Kevin Blake

LOCATION: – 7739 E. 129th St. S.
– The W. 100' of Lot 7, Block 1, Clyde Miller Acreage
LOT SIZE: 1 acre, more or less
EXISTING ZONING: RS-1 Residential Single-Family District
EXISTING USE: Single-family dwelling partitioned into two (2) dwelling units
REQUESTED ZONING: RT Residential Townhouse District
SUPPLEMENTAL ZONING: None
SURROUNDING ZONING AND LAND USE:

North: CS/PUD 37 & AG; Heavy commercial uses within the Crosscreek "trade center" with the Fry Creek Ditch north of that zoned AG.

South: RS-1; Residential in Clyde Miller Acreage.

East: RS-1 & CG; Residential, with commercial businesses along Memorial Dr., all in Clyde Miller Acreage.

West: RS-1 & RS-2; Residential in Poe Acreage, Village Ten Addition, and unplatted residential areas fronting along E. 129th St. S.

COMPREHENSIVE PLAN: Low Intensity + Residential Area

PREVIOUS/RELATED CASES: None found.

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

BZ-116 – Carl Ketchum for Land Development Corporation – Request for rezoning from RS-2 to RMH for 6 of the 10 lots in Village Ten Addition to the west of subject property – PC recommended Denial 03/29/1982 and appealed to the City Council (letter dated 04/07/1982), but evidently not approved as no ordinance was found.

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PUD 37 – Crosscreek – Randall Pickard for Remy Co., Inc. – Request for rezoning from AG to CS and PUD 37 for Crosscreek, abutting to the north of subject property – Recommended for Approval by PC 03/21/2005 and Approved by City Council April 11, 2005 (Ord. # 980 – number assigned to the approved blank ordinance in the year 2007 after discovery of the discrepancy).

Preliminary Plat of Crosscreek – Request for Preliminary Plat approval for Crosscreek, abutting to the north of subject property – Recommended for Approval by PC 06/20/2005 and Approved by City Council 06/25/2005.

Final Plat of Crosscreek – Request for Final Plat approval for Crosscreek, abutting to the north of subject property – Recommended for Approval by PC 11/21/2005 and Approved by City Council 11/28/2005.

AC-06-04-01 – Request for Architectural Committee [Site Plan and building plans] approval for Phase 1, consisting of buildings 1 through 5, inclusive, of Crosscreek, abutting to the north of subject property – Believed to have been approved by AC April 17, 2006 (Minutes not found in case file).

BZ-327 – Doeksen Real Estate, LLC – Request for rezoning from RS-1 to RT for Lot 2, Block 1, Clyde Miller Acreage (just behind/west of the commercial lots on Memorial Dr.) located to the east of subject property – PC recommended Denial 03/19/2007, and evidently not appealed to the City Council.

BBOA-453 – Dennis Larson – Request for Special Exception to allow a Use Unit 17 indoors sales of used automobiles in the CS district with PUD 37 for the land platted as Crosscreek, and specifically, 12804 S. Memorial Dr. Unit # 109, abutting to the north of subject property – Approved by BOA 05/07/2007 on the condition that sales be indoors with no storage of automobiles outside of the building.

BBOA-487 – Keith Whitehouse for Cross Creek Office Warehouses, LLC – Request for Special Exception to allow a Use Unit 17 internet-based/indoor used automobile sales in the CS district with PUD 37 for Lot 2, Block 1, Crosscreek, and specifically, 12818 S. Memorial Dr. Unit # 111 abutting to the north of subject property – Approved by BOA 08/04/2008.

BBOA-494 – David Owens for Cross Creek Office Warehouses, LLC – Request for Special Exception to allow a Use Unit 17 indoor lawnmower and small engine repair business in the CS district with PUD 37 for Lot 3, Block 1, Crosscreek, and specifically, 12806 S. Memorial Dr. Unit # 115, located northwest of subject property – Withdrawn by Applicant in October/November 2008.

BBOA-498 – Cross Creek Office Warehouses, LLC and/or Remy Enterprises – Request for Special Exception to allow a Use Unit 19 indoor gymnasium, health club, baseball and basketball practice and training, enclosed commercial recreation establishments not elsewhere classified, and other such related uses within Use Unit 19, in the CS Commercial Shopping Center District with PUD 37 for Crosscreek abutting to the north of subject property – Approved by BOA 03/02/2009.

PUD 37 – Crosscreek – Minor Amendment # 1 – Request for Minor Amendments to PUD 37 for Crosscreek abutting to the north of subject property – PC recommended Denial 05/18/2009 and City Council Approved on appeal 05/26/2009.

PUD 37 – Crosscreek – Minor Amendment # 2 – Request for Minor Amendments to PUD 37 for Crosscreek abutting to the north of subject property – PC Conditionally Approved 05/16/2011.

BACKGROUND INFORMATION:

The subject property contains a house at the south end of the parcel, which the Applicant has remodeled and partitioned to allow for living quarters in the front and back ends of the house. If occupied as partitioned, the Zoning Code would recognize the structure as a “duplex,” which is not allowed in the RS-1 district. The lowest-intensity Zoning districts in which a duplex is allowed “by right” are the RD Residential Duplex and RT Residential Townhouse districts. The Applicant has expressed to Staff the desire to get the property “zoned” to allow for the use of the building as a two-family residential structure.

The Applicant’s submitted narrative and other information, attached to this report, helps explain the request and situation.

ANALYSIS:

Subject Property Conditions. The subject property is an approximately 1-acre tract with 100’ of frontage on 129th St. S. Abutting to the east is a 50’-wide right-of-way parcel belonging to the City of Bixby, which contains a gravel drive. It may be known as 78th E. Ave. The subject property has 435.2’ of frontage on this right-of-way parcel, and thus the rectangular parcel measures 100’ X 435.2’.

The subject property contains a house at the south end of the parcel, which the Applicant has remodeled and partitioned to allow for living quarters in the front and back ends of the house.

The subject property appears to drain to the west, via a low-lying drainageway along the back/north sides of the lots fronting on 129th St. S. It ultimately empties into Fry Ditch around the north dead-end of 73rd E. Ave. The subject property is entirely located within Shaded Zone X, the 500-year (0.2% Annual Chance) Floodplain.

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

RT zoning was adopted (Ord. # 845) after the Comprehensive Plan in or around 2002 so it is not included in the "Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan" ("Matrix") on page 27 of the Comprehensive Plan. However, based on the Matrix's treatment of similar districts, including RD, RT zoning should be recognized as May Be Found In Accordance with the Low Intensity designation of the Comprehensive Plan.

Page 7, item numbered 1 of the Comprehensive Plan states:

"The Bixby Comprehensive Plan map depicts desired land uses, intensities and use and development patterns to the year 2020. Intensities depicted for undeveloped lands are intended to develop as shown. Land uses depicted for undeveloped lands are recommendations which may vary in accordance with the Intensities depicted for those lands." (emphasis added)

This language is also found on page 30, item numbered 5.

This text introduces a test to the interpretation of the Comprehensive Plan Land Use Map, in addition to the Matrix: (1) If a parcel is within an area designated with a specific "Land Use" (other than "vacant, agricultural, rural residences, and open land," which cannot be interpreted as permanently-planned land uses), and (2) if said parcel is undeveloped, the "Land Use" designation on the Map should be interpreted to "recommend" how the parcel should be zoned and developed. Therefore, the "Land Use" designation of the Comprehensive Plan Land Use Map should also inform/provide direction on how rezoning applications should be considered by the Planning Commission and City Council.

Staff believes that the RT zoning and proposed duplex residential use is consistent with the Residential Area land use designation of the Comprehensive Plan Land Use map.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning includes CS/PUD 37, AG, RS-1, RS-2, and CG.

To the north is approximately 19-acre CS district containing heavy commercial uses within the Crosscreek "trade center" development, with the Fry Creek Ditch north of that zoned AG.

To the east, south, and west is primarily single-family residential in Clyde Miller Acreage, Poe Acreage, Village Ten Addition, and in unplatted residential areas fronting along E. 129th St. S., zoned RS-1 and RS-2.

Further to the east, along Memorial Dr. are commercial businesses zoned CG in Clyde Miller Acreage. The two (2) commercial lots on the north side of 129th St. S. include Rib Crib and a multitenant office building containing the Stumpff & Cooke Insurance and Valencia Salon & Spa businesses.

Single-family residential lots to the east and west are large, deep lots, and contain typically 1 acre in lot area. The lot abutting to the west contains over 1.5 acres. Lots on the south side of 129th St. S. in Clyde Miller Acreage are also fairly large, and contain typically 0.5 acres in lot area.

While it would be considered a buffer district between the CS district abutting to the north and the RS-1 to the south, the requested RT is not particularly compatible with RS-1 zoning or the single-family homes on large lots surrounding on three sides. While the RT zoning would "legalize" a former house converted to a two-family structure, it would also allow for the development of townhouses or other high-intensity land uses on the subject property, at a density far in excess of the surrounding context. Redevelopment and increasing the densities commensurate with that which RT zoning would allow should only be done with a PUD, designed to ensure that the development is maximally compatible with the surrounding neighborhood, by use of setbacks, screening, landscaping, and other such buffering measures.

A somewhat similar request was made in 2007. BZ-327 – Doeksen Real Estate, LLC was an application to rezone Lot 2, Block 1, Clyde Miller Acreage from RS-1 to RT, in order to "build duplex[es] and triplex[es]." That property is located just behind/west of the commercial lots on Memorial Dr., zoned CG. Per the approved Minutes of the March 19, 2007 meeting, the Staff at the time did not recommend the application based on the difficulty of providing access to the lot if developed, and the Applicant in that case did not attend the meeting. The Planning Commission recommended Denial, and evidently the

Applicant did not appeal the recommendation to the City Council. That property was arguably a better candidate for RT zoning than the subject property, as it was immediately behind CG zoning and businesses fronting on Memorial Dr., and could have provided a transitional zoning district and buffer use between the commercial and the balance of single-family residential uses to the west of it.

The subject property is located over 500' from the CG district along Memorial Dr., and is separated from it by the 50'-wide 78th E. Ave. right-of-way and four (4) lots platted in Clyde Miller Acreage. As such, the establishment of an RT district here would not be the most appropriate Zoning or land use pattern. However, recognizing the intent of the application is to "legalize" the use of an existing house partitioned into two (2) dwelling units, the same could be done by rezoning the subject property to RS-3 and being granted a Special Exception to allow the existing structure to be occupied as a duplex. The Board of Adjustment could place a Condition on the approval creating a sunset provision, such as the approval shall expire upon the substantial damage or destruction of the existing structure. RS-3 zoning should be found compatible with the surrounding Zoning and land use patterns and would be fully in Accordance with the Comprehensive Plan.

Zoning Code Section 11-5-4.B.1.a provides:

"Notice of a proposed RM-2 rezoning shall confer jurisdiction on the planning commission and city council to consider and act upon RM-2, RM-1, RD, RS-3, RS-2, RS-1 and RE, or combinations thereof, in the disposition of the application, and in like manner, notice of any R district, including RMH, shall confer jurisdiction to consider any less dense R district, except RMH." (emphasis added)

RS-3 zoning is a lesser-density district than the requested RT district.

Staff Recommendation. Using the flexibility afforded in Zoning Code Section 11-5-4.B.1.a, Staff recommends approval of RS-3 zoning, with the Planning Commission to give direction to the Applicant to seek the legalization of the two-family structure by subsequent Special Exception application.

Chair Thomas Holland asked if the Applicant was present and wished to speak on the item. Applicant Kevin Blake of 8812 E. 110th St. S. was present and stated that he and his partner had recently acquired the property—it was in bad shape—and they fixed it up. Mr. Blake stated that the previous owners tried to convert the house into a two-family dwelling, and that he and his partner finished that conversion when they bought the land. Mr. Blake stated that he and his partner would like to be able to rent out the back part of the house. Mr. Blake stated that there were about 400' [from the house] to *Crosscreek*, and that the property had a side road for access. Mr. Blake stated that the residents in the back could use the side road and park behind the house. Mr. Blake stated that no one in the neighborhood would know that the structure was a duplex. Mr. Blake stated that he had been working with Erik Enyart for the past year on this application, and that he would follow the Staff recommendation.

Chair Thomas Holland stated that the area was mostly RS-1 and RE in terms of lot sizes. Mr. Holland stated that he would be opposed to RT zoning. Mr. Holland stated that this was a small structure and it would be inappropriate to impose this Zoning on the rest of the neighborhood. Mr. Holland stated that there had been an upsurge in peoples' attitudes in the area, and that a number of other houses had been renovated. Mr. Holland stated that the lots in this area are typically an acre in size or bigger.

Larry Whiteley asked Kevin Blake why he did not pursue the zoning before buying the property. Mr. Blake stated that he and his partner acknowledged that they were taking on a little risk in doing it that way. Mr. Blake stated that he had consulted with Erik Enyart, but understood that there was no guarantee when it came to zoning. Mr. Blake stated that he thought it would be allowed based on what was there: *Crosscreek*, a church in the neighborhood, an RV in the neighbor's yard, etc. Mr. Blake stated that a neighboring property has a house rented in the back, and that they drive

across the back of his lot. Mr. Blake stated that [the subject property] had five (5) mobile home lot/pads in the back, and they used to be rented at one time.

Larry Whiteley asked Kevin Blake why he did not check out the property before buying it. Mr. Blake stated that he did consult with Erik Enyart on this matter. Mr. Blake stated, "We tried to do the right thing." Mr. Blake stated, "I knew we would run a little risk."

Dr. Tena Trotter of 560 N. Jeff Davis Dr., Atlanta, GA, asked where the property was located. Someone responded, "129th Street, behind *Rib Crib*." Dr. Trotter stated that she owned a house in this area.

One Commissioner asked Kevin Blake "How much trouble" it would be to convert the house back to a single-family dwelling. Mr. Blake responded that it was a large, six (6) bedroom, two (2) bath[room] house, and that it would not be without some difficulty. Mr. Blake stated that [he and his partner] did not want to rent out the whole thing as a single unit, because it was "not set up for that." Mr. Blake stated that there was a lack of availability of affordable housing in Bixby. Mr. Blake stated that rents were \$1,000 per month for everything else, and that this one would be affordable.

Chair Thomas Holland stated that [approving the use] would be an "inappropriate buffer." Mr. Holland stated that there were metal buildings [to the north in *Crosscreek*] stretching about ½ a mile long. Mr. Holland expressed concern for the "integrity of the neighborhood," and stated that there was "some rental property in the area, but" this use would not be appropriate for multifamily RS-3 or RM-3 zoning. Erik Enyart stated that his recommendation was for RS-3 zoning, not RM-3. Mr. Enyart stated that RS-3 was a single-family district and was the most common single-family district throughout the city. Mr. Enyart stated that it was not a multifamily district. Mr. Enyart stated that, if approved for RS-3, to allow a duplex, it would still require a Special Exception from the Board of Adjustment, and the Board may impose a sunset clause, permitting the duplex only as long as this structure exists. Mr. Holland expressed concern that the Board of Adjustment would not hesitate to approve it. Mr. Holland stated that he had just returned from Louisiana, and saw there lax building code and enforcement issues.

Kevin Blake asked what was done to get approval of the duplexes to the east of City Hall. Larry Whiteley asked for clarification on the location of the duplexes Mr. Blake was referring to. After some discussion, Erik Enyart stated that he believed Mr. Blake was referring to the four (4) duplex buildings at Dawes Ave. and Parker St. that encircle half the block to [Breckenridge Ave.]. Mr. Enyart stated that there were another two (2) duplex buildings constructed on the old Railroad right-of-way at Breckenridge Ave. Mr. Enyart stated that some of those were zoned RT, which allows duplexes, and some were zoned RD Residential Duplex [District]. Chair Thomas Holland stated that this neighborhood was not the downtown area. Lance Whisman asked about the age of the neighborhood Mr. Blake was referring to, and Mr. Enyart responded that it was in *Midland Addition* in the old part of town and was platted about 100 years ago. Discussion ensued.

Kevin Blake stated that he just wanted to rent out the back part of the house, and that he had consulted with Erik Enyart on the matter for at least a year. Larry Whiteley asked Erik Enyart how long he had been talking to Mr. Blake, and Mr. Enyart confirmed he had been talking to Mr. Blake

“at least a year.” Mr. Enyart stated that he originally suggested RT zoning, as it was more palatable than RD zoning, but after reviewing the application in detail, he was now recommending RS-3 zoning with a Special Exception. Mr. Enyart stated that, in his opinion, RT zoning was not necessarily inappropriate, but that RS-3 zoning with a Special Exception was appropriate.

Lance Whisman and John Benjamin asked about zoning precedent in the area. Mr. Enyart referred to the case map in the Agenda Packet and stated that there was no precedent for RS-3 zoning in the neighborhood. Mr. Enyart stated that there was CS zoning abutting to the north in *Crosscreek* and that that was a commercial development, there was commercial use zoned CG to the east on Memorial Dr., and that most of the surrounding neighborhood was zoned RS-1. Mr. Enyart stated that there was an RS-2 zoning district to the west, which was something between an RS-1 and RS-3 district. Mr. Whisman confirmed with Mr. Enyart that there was no RS-3 zoning in the neighborhood. Mr. Whisman asked where the RS-2 zoning was located. Mr. Enyart referred to the case map and stated that it was in the *Village Ten Addition* to the west of the subject property. Chair Thomas Holland asked Mr. Enyart about *Village Ten Addition*. Mr. Enyart stated that it was an older subdivision and was not developed, except, perhaps, the first couple lots fronting on 129th St. S.

Larry Whiteley stated that the map did not show the back of the property as having any mobile home pads. Kevin Blake stated that they were there.

Dr. Tena Trotter stated that she was from Atlanta and owned a house within two (2) blocks of the subject property, and that it sits on an acre. Ms. Trotter stated that she would not have known about this application if she had not been here about another application. Ms. Trotter expressed objection to the rezoning, and stated that if it was approved, “I could subdivide mine” also.

Lance Whisman asked if the neighborhood had been notified. Mr. Enyart stated that he had mailed out notices to property owners within a 300’ radius of the subject property. Mr. Enyart referred to the case map on page 28 of the Agenda Packet and stated that the circular area around the subject property was the 300’ radius line, indicating which property owners received notice by mail.

Dr. Tena Trotter stated, “If you get zoned, I’m [going to] apply.” John Benjamin asked Dr. Trotter what she would apply for. Dr. Trotter responded, “Rezone mine.” Mr. Benjamin stated that he would vote against it. Dr. Trotter expressed objection.

Kevin Blake stated, “The house we acquired was the worst in the neighborhood. We just finished it out. We took a little risk without the zoning.”

Chair Thomas Holland expressed doubt that the road beside the property was a public street. Erik Enyart stated that it was owned by the City of Bixby per the Tulsa County Assessor, but he did not know the history behind it. Mr. Holland stated that it was not to code, and was gravel. Kevin Blake and Mr. Enyart stated that it was a gravel road with a little asphalt.

Chair Thomas Holland called for a recommendation. Larry Whiteley made a MOTION to DENY BZ-363.

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Lance Whisman expressed concern that others would apply to rezone their land too if this was approved.

Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

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

- 9. **BZ-361 – City of Bixby.** Public Hearing, Discussion, and consideration of a rezoning request to extend the Corridor Appearance District overlay district, 600’ in width along the centerline of 151st St. S. from Memorial Dr. east to Riverview Rd., pursuant to Zoning Code Section 11-7G.

Property located: Along 151st St. S. from Memorial Dr. east to Riverview Rd.

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

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Monday, December 10, 2012
RE: Report and Recommendations for:
BZ-361 – City of Bixby

LOCATION: Along 151st St. S. from Memorial Dr. east to Riverview Rd
AREA: 36 acres, more or less
EXISTING ZONING: Multiple / various
EXISTING USE: Multiple / various
REQUESTED ZONING: Corridor Appearance District overlay district
BACKGROUND INFORMATION:

The Corridor Appearance District and similar Central Business District overlay districts were established by Ordinance # 814 passed 05/08/2000. They are now found in Title 11 Zoning Code Chapters 7G and 7H. The primary effect of those overlay districts was to mandate Planning Commission approval of a Detailed Site Plan, and to allow for the application of architectural / appearance standards. Design standards (“Guidelines”) were adopted by the Architectural Committee, but they had no ordinance authority; they were “Guidelines” and have been treated as such.

The Corridor Appearance District currently exists along Memorial Dr. and 151st St. S. west of Memorial Dr., along 131st St. S. east of Memorial Dr., and 171st St. S. east of Memorial Dr. The Central Business District is defined as: “The “downtown area” of Bixby, to include the areas adjoining Needles, Dawes, and Breckenridge Avenues, up to and including the alleys north of and parallel to Needles Avenue and south of and parallel to Breckenridge Avenue, from Memorial Drive to Riverview Road.”

In a City Staff meeting held September 04, 2012, the Mayor and City Staff discussed and reached a consensus on the propriety of replacing the Corridor Appearance District and Central Business District “guidelines” with enforceable Minimum Standards as follows:

- (1) Prohibiting bare metal sides of buildings facing public streets, requiring the same be full masonry to the first floor top plate, to include brick, stucco, EIFS or similar masonry-like product, stone, finished concrete tilt-up panels, or some combination thereof,
- (2) An Appeal/Waiver provision: Applicant can appeal the interpretation of the masonry/finish standard or ask the Council to reduce or Waive it altogether, and

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- (3) *City Council prerogative on exceptional architecture: The City Planner may refer a proposed structure to the Council for approval if determined to be of exceptional character, iconic, or potentially offensive.*

This matter was an outgrowth of a recent Zoning Code Text Amendment, which the Planning Commission reviewed and recommended on August 20, 2012. The overlay districts were amended by Ordinance # 2091, approved by the City Council on September 10, 2012. Among other things, that amendment did the following:

- *Removed the requirement for Planning Commission approval of Detailed Site Plans within the overlay districts.*
- *Removed the requirement for Planning Commission approval of all signs within the overlay districts.*
- *Required a site plan application for building permits for buildings other single-family and duplex residential structures and those used agriculturally. Such site plans are approved by City Staff in the context of a Building Permit application.*
- *Replaced the suggestive "guidelines" in each overlay district with new, enforceable "Minimum Standards," to be promulgated and adopted by the City Council later.*

This final item is what is being presented to the Planning Commission for review and recommendation at this time. On October 16, 2012, the City Manager directed Staff to proceed with the Minimum Standards amendment to the Zoning Code.

Also in that September 04, 2012 meeting, the Mayor expressed favor for extending the Corridor Appearance District overlay district along 151st St. S. from Memorial Dr. to Riverview Rd. On October 25, 2012, the City Manager signed the rezoning application BZ-361, to extend the Corridor Appearance District.

Also as related to this matter, Staff prepared a site plan application capturing all the information needed by the different departments to compare development plans to the requirements of the Zoning Code, Building Code, Fire Code, and other applicable codes. To ensure the most efficient and expeditious development project reviews, architects, engineers, planners, or other design professionals can use the form as a checklist of information to submit with the Building Permit application. Staff also updated the other planning- and zoning-related application forms to create a consistency of design, including the City's logo, and to reconcile the forms with the information actually required for each application. The City Manager indicated his approval of the site plan application form by email on 11/08/2012 and reported his approval of all the application forms to the City Council at a recent meeting.

ANALYSIS:

The public's recent investment in the widening of this section of 151st St. S. appears to have set the stage for redevelopment pressures. This section of 151st St. S. is a "gateway" into the heart of Bixby, and is used by citizens and visitors to access the Bixby Public Schools' sports facilities and the City's Bentley Park Sports Complex. Ensuring a basic minimum standard for quality of design in new developments should add to the aesthetic value of the City, and help leave a good "first impression" for all new visitors using this widened corridor. Staff recommends Approval of the extension of the Corridor Appearance District overlay as per BZ-361.

Larry Whiteley asked what would happen to the taxes of the people who were rezoned. Erik Enyart stated that he had talked to the Assessor's Office and was assured that they do not base their assessments on the Zoning of the property. Mr. Enyart stated that the Assessor's Office bases taxes on their assessment of the value of the land, using whatever methods they use, but that adding improvements to a property or building onto a structure will cause the taxes to go up in accordance with the added value. Mr. Enyart reiterated that the taxes would not be affected by this rezoning.

Chair Thomas Holland asked if anyone wished to speak on the item.

Anita Temple asked if the rezoning would affect properties on McKennon Ave. Erik Enyart showed Ms. Temple the case map and indicated the location of the area subject to BZ-361. Mr. Enyart confirmed properties fronting on McKennon Ave. would be included. Mr. Enyart stated that

the Corridor Appearance District would not affect residential properties. Mr. Enyart stated that the District was designed to ensure that non-residential developments within it, along Bixby's commercial corridors, are built to at least a minimum standard for quality. Mr. Enyart stated that it would not affect residential property owners would want to rebuild their houses, or build a house on a vacant lot, or build an accessory building. Mr. Enyart stated that the affected residential properties would only be affected if the owners agree to sell their lots to a developer, who in turn applies to rezone the lots to commercial, at which point they would have to build their commercial buildings to a higher standard for quality. Ms. Temple asked what this would mean for the townhouses on 151st St. S. Mr. Enyart reminded the Planning Commissioners that they had, in the previous year, considered a request to amend the Comprehensive Plan [BCPA-6] for the three (3) blocks along 151st St. S. left over after that street was widened. Mr. Enyart stated that the houses that were on them had been removed to allow for the widening, and that there was leftover land north of the new right-of-way. Mr. Enyart stated that the City wanted to dispose of the land, and had sent out notice that they wanted to offer it to sale or lease for development. Someone asked if the land could be developed commercial. Mr. Enyart stated that the City had approved the Comprehensive Plan amendment but specifically left the Residential designation, so that the [highest intensity use likely to develop] would be townhouses, or duplexes, based on how narrow the leftover land was. Mr. Enyart stated that this could be changed, but it was planned for residential at this time. Mr. Enyart stated that that Comprehensive Plan amendment was not affected by this rezoning application.

Don Branscum of 325 E. Needles Ave. stated that his mother-in-law, Maxine Prince, lived at this address. Mr. Branscum asked if this land was included in the proposed district. Mr. Enyart referred to the case map and stated that lots fronting on Needles Ave. would not be part of the district. Mr. Branscum confirmed with Mr. Enyart that this property was not part of [BZ-361].

Robert Founds of 303 E. Washington St. stated that he also owned the house at 221 E. Washington St. Mr. Founds discussed the application briefly.

Someone asked if this application was an "end run" around [BCPA-6] to turn that land into commercial, and Erik Enyart responded that it was not, and that anyone that would buy the land from the City would have to apply to change [the Comprehensive Plan and] the zoning to commercial, and notice would be given to the neighborhood in that event. Mr. Enyart stated that [BZ-361] would impose higher standards for development than would be otherwise required.

A woman who did not give her name asked why the rezoning included the residential areas instead of only the commercial areas. Erik Enyart responded that, since the City widened 151st St. S., it has observed that this has generated interest in redevelopment along this new street, that now provides improved access. Mr. Enyart stated, "The transformation has already begun." Mr. Enyart stated that there were two (2) houses along 151st St. S. at Armstrong St. that were acquired by a business, demolished, and rezoned for a new commercial building. Mr. Enyart stated that there has been additional redevelopment along 151st St. S. Mr. Enyart stated that the City of Bixby wanted to get out ahead of redevelopment and put rules in place to ensure that new, non-residential development was built to at least a minimum standard for quality.

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Bryan Reed of 215 E. McKennon Ave. asked if the affected properties would stay residential or be rezoned commercial. Erik Enyart responded that the residential properties would stay zoned residential with this rezoning. Mr. Enyart explained that the Corridor Appearance District was an "overlay district that sits on top" of the regular zoning. Mr. Enyart stated that the areas zoned residential would stay zoned residential, and areas zoned commercial would stay zoned commercial. Mr. Enyart stated that homeowners would not be affected by this, but that if they sold their houses to someone, and the buyer rezones the land "to commercial, then this would affect that." Mr. Reed stated that he would not oppose this application if it raised property values. Mr. Enyart stated that he was not a real estate professional, but that he believed that new construction, if built to a reasonably good level of quality, may help improve property values. Someone asked if the neighborhood would know if a property was going to be rezoned commercial, and Mr. Enyart confirmed that notice would be given to the neighborhood in that case. Mr. Enyart reiterated that no property was going to be rezoned to commercial by this application. Patrick Boulden stated that the change "could improve the value [of the area] with brick" or other masonry.

Chair Thomas Holland recalled that there was a building built along 151st St. S. recently that was not upgraded architecturally. Mr. Holland stated that the Planning Commission tried to get the building upgraded but that the decision was ultimately out of the Commission's control.

James Turney of 302 E. McKennon Ave. stated that he also owned property at 151st St. S. and Sheridan Rd., across from the *Leonard & Marker Funeral Home*. Mr. Turney stated that he had talked to Erik Enyart about his plan to "sell portable buildings [from the property] to supplement my income." Mr. Turney stated that Mr. Enyart told him that, "if I build a building [within this Corridor Appearance District], I would have to match the aesthetics of the surrounding buildings," and make it look as good as the *Leonard & Marker [Funeral Home]*. Mr. Turney stated, "I don't have the money at this time; as a startup, I have had not progressed to that point, and am limited to what I can do." Mr. Turney stated that he was aware of the new "lumber company" down [McKennon Ave.] from his house. Mr. Turney complained that, even at that distance, "at 7:30 AM, I can hear the saws cutting timber [from with]in my home." Mr. Turney indicated that he understood the need for rules to ensure new buildings were not "unpalatable," and stated that he was "in favor of improved values."

Dr. Tena Trotter confirmed with Erik Enyart that, if a homeowner remodeled their home, they would not have to upgrade the house. Mr. Enyart responded, "Yes. Houses are not affected by this."

Chair Thomas Holland stated, "The noise concerns me," and asked if it had anything to do with the large overhead doors. A man who did not give his name stated that it was not the doors but the fact that they saw cut outside, and the saw[dust] suction unit "squeals like crazy." Mr. Holland stated that the City had a noise nuisance ordinance and one could complain about the noise. Larry Whiteley stated that, in his experience, if one wanted to get something done, they needed to go up and down the street to all the neighbors and get them to sign a petition to ask the City Council to do something.

Chair Thomas Holland asked Erik Enyart if the Comprehensive Plan was due to be updated. Mr. Enyart responded, "We can update it at any time the Council so directs." Mr. Holland asked if there

would be Public Notice, and Mr. Enyart responded, "Yes, if and when it is to be updated, I would recommend it be advertised to the Public as broadly as possible to get all interested people to participate in the planning process."

Lance Whisman summarized the application thus: "This would not affect residential property, and if commercial, we can make it better than we can now." Erik Enyart indicated agreement.

Chair Thomas Holland asked if there was anyone else who wanted to speak on the item. No one else spoke on the item.

Chair Thomas Holland asked to entertain a Motion. John Benjamin made a MOTION to Recommend APPROVAL of BZ-361. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

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

10. **Zoning Code Text Amendment.** Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Zoning Code of the City of Bixby, Oklahoma, pursuant to Oklahoma Statutes Title 11 Section 43-101 et seq. and Bixby Zoning Code/City Code Title 11 Section 11-5-3, to replace the guidelines with new minimum standards within the Corridor Appearance District and Central Business District overlay districts, pursuant to Zoning Code Sections 11-7G and 11-7H.

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

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Tuesday, December 11, 2012
RE: Report and Recommendations for:
Zoning Code Text Amendment – Minimum Standards in Corridor Appearance District and Central Business District overlay districts

AGENDA ITEM:

Zoning Code Text Amendment. Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Zoning Code of the City of Bixby, Oklahoma, pursuant to Oklahoma Statutes Title 11 Section 43-101 et seq. and Bixby Zoning Code/City Code Title 11 Section 11-5-3, to replace the guidelines with new minimum standards within the Corridor Appearance District and Central Business District overlay districts, pursuant to Zoning Code Sections 11-7G and 11-7H.

BACKGROUND INFORMATION:

The Corridor Appearance District and similar Central Business District overlay districts were established by Ordinance # 814 passed 05/08/2000. They are now found in Title 11 Zoning Code Chapters 7G and 7H. The primary effect of those overlay districts was to mandate Planning Commission approval of a Detailed Site Plan, and to allow for the application of architectural / appearance

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standards. Design standards ("Guidelines") were adopted by the Architectural Committee, but they had no ordinance authority; they were "Guidelines" and have been treated as such.

The Corridor Appearance District currently exists along Memorial Dr. and 151st St. S. west of Memorial Dr., along 131st St. S. east of Memorial Dr., and 171st St. S. east of Memorial Dr. The Central Business District is defined as: "The "downtown area" of Bixby, to include the areas adjoining Needles, Dawes, and Breckenridge Avenues, up to and including the alleys north of and parallel to Needles Avenue and south of and parallel to Breckenridge Avenue, from Memorial Drive to Riverview Road."

In a City Staff meeting held September 04, 2012, the Mayor and City Staff discussed and reached a consensus on the propriety of replacing the Corridor Appearance District and Central Business District "guidelines" with enforceable Minimum Standards as follows:

- (1) Prohibiting bare metal sides of buildings facing public streets, requiring the same be full masonry to the first floor top plate, to include brick, stucco, EIFS or similar masonry-like product, stone, finished concrete tilt-up panels, or some combination thereof,
- (2) An Appeal/Waiver provision: Applicant can appeal the interpretation of the masonry/finish standard or ask the Council to reduce or Waive it altogether, and
- (3) City Council prerogative on exceptional architecture: The City Planner may refer a proposed structure to the Council for approval if determined to be of exceptional character, iconic, or potentially offensive.

This matter was an outgrowth of a recent Zoning Code Text Amendment, which the Planning Commission reviewed and recommended on August 20, 2012. The overlay districts were amended by Ordinance # 2091, approved by the City Council on September 10, 2012. Among other things, that amendment did the following:

- Removed the requirement for Planning Commission approval of Detailed Site Plans within the overlay districts.
- Removed the requirement for Planning Commission approval of all signs within the overlay districts.
- Required a site plan application for building permits for buildings other single-family and duplex residential structures and those used agriculturally. Such site plans are approved by City Staff in the context of a Building Permit application.
- Replaced the suggestive "guidelines" in each overlay district with new, enforceable "Minimum Standards," to be promulgated and adopted by the City Council later.

This final item is what is being presented to the Planning Commission for review and recommendation at this time. On October 16, 2012, the City Manager directed Staff to proceed with the Minimum Standards amendment to the Zoning Code.

Also in that September 04, 2012 meeting, the Mayor expressed favor for extending the Corridor Appearance District overlay district along 151st St. S. from Memorial Dr. to Riverview Rd. On October 25, 2012, the City Manager signed the rezoning application BZ-361, to extend the Corridor Appearance District. BZ-361 is also on this December 17, 2012 Planning Commission agenda for consideration.

Also as related to this matter, Staff prepared a site plan application capturing all the information needed by the different departments to compare development plans to the requirements of the Zoning Code, Building Code, Fire Code, and other applicable codes. To ensure the most efficient and expeditious development project reviews, architects, engineers, planners, or other design professionals can use the form as a checklist of information to submit with the Building Permit application. Staff also updated the other planning- and zoning-related application forms to create a consistency of design, including the City's logo, and to reconcile the forms with the information actually required for each application. The City Manager indicated his approval of the site plan application form by email on 11/08/2012 and reported his approval of all the application forms to the City Council at a recent meeting.

ANALYSIS:

While imposing absolute minimum standards for architectural / construction quality is the prerogative of the City Council, Staff believes the same should add to the aesthetic value of the City. The proposed amendments are the product of City Staff consensus, and are thus recommended for Approval.

Erik Enyart stated that, since the publication of the Staff Report, someone had asked him about the possibility of using wood, but that had not been previously discussed among City Staff. Mr. Enyart stated that it may be worthy of the Commission's discussion and consideration.

Chair Thomas Holland expressed concern that the proposed amendment had language allowing the masonry requirement to be appealed to City Council. Erik Enyart stated, "My response to that is, it's better to have something than nothing. Developers can always appeal these things" to the City Council or otherwise. Mr. Enyart stated that, even if that provision was not included, they could appeal the masonry requirement to the Board of Adjustment. A Commissioner asked why the appeal would go to the City Council. Mr. Enyart stated, "Architectural aesthetics are most definitely a legislative function, and to take an appeal to the Board of Adjustment as a Variance doesn't do justice to the intent behind this."

The Commissioners discussed, for a time, the use of wood as an exterior material. Chair Thomas Holland noted that *The Refuge [Lifestyle]* business on 151st St. S. had a wood-faced building, and suggested other businesses may want this kind of look as well. Mr. Holland asked if wood construction was allowed under the Building Code. Erik Enyart stated that he did not know if it was allowed by the new Building Code or Fire Code. Mr. Holland clarified that he was not referring to a concrete building with wood siding attached. Mr. Enyart deferred to City Attorney Patrick Boulden, who had recently administered the adoption of new commercial Building Codes. Mr. Boulden described the new Building Codes and fire wall requirements. Mr. Enyart stated that wood had not been discussed by City Staff when they determined a consensus opinion, and in the rare event that a commercial business wanted to use wood siding, they could always appeal to the City Council. Mr. Enyart stated that, in that case, he would think they would have a good argument for the Council, if wood was a planned part of their architectural motif.

Chair Thomas Holland expressed concern that, the way the amendment was written, it would be too easy to get the City Council to waive the masonry requirement. Lance Whisman stated that he was pleased that the City Council listened to the Commission when it recommended retaining the guidelines, and indicated he considered this a step in the right direction.

Lance Whisman made a MOTION to Recommend APPROVAL of the proposed Zoning Code Text Amendment as recommended by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

Chair Thomas Holland asked if anyone else was signed in to speak that had not yet had a chance. Two (2) people asked about Agenda Item Number 3. Chair Thomas Holland and Erik Enyart stated that the Commission had Continued Agenda Items Numbered 2 through 7 to the January 21, 2012 meeting. The two (2) people left at this time.

Chair Thomas Holland asked if there were any [Bixby Metro Chamber of Commerce's Leadership Bixby XI interns] present to be recognized. There were none at this time.

PLATS

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OTHER BUSINESS

11. **BSP 2012-02 – “Andy’s Frozen Custard” – Lewis Engineering, P.L.L.C. (PUD 63).**
Discussion and consideration of a Detailed Site Plan and building plans for “Andy’s Frozen Custard,” a Use Unit 12 restaurant development for Lot 2, Block 3, 101 South Memorial Plaza.
Property located: 8251 E. 102nd St. S.

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

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Friday, November 30, 2012
RE: Report and Recommendations (Revised 12/17/2012 to reflect the revised plans and information received 12/14/2012) for:
BSP 2012-02 – “Andy’s Frozen Custard” – Lewis Engineering, P.L.L.C.

LOCATION: – Approximately the 11900-block of S. Memorial Dr.
– Lot 7 and the N. 42’ of Lot 8, Block 1, Bixby Centennial Plaza
LOT SIZE: 1 acre, more or less, in two (2) parcels
LOCATION: – Lot 2, Block 3, 101 South Memorial Plaza
– 8251 E. 102nd St. S.
SIZE: 0.73 acres, more or less
EXISTING ZONING: CG General Commercial District & CS Commercial Shopping Center District with PUD 63 for “101 South Memorial Plaza”
DEVELOPMENT TYPE: Approval of Detailed Site Plan including as elements: (1) Detailed Site Plan, (2) Detailed Landscape Plan, and (3) Detailed Lighting Plan, (4) Detailed Sign Plan, and (5) building plans and profile view / elevations pursuant to PUD 63 for a Use Unit 12 frozen custard restaurant development
SURROUNDING ZONING AND LAND USE:
North: CS/PUD 65; The Sprouts Farmers Market specialty grocery store (under construction), the CVS/Pharmacy, and the vacant commercial Lot 5, Block 1, 101 Memorial Square.
South: (South of 102nd St. S.) CS, CG, & PUD 63; vacant commercial Lot 1, Block 2, 101 South Memorial Plaza and the ALDI grocery store in 101 South Memorial Center.
East: (east of 83rd E. Ave.) CS & CS/PUD 63; The Holiday Inn Express & Suites Tulsa South/Bixby in 101 South Memorial Plaza, the vacant Tract D in 101 South Memorial Center east of 85th E. Ave., the vacant north balance of Tract C in 101 South Memorial Center to the northeast, the Warren Clinic doctor’s office in Landmark Center to the northeast across 85th E. Ave., and the Dickinson Starworld 20 movie theater to the southeast in 101 South Memorial Center.
West: CG, CS, & PUD 65; The new Whataburger fast-food restaurant, the Schlotzsky’s Deli restaurant and the vacant commercial Lot 1, Block 1, 101 South Memorial Plaza to the southwest across 102nd St. S., and Memorial Dr.
COMPREHENSIVE PLAN: Corridor + Medium Intensity + Commercial Area
PREVIOUS/RELATED CASES: (Not a complete list and does not include TMAPC-jurisdiction areas)
BZ-89 – Ron Koepf – Request for rezoning from AG to CG for 3.6 acres, which included most of subject property – Recommended for Approval by PC 04/28/1980 and Approved by City Council 05/19/1980 (Ord. # 401).

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

BL-352 – American Southwest Properties, Inc. – Request for Lot-Split to separate northern part of Tract C of 101 South Memorial Center from balance of property, which was later included in PUD 63 and the plat of 101 South Memorial Plaza (PUD and plat include subject property) – Conditionally approved by PC 04/21/2008.

PUD 63 – 101 South Memorial Plaza – American Southwest Properties, Inc. – Request for PUD approval for land later platted as 101 South Memorial Plaza (includes subject property) – Conditionally approved by PC and City Council in April/May of 2008 (Ord. # 1004).

Preliminary Plat of 101 South Memorial Plaza – Request for Preliminary Plat approval for 101 South Memorial Plaza (includes subject property) – Conditionally approved by PC and City Council in April of 2008. The City Council also approved a Modification/Waiver from the street right-of-way widths to allow the 30' to 40' right-of-way widths as proposed.

Final Plat of 101 South Memorial Plaza – Request for Final Plat approval for 101 South Memorial Plaza (includes subject property) – PC recommended Conditional Approval on 10/20/2008 and City Council Conditionally Approved 10/27/2008.

Revised Final Plat of 101 South Memorial Plaza – Request for Revised Final Plat approval for 101 South Memorial Plaza (includes subject property) – PC recommended Conditional Approval on 04/19/2010 and City Council Conditionally Approved 04/26/2010 (plat recorded 07/30/2010).

BACKGROUND INFORMATION:

On Friday, December 14, 2012, the Applicant submitted revised electronic copies of the “Site Plan” and “Landscape Plan” drawings by Bill Lewis of Lewis Engineering, P.L.L.C. Included were two (2) different versions: One showing the site laid out essentially as originally submitted, and the other reducing the number of parking spaces to the maximum allowable under the Zoning Code, 16. Printouts of both version sets have been attached to this revised report.

ANALYSIS:

Property Conditions. The vacant subject property consists of Lot 2, Block 3, 101 South Memorial Plaza and is zoned CG with a narrow strip of CS along the easterly side, and is within PUD 63. The subject property is gently sloped and will drain through an underground stormsewer system in a southeasterly direction to an upstream tributary of Fry Creek # 1, which tributary flows to the southeast through 101 South Memorial Center, Regal Plaza, South Country Estates, and the Legacy additions before its confluence with Fry Creek No. 1 near 107th St. S. and 91st E. Ave.

Tract F in 101 South Memorial Center, located immediately south of the Dickinson Starworld 20 movie theater, contains a stormwater detention facility. This facility has been enlarged, and the stormsewer pipe systems have been extended and enlarged, to accommodate the additional stormwater detention and drainage capacity necessary to serve the new commercial developments in 101 South Memorial Plaza and 101 Memorial Square.

General. The submitted plan-view Site Plan drawings consist of (1) a “Site Plan” drawing by Bill Lewis of Lewis Engineering, P.L.L.C. and (2) a “Site Plan” drawing A101 by architect Hufft Projects. Per building footprint dimensions on the Lewis Engineering, P.L.L.C. “Site Plan” drawing and the number reported on the “Landscape Plan,” the building will have 2,150 square feet of floor area. Based on building “Elevations” drawings A301 and A302, the building will not exceed 15' 2 1/8" in overall height.

The Site Plan represents a conventional, suburban-style design and indicates the proposed internal automobile traffic and pedestrian flow and circulation and parking. The subject property lot conforms to PUD 63 and, per the plans generally, the 1-story building would conform to the applicable bulk and area standards for PUD 63 and the underlying CG and CS districts.

Fire Marshal's and City Engineer's memos are attached to this Staff Report. Their comments are incorporated herein by reference and should be made conditions of approval where not satisfied at the time of approval.

The Technical Advisory Committee (TAC) reviewed this Detailed Site Plan on December 05, 2012. The Minutes of the meeting are attached to this report.

Access and Internal Circulation. The development will have a driveway entrances on 102nd St. S. and 83rd E. Ave., both private streets located within Mutual Access Easements (MAEs).

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The provided drawings indicate driveway access points and the widths of the proposed driveways and their curb return radii. All these dimensions must comply with applicable standards and City Engineer and/or Fire Marshal requirements.

Both 102nd St. S. and 83rd E. Ave. are subject to 8'-wide Sidewalk Easements per the plat of 101 South Memorial Plaza. The Sidewalk Easements have been represented on the Lewis Engineering, P.L.L.C. drawings but need to be represented on A101 along both streets if they are not already, and labeled as appropriate. The Site Plans ~~do not currently, and need to show the sidewalks to be constructed along both streets within the Sidewalk Easements.~~ The revised "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. now represent 5'-wide sidewalks along both streets as required. A revised site plan has not been received from the Architect.

A sidewalk will flank the south/front and east/side of the building, and will connect pedestrians between the parking lots to the building entrances on these sides (reference Zoning Code Section 11-10-4.C). The sidewalks are not dimensioned on the plans, but appear appropriate in width.

Parking Standards. The provided drawings indicate parking lots on the east and west sides of the building with a total of 31 parking spaces. Zoning Code Section 11-9-12.D requires a minimum of 14 parking spaces for a 2,150 square foot building. Zoning Code Section 11-10-2.H provides a "minimum plus 15%" maximum parking number cap, to prevent excessive parking that results in pressure to reduce greenspaces on the development site. The maximum number of parking spaces allowed for this property, for 2,150 square feet, is 16 parking spaces (reference Zoning Code Section 11-9-12.D), and a total of 31 parking spaces is proposed. Therefore, a Special Exception or PUD Major Amendment may be requested to allow the additional parking spaces proposed. The revised "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. include alternative versions showing only 16 parking spaces.

The proposed 8.5' X 18' regular parking space dimensions (most at a 90° angle but the strip along the west property line at ~~an undefined, acute~~ a 45° angle) comply with the minimum standards for the same per Zoning Code Section 11-10-4.A, or otherwise are appropriate and may be approved by this Detailed Site Plan per Section 11-10-4. ~~However, the proposed angle of the parking needs to be labeled.~~

Two (2) handicapped-accessible parking spaces are indicated on the provided Site Plans, one (1) of which is stated will be of a van-accessible design. At 31 spaces, the two (2) handicapped-accessible parking spaces meet the minimum number required by ADA standards (Table 208.2 Parking Spaces / IBC Table 1106.1 Accessible Parking Spaces).

ADA guidelines require one (1) van-accessible design for the handicapped-accessible space, for up to seven (7) accessible spaces (reference New ADAAG Section 208.2.4, DOJ Section 4.1.2(5)b, and IBC/ANSI Section 1106.5). The Site Plan indicates one (1) ADA space will be of van-accessible design, as required.

The Applicant has provided Parking Space Detail showing the regular and van-accessible handicapped-accessible parking spaces and access aisle with dimensions as required. While the van-accessible space does, the regular accessible space does not indicate compliance with the 4" "hairpin" striping standards Zoning Code Section 11-10-4.C Figure 3. During the design of these features, the Applicant should confirm with the Building Inspector that the parking and the entire site complies with applicable ADA requirements, including accessible parking spaces and access aisles, appropriate signage reserving the spaces, etc.

The provided Parking Space Detail indicates the signs reserving the van-accessible space will be posted in front of each space, as appropriate. ~~mounted to the building. However, based on the relative location of the access aisle to the front/south end of the building on the Lewis Engineering, P.L.L.C. "Site Plan" drawing, and recognizing the surface of this part of the building is glass panel, building mounting would not appear possible. It is possible that the accessible parking spaces will be located further north, as per the "Site Plan" drawing A101. At that location, the building exterior is still glass panel, and the sign location centered on the access aisle centerline would put it on the main entrance doors. The provided photo of the Joplin example indicates a standard pole-mounted sign. Whether building-mounted or pole-mounted, signage to be used for reserving the spaces needs to be provided and approved as a part of this PUD Detailed Site Plan.~~

Zoning Code Section 11-10-3.B Table 1 would normally require a 7.5' minimum parking lot setback from both 102nd St. S. and 83rd E. Ave. However, those streets have no public or private right-of-way per the plat of 101 South Memorial Plaza. The setback cannot be reduced less than 5', however, due to minimum landscaping requirements (see landscaping analysis in this report).

The plans show internal drives and parking spaces being paved over certain Utility Easement areas along the north and west sides of the subject property. If allowed, paving over such easements requires the specific approval of the City Engineer and Public Works Director.

~~A loading berth is indicated as not indicated. A minimum of one (1) loading berth is required per Zoning Code Section 11-9-12.D. The 12' X 30' loading area is planned within the drive-through lane, as allowable, and appears to and the same must comply with the dimensional standards of Zoning Code Section 11-10-5.A, or a Variance or PUD Major Amendment may be requested in order to remove the loading berth requirement.~~

Screening/Fencing. The subject property does not abut an R district, and so the Zoning Code and PUD 63 do not require sight-proof screening for any of the property lines. No fences are proposed.

PUD 63 Section E.4.a provides:

"There shall be no storage of recyclable materials, trash or similar material outside a screened receptacle. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen by persons standing at ground level."

A "Trash Container" area will be placed at the northwest corner of the site within a three-sided screening enclosure. However, it does not indicate a gate, as required by PUD 63. Further, the dumpster area enclosure is not detailed in profile view / elevations or plan view on any of the provided drawings. It is represented on both Site Plan drawings, but its composition, dimensions, color, and other such details have not been indicated. These details need to be provided and approved as a part of this Detailed Site Plan.

~~Recognizing the curbline indicated, the "Trash Container" area does not appear to be shown on a paved surface. The "Site Plan" drawing by Lewis Engineering, P.L.L.C. indicates an extra paving thickness for "dumpster concrete," suggesting paving is intended (and paving is necessary to function properly, and way). This should be addressed as appropriate, including adjusting paved versus non paved surface calculations if/as required.~~

Depending on the particular waste disposal needs of the respective restaurants, the Applicant may want to consider approaching the adjacent Whataburger restaurant to see if agreement can be reached to share the usage and costs of their waste facility.

Landscape Plan. The Landscape Plan consists of the "Landscape Plan" drawing by Bill Lewis of Lewis Engineering, P.L.L.C. The proposed landscaping is compared to the Zoning Code as follows:

1. 15% Street Yard Minimum Landscaped Area Standards (Section 11-12-3.A.1): Standard is not less than 15% of the Street Yard area shall be landscaped. The westerly curbline of 83rd E. Ave. may ~~not~~ be located west of the 15' Mutual Access Easement, as Staff has noted elsewhere in this report. Provided the westerly curbline along 83rd E. Ave. is coterminous with the 15' setback line along same, by interpretation or, if slightly west of the 15' line, by the Planning Commission's approval of this Site Plan using the flexibility afforded by language pertaining to landscaping in PUD 63, the landscaped strip west of and including this line will be recognized as a connected, extended Street Yard landscaped area for purposes of compliance with this and related landscaping standards. However, percentage calculations for Street Yard landscaped area have not been provided, and parking lot setbacks have not been provided along either 102nd St. S. or 83rd E. Ave., which would allow for determination by Staff. **Compliance with this standard cannot be determined.**
2. Minimum Width Landscaped Area Strip Standards (Section 11-12-3.A.2 and 11-12-3.A.7): Standard is minimum Landscaped Area strip width shall be 7.5', 10', or 15' along abutting street rights-of-way. The subject property does not have the typical 7.5' landscaped strip requirement along non-arterial streets 102nd St. S. or 83rd E. Ave., as those streets have no right-of-way and the setback applies to the property lines (presumably the centerlines) per PUD 63. However, the landscaped areas must have a minimum diameter or strip width of 5' per Zoning Code Section 11-12-3.B.1 and contain at least one (1) tree. Landscaped strip widths along the north, south, and east property lines have not been provided. If it is not wide enough to meet the minimum standard, the deficiency must be corrected. **Compliance with this standard cannot be determined.**
3. 10' Buffer Strip Standard (Section 11-12-3.A.3): Standard requires a minimum 10' landscaped strip between a parking area and an R Residential Zoning District. There are no R districts abutting. **This standard is not applicable.**

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4. Building Line Setback Tree Requirements (Section 11-12-3.A.4): Standard is one (1) tree per 1,000 square feet of building line setback area. Building setbacks per Development Area B of PUD 63 are as follows:

From the west boundary 11 feet
From the east boundary 15 feet (presumably also the centerline of 83rd E. Ave.)
From the north boundary 11 feet
From the south boundary 25 feet (presumably also the centerline of 102nd St. S.)

Resultant tree requirement calculations are as follows:

West Boundary Setback Tree Requirements: 11' setback X west property line at 165' = 1,815 square feet / 1,000 square feet = 2 trees required in the West Boundary Setback Area. Two (2) trees not otherwise allocated are proposed in this Setback Area. **This standard is met for the West Boundary Setback Area.**

East Boundary Setback Tree Requirements: 15' setback X width of 83rd E. Ave. frontage at 164.59' = 2,469 square feet / 1,000 square feet = 3 trees required in the East Boundary Setback Area. By interpretation (see above), three (3) trees not otherwise allocated are proposed in this Setback Area. **This standard is met for the East Boundary Setback Area.**

North Boundary Setback Tree Requirements: 11' setback X north property line at (192 feet – West Boundary Setback width of 11' – East Boundary Setback width of 15' =) 166' = 1,826 square feet / 1,000 square feet = 2 trees required in the North Boundary Setback Area. ~~Two (2) are proposed in this Setback Area.~~ **This standard is not met for the North Boundary Setback Area.**

South Boundary Setback Tree Requirements: 25' setback X width of E. 102nd St. S. frontage at (192 feet – West Boundary Setback width of 11' – East Boundary Setback width of 15' =) 166' = 4,150 square feet / 1,000 square feet = 5 trees required in the South Boundary Setback Area. Three (3) trees not already counted are proposed in this Setback Area. **This standard is not met for the South Boundary Setback Area.**

Due to the ~~North and~~ South Boundary Setback Areas, which are each is missing two (2) trees, **this standard is not met.**

5. Maximum Distance Parking Space to Landscaped Area Standard (Sections 11-12-3.B.1 and 11-12-3.B.2): Standard is no parking space shall be located more than 50' or 75' from a Landscaped Area, which Landscaped Area must contain at least one (1) or two (2) trees. ~~75' radii have been added, centered on certain landscaping trees (though not required to be). For a lot containing 0.73 acres, the standard calls for a maximum of 50' spacing, with one (1) tree. The spaces along the north side of the parking lot strip immediately east of the building may not comply with this standard. Compliance with this standard cannot be determined. Per the revised "Landscape Plan," this standard is met.~~
6. Street Yard Tree Requirements (Section 11-12-3.C.1.a): Standard is one (1) tree per 1,000 square feet of Street Yard. The Street Yard is the Zoning setback along an abutting street [right-of-way]. Because neither 102nd St. S. nor 83rd E. Ave. have rights-of-way and PUD 63 provided setbacks applicable to Development Area boundaries instead, and because the tree ratio standard is the same as required for Setback Areas per Section 11-12-3.A.4, analysis for this standard is provided in the section pertaining to Section 11-12-3.A.4.
7. Tree to Parking Space Ratio Standard (Section 11-12-3.C.2): Standard is one (1) tree per 10 parking spaces. 31 parking spaces proposed. $31 / 10 = 3.1 = 4$ (1/10 of a tree is not possible, and minimum numbers of required trees are not rounded-down) trees required by this standard. Excluding the Setback Area and Street Yard trees already accounted for, there ~~are no additional trees~~ is one (1) tree proposed just north of the 25' Building Line at the southwest property corner. **This standard is not met.**

8. Parking Areas within 25' of Right-of-Way (Section 11-12-3.C.5.a): Standard would be met upon and as a part of compliance with the tree standard per Section 11-12-3.C.1.a.
9. Irrigation Standards (Section 11-12-3.D.2): A note on the "Landscape Plan" drawing provides "Trees Landscaping will be irrigated underground." Zoning Code Section 11-12-3.D.2 requires all required landscaping be irrigated, ~~not just trees~~. Zoning Code Section 11-12-4.A.7 requires the submission of plans for irrigation, but plans have not been submitted. **This standard is not met.**
10. Miscellaneous Standards (Sections 11-12-4.A.5, 11-12-3.C.7, 11-12-3.D, etc.): The tree planting diagram(s), reported heights and calipers of the proposed trees, the notes on the "Landscape Plan" drawing, and other information indicates compliance with other miscellaneous standards, with the following exceptions:
 - a. The proposed tree height is not provided (6' height minimum if Amur Maple is considered "ornamental," or otherwise 8' in height if considered a "canopy" tree).
 - b. A note on the Landscape Plan misspells "caliper" as "calipher."
 - c. Another note on the Landscape Plan uses numbers "5" and "8" in regard to the number of Amur Maple trees required and proposed to be planted. The incorrect "(5)" ~~should be removed~~ numbers "11" should be corrected in both instances consistent with the interpretation provided in this report.

Until the above are resolved, **this standard is not met.**

11. Lot Percentage Landscape Standard (Section 11-7I-5.F; PUDs only): Standard is 10% of a commercial lot must be landscaped open space. Per the notes on the plan, 4,896 square feet would be landscape area, which would be approximately 15% of the lot area of approximately 0.73 acres. However, Staff is not confident in the numbers provided since the lot area reported was 0.661 acres, which is not consistent with the 0.73 acres reported on the recorded plat of 101 South Memorial Plaza. Further, these numbers ~~may~~ did not change with the addition of the required sidewalks, dumpster area concrete, and rounded corners with this revised plan, ~~and any other amendments which may be determined necessary to comply with code requirements.~~

Compliance with this standard cannot be determined.

Exterior Materials and Colors. "Elevations" drawings A301 and A302, an un-named conceptual artists' rendering with page number "5," a daytime photo of an Andy's location in Joplin, MO, and an evening photo of the same location, indicate the proposed exterior materials and colors. The exterior material will primarily consist of (1) glass panels mounted to an "EFCO 5500 curtain wall system," (2) "reclaimed masonry veneer," and (3) "Western Red Cedar siding." Color information was not specified, but is no longer required within the Corridor Appearance District per Ordinance # 2091 approved September 10, 2012, and is not required by PUD 63. Based on the un-named conceptual artists' rendering with page number "5," the "reclaimed masonry veneer" would appear to be mottled mix of different shades of brown and tan bricks or brick veneer. Based on the photos of the Joplin, MO location, the bricks/veneer may be more uniformly colored dark brown. Based on the same sources, the "Western Red Cedar siding" appears to be just that with a finish.

Based on building "Elevations" drawings A301 and A302, the building will have an architecturally-distinctive concave roofline, extended beyond the building to form a large overhanging eave to the south and east, and will not exceed 15' 2 1/8" in overall height. The roof will not be visible at ground level.

Outdoor Lighting. The lighting plans consist of (1) "Site Lighting Plan," and (2) "cut sheets" showing the proposed sizes and models of pole-mounted lights, which appear typical for a suburban restaurant application.

The eave trim will include red and white runs of neon lights, per the elevations drawings and other exhibits. Also, what appear to be recessed dome lights will be located on the undersides of eaves.

PUD 63 limits lighting to 20' in vertical height. The words "(ON 20' SQUARE STEEL POLE)" used in each case of pole-mounted lights suggests a 20' pole light height. At the TAC meeting, the Architect indicated the poles will be mounted on three (3) foot concrete base, and so the pole height would be reduced to 17' in width. This needs to be reflected on the lighting plans.

Assuming a 20' mounting height and recognizing the short stature of the building, the proposed lighting complies with applicable standards. As there are no single family residential areas within relatively close proximity, and recognizing the location of the property in relation to existing and planned

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commercial in all directions, the proposed lighting appears appropriate for this development in its context.

Signage. As per PUD 63 Section E.2.b, the required PUD "detail sign plan" is recognized as consisting of (1) a wall sign plan by Pinnacle Sign Group, (2) a pylon ground sign plan by Pinnacle Sign Group, and (3) representation of signage information on other plan sheets.

The building "Elevations" drawings A301 and A302 indicate the locations and relative sizes of the five (5) wall signs: one (1) neon-lighted identification sign on the east/side elevation, one (1) neon-lighted identification sign on the west/side elevation, and three (3) "movie poster" signs to advertise sale products. The Pinnacle Sign Group represents the appearance of the identification sign, and the Joplin, MO example photos indicate the likely appearance of the "movie poster" signs. In aggregate, the wall signage complies with the maximum display surface area standards for PUD 63.

The "Site Plan" drawing ~~A101~~ by Lewis Engineering, P.L.L.C. indicates the location of one (1) "monument" (actually a pylon) ground sign at the southwest corner of the lot, and two (2) menuboard signs north of the building at the drive-through entrance, another menuboard sign at the southeast corner of the building, and incidental signage about the internal drives. The "Site Plan" drawing A101 indicates only the "monument" sign and two (2) menuboard signs, located differently than the "Site Plan" drawing by Lewis Engineering, P.L.L.C. ~~indicates the location of this ground sign, but does not identify it, and does not indicate or identify either menuboard sign.~~

Because the "Site Plan" drawing by Lewis Engineering, P.L.L.C. is more detailed and contains required information that the "Site Plan" drawing A101 does not, it is recognized as the primary site plan, and A101 is an ancillary site plan providing the same, but less information. ~~Therefore, the primary "Site Plan" drawing by Lewis Engineering, P.L.L.C. needs to have the all the critical features listed on A101, including the ground sign and menuboard signs.~~

None of the sign plans represent dimensions or details of the menuboard signage. Presuming they face north toward the driver's side windows of ~~and~~ queued cars, as supported by interpretation of the "Site Plan" drawing A101, the signs would not appear visible from a public street, and so appear to be permit-able per Zoning Code Sections 11-7I-4.B.2.f.3 and 11-9-21.C.3.d. However, these menuboard signs need to be represented on all sign relevant site plans and approved as a part of this PUD Detailed Site Plan (PUD 63 Section E.2.b).

A structure is indicated on the building "Elevations" drawings A301 and A302, which the provided Joplin, MO example photos indicate may be a menuboard sign, which would likely face east in this case. The structure is not labeled on drawings A301 or A302, and is not indicated on A101 ~~the plan-view site plan drawings.~~ The Applicant should label as appropriate and provide signage information, ~~if it is to be a sign, or remove from plans if not actually proposed for this site.~~ If it is a menuboard sign, and if facing east, it would not appear visible from a public street, and so would appear to be permit-able per Zoning Code Sections 11-7I-4.B.2.f.3 and 11-9-21.C.3.d.

The Pinnacle Sign Group sign plan represents the one (1) proposed pylon ground sign. It appears to have a main identification sign element measuring approximately 8' horizontally by 8' horizontally by approximately 4' vertically. Thus, it forms a cube-like design, with opposing sides having the same copy, alternating between "Andy's" and "Frozen Custard." The pylon will also support, underneath the main identification sign, a changeable-letter message board sign element measuring 7 1/3' X 4'. Finally, at the top, the pylon would support a large, 50" X 105", 3-dimensional frozen custard cone. The total sign height has not been provided. Although there is no maximum height restriction in the underlying CG district, Zoning Code Section 11-7I-4.B.2.d restricts ground signs to 25' in height in PUDs.

The ground sign's aggregate display surface area has not been provided. When counting the sign faces of the 4-sided main identification sign all four (4) times (not allowing for the double-faced sign exclusion per Zoning Code Section 11-7I-4.B.2.e) and recognizing the 3-dimensional cone signage element's reported dimensions (50" X 105") as if each facet from every possible horizontal direction will contain an equal visible display surface area, but counting it only once because it is only humanly possible to see one facet at a time, Staff calculated the aggregate display surface area at approximately 197 square feet, well shy of the 576 square feet allowable for 192' of street frontage in the CG district with PUD 63.

~~Per the "Site Plan" drawings, it appears that the ground sign is proposed to be placed within the 15'-wide Utility Easement platted with 101 South Memorial Plaza. If allowed, placement of signage in such easements requires the specific approval of the City Engineer and Public Works Director. Otherwise, the signs must be relocated out of the easements.~~

~~Also, the sign would appear to overhang 8'-wide Sidewalk Easement platted with 101 South Memorial Plaza, and may be in conflict with the sidewalk which is required there (but not yet represented on the plans). The Applicant should check the mounting height of the changeable letter message board sign element and compare it to applicable sidewalk clearance standards for pedestrians and those covered by ADA standards, and make adjustments as required.~~

Most restaurants and other developments of this size will have incidental signage for traffic control and general identification information. The photographs of the Joplin, MO example indicate incidental signage. Standard directional signs at a maximum of 3 square feet in display surface area (reference Zoning Code Section 11-9-21.C.3.k), signs reserving the ADA accessible parking spaces, and any other such incidental signage must be provided for review for conformance to applicable Zoning standards.

Staff Recommendation. The Detailed Site Plan adequately demonstrates compliance with the Zoning Code and is in order for approval, subject to the following corrections, modifications, and Conditions of Approval:

1. Subject to compliance with all Fire Marshal and City Engineer recommendations and requirements.
2. The proposed driveways and their curb return radii must comply with applicable standards and City Engineer and/or Fire Marshal requirements.
3. Both 102nd St. S. and 83rd E. Ave. are subject to 8'-wide Sidewalk Easements per the plat of 101 South Memorial Plaza. The Sidewalk Easements need to be represented on A101 along both streets if they are not already, and labeled as appropriate.
4. The Site Plans ~~do not currently,~~ and need to show the sidewalks to be constructed along both streets within the Sidewalk Easements. The revised "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. now represent 5'-wide sidewalks along both streets as required. The Architect's revised site plan has not been received.
5. Per Zoning Code Section 11-10-2.H, the maximum number of parking spaces allowed for this property, for 2,150 square feet, is 16 parking spaces (reference Zoning Code Section 11-9-12.D), and a total of 31 parking spaces is proposed. Therefore, a Special Exception or PUD Major Amendment may be requested to allow the additional parking spaces proposed.

On Friday, December 14, 2012, the Applicant submitted revised electronic copies of the "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. Included were two (2) different versions: One showing the site laid out essentially as originally submitted, and the other reducing the number of parking spaces to the maximum allowable under the Zoning Code, 16. Approval of this Detailed Site Plan shall only attach to the site plan version as ultimately constructed.

- ~~6. Please label the angle of the parking spaces along the west property line.~~
7. For the regular handicapped-accessible parking space, please add to the Parking Space Detail the 4" "hairpin" striping per Zoning Code Section 11-10-4.C Figure 3.
8. During the design of the parking lots, the Applicant should confirm with the Building Inspector that the parking and the entire site complies with applicable ADA requirements, including accessible parking spaces and access aisles, appropriate signage reserving the spaces, etc.
9. The provided Parking Space Detail indicates the signs reserving the van-accessible space will be posted in front of each space, as appropriate. ~~mounted to the building. However, based on the relative location of the access aisle to the front/south end of the building on the Lewis Engineering, P.L.L.C. "Site Plan" drawing, and recognizing the surface of this part of the building is glass panel, building mounting would not appear possible. It is possible that the accessible parking spaces will be located further north, as per the "Site Plan" drawing A101. At that location, the building exterior is still glass panel, and the sign location centered on the access aisle centerline would put it on the main entrance doors. The provided photo of the Joplin example indicates a standard pole-mounted sign. Whether building-mounted or pole-mounted,~~ signage to be used for reserving the spaces needs to be provided and approved as a part of this PUD Detailed Site Plan.
10. Please dimension the proposed parking lot setbacks along both 102nd St. S. and 83rd E. Ave. and increase to 5' in width if not that already.

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11. The plans show internal drives and parking spaces being paved over certain Utility Easement areas along the north and west sides of the subject property. If allowed, paving over such easements requires the specific approval of the City Engineer and Public Works Director.
12. ~~Please add a minimum of one (1) loading berth per Zoning Code Section 11-9-12.D; the same must comply with the dimensional standards of Zoning Code Section 11-10-5.A, or a Variance or PUD Major Amendment may be requested in order to remove the loading berth requirement.~~
13. For the "Trash Container" area at the northwest corner of the site, please indicate a gate to be used to comply with the screening requirement of PUD 63 Section E.4.a.
14. For the "Trash Container" area at the northwest corner of the site, please provide, in profile view / elevations or plan view on any of the provided drawings, information on proposed composition, dimensions, color, and other such details, to be approved as a part of this Detailed Site Plan.
15. ~~As described in the analysis above, please address the paving configuration to attend the "Trash Container" area as appropriate. Adjust paved versus non-paved surface calculations if/as required.~~
16. Please resolve the 15% Street Yard Minimum Landscaped Area Standards (Section 11-12-3.A.1) matter as described in the Landscape Plan analysis above.
17. Please resolve the Minimum Width Landscaped Area Strip Standards (Section 11-12-3.A.2 and 11-12-3.A.7) matter as described in the Landscape Plan analysis above.
18. Please resolve the Building Line Setback Tree Requirements (Section 11-12-3.A.4) matter as described in the Landscape Plan analysis above.
19. ~~Please resolve the Maximum Distance Parking Space to Landscaped Area Standard (Sections 11-12-3.B.1 and 11-12-3.B.2) matter as described in the Landscape Plan analysis above.~~
20. Please resolve the Tree to Parking Space Ratio Standard (Section 11-12-3.C.2) matter as described in the Landscape Plan analysis above.
21. Please resolve the Irrigation Standards (Section 11-12-3.D.2) matter as described in the Landscape Plan analysis above.
22. Please resolve the Miscellaneous Standards (Sections 11-12-4.A.5, 11-12-3.C.7, 11-12-3.D, etc.) matter as described in the Landscape Plan analysis above.
23. Please resolve the Lot Percentage Landscape Standard (Section 11-7I-5.F; PUDs only) matter as described in the Landscape Plan analysis above.
24. Please correct "monument" qualifier of the ground sign on the "Site Plan" drawing A101 and on the "Site Plan" drawing by Lewis Engineering, P.L.L.C. to "pylon" or "ground" sign.
25. ~~On the "Site Plan" drawing by Lewis Engineering, P.L.L.C., please label the one (1) ground sign and indicate and label the two (2) menuboard signs along the north side of the property.~~
26. Please represent all proposed menuboard signs on the sign plans for approval as a part of this PUD Detailed Site Plan (PUD 63 Section E.2.b).
27. A structure is indicated on the building "Elevations" drawings A301 and A302, which the provided Joplin, MO example photos indicate may be a menuboard sign, which would likely face east in this case. The structure is not labeled on drawings A301 or A302, and is not indicated on A101 the plan view site plan drawings. The Applicant should label as appropriate and provide signage information, if it is to be a sign, or remove from plans if not actually proposed for this site. If it is a menuboard sign, and if facing east, it would not appear visible from a public street, and so would appear to be permit-able per Zoning Code Sections 11-7I-4.B.2.f.3 and 11-9-21.C.3.d.
28. On the ground sign plan by Pinnacle Sign Group, provide the proposed total ground sign height and reduce if/as required to comply with the 25' maximum height restriction of Zoning Code Section 11-7I-4.B.2.d.
29. ~~Per the "Site Plan" drawings, it appears that the ground sign is proposed to be placed within the 15' wide Utility Easement platted with 101 South Memorial Plaza. If allowed, placement of signage in such easements requires the specific approval of the City Engineer and Public Works Director. Otherwise, the signs must be relocated out of the easements.~~
30. ~~The ground sign would appear to overhang 8' wide Sidewalk Easement platted with 101 South Memorial Plaza, and may be in conflict with the sidewalk which is required there (but not yet represented on the plans). The Applicant should check the mounting height of the changeable-~~

~~letter message board sign element and compare it to applicable sidewalk clearance standards for pedestrians and those covered by ADA standards, and make adjustments as required.~~

31. Most restaurants and other developments of this size will have incidental signage for traffic control and general identification information. The photographs of the Joplin, MO example indicate incidental signage. Standard directional signs at a maximum of 3 square feet in display surface area (reference Zoning Code Section 11-9-21.C.3.k), signs reserving the ADA accessible parking spaces, and any other such incidental signage must be provided for review for conformance to applicable Zoning standards.
32. Please correct minor errors as follows:
 - a. Both "Site Plan" drawings represent certain linework indicating easements, but only a few are labeled along with their respective widths and applicable Document # citations on the "Site Plan" drawing by Lewis Engineering, P.L.L.C. All easements need to be labeled as to type, width, and Document # citations on all site plan drawings. Linetypes may be included in the Legend in lieu of labeling.
 - b. The "CS Zoning" label on both the "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. ~~do not appear to point to the correct linetype per the recorded plat of 101 South Memorial Plaza.~~ was removed on the revised plans, without notice. Information should not be removed between versions of submitted plans absent specific notice.
 - ~~c. The relative location of the linetypes and labels for the 8' Sidewalk Easement and (presumably) a Utility Easement on both the "Site Plan" and "Landscape Plan" drawings by Bill Lewis of Lewis Engineering, P.L.L.C. appear to be off as compared to the recorded plat of 101 South Memorial Plaza.~~
 - d. The curblineline for 83rd E. Ave. appears to exceed the 15' Mutual Access Easement width on A101. Unless it is being widened by the developer as a part of this project or is skewed, this relative representation may be off. This is based on the street section showing a 26' total width roadway per Exhibit A of PUD 65 and the 13' half-street roadway indicated by the easement lines designated on the plat of 101 Memorial Square. Please adjust as appropriate.
 - e. South 83rd E. Ave. is not labeled on any of the site plan drawings – please add.
 - f. "Site Plan" drawing by Bill Lewis of Lewis Engineering, P.L.L.C.: Please include word "(Private)" next to 102nd St. S.
 - g. The building "Elevations" drawings A301 and A302 appear to have the following errors:
 1. South-facing elevation labeled "East Elevation"
 2. East-facing elevation labeled "South Elevation" and appears inverted
 3. North-facing elevation labeled "West Elevation"
 4. West-facing elevation labeled "North Elevation" and appears inverted
 - h. The handicapped-accessible parking spaces on the two "Site Plan" drawings are inconsistent – please reconcile. Considering the building elevations drawings indicate the main entrance on the [east] side will be toward the center of the building (notwithstanding the possible building elevations mislabeling and inversion on the elevations drawings), the accessible spaces as indicated (albeit without access aisle) seem more appropriately situated on the "Site Plan" drawing A101.
 - i. Any changes made to site plan drawings made by either Lewis Engineering, P.L.L.C. or Hufft Projects need to correspondingly be made to all other drawings affected by the change.
 - j. The width of the bypass lane west of and paralleling the drive-through lane is inconsistent on the "Site Plan" drawings by Lewis Engineering, P.L.L.C. and Hufft Projects.
 - k. A 22'-wide linetype is indicated on "Site Plan" drawing A101 and on the "Site Plan" drawing by Lewis Engineering, P.L.L.C., but at 22' 2" in that case. The linetype does not appear to correspond to any geospatial features on the plat of 101 South Memorial Plaza. The linetypes need to be labeled and, if pointing to the same geospatial feature, they need to be reconciled as to width.
 - l. Any other existing inconsistencies between drawings, even if missed from this list, must be reconciled.

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33. *To complete the application submittal, please submit two (2) full-size copies and one (1) 11" X 17" copy (if any of them have a native size being 11" X 17", submit only 3 in that size in that case; if any of them have a native size 8.5" X 11", submit only 3 in that size in that case):*
 - a. *"Detailed Site Plan" cover sheet*
 - b. *"Site Plan" drawing A101*
 - c. *Conceptual rendering with page number "5"*
 - d. *Daytime photo of Andy's location in Joplin*
 - e. *Evening photo of Andy's location in Joplin*
 - f. *Pinnacle Sign Group wall sign plan*
 - g. *Pinnacle Sign Group ground/pylon sign plan*
34. *Please submit complete, corrected copies of the Detailed Site Plan incorporating all of the corrections, modifications, and conditions of approval as follows: Two (2) full-size hard copies, one (1) 11" X 17" hard copy, and one (1) electronic copy (PDF preferred).*
35. *Minor changes in the placement / locating individual trees or parking spaces, or other such minor site details, are approved as a part of this Detailed Site Plan, subject to administrative review and approval by the City Planner. The City Planner shall determine that the same are minor in scope and that such changes are an alternative means for compliance and do not compromise the original intent, purposes, and standards underlying the original placement as approved on this Detailed Site Plan, as amended. An appeal from the City Planner's determination that a change is not sufficiently minor in scope shall be made to the Board of Adjustment in accordance with Zoning Code Section 11-4-2.*
36. *At the TAC meeting, the Architect indicated the poles will be mounted on three (3) foot concrete base, and so the pole height would be reduced to 17' in width. This needs to be reflected on the lighting plans.*

Erik Enyart noted that, prior to the meeting, he had presented to the Commissioners a revised Staff Report reflecting a revised set of site plans, attached, and attaching a copy of the TAC Minutes, which had not been attached to the Staff Report in the Agenda Packet. Mr. Enyart noted that the Applicant had submitted two (2) different versions of the plans, one showing the 31 parking spaces as originally proposed, and one showing the 16 parking spaces allowed at maximum by the Zoning Code.

Chair Thomas Holland asked if the Applicant was present and wished to speak on the item. Bill Lewis of Lewis Engineering, P.L.L.C., and Kimball Hales, AIA, LEED AP, of Hufft Projects, 321 W. 40th St., Kansas City, MO, were present. Mr. Lewis stated that he would speak first, as his name was on the application. Mr. Lewis introduced Mr. Hales and Andy Kuntz, owner of *Andy's Frozen Custard*. Mr. Lewis stated that he and his client agreed with the standards [as expressed by Staff], but that their biggest concern was the number of parking spaces. Mr. Lewis stated that this restaurant required more parking spaces, since a lot of people like to get their frozen custard and sit down outside to enjoy it. Mr. Lewis stated that the problem normally is that [developers] don't want to have to build so many parking spaces, but this business wants them. Mr. Lewis stated that he and his client would be back to the Planning Commission for an Amendment to the PUD to cover the parking issue. Mr. Lewis stated that, at this time, he and his clients were seeking approval of both site plans, [one version showing only the maximum 16 parking spaces].

Bill Lewis stated that the PUD limits [ground] signs to 25' in height, but that there was no limit [in the underlying CG district] in the Zoning Code. Mr. Lewis stated the other item in the PUD Amendment would clarify that.

Kimball Hales of Hufft Projects, 321 W. 40th St., Kansas City, MO, stated that his company was working with Andy Kuntz on several of their new stores, the most recent of which was just

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constructed in Joplin. Mr. Hales stated that this would be similar to the Joplin location and would be their latest prototype plan, but that they try to improve on them each time. Mr. Hales stated that, also in attendance was Steve Owens, the franchisee. Mr. Hales stated that *Andy's* was a great business to work with. Mr. Hales stated that he appreciated the TAC process, which helped him and his design team to understand how they could meet the [regulatory review] process. Mr. Hales stated that *Andy's* needed a lot of parking, and at the peak business times of Friday and Saturday nights, the parking lots fill up quick. Mr. Hales stated that it would be safer to have the additional parking, as you will not have so many cars backing up or circling the parking lot waiting for parking spaces to open up. Mr. Hales stated that *Andy's* would like to have a 35'-high [ground] sign with the PUD Amendment. Mr. Hales stated that, at that height, it would be more visible from Memorial Dr, considering this is an interior lot. Mr. Hales stated that the [ground] sign would be well below the maximum [display surface area allowable], and so he and his client were talking to the sign company about locating a second sign at 83rd E. Ave., a monument sign. Mr. Hales asked the Commission for favorable consideration of the application.

Andy Kuntz of Springfield, MO, stated that he was proud to propose building his first store in the State of Oklahoma in Bixby. Mr. Kuntz stated that he was passionate about what he did, and that this store would have a family-owned franchisee. Mr. Kuntz stated that *Andy's* was involved in local elementary schools, and had been in business for 27 years this summer. Mr. Kuntz stated that *Andy's* gives frozen custard cups to kids on the last day of school, last year giving out 21,000 cups of custard. Mr. Kuntz stated that his philosophy was, if the business is not involved in the community, it will not succeed. Mr. Kuntz stated that he wanted this to be a place where, 10 years from now, people will be happy to take their kids to. Mr. Kuntz stated that there were 17 stores now, and he continued to build new ones.

Larry Whiteley asked if Andy Kuntz if he sold food, and Mr. Kuntz stated that he sold frozen custard, vanilla, chocolate, and seasonal flavors, assorted cones and toppings, drinks, etc., but not food.

A Commissioner asked Andy Kuntz if the new *Sprouts* grocery store would block the view of his store, and Mr. Kuntz stated that, actually, there were great sight lines between this site and *CVS*. The Commissioners discussed the location of the site from *ALDI* to the south. Erik Enyart and Kimball Hales clarified with the Commissioners that the subject property was located between *Whataburger* and the *Holiday Inn Express* hotel. Mr. Hales stated that, since it was an interior lot, they would need additional height for the signage. Mr. Hales explained that it was the frozen custard cone that would extend that high, not the main sign cabinet. Mr. Hales stated that the Joplin sign was 38' in height. Chair Thomas Holland stated that Joplin had a lot of tall signs. Mr. Hales stated that he had observed several tall signs in Bixby, as well. Mr. Holland acknowledged and expressed concern over sign heights in Bixby.

Erik Enyart clarified with Chair Thomas Holland and the other Commissioners that, with the two (2) site plan versions submitted and the way the recommendations were worded in the Staff Report, if the Commissioners Approved the Detailed Site Plan with the Conditions of Approval as recommended, it would not have to deal with the parking or signage issues at this time, and could take them up at the next meeting.

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John Benjamin made a MOTION to APPROVE BSP 2012-02 subject to the Conditions of Approval as recommended by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

OLD BUSINESS:

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

NEW BUSINESS:

Chair Thomas Holland asked if there was any 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 7:34 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary

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

STAFF REPORT

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Friday, November 30, 2012
RE: Report and Recommendations (Revised 12/17/2012 to reflect the revised plans and information received 12/14/2012) for:
BSP 2012-02 – “Andy’s Frozen Custard” – Lewis Engineering, P.L.L.C.

Placeholder for
Report not
fully re-
produced
here

LOCATION: – Lot 2, Block 3, *101 South Memorial Plaza*
– 8251 E. 102nd St. S.

SIZE: 0.73 acres, more or less

EXISTING ZONING: CG General Commercial District & CS Commercial Shopping Center District with PUD 63 for “101 South Memorial Plaza”

DEVELOPMENT TYPE: Approval of Detailed Site Plan including as elements: (1) Detailed Site Plan, (2) Detailed Landscape Plan, and (3) Detailed Lighting Plan, (4) Detailed Sign Plan, and (5) building plans and profile view / elevations pursuant to PUD 63 for a Use Unit 12 frozen custard restaurant development

SURROUNDING ZONING AND LAND USE:

North: CS/PUD 65; The *Sprouts Farmers Market* specialty grocery store (under construction), the *CVS/Pharmacy*, and the vacant commercial Lot 5, Block 1, *101 Memorial Square*.

South: (South of 102nd St. S.) CS, CG, & PUD 63; vacant commercial Lot 1, Block 2, *101 South Memorial Plaza* and the *ALDI* grocery store in *101 South Memorial Center*.

East: (east of 83rd E. Ave.) CS & CS/PUD 63; The *Holiday Inn Express & Suites Tulsa South/Bixby* in *101 South Memorial Plaza*, the vacant Tract D in *101 South*

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MINUTES
TECHNICAL ADVISORY COMMITTEE
DAWES BUILDING CITY OFFICES
113 W. DAWES AVE.
BIXBY, OK 74008
December 05, 2012, 2012 - 10:00 AM

MEMBERS PRESENT

Jim Peterson, *BTC Broadband*
Evelyn Shelton, *AEP-PSO*

STAFF PRESENT

Erik Enyart, *AICP, City Planner, City of Bixby*
Jim Sweeden, *Fire Code Enforcement Official, City of Bixby*

OTHERS PRESENT

JR Donelson, *JR Donelson, Inc.*
Bill Lewis, P.E., *Lewis Engineering, P.L.L.C.*
Andy Kuntz, *Andy's Frozen Custard*
Kimball Hales, *AIA, LEED AP, Hufft Projects*
Duane Suchy, *Bauer & Associates, REALTORS*
Dustin Eldridge [*Andy's Frozen Custard*]
Josh Alsip [*Andy's Frozen Custard*]
Clint Patterson, Esq., *Patterson Law Firm*

Placeholder for TAC
minutes not
fully reproduced
here

1. Erik Enyart called the meeting to order at 10:00 AM.
2. Approval of schedule of meetings and application submission deadlines for 2013.

Erik Enyart introduced the item and noted that it was something new. Mr. Enyart stated that, historically, the City Council always approved the TAC's schedule, but that this year, it was determined that the different bodies would approve their own schedules, and the Council would not. Mr. Enyart stated that the Board of Adjustment had approved its schedule, and the Planning Commission had approved its schedule. Mr. Enyart stated that he needed a Motion, Second, and vote to approve the proposed schedule. Mr. Enyart stated that other TAC members had already given their approval by email, and that he would get a majority of those technically listed as TAC members to ensure they were approved, including squeezing out any last votes needed for this purpose. Mr. Enyart noted that those in attendance listed as members included himself, Jim Sweeden, and Jim Peterson. Mr. Enyart asked to entertain a Motion. Jim Sweeden stated that he had no problem with it. Jim Peterson stated he had no problem with it. Erik Enyart stated that the schedule would be deemed approved [for those members present] by acclamation.¹

¹ Note: Additional votes were required to secure a majority of 12 of the 22 members determined to be a part of the TAC at this time. The file for this meeting contains a printout of the votes received by email.

BIXBY TAC MEETING
SIGN IN SHEET
Wednesday, December 05, 2012

NAME	COMPANY	PHONE
1. JR DONELSON		394-3030
2. Duane Suchy		918-521-4559
3. DUSTIN ELDEIDGE		417-461-2132
4. Joshi Alsip		479-422-8709
5. Jim Peterson	BTC Broadband	918-366-0253
6. Jim Swazek	Fire Marshal office	918-366-0936
7. Bill Lewis	Lewis Engr	918/254-4689
8. Evelyn Shelton	PSO	918-250-6249
9. Kimball Hales	Huff Projects	816-803-9288
10. Andy Kuntz	Andy's Frozen Custard	417-881-3500
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LEGEND

—SS—	SANITARY SEWER LINE
—W—	WATER LINE
—P—	PROPOSED FENCE
RAD	RADIUS
B/L	BUILDING LINE
U/E	UTILITY EASEMENT
FH	FIRE HYDRANT
to	TOP OF CURB
to	TOP OF PAVEMENT
G	GUTTER
TR	TOP OF RM
FL	FLOORLINE
F.F.	FRESH FLOOR
SS+0	SPOT ELEVATION
SAW	SANITARY
M.N.	MANHOLE
→	FLOW DIRECTION ARROW
⊙	PROPOSED TREES
⊙	HANDICAP SPACE
⊙	PROPOSED CONTROLS

OWNER:
 JRS LAND COMPANY LLC
 P.O. BOX 834
 CARTHAGE, MO. 64836
 417-348-2333

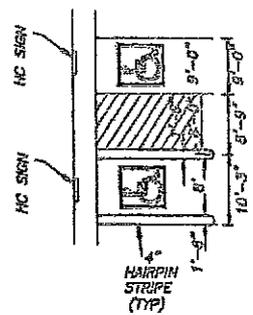
ENGINEER:
 LEWIS ENGINEERING PLLC
 6420 SO. 221ST E. AVE.
 BROKEN ARROW, OK. 74014
 918-254-4229
 C.A. NO. 3480 EXP. DATE 6/30/13
 EMAIL: BLEWIS@TULSACOMAIL.COM
 CONTACT: BILL LEWIS

PROPERTY DESCRIPTION
 LOT 2, BLOCK 3, 101 SOUTH MEDICAL PLAZA, AN ADDITION TO
 THE CITY OF BEVY, TULSA COUNTY, STATE OF OKLAHOMA

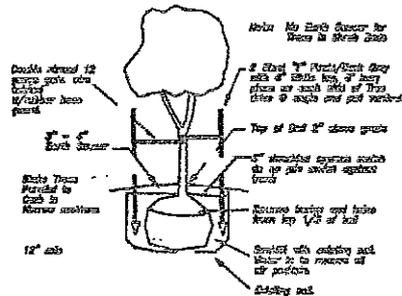
PROPERTY ADDRESS:
 8251 E. 102ND ST. SO.

ISSUED: 02/20/13

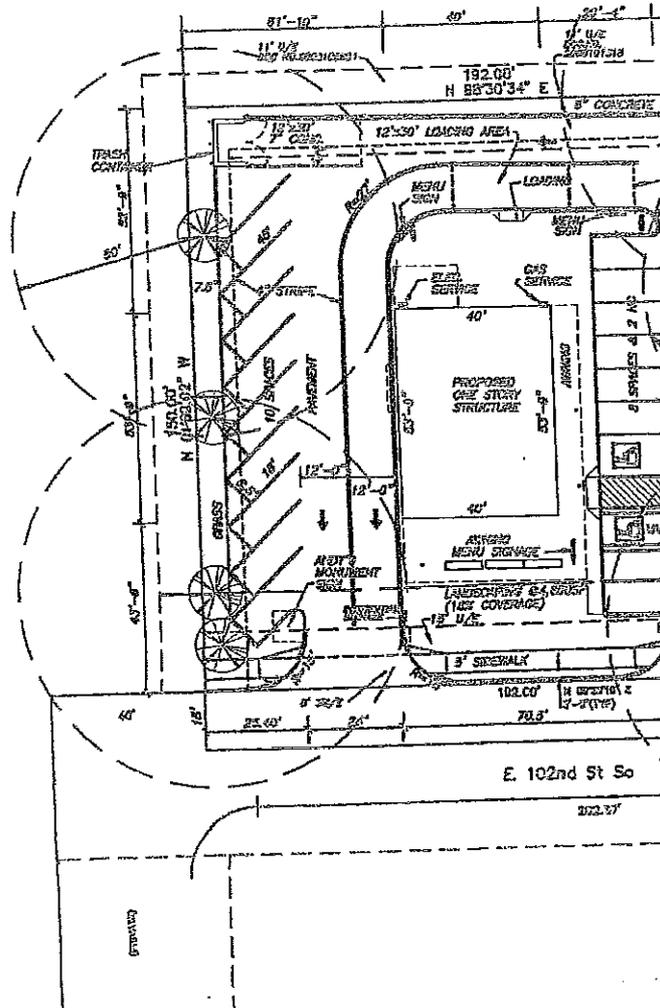
REVISION: 02/20/13



PARKING SPACE DETAIL



CONSTRUCTION NOTES:
 1. SET UP 1/2\"/>



ESSENTIAL CONTROL:
 The limits of Setbacks for the Site Plan are to be placed based on the 10' of front & 10' side setbacks 3' from the 10' of front & 10' of side setbacks.

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BIXBY PLANNING COMMISSION
SIGN IN SHEET
DATE: December 17, 2012

NAME	ADDRESS	ITEM
1. <u>Dustin Piercy</u>	<u>806 W. Riverview</u>	
2. <u>Kevin Blaker</u>	<u>8812 E 110th St</u>	
3. <u>Artene Trotter</u>	<u>560 N. Jeff Davis Dr</u>	<u>9</u>
4. <u>JAMES TURNER</u>	<u>307 E. McKenney</u>	<u>9</u>
5. <u>Don Bronsman</u>	<u>325 E. Needles</u>	<u>9</u>
6. <u>Kerry Vincent</u>	<u>Red V. Terrace Dr.</u>	<u>9</u>
7. <u>Brunilda Hogue</u>	<u>302 E NEEDLES</u>	<u>9</u>
8. <u>Robert Founds</u>	<u>707 E Washington</u>	<u>9</u>
9.	<u>231 E. Washington</u>	
10. <u>Kimball Hales</u>	<u>321 W. 40th KC, MO</u>	
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CITY OF BIXBY
P.O. Box 70
116 W. Needles Ave.
Bixby, OK 74008
(918) 366-4430
(918) 366-6373 (fax)

STAFF REPORT

To: Bixby Planning Commission

From: Erik Enyart, AICP, City Planner *EE*

Date: Thursday, January 10, 2013

RE: Report and Recommendations for:
BCPA-7 – Comprehensive Plan Amendment – JR Donelson, Inc. for Clinton Miller and Roger Metcalf,
PUD 74 – “RiverLoft ADDITION” – JR Donelson, Inc., and
BZ-362 – JR Donelson, Inc. for Clinton Miller and Roger Metcalf

LOCATION:

- North dead-end of Riverview Rd.
- Northwest corner of the intersection of Riverview Rd. and E. Westminster Pl. N.
- Part of Government Lot 7 lying West of the Centerline of Old U.S. Hwy 64 and lying North of Bentley Park in Section 13, T17N, R13E

LOT SIZE:

- 8 acres, more or less (entire tract)
- 0.61 acres, more or less (area requested for approval)

EXISTING ZONING: RS-2 Residential Single-Family District

EXISTING USE: Part of the Riverwalk Trail (area requested for approval) and part of the bank and bed of the Arkansas River (balance of subject property)

REQUESTED ZONING: RM-1 Residential Multi-Family District

SUPPLEMENTAL ZONING: None

SURROUNDING ZONING AND LAND USE:

North: AG; Arkansas River.

South: RS-2, RS-1, & RD; The Bentley Park Sports Complex, single-family residential and vacant lots zoned RS-1 in *Riverview Terrace Addition*, and duplexes zoned RD in *Riverview Terrace Addition*.

East: AG; The Arkansas River, a vacant 1.7-acre parcel belonging to the City of Bixby, and a house and agricultural land to the southeast on a 13-acre parcel.

West: AG, RS-2, RM-1/PUD 5, & RM-1/PUD 56; The Bentley Park Sports Complex, the Arkansas River, and vacant land zoned RM-1/PUD 56. The Riverwalk Trail continues to the northwest of the subject property.

COMPREHENSIVE PLAN: Water + Existing Regional Trail + Planned Regional Trail

PREVIOUS/RELATED CASES:

BZ-65 – Omah Miller – Request for rezoning from AG to RM-0, RD, RS-3, & FD for approximately 95 acres mostly to the south/west of subject property (now the *Pecan Valley Addition* and part of 148th St. S. and Bentley Park) – subject property included in that area zoned RS-2 – PC Recommended Approval of RD and RS-2 zoning on 04/24/1978 and the City Council Approved per PC recommendation in 08/1978 after a possible appeal per correspondence and notes in the case file (Ord. # 363).

BZ-357 – JR Donelson for Clinton Miller and Roger Metcalf – Request for rezoning from RS-2 to CS for subject property – Withdrawn by Applicant 11/09/2012 in favor of BCPA-7, PUD 74, and BZ-362.

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

Preliminary and Conditional Final Plat of Garden Spot Estates – Request for Preliminary and Conditional Final Plat approval for *Garden Spot Estates* on part of the approximately 95 acres to the south/west of subject property (now the *Pecan Valley Addition* and part of 148th St. S. and Bentley Park) – PC Conditionally Approved the Preliminary Plat only 09/11/1978.

Conditional Final Plat of Garden Spot Estates – Request for Conditional Final Plat approval for *Garden Spot Estates* on part of the approximately 95 acres to the south/west of subject property (now the *Pecan Valley Addition* and part of 148th St. S. and Bentley Park) – PC Conditionally Approved 07/11/1979 (recording information not available; plat evidently later vacated).

BZ-79 – Luther Metcalf – Request for rezoning from RS-1 to RD for Lots 6 and 12, Block 2, *Riverview Terrace Addition*, located across Riverview Rd. to the southeast of subject property at 406 & 410 E. Westminster Place – PC Recommended Approval 09/24/1979 and the City Council Approved 10/01/1979 (Ord. # 381).

BZ-100 – Hillis Inv. Corp. – Request for rezoning from [RD and] RS-2 to RM-1 for approximately 30 acres to the south/west of subject property (now the *Pecan Valley Addition* and part of 148th St. S. and Bentley Park) – PC Recommended Approval 02/23/1981 and the City Council Approved 03/02/1981 (Ord. # 421).

BZ-105 – Philip & June Winsett – Request for rezoning from RS-1 to RD for Lots 3 and 4, Block 3, *Riverview Terrace Addition*, located to the southeast of subject property at 805 N.

Terrace Dr. – PC Recommended Denial 05/26/1981 (evidently not appealed to City Council).

PUD 5 – Pecan Valley – WMD Development, LTD – Request for PUD zoning approval for a 160-unit townhouse development on approximately 31 acres to the south/west of subject property (now the *Pecan Valley Addition* and part of 148th St. S. and Bentley Park) – PC Recommended Approval of 03/28/1983 and the City Council Approved 04/04/1983 (Ord. # 479).

Preliminary and Conditional Final Plat of Pecan Valley Addition – Request for Preliminary and Conditional Final Plat approval for *Pecan Valley Addition* on part of the approximately 95 acres across Riverview Rd. to the west (now the *Pecan Valley Addition* and part of 148th St. S. and Bentley Park) – PC Approved 03/28/1983 and City Council Approved 04/04/1983 (plat recorded 05/11/1983).

BZ-220 – Joe Donelson for Jerry & Sandra Green – Request for rezoning from AG to CG & RM-1 for approximately 25 acres to the west/northwest of subject property – PC Recommended Approval 03/18/1996 and City Council Approved 04/22/1996 (Ord. # 740).

PUD # 42 – RiverOaks – Request for PUD overlay zoning for a mixed use riverfront development on approximately 20 acres to the west/northwest of subject property – PC Recommended Approval 06/20/2005 but not placed on the City Council agenda thereafter – PUD application assumed withdrawn.

BL-337 – JR Donelson for Jerry Green – Request for Lot-Split approval to separate a southerly area of approximately 20 acres from an original tract of approximately 25 acres to the west/northwest of subject property – PC approved in 2006.

BL-338 – JR Donelson for Jerry Green – Request for Lot-Split approval to separate the southerly approximately 20 acres created pursuant to BL-337 into CG- and RM-1-zoned sections of approximately 8.0 acres and 12.165 acres, respectively – PC approved in 2006.

PUD # 56 – South Village – Request for PUD overlay zoning for a mixed use riverfront development on approximately 20 acres to the west/northwest of subject property – PC Recommended Approval 03/19/2007 and City Council Approved 04/09/2007 (Ord. # 965).

BZ-326 – Kevin Partin of Free Properties, LLC for Roger Green – Request for rezoning from RS-1 to RD for all of Block 1, *Riverview Terrace Addition* to the south of subject property – PC recommended Denial 03/19/2007 (evidently not appealed to City Council).

PUD # 56 – South Village – Minor Amendment # 1 – Request for PUD Minor Amendment for to amend height and other bulk and area Development Standards for a mixed use riverfront development on approximately 20 acres to the west/northwest of subject property – Approved by PC January 21, 2008.

BZ-350 – David Bergman for Free Properties, LLC – Request for rezoning from RS-1 to RS-3 for Lot 5, Block 1, *Riverview Terrace Addition* to the south of subject property – PC recommended Approval 07/19/2010 and City Council Approved 08/09/2010 (Ord. # 2043).

BACKGROUND INFORMATION:

History of the Applications. BZ-357 requested a rezoning from RS-2 to CS commercial for subject property entire tract of eight (8) acres, more or less.

The Comprehensive Plan designates the subject property as “Water.” The “Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan” (“Matrix”) on page

27 of the Comprehensive Plan does not indicate whether or not the requested zoning would be in accordance with the Comprehensive Plan.

Staff interprets the "Water" designation to mean it is recognized as being in the Arkansas River and not planned for development. Therefore, Staff did not believe that the proposed CS zoning is in accordance with the Comprehensive Plan. Based on the Comprehensive Plan, in addition to lack of support from surrounding Zoning and land use patterns and other reasons, Staff did not recommend approval of CS Zoning per BZ-357. The Applicant Withdrew BZ-357 on 11/09/2012 in favor of these new applications BCPA-7, PUD 74, and BZ-362. BZ-362 requests RM-1 zoning, and all applications concern the 0.61 acres of the subject property lying south of the Riverwalk Trail, located immediately behind/north of the multipurpose building in Bentley Park.

The Nature and Value of the Comprehensive Plan. Comprehensive Plans are the result of intensive study, broadly garnered and comprehensive information, professional analysis and coordination, public input, and general consensus of the City's staff, Planning Commission, and City Council. They bring together all planning functions (e.g., housing, land use, transportation, physical environment, energy, infrastructure and community facilities, demographics, etc.), analyze and compare them all on the community-wide scale, relate them to specific geographical areas within the community (i.e. the Land Use Map), and consider all this with a long-range time perspective (e.g., 15-20 years into the future).

The Comprehensive Plan is a thorough, complete, and well researched policy document used to inform the Planning Commission, City Council, and the Public at large how land can best be developed and used (among other things), and so how rezoning applications should be accepted or rejected. Comprehensive Plans, when followed, prevent arbitrary, unreasonable, or capricious exercise of the legislative power resulting in haphazard or piecemeal rezonings (read: rezoning decisions legally indefensible in a court of law).

Comprehensive Plans can be highly prescriptive, prescribing specific land uses and land use intensities to specific parcels of land, or can be highly generalized, merely mapping out large swaths of land which may be suitable for certain intensities of development, and including a broad range of zoning districts which may be authorized therein. Bixby's Comprehensive Plan falls somewhere in between, specifically designating certain areas with specific land uses, and others more generally (e.g. the "Corridor" designation.).

Zoning Code Section 11-5-2 prohibits rezonings which would conflict with the Comprehensive Plan, and requires that such rezonings "must be processed along with a request to amend the land use map and a PUD in order to be accepted and considered." The Applicant has requested PUD 74 in support of BCPA-7 and the rezoning application.

Procedure for Comprehensive Plan Amendments. Certain passages in the Comprehensive Plan text (page 30, 55, etc.) suggest the anticipation of amendments to the Plan. However, the Comprehensive Plan does not provide, nor do State Statutes, a definite procedure or method for the City or property owners to request to amend the Comprehensive Plan. The City of Broken Arrow regularly (quarterly, etc.) considers applications to amend their Comprehensive Plan, for

cases where a rezoning application would not be consistent with the Plan, but the plan amendment and rezoning application may be appropriate.

After receiving the first two (2) requests in mid-2008 (BCPA-1 and BCPA-2), Staff consulted the City of Broken Arrow to determine how that community goes about facilitating applications for Comprehensive Plan amendments, and followed the same method, which was supported by the Applicant's attorney in those cases, which was to advertise the public hearing in the same manner used for a rezoning application: By sign posting on the property, newspaper publication, and mailing a notice to all property owners within a 300' radius of the subject property. This method was used in the successful applications BCPA-3 and BCPA-4 in 2009, and BCPA-5 and BCPA-6 in 2011, and all of these have been done in this amendment case as well.

ANALYSIS:

Subject Property Conditions. The subject property contains a small amount of land at its southeast corner, which area contains part of the Riverwalk Trail, and the balance of the land contains part of the bank and bed of the Arkansas River. It is in the Floodway, with the exception of a small amount of land lying, more or less, south of the Trail, which is in the 100-year (1% Annual Chance) Regulatory Floodplain but outside the Floodway. The provided information does not indicate where the Floodway falls in relation to the 0.61-acre area requested for approval. The site plan does not overlay the FEMA Floodplain Maps or trace the elevation contour corresponding to the Base Flood Elevation (BFE) as modeled by FEMA. No BFE has been established for the 0.61-acre tract, such as by Elevation Certificate prepared by a Registered Professional Land Surveyor.

Comprehensive Plan. The Comprehensive Plan designates the subject property as "Water." The "Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan" ("Matrix") on page 27 of the Comprehensive Plan does not indicate whether or not the requested zoning would be in accordance with the Comprehensive Plan.

Staff interprets the "Water" designation to mean it is recognized as being in the Arkansas River and not planned for development. Therefore, by letter dated November 08, 2012, the Applicant has submitted BCPA-7, a request to change the "Water" designation to Medium Intensity with no specific land use designation, and has also submitted PUD 74 for the development on the subject property.

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.

There is presently no specific land use designation for the 0.61-acre area requested for approval, and BCPA-7 would not confer one.

If BCPA-7 is approved, the RM-1 zoning requested would be *In Accordance* with the Comprehensive Plan.

Per the Matrix, PUDs are *In Accordance* or *May Be Found In Accordance* with all designations of the Comprehensive Plan Land Use Map. The Matrix does not include the "Water" designation, however. If the property is redesignated per BCPA-7, the proposed PUD would be *In Accordance* with the Comprehensive Plan.

General. Because the review methodology is similar, and all three (3) applications are essentially rezoning-related and propose to prepare the subject property for the same single-building multifamily development, this review will, for the most part, include all three (3) applications simultaneously, and not attempt to differentiate between the analyses pertaining to each of the different applications.

The submitted site plans for the development exhibit a suburban-style design, with the building to be set somewhat perpendicularly to Riverview Rd.

Although not clearly indicated, due to the project size and design, the proposed internal automobile traffic and pedestrian flow and circulation and parking can be inferred from the provided site plan drawings, notwithstanding the fact that it does not represent the existing Riverwalk Trail or a sidewalk that would be required along Riverview Rd.

Zoning Code Section 11-7I-8.C requires PUDs be found to comply with the following prerequisites:

1. Whether the PUD is consistent with the comprehensive plan;
2. Whether the PUD harmonizes with the existing and expected development of surrounding areas;
3. Whether the PUD is a unified treatment of the development possibilities of the project site; and
4. Whether the PUD is consistent with the stated purposes and standards of this article.

Regarding the fourth item, the “standards” refer to the requirements for PUDs generally and, per Section 11-7I-2, the “purposes” include:

- A. Permit innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties;
- B. Permit flexibility within the development to best utilize the unique physical features of the particular site;
- C. Provide and preserve meaningful open space; and
- D. Achieve a continuity of function and design within the development.

In its present form, Staff believes the PUD and proposed development are not substantially consistent with these prerequisites for the following reasons:

1. Entire tract of approximately 8 acres is not included in the PUD. PUD does not show the relationship between the 0.61-acre area requested for approval and the balance of the approximately 8-acre subject property tract. Although adequate information is not provided, it appears, based on existing dimensions and configurations, that the balance of the approximately 8-acre subject property tract would not maintain the minimum 200’ lot width (impossible without a front lot line, which is impossible without street frontage per definitions in Section 11-2-1). Subdivision Regulations Section 12-3-2.H requires access to public streets, and platting the 0.61-acre tract apart from the balance of the tract would cause the balance to be separated from the public street, or “landlocked.” Regardless of code prohibitions, landlocking tracts of land is not good land use or development policy.
2. Item numbered 3 under Residential Area Policies on page 33 of the Comprehensive Plan provides, “Residential development within areas subject to periodic flooding will be strongly discouraged and regulated...” The subject property is entirely within the 100-year (1% Annual Chance) Regulatory Floodplain, and part of it may be in the Floodway. Placing residents on the bank of the Arkansas River, in an area that history has proven has flooded¹ and FEMA’s models show will likely flood during the next 1% Annual Chance event, is not good land use and development policy. Even if the land is elevated above the 100-year Floodplain, the subject property would become an “island” during such an event, unable to be exited or reached in emergency situations. Also, even if elevated above the 100-year Floodplain, it would still likely be in the 500-Year (0.2% Annual Chance) Floodplain, meaning it would flood during such events. The 1986 flood event was larger than a “100-year,” 1% Annual Chance event. The former residential subdivision *Garden Spot Estates*, abutting to the south, was abandoned when it flooded in 1986. Its successor use, Bentley Park, is a more appropriate land use for flood-prone areas.
3. Item numbered 1 under Residential Area Policies on page 33 of the Comprehensive Plan discourages residential development along major street frontage, stating, “Residential

¹ Water Management Analysis Report, Flood of September - October 1986, Appendix B, U.S. Army Corps of Engineers, Tulsa District, August 1987, Plate A-10.

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lot arterial street frontage will be avoided and residential lot collector street frontage will be discouraged in development design" (emphasis added). Although it is not a highly-trafficked street at its north dead-end, and houses had traditionally fronted upon it in *Riverview Terrace Addition, Privett Addition, Midland Addition*, and [the Original Town of] *Bixby*, Riverview Road is designated a Minor Collector street on the Bixby Comprehensive Plan Land Use Map.

4. Based on a site inspection November 27, 2012, Staff did not observe evidence of utility service to the subject property. Critical utilities include water, sewer, and electricity. Ancillary utilities include natural gas, telephone, and cabled communications. The City Engineer's memo indicates water and sewer service will be extended [to the subject property]. PUD Section B.[6].c does not describe utilities other than water and sewer. Reference Bixby Comprehensive Plan Residential Area Goals item numbered 2 on page 32 and Residential Area Objectives item numbered 3 on page 33. Generally speaking, it is not good land use and development policy to grant development approval by means of rezoning lands which are not suited for development due to lack of utility infrastructure.

Regardless whether or not these three (3) applications are received favorably by the Planning Commission or City Council, certain PUD particulars require extensive corrections and site development considerations, such as providing plans and specifications for screening, buffering, and exterior materials.

The Fire Marshal's, City Engineer's, and City Attorney's review correspondence are attached to this Staff Report (if received). Their comments are incorporated herein by reference and should be made conditions of approval where not satisfied at the time of approval.

The Technical Advisory Committee (TAC) discussed BCPA-7 and PUD 74 at its regular meeting held December 05, 2012. Minutes of that meeting are attached to this report.

Access. Plans for access and circulation are adequately discussed in PUD Text Section B.[7]. Access, Circulation and Parking.

On the PUD site plan, a sidewalk is not indicated as planned along Riverview Rd., as required by the Subdivision Regulations. PUD Text Section B.[7]. Access, Circulation and Parking provides that a sidewalk along this street is not planned. A Modification/Waiver of the Subdivision Regulations would be required in order to remove the sidewalk requirement along Riverview Rd. Sidewalks are part of complete streets, providing a safe and convenient passageway for pedestrians, separate from driving lanes for automobile traffic. Bixby Comprehensive Plan policy numbered 3 on page 52 encourages enhancing pedestrian transportation by connecting trails to sidewalks. Regardless whether or not these three (3) applications are received favorably by the Planning Commission or City Council, Staff does not recommend removing sidewalk requirements generally.

Surrounding Zoning and Land Use Compatibility. The surrounding zoning pattern includes AG, RS-1, RS-2, RD, RM-1/PUD 5, and RM-1/PUD 56.

North and east of the subject property is the Arkansas River zoned AG. Also to the east is a vacant 1.7-acre parcel belonging to the City of Bixby, and a house and agricultural land to the southeast on a 13-acre parcel, all zoned AG.

To the south is the Bentley Park Sports Complex zoned RS-2. To the south of Riverview Rd. is single-family residential and vacant lots zoned RS-1 in *Riverview Terrace Addition*, and duplexes zoned RD in *Riverview Terrace Addition*.

West of the subject property is a mix of AG, RS-2, RM-1/PUD 5, and RM-1/PUD 56 zoning, and land uses include the Bentley Park Sports Complex, the Arkansas River, and vacant land zoned RM-1/PUD 56. The Riverwalk Trail continues to the northwest of the subject property.

The surrounding zoning is primarily residential, and area land uses include residential, Bentley Park, and the Arkansas River.

The requested RM-1 zoning would be consistent with the RM-1 districts to the west and northwest. However, those areas are fairly removed from the 0.61-acre area requested for approval, and much of the district is occupied by Bentley Park, a large, public use which will not likely change or develop consistent with RM-1 zoning. The nearest multifamily use is in *Marquis on Memorial*, located over 2,700' (over ½ a mile) to the west of the subject property's southeast corner. The approximately-halfway-leased townhouse development, *Pecan Valley Addition*, is located over 2,300' to the west of the subject property's southeast corner.

The requested RM-1 zoning is not incompatible with RD zoning across Riverview Rd. to the southeast. The requested RM-1 zoning would not, however, be compatible with the surrounding RS-1, RS-2, and AG zoning.

The possible "fourplex" development anticipated for the subject property site would be somewhat compatible with the two (2) duplexes to across Riverview Rd. to the southeast, but is incompatible with the balance of the single-family residential use there in *Riverview Terrace*.

Residential use here may not be particularly compatible with the Bentley Park Sports Complex, which has elevated floodlights used, and amplified sounds produced at various times, consistent with a large sports park with local, regional, and interstate tournaments booked nearly year-round. The subject property's placement behind the multipurpose building, and next to its storage yard, may not make it a particularly attractive residential location. Further, the proposed building, as indicated on the site plan, would be quite close to the Riverwalk Trail, which can be seen as an amenity for the residents, but the trail itself may be so close that privacy is compromised at times. The site plan does not indicate a privacy fence would be employed.

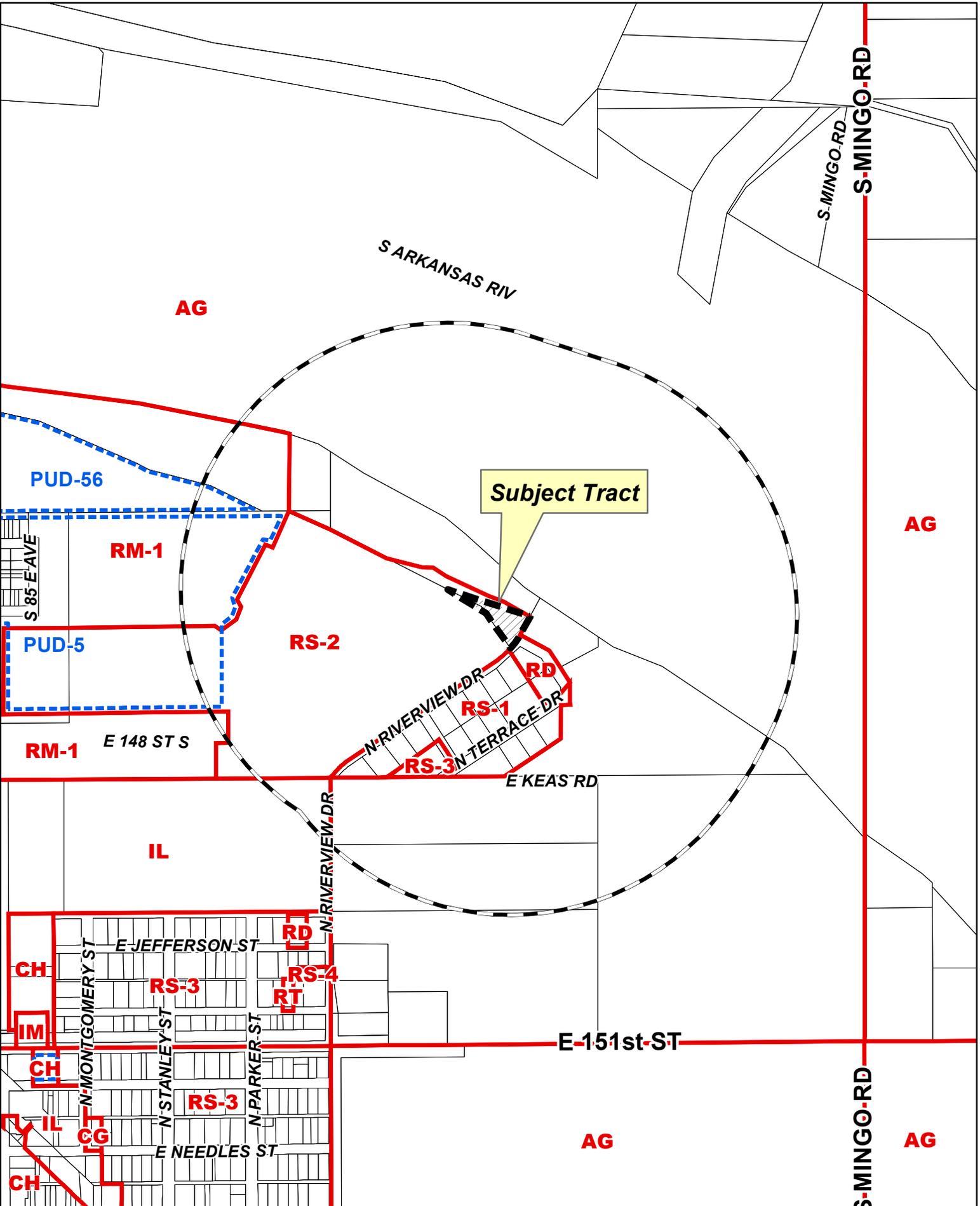
The requested RM-1 zoning is not particularly compatible with existing and future surrounding land uses and zoning patterns.

Staff Recommendation. For all the reasons outlined above, Staff believes that the Comprehensive Plan, the surrounding zoning and land use patterns, and the physical facts of the

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area do not weigh in favor of the requested amendment and rezoning applications generally.
Staff recommends Denial.

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Subject Tract

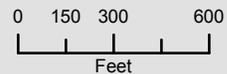


1320' Radius



Subject Tract

PUD-74



13 17-13



Memo

To: Erik Eryart, City Planner
From: Jared Cottle, PE *JWC*
CC: Bea Aamodt, PE
File
Date: 11/20/12
Re: RiverLoft PUD 73 Review

General Comment:

1. No utility or drainage information submitted with the PUD for comment.
2. Extension of City water and sewer lines are anticipated. Additional review comments will be provided upon submittal of design information.
3. Detention will not be required. However, fee-in-lieu charges will be assessed.
4. As the project is located within the floodplain. Development on this site will require a City Floodplain Development Policy from the City as well as FEMA authorization.
5. Storm water discharge directly to the Arkansas River will require approval by the Corps of Engineers.
6. Site access and circulation as well as fire hydrant locations must be approved by the Fire Marshall.

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CITY OF BIXBY
APPLICATION FOR PLANNED UNIT DEVELOPMENT
PUD# 74

GENERAL INFORMATION: REQUIREMENTS: (3 COPIES)
NO. OF UNITS 1 TOPO YES
ACRES 0.61 PLOT PLAN YES
TYPE OF PUD REQUESTED RM-1 TEXT
GENERAL LOCATION MAP YES

GENERAL LOCATION RIVERVIEW ROAD, NORTH MULTI PURPOSE Bldg IN BENTLEY PARK
PRESENT ZONING RS-2 PRESENT USE VACANT
RECORD OWNER ROGER METCALF + CLINTON MILLER
LEGAL DESCRIPTION OF TRACT UNDER APPLICATION:

SEE ATTACHED

AS APPLICANT, WHAT IS YOUR INTEREST IN THIS PROPERTY? I CERTIFY THAT THE SUMMITTED INFORMATION IS TRUE & CORRECT
PRESENT OWNER NAME JR DONELSON
PURCHASER ADDRESS 12820 SO. MEMORIAL DR, # 100
ATTORNEY FOR OWNER BIXBY, OK 74008
OWNER PHONE 918-394-3030
X AGENT

BILL ADVERTISING & SIGN CHARGES TO: ROGER METCALF
(NAME)
15329 SO. SHERIDAN, BIXBY, OK 918-640-2214
(ADDRESS) (PHONE)

APPLICANT - DO NOT WRITE BELOW THIS LINE

APPLICATION RECEIVED BY: Enyork DATE: 11/05/2012
SEC. 13 TWP. 17 N. RG. 13 E. FEE / REC. NO. 01023792
SUBDIVISION NAME: P.H. DATE: 12/17/2012
ZONING NO. BZ: 362

BIXBY P. C. RECOMMENDATION: BIXBY CITY COUNCIL ACTION:
RECOMMENDATION: _____ VOTE: _____ ACTION: _____ VOTE: _____
DATE: _____ DATE: _____
PROVISIONS: _____ PROVISIONS: _____

STAFF RECOMMENDATIONS: _____ STAFF RECOMMENDATIONS: _____
DATE: _____ DATE: _____

Exhibit B-1

PUD Site Legal Description

A tract of land in the North half of the Southeast Quarter (N/2 SE/4) of Section 13, T-17-N, R-13-E, of the Indian Base & Meridian, according to the U.S. Government Survey thereof, being more particularly described as follows; Commencing at the Northwest Corner of the Southwest Quarter of said Section 13; thence N 89°42'35"E on the North line of said Southwest Quarter a distance of 2346.31 feet to a point on the Northeasterly line of a 20 foot wide right-of-way easement (easement), also on the North line of a tract of land described in a General Warranty Deed recorded in Book 5286 at Page 1019 (deed); thence continuing N 89°42'35"E on the North line of said Southwest Quarter and the North line of said deed a distance of 119.11 feet; thence S 63°00'20"E on the Northeasterly line of said deed a distance of 820.61 feet to a point on the Northeasterly line of said easement and the Point of Beginning; Thence S 74°30'56"E on the Northeasterly line of said easement a distance of 428.54 feet to a point on the Northwesterly right-of-way line of Riverview Road (Old Highway No. 64); thence S 30°17'42"W on the Northwesterly right-of-way of said Riverview Road a distance of 68.42 feet; thence on a curve to the right, having a radius of 675.25 feet and a central angle of 9°27'30", a distance of 111.47 feet to a point on the Northeasterly line of said deed; thence N 35°20'02"W on the Northeasterly line of said deed a distance of 200.41 feet; thence N 63°00'42"W on the Northeasterly line of said deed a distance of 200.41 feet; thence N 63°00'42"W on the Northeasterly line of said deed a distance of 222.94 feet to the point of beginning, and containing 0.61 acres more or less.

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RiverLoft ADDITION

Bixby, Oklahoma

October 15, 2012

Prepared For:

**Roger Metcalf and Clinton Miller
15329 So. Sheridan Road
Bixby, Oklahoma 74008**

Prepared By:

**J.R. Donelson, Inc.
12820 So. Memorial Dr., Office 100
Bixby, Oklahoma 74008**

RiverLoft Addition, Planned Unit Development No. ____

RiverLoft Addition

Planned Unit Development Number _____

Introduction.

RiverLoft Addition is a planned development for Multi-family intensity. The overall site totals 0.61 acres. The site is located on the south side of the Arkansas River and west of Riverview Road. See Exhibit A, which is a Preliminary Plat of the Site.

As depicted on Exhibit B to this Planned Unit Development (PUD), the proposed PUD consists of one development area.

Development Area A will be defined as RiverLoft Addition. The legal description for this PUD is shown in Exhibit B1.

Zoning.

The Site, Development Area A currently is zoned "RS-2", (Residential Single Family District). An underlying zoning change is requested from "RM", (Residential Multi-family). Attached as Exhibit C is a map from INCOG that identifies the existing zoning of the site and surrounding area. All uses by right of "RM", (Residential Multi-family) zoning will be allowed in Development Area A. The RM-1, RM-2 and RM-3 districts are designed to permit the development and conservation of multi-family dwelling types such as garden apartments and townhouses, in suitable environments and in a variety of densities to meet the varying requirements of families. (Ord. 272, 4-2-1974).

The Comprehensive land-use Plan.

The Site is located within the jurisdiction of the Bixby Comprehensive Plan 2001-2020. According to the Bixby Comprehensive Plan Map and Text, the Site is designated "Low Intensity, Residential Area and Special District #1", which does not support the intensity of development planned for the Site in this PUD. A letter to amend the Bixby Comprehensive Plan 2001-2020, to allow "RM" zoning and its uses on this site will be submitted to the City of Bixby.

Features of the Site and surrounding area; viability and compatibility.

This site is located on the north side of the downtown Bixby business district, designated as "Special District #1". East 151st Street South has been widened to four lanes of traffic. The scenic Arkansas River is located adjacent to and north of this project. The City of Bixby operates Bentley park to the south of this site. Riverview Terrace, a residential development, is located to the east of this site. Compatibility of the proposed PUD with the existing and planned uses surrounding the site further is achieved by the development standards explained in the following text. A Detailed Site Plan, adequate to demonstrate compliance with applicable standards and including details on proposed parking and landscape plans, shall be submitted for Planning Commission approval as required by the Zoning Code Sections 11-7G and 11-7I-8.B.5 and this PUD.

Site Soil Conditions

The Soil Survey of Tulsa County, Oklahoma list the soil for this site to be "Choska very fine sandy loam". This is a nearly level, well drained, moderately permeable soil.

Development Standards

A. **DEVELOPMENT AREA A**

LAND AREA:

Gross:	0.61 acres	26,571 square feet
Net:	0.61 acres	26,571 square feet

PERMITTED USES (to be allowed by right):

Those uses permitted are all the Use Units allowed by right within the RM zoning district of the City of Bixby Zoning Code; and all accessory uses permitted in the underlying zoning district and in the Planned Unit Development Chapter of the City of Bixby Zoning Code.

MINIMUM FRONTAGE N/A feet

MAXIMUM BUILDING FLOOR AREA (using .70 FAR): 18,599.70 square feet

MAXIMUM BUILDING HEIGHT: Three Stories
Or 48 feet

MINIMUM BUILDING SETBACKS
Pursuant to Section 11-7D-4 of the City of Bixby Zoning Code: N/A feet

B. DEVELOPMENT STANDARDS FOR THE DEVELOPMENT AREA

1. LANDSCAPED AREA AND SCREENING

- a. A Preliminary Landscape and Screening Plan is depicted on Exhibit B to the PUD Text.
- b. Frontage and Perimeter Requirements. The street yard landscape percentage requirement does not apply to this Site. The building will be setback 20'-0" from the north property line. Landscaping and grass will be placed in the street yard along Riverview Drive.

2. SIGNS

- a. Signage shall comply with the PUD Chapter (Chapter 7-I). Riverview Road separates this site from the Riverview Terrace subdivision. A ground sign will be permitted. The ground sign will not exceed 15'-0" in height.
- b. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan for that lot has been submitted to the Bixby Planning Commission and approved as being in compliance with the approved PUD development standards.
- c. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs with movement shall be prohibited, except as may be permitted by the Bixby Planning Commission as part of the approved detail sign plan.

3. LIGHTING

- a. Lighting used to illuminate the development area shall be so arranged as to shield and direct the light away from adjacent residential areas. No light standard or building-mounted light shall exceed 20 feet in height.

4. TRASH, MECHANICAL AND EQUIPMENT AREAS

- a. There shall be no storage of recyclable materials, trash or similar material outside a screened receptacle. All trash, ground supported mechanical and equipment areas, shall be screened from adjacent properties and Riverview Road.

5. SITE GRADING

- a. Fill material brought on this site to elevate the building finish floor will come from the same drainage basin. Fill material taken from the same drainage basin will provide for compensatory storage in the drainage basin.
- b. The FEMA Firm Map, 40143C0434L, revised October 16, 2012 shows the 100 year water surface elevation to be 600.9 on this site.

5. TOPOGRAPHY, DRAINAGE AND UTILITIES

- a. Topography. Topography of the Site is depicted on Exhibit D.
- b. Drainage. Storm water roof drainage shall be connected to the underground storm water drainage system. The storm water will be directed to the Arkansas River. Storm water drainage adjacent to and along Riverview Road will sheet flow overland to the asphalt street.

A Professional Engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required storm water drainage requirements serving the Site have been installed in accordance with the approved plans prior to issuance of an Occupancy Permit on that lot.

During construction on the property, the owner will provide adequate and reasonable erosion control methods, and after construction, will provide and maintain vegetative, landscaped ground cover so that soil does not erode on or from the property.

- c. Utilities. Water and sanitary sewer service will be provided by the City of Bixby. An existing water line is located on the east side of Riverview Road. The existing sanitary sewer line is located along the south side of the Bixby Multi-purpose building. Storm water runoff will be piped to the Arkansas River.

6. ACCESS, CIRCULATION AND PARKING

- a. Access, traffic circulation and parking is depicted on Exhibit B. All drives and parking areas within the PUD shall be privately owned and maintained.
- b. An existing walk trail exists north of this site along the Arkansas River. There are no sidewalks along Riverview Road. No sidewalk is planned to be constructed along the east side of this property, along the west side of Riverview Road.

7. RESTRICTIVE COVENANTS; ENFORCEMENT

- a. Restrictive covenants will be adopted and recorded for the PUD as platted.

8. SCHEDULE OF DEVELOPMENT

Development will commence upon the approval of the PUD, preliminary plat and the constructions drawings by the appropriate government agencies. The proposed development schedule is as follows :

- a. Approval of construction plans: 2/1/13
- b. Installation of site erosion control: 2/4/13
- c. Begin site grading: 2/15/13
- d. Begin building construction: 2/22/13

Exhibits

- | | |
|--------------|--|
| Exhibit A. | Preliminary Plat. |
| Exhibit B. | Concept Site Plan, Development Area, and Landscaping |
| Exhibit B-1. | PUD Site Legal Description. |
| Exhibit C. | Existing Area Zoning. |
| Exhibit D. | Topography. |
| Exhibit E. | Aerial of the Site. |

PLAT NO.

OWNER:
ROGER METCALF & CLINTON MILLER
8325 SO. SHERIDAN ROAD
EDDYS, OKLAHOMA 74898
CONTACT: ROGER METCALF
PHONE: 918-356-7580

ENGINEER/SURVEYOR:
J.R. DONELSON, INC.
2820 SO. MEMORIAL DRIVE
OFFICE 1909
EDDYS, OKLAHOMA 74898
PHONE: 918-354-3830
C.A. NO. 5011 EXP. 6-30-2013

PRELIMINARY PLAT
RiverLoft Addition
A TRACT OF LAND SITUATED IN THE N/2
OF THE SE/4 IN SECTION 13, T-17-N, R-13-E,
TULSA COUNTY, OKLAHOMA

F.U.D. No. _____



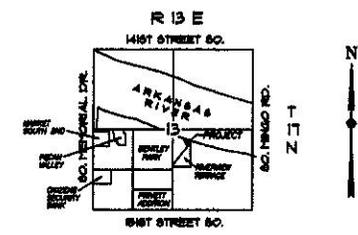
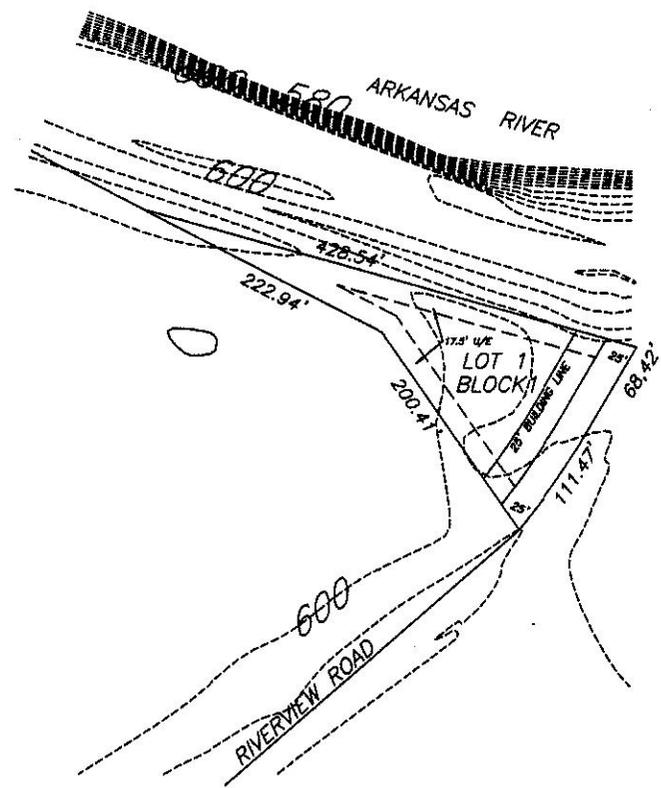
0 25 50 100
SCALE 1" = 30'

**FINAL PLAT
CERTIFICATE OF APPROVAL**
I hereby certify that this plat was prepared
by the City Council of the City of Tulsa on _____
By: _____ Mayor - The Mayor
It is approved in full if the above signature
is not authorized by the City Manager or
City Clerk.
By: _____ City Manager - City Clerk

NOTES:

1. THE ADDRESSES SHOWN ON THIS PLAT WERE ACCURATE AT THE TIME THIS PLAT WAS FILED. ADDRESSES ARE SUBJECT TO CHANGE AND SHOULD NEVER BE RELIED ON IN PLACE OF THE LEGAL DESCRIPTION.
2. **BASES FOR BENCHMARKS:**
The benchmarks for bearings in the South line of the S/2 of the NW/4 of Section 13, T-17-N, R-13-E, shown as N 89°32'17"E
3. THIS PLAT MEETS THE OKLAHOMA ANNUAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING AS ADOPTED BY THE OKLAHOMA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS.
4. 3/8" IRON PINS WERE EITHER FOUND OR SET AT EACH PROPERTY CORNER.
5. THE SUBJECT PROPERTY IS IN FLOOD ZONE "X" SHOWN AS DETERMINED BY FURIA 801432343AK MAP EFFECTIVE DATE: AUGUST 3, 2004. BASE FLOOD ELEVATION IS 600.00 NGVD.
6. **BENCHMARK:**
FINISH FLOOR AT WEST ENTRANCE OF CITIZEN SECURITY BANK AND TRUST CO. THE BANK IS LOCATED APPROXIMATELY 1/4 MILE NORTH OF THE SW CORNER OF SECTION 13.
ADDRESS: 14823 SO. MEMORIAL DRIVE
ELEVATION: 607.35 NGVD 29

LEGEND	
L/A	LIMITS OF NO ACCESS
U/E	UTILITY EASEMENT
ROW	ROAD RIGHT OF WAY
C	CENTERLINE
18887	ADDRESS



LOCATION MAP
SCALE: 1" = 2000'
FILE: RMTCALP\MAL1010
SUBMISSION CONTAINS:
1 LOT
1 BLOCK
0.61 ACRES

EXHIBIT A

RIVER

600

428.54'

222.94'

DEVELOPMENT
AREA

BIXBY MULTI-PURPOSE BUILDING

200.41'

PROPOSED BUILDING

DRIVEWAY

25' BUILDING LINE

25'
68.42'

177.47'

25'

600

EXHIBIT B

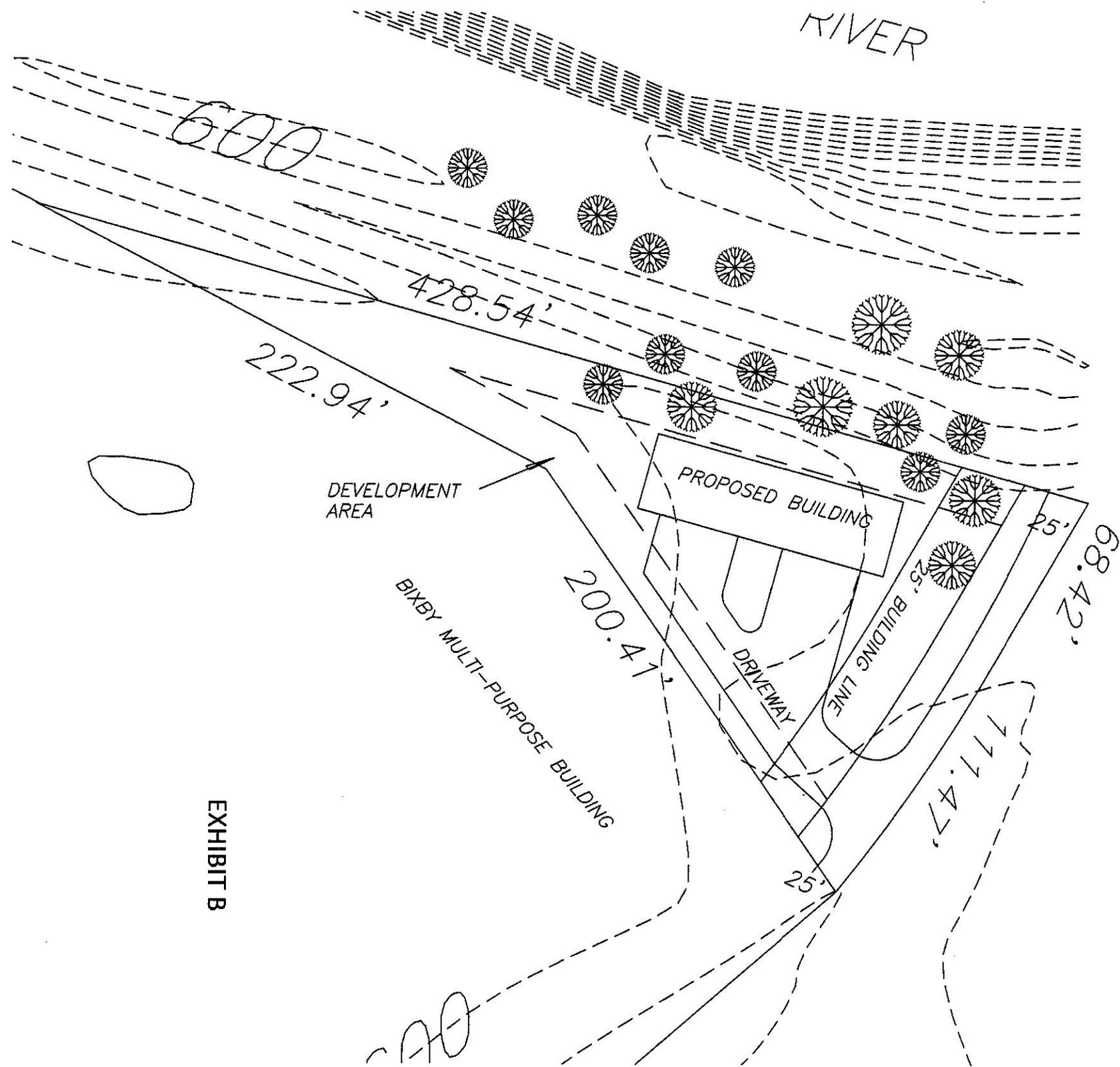
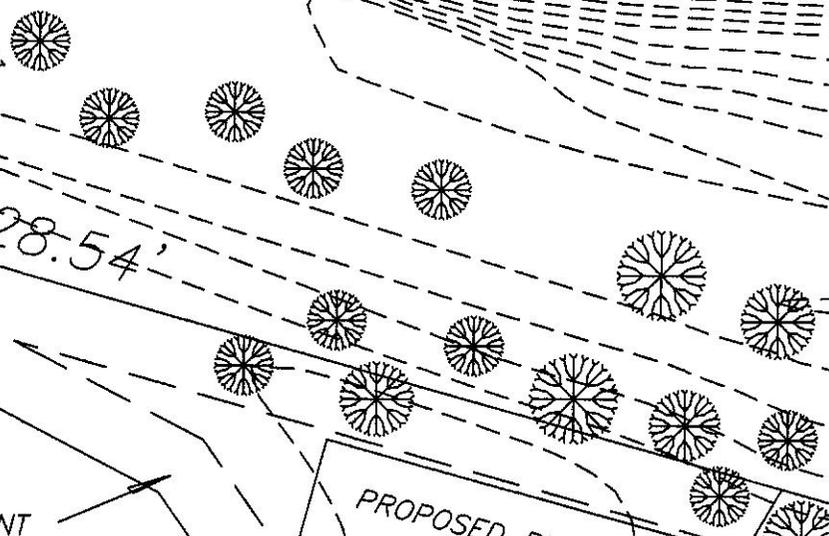
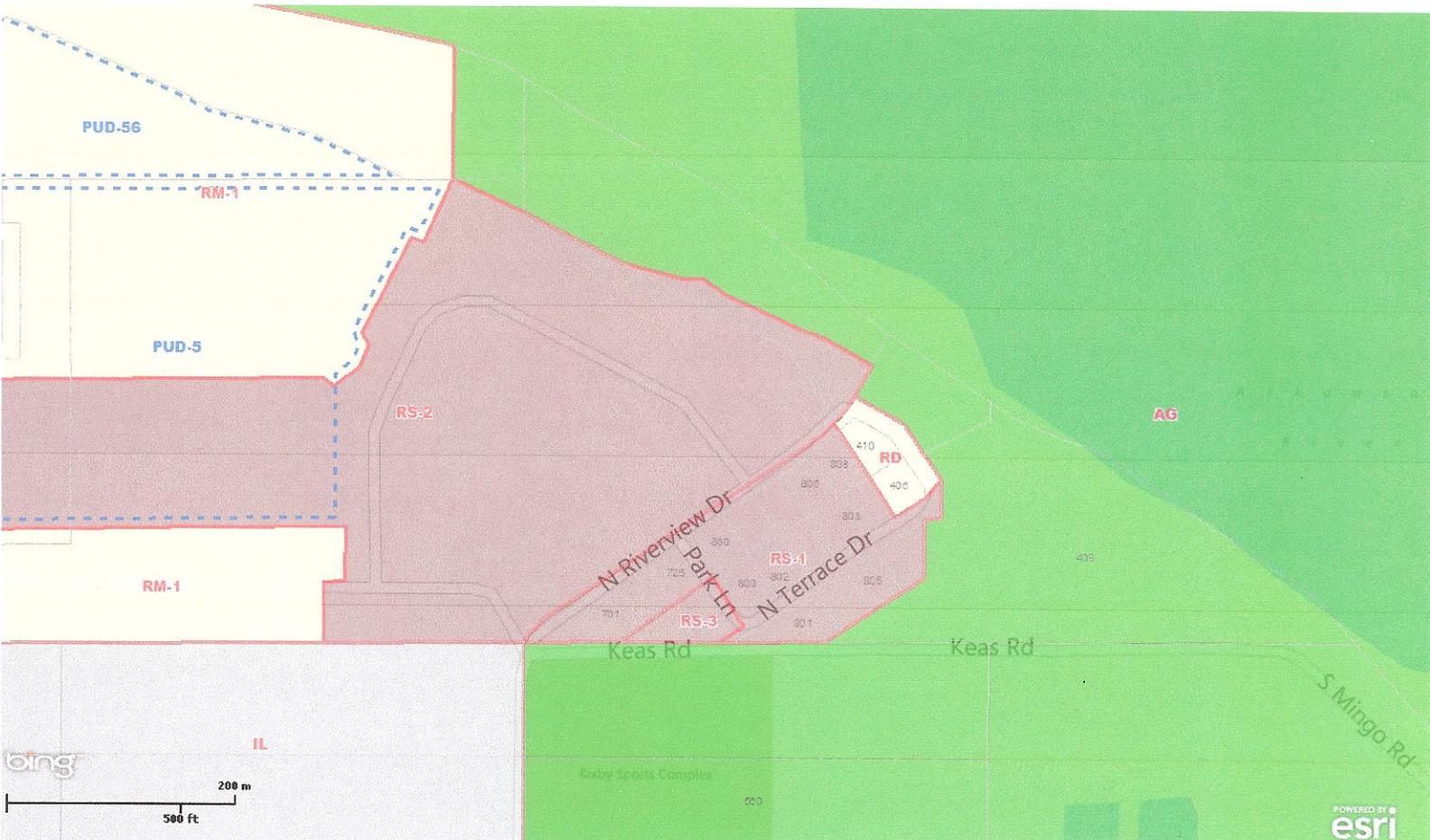


Exhibit B-1

PUD Site Legal Description

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RiverLoft Addition



This map should be used for general reference purpose only. Areas in question should be verified at the INCOG office or at the respective municipality. Thu Oct 18 2012 07:15:36 AM.

EXHIBIT C

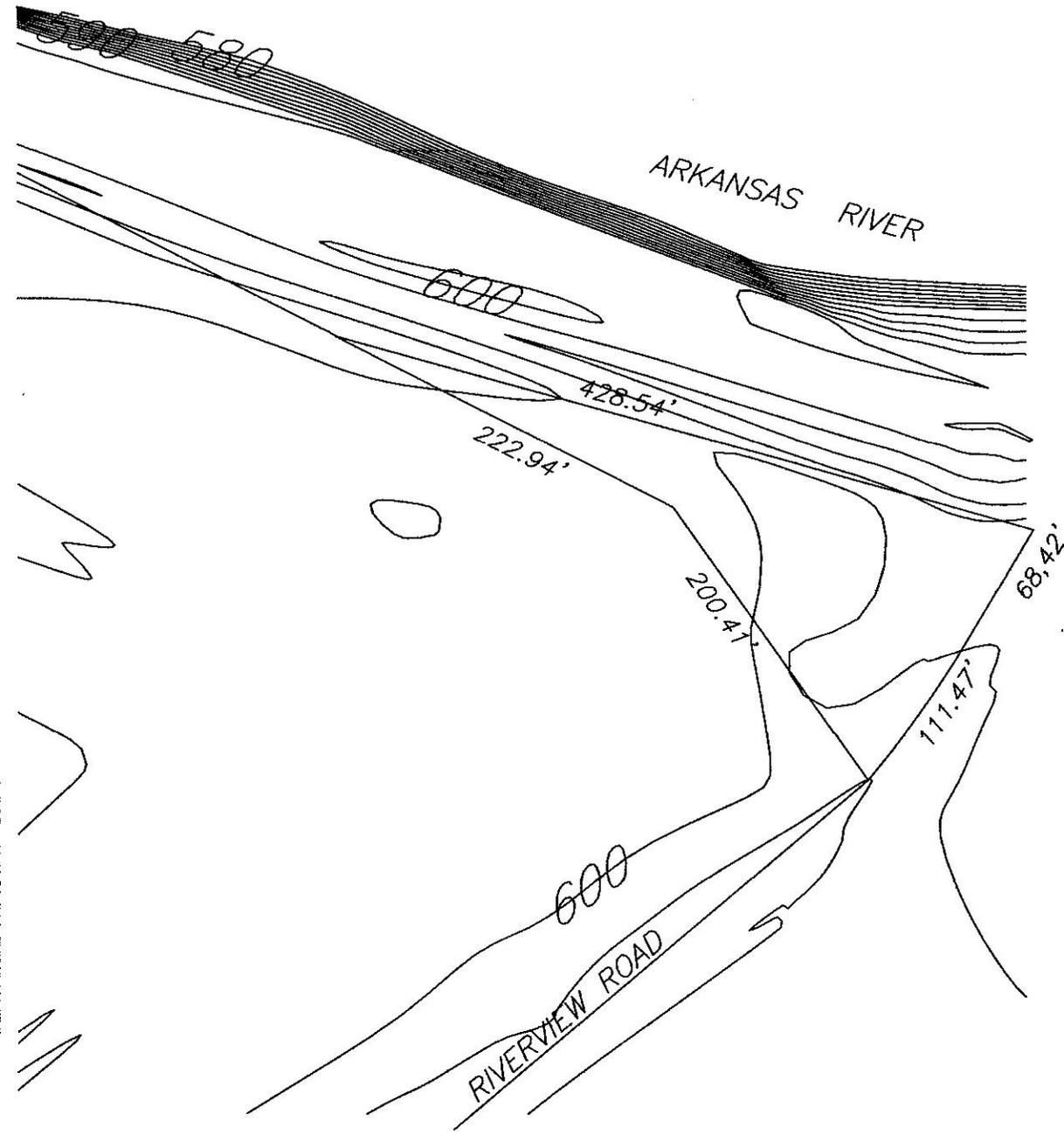


EXHIBIT D



EXHIBIT E

JR Donelson, Inc.

12820 So. Memorial Dr., Office 100

Bixby, Oklahoma 74008

918-394-3030

Email: jrdon@easytelmail.com

November 8, 2012

Erik Enyart
City Planner
City of Bixby
Bixby, Oklahoma

CITY OF BIXBY

NOV 13 2012

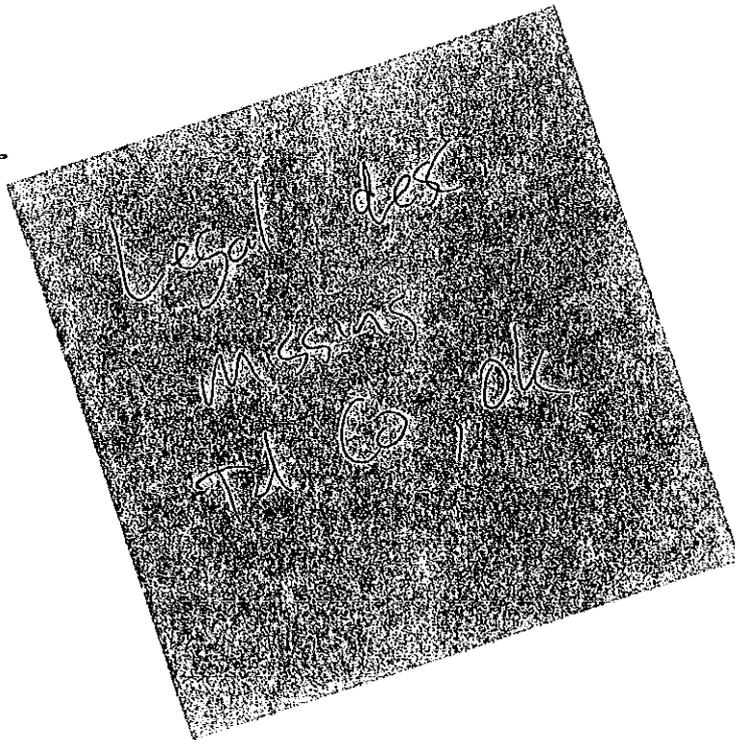
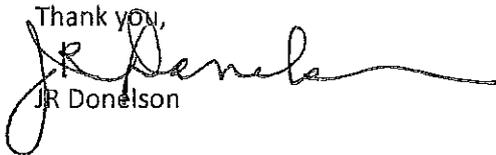
RECEIVED

By Enyart
cf. BCPA-7

Re: Request to modify the Bixby Comprehensive Plan

Clinton Miller and Roger Metcalf request the Bixby Comprehensive Plan be modified to Medium Intensity, to allow the RM-1 (Residential Multi-family) zoning classification on their property described in the attachment.

Thank you,
JR Donelson



Legal desk
M. G. VAS
T.D. Co, OK

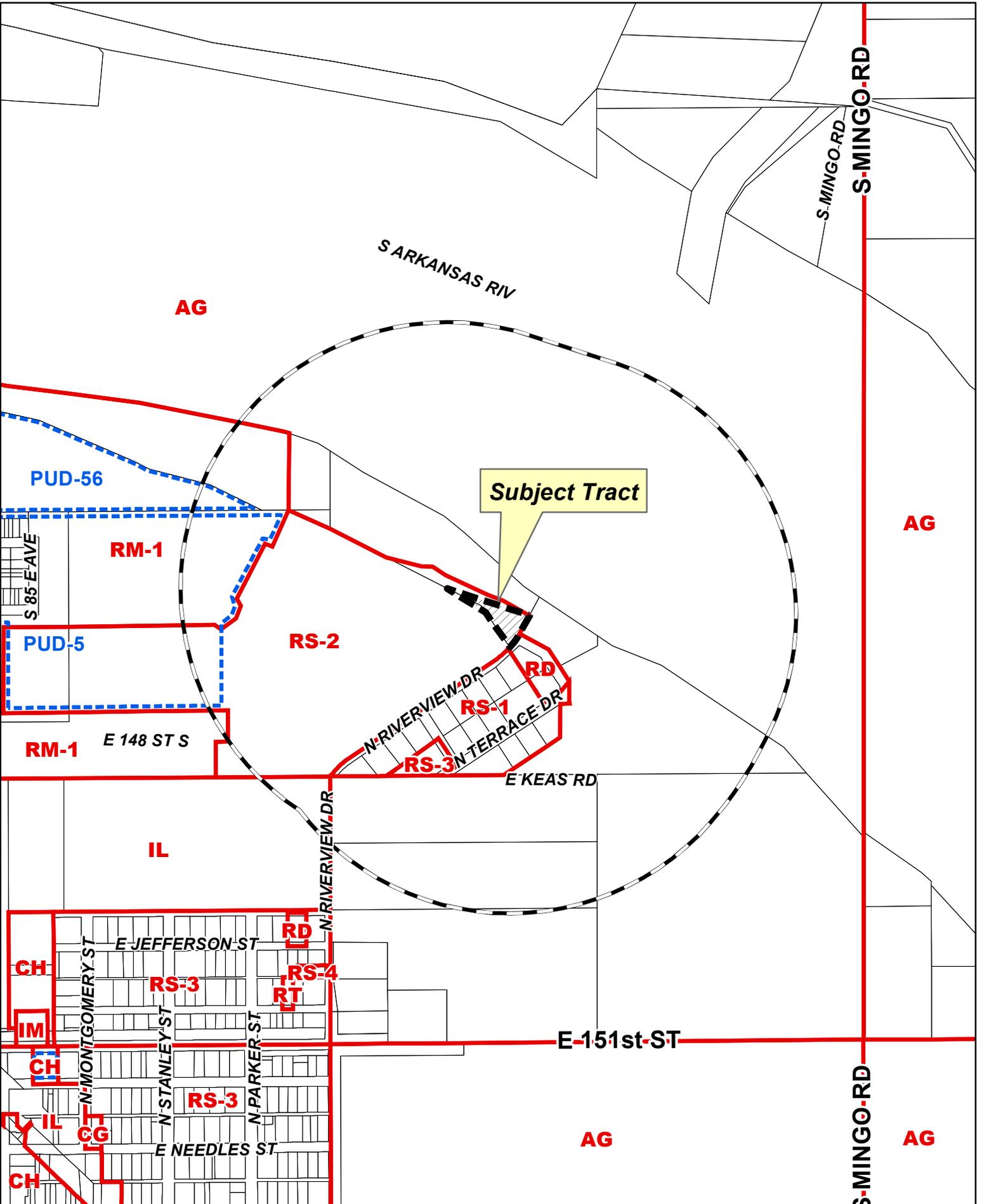
66

Exhibit B-1

PUD Site Legal Description

A tract of land in the North half of the Southeast Quarter (N/2 SE/4) of Section 13, T-17-N, R-13-E, of the Indian Base & Meridian, according to the U.S. Government Survey thereof, being more particularly described as follows; Commencing at the Northwest Corner of the Southwest Quarter of said Section 13; thence N 89°42'35"E on the North line of said Southwest Quarter a distance of 2346.31 feet to a point on the Northeasterly line of a 20 foot wide right-of-way easement (easement), also on the North line of a tract of land described in a General Warranty Deed recorded in Book 5286 at Page 1019 (deed); thence continuing N 89°42'35"E on the North line of said Southwest Quarter and the North line of said deed a distance of 119.11 feet; thence S 63°00'20"E on the Northeasterly line of said deed a distance of 820.61 feet to a point on the Northeasterly line of said easement and the Point of Beginning; Thence S 74°30'56"E on the Northeasterly line of said easement a distance of 428.54 feet to a point on the Northwesterly right-of-way line of Riverview Road (Old Highway No. 64); thence S 30°17'42"W on the Northwesterly right-of-way of said Riverview Road a distance of 68.42 feet; thence on a curve to the right, having a radius of 675.25 feet and a central angle of 9°27'30", a distance of 111.47 feet to a point on the Northeasterly line of said deed; thence N 35°20'02"W on the Northeasterly line of said deed a distance of 200.41 feet; thence N 63°00'42"W on the Northeasterly line of said deed a distance of 200.41 feet; thence N 63°00'42"W on the Northeasterly line of said deed a distance of 222.94 feet to the point of beginning, and containing 0.61 acres more or less.

87

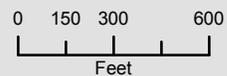


1320' Radius



Subject Tract

BZ-362



13 17-13



APPLICATION FOR ZONING

CITY OF BIXBY

BZ. 362 CZM N/A

STR 13-17-13 Atlas N/A

PD N/A

GENERAL LOCATION SOUTH OF ARKANSAS RIVER, EAST OF MEMORIAL
REQUESTED ZONING RM-1 PROPOSED USE MULTI-FAMILY
RECORD OWNER CLINTON MILLER & ROGER METCALF PRESENT USE VACANT

LEGAL DESCRIPTION OF TRACT (ATTACH PLAT OF SURVEY IF METES AND BOUNDS):

SEE ATTACHED

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

If Applicant is other than Owner, indicate interest: AGENT

Is subject tract located in 100 year floodplain? YES NO

BILL ADVERTISING CHARGES TO: ROGER METCALF

15329 S. SHERIDAN, BIXBY OK (Name) 918-640-2214
(Address) (City) (Phone)

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

Signature [Signature] Date: 11/1/2012
Address: 12820 S. MEMORIAL DR, #100, BIXBY Phone: 918-394-3030

APPLICANT - DO NOT WRITE BELOW THIS LINE

P.H. Date 12/17/2012 Date Received 11/05/2012 Received By Enyart

PRESENT ZONING RS-2 RECEIPT NOS. 01023792

FEES:	TYPE	ZONING	ACREAGE	BASE FEE	ADD.	TOTAL
L M H MP		<u>RM-2</u>	<u>< 1 ac.</u>	<u>\$75.00</u>	<u>\$50.00</u>	<u>\$125.00</u>

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

PC ACTION _____

CITY ACTION _____

PROVISIONS _____

PROVISIONS _____

DATE/VOTE _____

DATE/VOTE _____

STAFF REC. _____

ORD. NO. _____

PLAT NAME _____

69

Exhibit B-1

PUD Site Legal Description

A tract of land in the North half of the Southeast Quarter (N/2 SE/4) of Section 13, T-17-N, R-13-E, of the Indian Base & Meridian, according to the U.S. Government Survey thereof, being more particularly described as follows; Commencing at the Northwest Corner of the Southwest Quarter of said Section 13; thence N 89°42'35"E on the North line of said Southwest Quarter a distance of 2346.31 feet to a point on the Northeasterly line of a 20 foot wide right-of-way easement (easement), also on the North line of a tract of land described in a General Warranty Deed recorded in Book 5286 at Page 1019 (deed); thence continuing N 89°42'35"E on the North line of said Southwest Quarter and the North line of said deed a distance of 119.11 feet; thence S 63°00'20"E on the Northeasterly line of said deed a distance of 820.61 feet to a point on the Northeasterly line of said easement and the Point of Beginning; Thence S 74°30'56"E on the Northeasterly line of said easement a distance of 428.54 feet to a point on the Northwesterly right-of-way line of Riverview Road (Old Highway No. 64); thence S 30°17'42"W on the Northwesterly right-of-way of said Riverview Road a distance of 68.42 feet; thence on a curve to the right, having a radius of 675.25 feet and a central angle of 9°27'30", a distance of 111.47 feet to a point on the Northeasterly line of said deed; thence N 35°20'02"W on the Northeasterly line of said deed a distance of 200.41 feet; thence N 63°00'42"W on the Northeasterly line of said deed a distance of 200.41 feet; thence N 63°00'42"W on the Northeasterly line of said deed a distance of 222.94 feet to the point of beginning, and containing 0.61 acres more or less.

PRELIMINARY PLAT
RiverLoft Addition
 A TRACT OF LAND SITUATED IN THE N/2
 OF THE SE/4 IN SECTION 13, T-17-N, R-13-E,
 TULSA COUNTY, OKLAHOMA

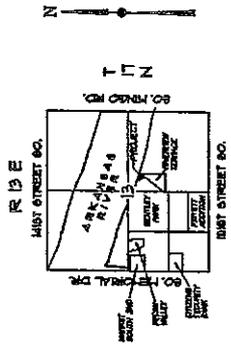
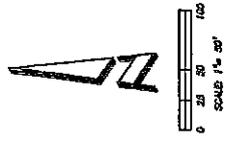
PLAT NO. _____

OWNER:
 GUYTON, JAMES L. & CLAYTON, JENNIFER
 10000 W. 10TH STREET, SUITE 100
 TULSA, OKLAHOMA 74107
 CONTACT: TERRY METCALP
 PHONE: 918-438-1505

ENGINEER/SURVEYOR:
 J. D. DASHLEY, INC.
 10000 W. 10TH STREET, SUITE 100
 TULSA, OKLAHOMA 74107
 PHONE: 918-438-1505
 CELL NO. 918-438-1505

- NOTES:**
1. THE ADDRESSES SHOWN ON THIS PLAT WERE ACCURATE AT THE TIME THIS PLAT WAS FILED. THE ADDRESSES SHOWN ON THIS PLAT SHOULD BE RECORDED IN PLACE OF THE LEGAL DESCRIPTION.
 2. **GRASS FOR BARRIERS:** The South line of the 1/2 acre lot shown on T-17-N, R-13-E, shows an area of 1/2 acre.
 3. THIS PLAT MEETS THE OKLAHOMA MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING AS ADOPTED BY THE OKLAHOMA BOARD OF LAND SURVEYING AND THE PROFESSIONAL ENGINEERS AND SURVEYORS.

LINE	DESCRIPTION	ADDRESS
1	LINE	
2	UTILITY EASEMENT	
3	ADJACENT PROPERTY	
4	ADJACENT PROPERTY	
5	ADJACENT PROPERTY	
6	ADJACENT PROPERTY	



LOCATION MAP
 SCALE: 1" = 200'
 FIELD MAPS/PLATS/LOT
 SUBSECTION OUTLINES
 1 LOT
 1 BLOCK
 0.11 ACRES

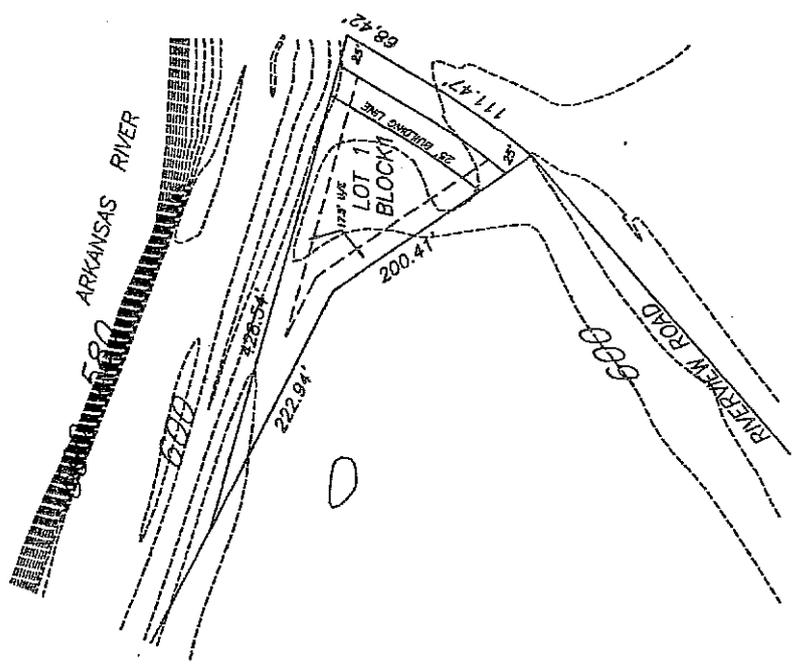


EXHIBIT A

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

STAFF REPORT

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner *EE*
Date: Thursday, January 10, 2013
RE: Report and Recommendations for:
BCPA-8 – Comprehensive Plan Amendment – JR Donelson, Inc. for Roger & LeAnn Metcalf,
PUD 75 – “LeAnn Acres” – JR Donelson, Inc., and
BZ-359 – Roger & LeAnn Metcalf

LOCATION: – 15329 S. Sheridan Rd.
– Part of the W/2 of the NW/4 of Section 23, T17N, R13E

LOT SIZE: 25 acres composed of a 15- and a 10-acre tract, more or less

EXISTING ZONING: AG Agricultural District

EXISTING USE: Agricultural with a single-family dwelling

REQUESTED ZONING: RM-2 Residential Multi-Family District & PUD 75

SUPPLEMENTAL ZONING: None

SURROUNDING ZONING AND LAND USE:

North: AG & CS; A 20-acre agricultural tract zoned AG and the *Leonard & Marker Funeral Home* zoned CS north of 151st St. S.

South: AG; Agricultural, rural residential, and vacant/wooded land along S. Sheridan Rd.

East: RMH & AG; The Shadow Valley Mobile Home Park zoned RMH and the Conrad Farms' farmland further to the east and southeast.

West: (Across Sheridan Rd.) AG; The Bixby Cemetery and rural residential land.

COMPREHENSIVE PLAN:

Northerly 15 Acre Parcel: Corridor + Vacant, Agricultural, Rural Residences, and Open Land.

Southerly 10 Acre Parcel: Low Intensity/Development Sensitive + Vacant, Agricultural, Rural Residences, and Open Land + Special District # 4.

PREVIOUS/RELATED CASES: None found.

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

BZ-120 – Calvin Tinney – Request for rezoning from AG to RS-3 for approximately 80 acres (E/2 SW/4 Section 22, T17N, R13E) to the southwest of subject property – PC Recommended Approval 08/30/1982 and City Council Approved 09/07/1982 (Ord. # 460).

BZ-126 – Georgina Landman and/or W.S. Atherton – Request for rezoning from RS-3 to RS-1 for approximately 80 acres (E/2 SW/4 Section 22, T17N, R13E) to the southwest of subject property – Applicant did not own the property requested for downzoning – PC Recommended Approval 12/27/1982 and City Council Denied 01/03/1983 upon recommendation of City Planner and City Attorney.

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

BZ-181 – W.S. Atherton – Request for rezoning from AG & RS-3 to CG, RM-3, and RE for approximately 240 acres to the southwest of subject property for an “Atherton Farms Equestrian Estates” residential subdivision (never built) – Approved by City Council 06/23/1987 (Ord. # 562).

BBOA-190 – W.S. Atherton – Request for “Use Variance” to allow the keeping of horses on individual lots as an accessory use for approximately 240 acres to the southwest of subject property for an “Atherton Farms Equestrian Estates” residential subdivision (never built) – Approved by BOA 07/13/1987.

BBOA-137 – Twilah A. Fox, M.D. – Request for Special Exception per Zoning Code Section 310 to allow a Use Unit 5 church (now the *Church on the Hill*) on the Southwest approximately 1.16 acres of a previously 10.3-acre tract located to the north of subject property at 15015 S. Sheridan Rd. – BOA Approved 09/04/1990.

BZ-199 – Dan Stilwell – Request for rezoning from RMH to CG for approximately 3 ¾ acres located to the northeast of subject property – now includes the commercial properties containing the *Bixby Chiropractic* and (existing or former) *Living Water Family Church* establishment buildings at 7100, 7102, and 7106 E. 151st St. S. – PC recommended Approval 05/18/1992 and City Council Approved 05/25/1992 (Ord. # 667). However, the legal description used does not close and the ordinance did not contain the approved Zoning District. The official Zoning Map reflects CS instead of CG. Needs to be corrected upon initiative effort of one or more of the affected property owners.

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 north 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 north of subject property at 15015 S. Sheridan Rd. – PC Approved 04/17/1995.

PUD 20 – Atherton Farms Equestrian Estates – Phillip Faubert – Request for rezoning from AG & RS-3 to CG, RM-3, and RE for approximately 240 acres located to the southwest of subject property for an “Atherton Farms Equestrian Estates” residential subdivision (never built) – Recommended for Approval by PC 01/20/1998. However, this case was evidently never presented to the City Council, as it did not appear on any agenda from January 26, 1998 to April 27, 1998, no Ordinance was found relating to it, and there are no notes in the case file suggesting it ever went to City Council. Further, PUD 20 does not exist on the official Zoning Map. An undated application signed by Phillip Faubert from circa March, 2001 was found in the case file requesting to “rescind PUD 20,” but no records or notes were found to determine the eventual disposition of this request, if any.

BZ-238 – W.S. Atherton – Request for rezoning from AG to RE for approximately 10 acres located to the southwest of subject property for part of an “Atherton Farms Equestrian Estates” residential subdivision (never built) – Approved by City Council 02/23/1998 (Ord. # 768).

BL-228 – Phillip Faubert – Request for Lot-Split to separate a 2.7-acre tract from balance of 240 acres located to the southwest of subject property – Approved by PC 03/16/1998 and by City Council 03/23/1998.

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 9-acre tract located to the north 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 north 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 north 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.

BZ-287 – Randy King – Request for rezoning from AG to CG for a 4-acre tract to the north 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.

BZ-291 – Cleatus & Deloris Tate – Request for rezoning to CG for approximately 16 acres located to the northwest of subject property for the *Allison Tractor Co. Inc.* tractor sales business – PC (06/20/2003) recommended Approval for 4.6 acres as per the amended reduced acreage request and City Council (07/14/2003) approved as recommended/amended (Ord. # 870). Zoning acreage reduction amendment letter dated 06/18/2003 additionally requested a “plat waiver,” but Staff found no record of such being approved at that time. See Plat Waiver granted 04/14/2008.

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

BZ-356 – K.S. Collins for Lee & Twilah A. Fox – Request for rezoning from AG to RS-1 for the proposed 0.81-acre tract section of a 9-acre tract located to the north of subject property at 15015 S. Sheridan Rd. – PC Recommended Approval 05/21/2012 and City Council Approved 06/11/2012.

BACKGROUND INFORMATION:

History of the Applications. As requested by the Applicant, BZ-359 was Continued from the October 15, 2012 regular meeting to the November 19, 2012 regular meeting agenda. The Applicant then requested that it be Continued to the December 17, 2012 regular meeting, so that it could be reviewed along with PUD 75 "LeAnn Acres" and the related request for Comprehensive Plan Amendment BCPA-8. The Planning Commission Continued the application to the December 17, 2012 meeting agenda as requested.

For any rezoning application that requests to approve multifamily uses, State Statutes now require the Public Notices be mailed to property owners within a ¼ mile radius of the property, rather than the 300' that is required for all other cases: Title 11 O.S. Section 43-106 amended by HB 1424, c. 226, § 2, eff. November 1, 2009.

BCPA-7, PUD 74 "RiverLoft ADDITION," BZ-362, BCPA-8, PUD 75 "LeAnn Acres," and BZ-359 all request zoning approval for multifamily developments. All were all advertised for the December 17, 2012 meeting using the customary 300' radius mailing, and thus, adequate Public Notice was not been achieved. Staff discovered this problem in the first part of December. As recommended by Staff, all applications were Continued to the January 21, 2013 Planning Commission meeting, to allow for revised, corrected Public Notice to be issued. Since then, adequate Public Notice has been achieved.

The Nature and Value of the Comprehensive Plan. Comprehensive Plans are the result of intensive study, broadly garnered and comprehensive information, professional analysis and coordination, public input, and general consensus of the City's staff, Planning Commission, and City Council. They bring together all planning functions (e.g., housing, land use, transportation, physical environment, energy, infrastructure and community facilities, demographics, etc.), analyze and compare them all on the community-wide scale, relate them to specific geographical areas within the community (i.e. the Land Use Map), and consider all this with a long-range time perspective (e.g., 15-20 years into the future).

The Comprehensive Plan is a thorough, complete, and well researched policy document used to inform the Planning Commission, City Council, and the Public at large how land can best be developed and used (among other things), and so how rezoning applications should be accepted or rejected. Comprehensive Plans, when followed, prevent arbitrary, unreasonable, or capricious exercise of the legislative power resulting in haphazard or piecemeal rezonings (read: rezoning decisions legally indefensible in a court of law).

Comprehensive Plans can be highly prescriptive, prescribing specific land uses and land use intensities to specific parcels of land, or can be highly generalized, merely mapping out large swaths of land which may be suitable for certain intensities of development, and including a broad range of zoning districts which may be authorized therein. Bixby's Comprehensive Plan falls somewhere in between, specifically designating certain areas with specific land uses, and others more generally (e.g. the "Corridor" designation.).

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Zoning Code Section 11-5-2 prohibits rezonings which would conflict with the Comprehensive Plan, and requires that such rezonings "must be processed along with a request to amend the land use map and a PUD in order to be accepted and considered." The Applicant has requested PUD 74 in support of BCPA-7 and the rezoning application.

Procedure for Comprehensive Plan Amendments. Certain passages in the Comprehensive Plan text (page 30, 55, etc.) suggest the anticipation of amendments to the Plan. However, the Comprehensive Plan does not provide, nor do State Statutes, a definite procedure or method for the City or property owners to request to amend the Comprehensive Plan. The City of Broken Arrow regularly (quarterly, etc.) considers applications to amend their Comprehensive Plan, for cases where a rezoning application would not be consistent with the Plan, but the plan amendment and rezoning application may be appropriate.

After receiving the first two (2) requests in mid-2008 (BCPA-1 and BCPA-2), Staff consulted the City of Broken Arrow to determine how that community goes about facilitating applications for Comprehensive Plan amendments, and followed the same method, which was supported by the Applicant's attorney in those cases, which was to advertise the public hearing in the same manner used for a rezoning application: By sign posting on the property, newspaper publication, and mailing a notice to all property owners within a 300' radius of the subject property. This method was used in the successful applications BCPA-3 and BCPA-4 in 2009, and BCPA-5 and BCPA-6 in 2011, and all of these have been done in this amendment case as well.

ANALYSIS:

Subject Property Conditions. The subject property consists of a 15-acre tract on the north and a 10-acre tract on the south, and has over 800' of frontage on Sheridan Rd. It contains the top of a small hill and contains significant slope. It contains the northern tip of a pond located on another tract abutting to the south, which is part of a natural drainageway that skirts along the southerly line of the southern parcel.

The subject property appears to drain to the east and south, ultimately to Bixby Creek. It is zoned AG and appears to be agriculturally-used, with the exception of (1) a small grove of trees at the northeast corner of the 15-acre tract, and (2) the Applicant's residence toward the west end of the 10-acre tract.

Comprehensive Plan. The Comprehensive Plan designates the two (2) parcels of the subject property differently. The northerly 15-acre parcel is designated (1) Corridor and (2) Vacant, Agricultural, Rural Residences, and Open Land. The southerly 10-acre parcel is designated (1) Low Intensity/Development Sensitive, (2) Vacant, Agricultural, Rural Residences, and Open Land, and (3) Special District # 4.

The Development Sensitive designation is along the eastern lines of both tracts of land, and appears to correspond (more or less) to those parts of each located within the 500-year (0.2% Annual Chance) 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.

The “Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan” (“Matrix”) on page 27 of the Comprehensive Plan provides that RM-2 zoning *Is In Accordance* with the Corridor, *Is Not In Accordance* with the Low Intensity, and *May Be Found In Accordance* with the Development Sensitive designations of the Comprehensive Plan Land Use Map.

The Matrix does not indicate whether or not the requested RM-2 zoning 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.

A southerly strip of the southerly 10-acre tract is designated within Special District # 4, for which the Bixby Comprehensive Plan provides on Pages 20 and 21:

- “d. Special District 4 is that area previously designated In the 1991 Bixby Comprehensive Plan in which a majority of the land is located within the 100 year flood plain. This development sensitive area is located approximately from one-quarter mile south of S. H. 67, west of S. Memorial Drive, north of 171" Street South, and east of the upland area along S. Sheridan Road. The majority of this land is used for agricultural purposes. This [is] prime farm land and contributes strongly to the "green theme" characteristic of Bixby . Preservation of those Special District areas should continue with AG zoning the primary designation. Certain select areas adjacent to major roadway intersections may be appropriate for different zoning designations in accordance with the other Urban Design Development Guidelines. Any change in use in this area should be designed to integrate continuing agribusiness uses, provide onsite drainage control solutions, it should provide appropriate buffers between adjoining land uses on the upland area along S. Sheridan Road, south of 171st Street South, and along S. Memorial Drive.” (emphasis added)

Special District # 4 calls for areas within to “continue with AG zoning the primary designation,” but that “[c]ertain select areas adjacent to major roadway intersections may be appropriate for different zoning designations...” It would appear that the part of the subject property located within Special District # 4 “should continue with AG zoning,” as it is not within a reasonable distance of a major street intersection.

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.

There is presently no specific land use designation for the subject property, and BCPA-8 would not confer one.

Due to all of the factors listed and described above, Staff believes that the proposed RM-2 zoning should be found *In Accordance* with the Comprehensive Plan, but only partially. If approved for RM-2 zoning strictly in accordance with the differing designations of the Comprehensive Plan, a Low Intensity-designated strip of land in the center of the acreage would have to be disapproved. This pattern would likely confound any reasonable development pattern for the property. Within the context of a PUD, underlying Zoning districts may vary and remain *In Accordance* with the Comprehensive Plan, such as if an area of the subject property equal to the Low Intensity strip could be calculated and relocated outside the future development areas, to be reserved for the preservation of natural site features as an amenity to the development.

For the balance of the areas to be fully recognized as *In Accordance*, Staff recommends the RM-2 zoning only be approved with appropriate detailed planning and safeguards as per an appropriate PUD. The PUD may deal with the outlying conditions suggested in those designations within which RM-2 zoning is not fully in accordance, such as by reserving natural pond and drainageway areas, incorporating the appropriate parts of the small tree grove if not incompatible with development plans, and the properly-planned use and incorporation into site plans of areas of significant slope change. The PUD should also address buffering the subject property from the residential uses to the east (Shadow Valley Mobile Home Park), the agricultural uses to the south, and the more intensive development that may be expected on the 20-acre property at the 151st St. S. (State Hwy 67) and Sheridan Rd. intersection. Finally, the PUD should address what would be done with the existing improvements on the subject property (house and agricultural buildings).

BCPA-8 proposes to (1) redesignate those parts of the subject property presently designated “Low Intensity” and/or “Special District # 4” to “Medium Intensity” and (2) to remove the “Special District #4” designation. If BCPA-8 is approved, the RM-2 zoning requested would be fully *In Accordance* with the Comprehensive Plan.

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Per the Matrix, PUDs are *In Accordance* or *May Be Found In Accordance* with all designations of the Comprehensive Plan Land Use Map, and thus PUD 75 would be *In Accordance* with the Comprehensive Plan.

General. Because the review methodology is similar, and all three (3) applications are essentially rezoning-related and propose to prepare the subject property for the same multifamily development, this review will, for the most part, include all three (3) applications simultaneously, and not attempt to differentiate between the analyses pertaining to each of the different applications.

The submitted site plans for the development exhibit a suburban-style design. The plan indicates 15 apartment buildings, a leasing office, a pool within a common central area, a stormwater detention pond at the east end of the property, and parking lots, unidentified structures presumed to be carports or small garage buildings, and sidewalks located throughout the developed site.

In the interest of efficiency and avoiding redundancy, regarding PUD particulars for needed corrections and site development considerations, such as screening, buffering, and exterior materials, please review the recommended Conditions of Approval as listed at the end of this report.

The Fire Marshal's, City Engineer's, and City Attorney's review correspondence are attached to this Staff Report (if received). Their comments are incorporated herein by reference and should be made conditions of approval where not satisfied at the time of approval.

The Technical Advisory Committee (TAC) discussed BCPA-8 and PUD 75 at its regular meeting held December 05, 2012. Minutes of that meeting are attached to this report.

Access. Plans for access and circulation are adequately discussed in PUD Text Section B.7. Access, Circulation and Parking. The proposed internal automobile traffic and pedestrian flow and circulation and parking can also be inferred from the provided site plan.

On the PUD site plan, a sidewalk is not indicated as planned along Sheridan Rd., as required by the Subdivision Regulations. PUD Text Section B.7.b. Access, Circulation and Parking provides that a sidewalk along this street is not planned. A Modification/Waiver of the Subdivision Regulations would be required in order to remove the sidewalk requirement along Sheridan Rd. Sidewalks are part of complete streets, providing a safe and convenient passageway for pedestrians, separate from driving lanes for automobile traffic. Staff recommends that the Applicant revise this section to remove the statement that sidewalks will not be constructed, and reword the same such as "A sidewalk shall be constructed by the developer along the entire frontage of Sheridan Road, as required by Subdivision Regulations Section 12-3-2.N. The sidewalk shall be a minimum of five (5) feet in width or otherwise four (4) feet in width with five (5) foot by five (5) foot minimum turnaround areas spaced no less than 200 feet apart, shall be ADA compliant, and shall be approved by the City Engineer."

Surrounding Zoning and Land Use Compatibility. Surrounding zoning patterns are primarily AG, RMH, and CS.

To the north is a 20-acre agricultural tract zoned AG and the *Leonard & Marker Funeral Home* zoned CS north of 151st St. S.

South of the subject property, agricultural, rural residential, and vacant/wooded lands zoned AG lie along Sheridan Rd.

East of the subject property is the Shadow Valley Mobile Home Park zoned RMH and the Conrad Farms' farmland further to the east and southeast zoned AG.

Finally, to the west is the Bixby Cemetery and rural residential land zoned AG.

The requested RM-2 zoning would be fairly consistent with the established RMH district to the east, containing the Shadow Valley Mobile Home Park, as the densities allowed by each district and the overall land use category are similar. However, due to the significant slope change, the proximal relationship is more tenuous and areas "up on the hill" will be more directly impacted by the establishment of a new RM-2 district on the subject property. There should be no conflict with the Bixby Cemetery to the west, but care should be given when allowing the development and use of an apartment complex in respect to the agricultural land to the south, the rural residential land to the south and southwest, and the intensive use (commercial or greater) that may be anticipated on the 20-acre tract abutting to the north, which is located in a Corridor designation of the Comprehensive Plan, has ¼ mile of street frontage along 151st St. S. (State Hwy 67), and is located at the highway's intersection with Sheridan Rd.

Not including assisted living facilities, Bixby has four (4) apartment complexes. Parkwood Apartments was constructed in or around 1973. The Links at Bixby was developed in or around 1996, and was done with PUD 16. Marquis on Memorial was developed in 2008/2009, and was done with PUD 61. Encore on Memorial was developed in 2011 and was done with PUD 70. Since 1973, no apartment development has been developed in Bixby absent a PUD, and the PUDs arguably contribute to the improvement of the value and quality of such projects. If a "straight rezoning" was approved absent a PUD, it is unlikely that a PUD would later be requested. To ensure the highest value and quality for any multifamily development that may occur on the subject property, a PUD should be applied, and as recommended, the Applicant has submitted PUD 75. However, the provided PUD does not appear to address development value or quality. If approved, Staff recommends, at a minimum, the PUD specify the following, which should help ensure the development product is adequately invested to help ensure quality for the long term:

1. Consistent with the most recent and relevant two (2) apartment developments in Bixby, the adequacy of construction quality shall be determined by means of a PUD Detailed Site Plan, to be reviewed and recommended upon by the Planning Commission and approved by the City Council.
2. Consistent with the Encore on Memorial project, the PUD should propose specific masonry requirement for each building type (Encore on Memorial included a 25% masonry requirement for the standard 3-story apartment buildings ("Type I"), a 35% masonry requirement for the modified-type 2/3-story apartment buildings ("Type III"),

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and a 40% masonry requirement for the leasing office. The garages and carport buildings had no masonry requirement).

3. Describe in the PUD text and amend the site plan as necessary to address what will be done with the existing natural site features: the pond and natural drainageway areas along the south property line, the small tree grove at the northeast corner of the acreage, and the hilltop and areas of significant slope change; i.e. will any of them be preserved within the development, or will they be removed and graded.
4. Describe specific plans and add measurable minimum standards for land use buffering and compatibility needs. Perimeter treatments normally include screening fences or walls and vegetative screening, and setbacks and massing adjustments are normally provided to buffer less-intensive land uses (e.g. single-family housing or rural residential properties) in proportion to their relative elevations and proximities.

Zoning Code Section 11-7I-8.C requires PUDs be found to comply with the following prerequisites:

1. Whether the PUD is consistent with the comprehensive plan;
2. Whether the PUD harmonizes with the existing and expected development of surrounding areas;
3. Whether the PUD is a unified treatment of the development possibilities of the project site; and
4. Whether the PUD is consistent with the stated purposes and standards of this article.

Regarding the fourth item, the “standards” refer to the requirements for PUDs generally and, per Section 11-7I-2, the “purposes” include:

- A. Permit innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties;
- B. Permit flexibility within the development to best utilize the unique physical features of the particular site;
- C. Provide and preserve meaningful open space; and
- D. Achieve a continuity of function and design within the development.

For the sake of development and land use compatibility, as described more fully above, Staff would be supportive of the three requests supporting the development proposal if it (1) ensures full consistency with the purposes and intent of the Comprehensive Plan, (2) appropriately incorporates safeguards to sensitive geographical features, (3) provides for land use buffering and compatibility needs, and (4) helps ensure the highest value and quality for any multifamily development that may occur on the subject property. If these were satisfactorily provided for,

Staff believes that the prerequisites for PUD approval per Zoning Code Section 11-7I-8.C will have been met.

Staff Recommendation. For all the reasons outlined above, Staff believes that the surrounding zoning and land uses and the physical facts of the area weigh in favor of the requested amendment and rezoning applications generally. Therefore, Staff recommends Approval of all three (3) requests, subject to the following corrections, modifications, and Conditions of Approval:

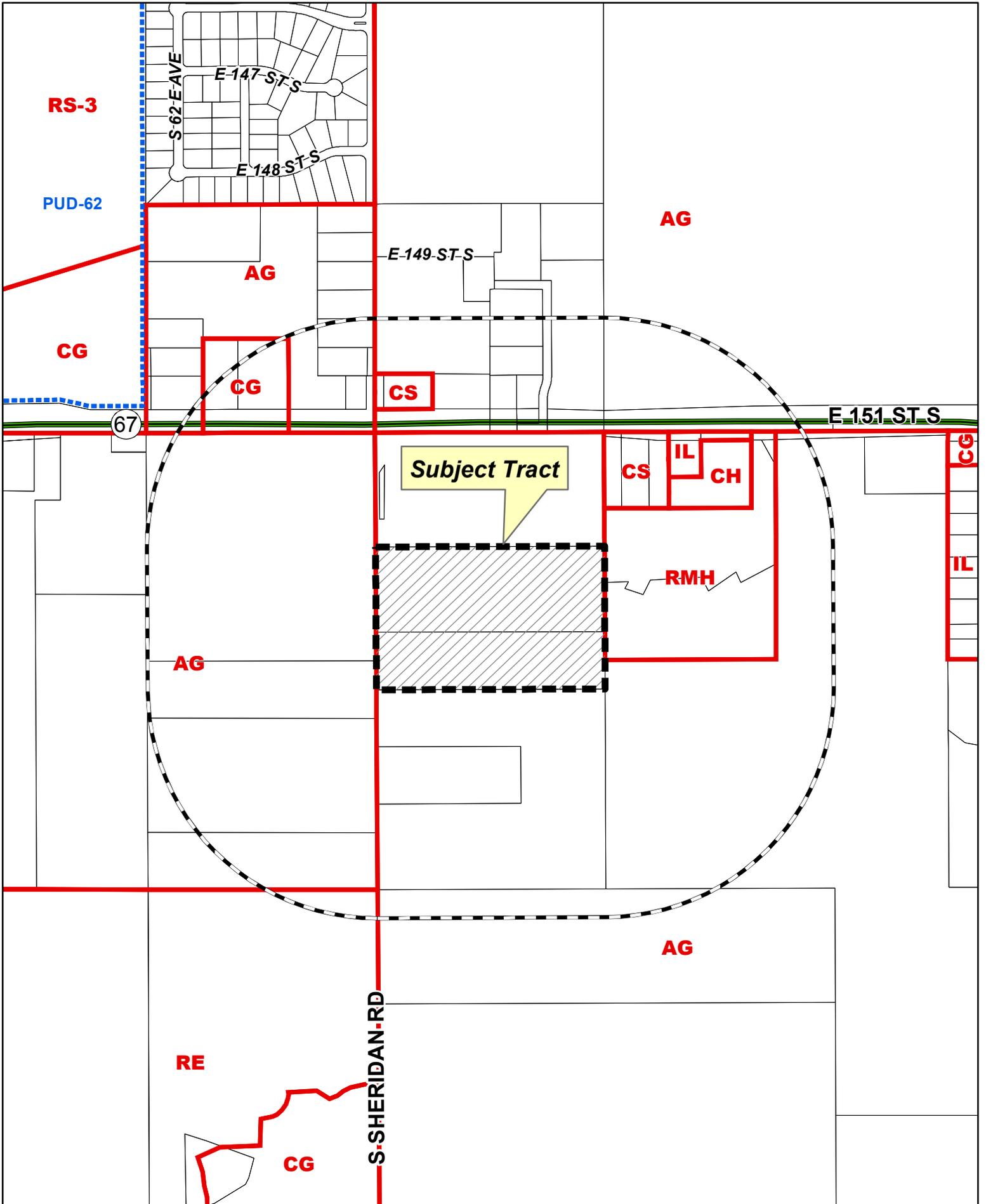
1. Subject to the satisfaction of all outstanding Fire Marshal, City Engineer, and City Attorney recommendations.
2. Incorporate within the text and exhibits the four (4) numbered recommendations listed above.
3. Title Page: "LeAnn Addition" is inconsistent with the name "LeAnn Acres" as used elsewhere throughout the PUD.
4. Page 1, Introduction: The provided site plan indicates a multifamily apartment development, but the specific development type is not included in the introduction, as it should be recognizing the intent is known. Please specify along the lines of, "LeAnn Acres is a planned for a multifamily development."
5. Page 1, Zoning: Zoning district requested by BZ-359 is "RM-2," not "RM."
6. Page 1, The Comprehensive land-use Plan: Final sentence uses word "amended" instead of "amend."
7. Page 1, The Comprehensive land-use Plan: Comprehensive Plan Map designations are incorrect. See correct designations cited in this report.
8. Page 1, Features of the Site and surrounding area; viability and compatibility: Please remove incorrect code citation as follows: "A Detailed Site Plan, adequate to demonstrate compliance with applicable standards and including details on proposed parking and landscape plans, shall be submitted for Bixby Planning Commission approval as required by the Zoning Code Sections ~~11-7G~~ and 11-7I-8.B.5 and this PUD."
9. Page 1, Features of the Site and surrounding area; viability and compatibility: Comprehensive Plan Map designations are incorrect. See correct designations cited in this report. Language should be added acknowledging that the designations are proposed to change per BCPA-8, and to describe the final result of the change if approved.
10. Page 2, Permitted Uses: Zoning district requested by BZ-359 is "RM-2," not "RM."
11. Page 2, Minimum Frontage: Please specify a minimum frontage standard. The provided site plan indicates a singular lot with 824.94' of frontage on Sheridan Rd.
12. Page 2, Maximum Building Floor Area: Use of FAR is not appropriate here for a multifamily residential development; proper density/intensity measure uses units per land area. Please specify maximum proposed units for the development in accordance with the formula provided in the PUD chapter and the Bulk and Area provisions for the RM-2 district of the Zoning Code.
13. Page 2, Minimum Building Setbacks: Zoning Code citation is incorrect.
14. Page 2, Minimum Building Setbacks: Please specify proposed setbacks standards. Consider adjoining land uses, existing and expected, when sizing setbacks.

Development Standards Section B.1.b provides 20' setbacks from the north and south PUD boundaries.

15. Page 2, Development Standards: Acreages and percentages provided do not appear formatted or qualified to be operational in this context. Percentages and acreages should be qualified as “maximum” or “minimum” if intended as standards. Flexibility should be written into the standards, such as by using ranges. The Comprehensive Plan designations cited should be qualified as “existing” and the text should acknowledge that the designations are subject to change per BCPA-8, and what they would be if changed. Calculations provided should be adjusted if appropriate.
16. Page 3, Development Standards Section B.1: Please specify what screening will be proposed for which property lines (type and height).
17. Page 3, Development Standards Section B.1.a: Refers to Exhibit B as a “Preliminary Landscape and Screening Plan,” when Exhibit B is named a “Conceptual Site Plan.” Reconciliation could be achieved by modifying the text such as, “Preliminary plans for landscaping and screening are represented on Exhibit B.”
18. Page 3, Development Standards Section B.1.a: Please correct: “... on Exhibit B ~~to the PUD Text.~~”
19. Page 3, Development Standards Section B.1.b: The street yard landscape percentage requirement is proposed to be removed. Staff recommends this be retained. Even if that standard was removed, the language does not also remove the 10' minimum landscaped strip widths or minimum number landscaping tree requirements of the Zoning Code.
20. Page 3, Development Standards Section B.1.b: (If retained; see item above) Please clarify “The 15% street yard landscape percentage requirement along South Sheridan Road does not apply to this site” or as otherwise intended.
21. Page 4, Development Standards Section B.6.a: Refers to Exhibit D instead of Exhibit F.
22. Development Standards Section B.7.b: Please revise this section to state something along the lines of, “Sidewalks will be constructed within the development site to provide internal pedestrian access between apartment buildings, the management office, the pool, and other common site features.”
23. Development Standards Section B.7.b: Please revise this section to remove the statement that sidewalks will not be constructed along Sheridan Rd., and reword the same such as “A sidewalk shall be constructed by the developer along the entire frontage of Sheridan Road, as required by Subdivision Regulations Section 12-3-2.N. The sidewalk shall be a minimum of five (5) feet in width or otherwise four (4) feet in width with five (5) foot by five (5) foot minimum turnaround areas spaced no less than 200 feet apart, shall be ADA compliant, and shall be approved by the City Engineer.”
24. Page 4, Development Standards Section B.9: Schedule does not include Earth Change Permit, Preliminary Plat, Final Plat, or PUD Detailed Site Plan.
25. Page 5, Exhibits List: Exhibit B is inconsistent with the exhibit name actually used.
26. Exhibit B: Please include, represent, identify/label, and/or dimension, or otherwise correct as follows:
 - a. North arrow
 - b. Scale
 - c. Date of preparation
 - d. Name and contact information of the site plan preparer

- e. Unique identifier so that the plan may be related to the subject property if ever separated from the file, such as property owner's name, property or building address, and/or legal description, or PUD #
 - f. 50' dimension for Sheridan Rd. right-of-way: Please label as "to be dedicated by plat"
 - g. 17.5' Perimeter Utility Easement: required around entire perimeter (including Reserve Area for stormwater detention facility)
 - h. Proposed building dimensions ("typical" qualifier may be used)
 - i. Proposed building setbacks (nearest buildings to each: west to Sheridan Rd. right-of-way, north/side, and south/side at a minimum)
 - j. Driveway widths ("typical" qualifier may be used)
 - k. Consistent with the recommendation for Development Standards Section B.1, please identify what screening will be proposed for which property lines
27. Exhibits B, C, D, and E: Please add a North Arrow.
28. Exhibit B: Please label Development Area A.
29. Exhibit C: Please identify the subject property.
30. Exhibit C, D, E, and F: Missing exhibit names as per Exhibits list on page 5.
31. For the recommended Conditions of Approval necessarily requiring changes to the text or exhibits, recognizing the difficulty of attaching Conditions of Approval to PUD ordinances due to the legal requirements for posting, reading, and administering ordinance adoption, please incorporate the changes into appropriate sections of the PUD, or with reasonable amendments as needed. Please incorporate also the other conditions listed here which cannot be fully completed by the time of City Council ordinance approval, due to being requirements for ongoing or future actions, etc. Per the City Attorney, if conditions are not incorporated into the PUD text and exhibits prior to City Council consideration of an approval ordinance, the ordinance adoption item will be Continued to the next City Council meeting agenda.
32. A corrected PUD text and exhibits package shall be submitted incorporating all of the corrections, modifications, and conditions of approval of this PUD: Two (2) hard copies and one (1) electronic copy (PDF preferred).

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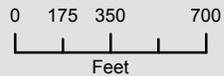


1320' Radius



Subject Tract

PUD-75



23 17-13



Memo

To: Erik Enyart, City Planner
From: Jared Cottle, PE *JWC*
CC: Bea Aamodt, PE
File
Date: 11/20/12
Re: LeAnn Acres PUD 75 Review

General Comment:

1. No utility information submitted with the PUD for comment.
2. Construction of water and sewer lines in "green" spaces outside of paved areas will be required.
3. Extension of City water and sewer lines will be required. Extensive off-site sanitary sewer improvements will be required. Additional review comments will be provided upon submittal of design information.
4. Detention is shown on the site, but additional design information will be required before substantive review comments can be provided. Modifications to or enclosing of the creek flowing across the property will require detailed design and consideration, particularly if any impacts fall within the jurisdiction of the US Army Corps of Engineers.
5. Site access and circulation as well as fire hydrant locations must be approved by the Fire Marshall.

CITY OF BIXBY
APPLICATION FOR PLANNED UNIT DEVELOPMENT
PUD# 75

GENERAL INFORMATION: REQUIREMENTS: (3 COPIES)
NO. OF UNITS _____ TOPO _____
ACRES 2.5 PLOT PLAN _____
TYPE OF PUD REQUESTED RM TEXT _____
-GENERAL LOCATION MAP

GENERAL LOCATION 1/4 MI SOUTH, INTERSECTION OF 151ST & SHERIDAN RD.
PRESENT ZONING AG PRESENT USE SINGLE FAMILY RESIDENCE
RECORD OWNER ROGER P & SAMMIE LEANN METCALF
LEGAL DESCRIPTION OF TRACT UNDER APPLICATION:

SEE ATTACHED

AS APPLICANT, WHAT IS YOUR INTEREST IN THIS PROPERTY? I CERTIFY THAT THE SUBMITTED INFORMATION IS TRUE & CORRECT
____ PRESENT OWNER NAME JR DONELSON
____ PURCHASER ADDRESS 12220 S. MEMORIAL DR # 100
____ ATTORNEY FOR OWNER BIXBY, OK 74008
____ OWNER PHONE 918-394-3030
 AGENT

BILL ADVERTISING & SIGN CHARGES TO: ROGER METCALF (NAME)
P.O. BOX 669, Bixby, OK 74008 (ADDRESS) 918-366-7824 (PHONE)

APPLICANT - DO NOT WRITE BELOW THIS LINE

APPLICATION RECEIVED BY: Enyart DATE: 11/15/2012
SEC. 23 TWP. 17N RG. 18E FEE / REC. NO. \$250.00
SUBDIVISION NAME: _____ P.H. DATE: 12/17/2012
ZONING NO. BZ: 359

BIXBY P. C. RECOMMENDATION: BIXBY CITY COUNCIL ACTION:
RECOMMENDATION: _____ VOTE: _____ ACTION: _____ VOTE: _____
DATE: _____ DATE: _____
PROVISIONS: _____ PROVISIONS: _____
STAFF RECOMMENDATIONS: _____ STAFF RECOMMENDATIONS: _____
DATE: _____ DATE: _____

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Exhibit B-1

PUD Site Legal Description

The S/2 NW/4 NW/4, less the S/2 S/2 S/2 NW/4 NW/4 of Section 23, T-17-N, R-13-E, Tulsa County, State of Oklahoma, containing 15 acres more or less.....and.....
the South 165 feet of the NW/4 NW/4 and the North 165 feet of the SW/4 NW/4 of Section 23, T-17-N, R-13-E, Tulsa County, State of Oklahoma, containing 10 acres more or less.

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**LeAnn Acres
Bixby, Oklahoma**

November 2, 2012

Prepared For:

**Roger Metcalf and LeAnn Metcalf
15329 So. Sheridan Road
Bixby, Oklahoma 74008**

Prepared By:

**J.R. Donelson, Inc.
12820 So. Memorial Dr., Office 100
Bixby, Oklahoma 74008**

LeAnn Addition, Planned Unit Development No. _____

LeAnn Acres

Planned Unit Development Number _____

Introduction.

LeeAnn Acres is a planned development for Multi-family intensity. The overall site totals 25 acres. The site is located on the east side of South Sheridan Road and 660 feet South of 151st Street South. See Exhibit A, which is a Preliminary Plat of the Site.

As depicted on Exhibit B to this Planned Unit Development (PUD), the proposed PUD consists of one development area.

Development Area A will be defined as LeAnn Acres. The legal description for this PUD is shown in Exhibit B1.

Zoning.

The Site, Development Area A currently is zoned "AG", (Agriculture District). An underlying zoning change is requested to "RM", (Residential Multi-family). Attached as Exhibit C is a map from INCOG that identifies the existing zoning of the site and surrounding area. All uses by right of "RM", (Residential Multi-family) zoning will be allowed in Development Area A. The RM-1, RM-2 and RM-3 districts are designed to permit the development and conservation of multi-family dwelling types such as garden apartments and townhouses, in suitable environments and in a variety of densities to meet the varying requirements of families. (Ord. 272, 4-2-1974).

The Comprehensive land-use Plan.

The Site is located within the jurisdiction of the Bixby Comprehensive Plan 2001-2020. According to the Bixby Comprehensive Plan Map and Text, the Site is designated "Low Intensity, Residential Area and Special District #4", which does not support the intensity of development planned for the Site in this PUD. A letter to amend the Bixby Comprehensive Plan 2001-2020, to allow "RM-2" zoning and its uses on this site will be submitted to the City of Bixby.

Features of the Site and surrounding area; viability and compatibility.

A Detailed Site Plan, adequate to demonstrate compliance with applicable standards and including details on proposed parking and landscape plans, shall be submitted for Planning Commission approval as required by the Zoning Code Sections 11-7G and 11-7I-8.B.5 and this PUD. A portion of the site is shown in the Corridor designation in the Comprehensive Plan. A Corridor site plan will be prepared for the 25 acre site as the north 15 acres is included in the Corridor designation. The south 10 acres is designated in the Low Land Use Intensity and Special District #4.

Site Soil Conditions

The Soil Survey of Tulsa County, Oklahoma list the soil for this site to be two types. The east portion of the site is "Dennis silt loam" and the west portion is "Eram-Coweta Complex". This site is well drained and moderately permeable soil.

Development Standards

A. DEVELOPMENT AREA A

LAND AREA:

Gross:	25 acres	1,089,000 square feet
Net:	25 acres	1,089,000 square feet

PERMITTED USES (to be allowed by right):

Those uses permitted are all the Use Units allowed by right within the RM zoning district of the City of Bixby Zoning Code; and all accessory uses permitted in the underlying zoning district and in the Planned Unit Development Chapter of the City of Bixby Zoning Code.

MINIMUM FRONTAGE N/A feet

MAXIMUM BUILDING FLOOR AREA (using .60 FAR): 653,400 square feet

MAXIMUM BUILDING HEIGHT: Three Stories
Or 48 feet

MINIMUM BUILDING SETBACKS
Pursuant to Section 11-7D-4 of the City of Bixby Zoning Code: N/A feet

EASTERN DETENTION AREA 222,733.80 SF or 5.11 acres, 20% of the entire site.
GROSS AREA FOR RM-1 CONSTRUCTION 19.89 acres, 80% of entire site.

CORRIDOR DESIGNATED AREA 15.00 acres, 60 % of the entire site
LOW LAND USE INTENSITY 10.00 acres, 40% of the entire site.
SPECIAL DISTRICT #4

PER COMPREHENSIVE PLAN FOR RM-1 - 18.2 dwelling units per gross acre in Low Land Use Intensity, Special District #4.

18.2 x 10 acres = 182 units.

17.2 x 15 acres = 258 units
440 units

POOL / PARK AREA 95,813 SF or 2.2 acres, 8.8% of the entire site.
LANDSCAPE/GREEN AREA 4.2 acres, 16.8% of the entire site.
DETENTION AREA 5.11 acres, 20% of the entire site.

TOTAL LANDSCAPE/PARK/DETENTION 11.51 acres, 46% of the entire site.

B. DEVELOPMENT STANDARDS FOR THE DEVELOPMENT AREA

1. LANDSCAPED AREA AND SCREENING

- a. A Preliminary Landscape and Screening Plan is depicted on Exhibit B to the PUD Text.
- b. Frontage and Perimeter Requirements. The street yard landscape percentage requirement along South Sheridan Road does not apply to this Site. The buildings will be setback a minimum of 20'-0" from the north and south property lines. Landscaping and grass will be placed in the street yard along South Sheridan Road.

2. SIGNS

- a. Signage shall comply with the PUD Chapter (Chapter 7-1). A ground monument sign will be permitted. The ground sign will not exceed 15'-0" in height.
- b. Flashing signs, changeable copy signs, running light or twinkle signs, animated signs, revolving or rotating signs with movement shall be prohibited in this PUD, except as may be permitted by the Bixby Planning Commission as part of the approved detail sign plan.

3. LIGHTING

- a. Lighting used to illuminate the development area shall be so arranged as to shield and direct the light away from adjacent properties. No light standard or building-mounted light shall exceed 20 feet in height.

4. TRASH, MECHANICAL AND EQUIPMENT AREAS

- a. There shall be no storage of recyclable materials, trash or similar material outside a screened receptacle. All trash, ground supported mechanical and equipment areas, shall be screened from adjacent properties and South Sheridan Road.

5. SITE GRADING

- a. The site is not in a designated FEMA floodplain. An onsite storm water detention facility will be constructed to retain and then release project storm water.

A Professional Engineer registered in the State of Oklahoma shall certify to the appropriate City official that all required storm water drainage requirements serving the Site have been installed in accordance with the approved plans prior to issuance of an Occupancy Permit on that lot.

During construction on the property, the owner will provide adequate and reasonable erosion control methods, and after construction, will provide and maintain vegetative, landscaped ground cover so that soil does not erode on or from the property.

6. TOPOGRAPHY AND UTILITIES

- a. Topography. Topography of the Site is depicted on Exhibit D.
- b. Utilities. Water and sanitary sewer service will be provided by the City of Bixby. An existing water line is located on the east side of South Sheridan Road. A Sanitary sewer line will be extended from along E. 151st Street to the site. A determination will be made during the development phase as to whether a lift station will be required. Storm water runoff will be piped to the on site detention facility.

7. ACCESS, CIRCULATION AND PARKING

- a. Access, traffic circulation and parking is depicted on Exhibit B. All drives and parking areas within the PUD shall be privately owned and maintained.
- b. Walk trails and sidewalks are planned to be constructed within the PUD site. South Sheridan Road presently has bar ditches along both sides of the pavement to convey storm water runoff. A sidewalk paralleling South Sheridan Road will not be constructed.

8. RESTRICTIVE COVENANTS; ENFORCEMENT

- a. Restrictive covenants will be adopted and recorded for the PUD as platted.

9. SCHEDULE OF DEVELOPMENT

Development will commence upon the approval of the PUD, preliminary plat and the constructions drawings by the appropriate government agencies. The proposed development schedule is as follows :

- a. Approval of construction plans: 4/1/13
- b. Installation of site erosion control: 4/4/13
- c. Begin site grading: 4/15/13
- d. Begin building construction: 4/22/13

Exhibits

Exhibit A.	Preliminary Plat.
Exhibit B.	Concept Site Plan, Development Area, and Landscaping
Exhibit B-1.	PUD Site Legal Description.
Exhibit C.	Existing Area Zoning.
Exhibit D.	Comprehensive Plan Map
Exhibit E.	Aerial of the Site.
Exhibit F.	Topography of Site.

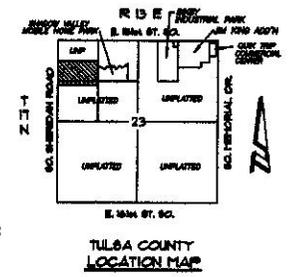
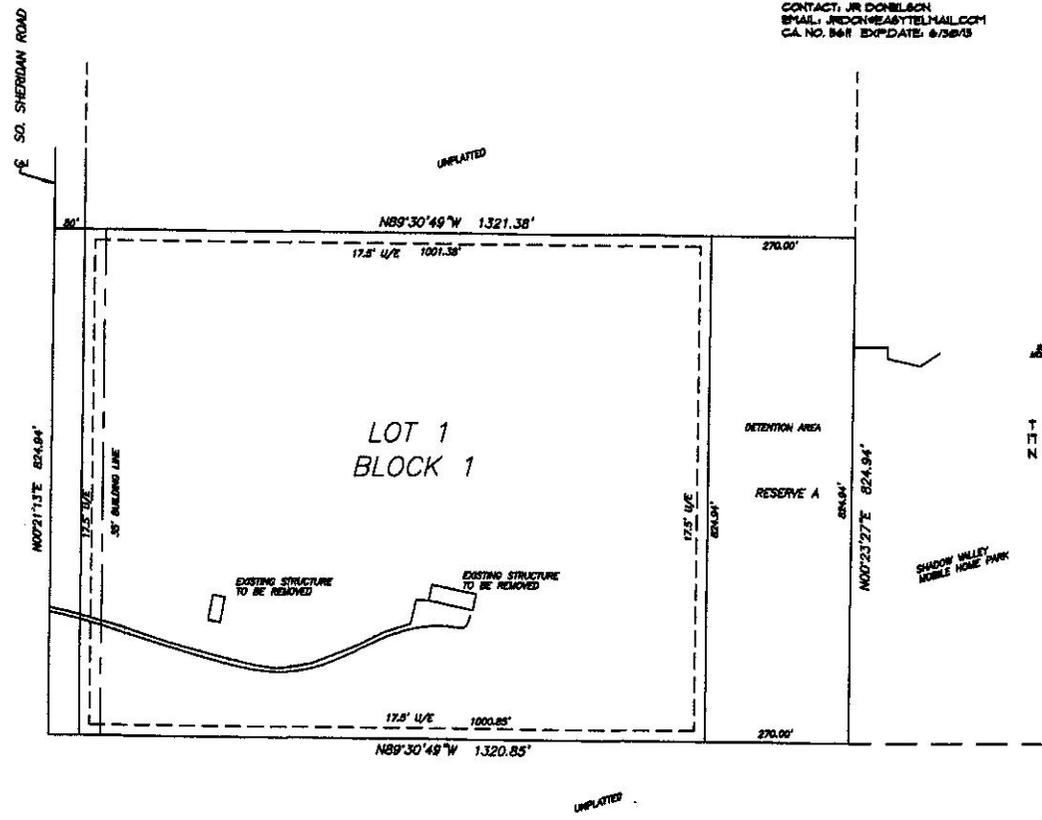
PLAT No.

OWNER:
 ROGER F. METCALF AND LEANN BANNIE METCALF
 8328 S.O. SHERIDAN RD.
 BIXBY, OK. 74608-4806
 PHONE: 918-366-1814
 CONTACT: ROGER METCALF

LeAnn Acres
 AN ADDITION SITUATED IN THE NW/4 OF SECTION 23, T-11-N, R-13-E, TULSA COUNTY, STATE OF OKLAHOMA.

ENGINEER/SURVEYOR
 JR DONELSON, INC.
 2880 S.O. MEMORIAL DR. 400
 BIXBY, OK. 74608
 PHONE: 918-354-3838
 CONTACT: JR DONELSON
 EMAIL: JRDON@EASTTELMAIL.COM
 CA. NO. 848 EXP. DATE: 8/28/13

**FINAL PLAT
 CERTIFICATE OF APPROVAL**
 I hereby certify that this plat was approved by the City Council of the City of Bixby, OK.
 By: _____
 Mayor - Vice Mayor
 This approval is valid if the above signature is not countersigned by the City Manager or City Clerk.
 By: _____
 City Manager - City Clerk



CERTIFICATE

STATE OF OKLAHOMA
 COUNTY OF TULSA) SS
 I, Estelma Wilson, Tulsa County Clerk, do and for the County and State of Oklahoma above named, do hereby certify that the foregoing is a true and correct copy of a file instrument now on file in my office.
 Dated this _____ day of _____, 2012.
 Estelma Wilson, Tulsa County Clerk
 Deputy

Exhibit A

LEGEND

A.O.	ACCESS OPENING
L.N.A.	LIMITS OF NO ACCESS
U/E	UTILITY EASEMENT
BL	BUILDING LINE
CL	CENTER LINE
R.O.B.	ROAD RIGHT-OF-WAY

BASIS FOR BEARINGS:
 The basis for bearings is the North line of Section 23, T-11-N, R-13-E S 89°30'34\"/>

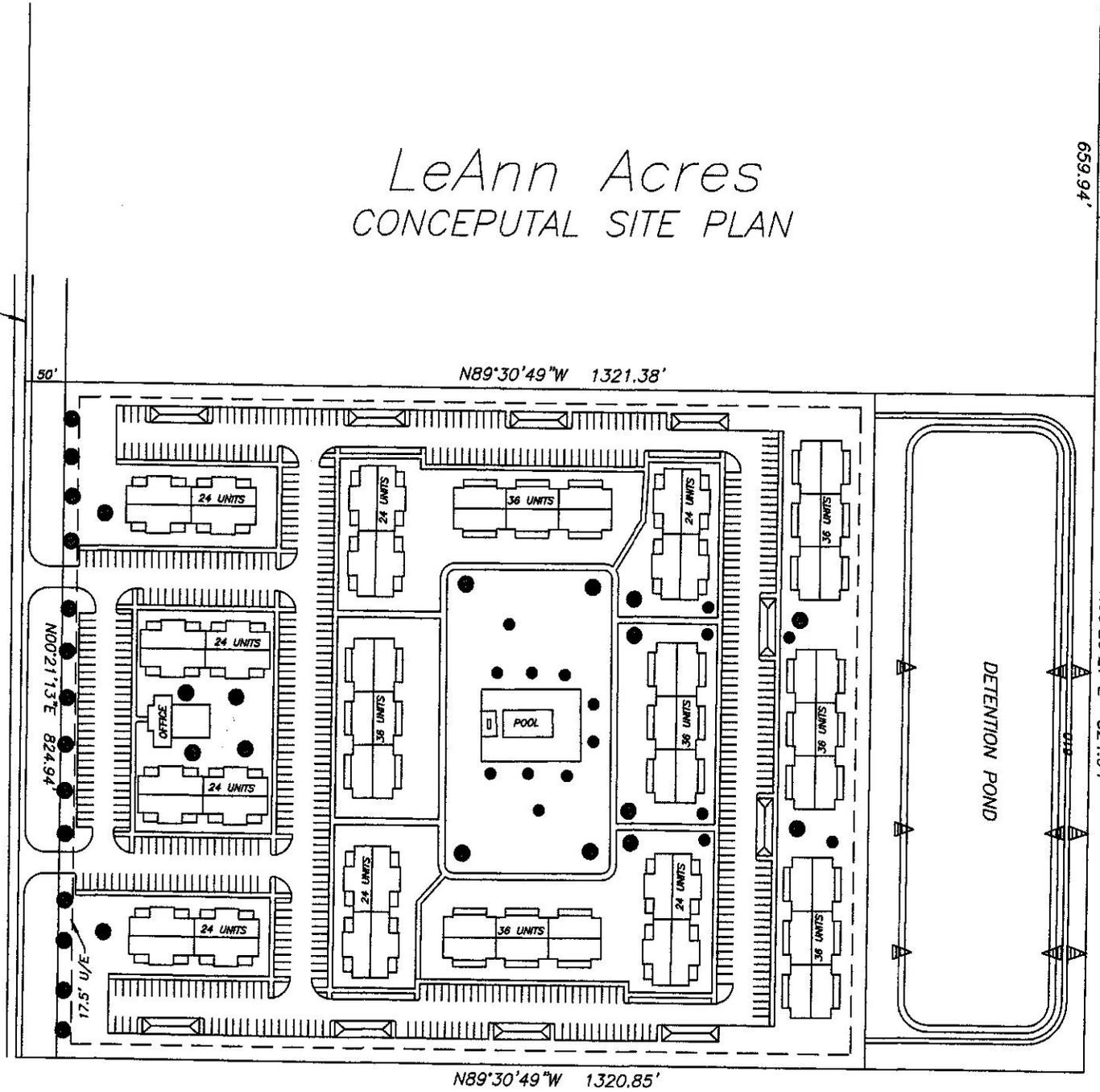
BENCHMARK:
 \"X\" in concrete along the South line of Section 14, of the Southeast Corner of West-Mart Store Addition, Elev.: 803.53, NAD83

INSTRUMENT CONTROL:
 Southeast Corner of the SE/4 of the SE/4 of Section 14, 356,833,349 North 2,623,245,460 East

This plat meets the Oklahoma minimum standards for the practice of Land Surveying as adopted by the Oklahoma State Board of Registration for Professional Engineers and Surveyors.

LeAnn Acres CONCEPTUAL SITE PLAN

Q SO. SHERIDAN ROAD



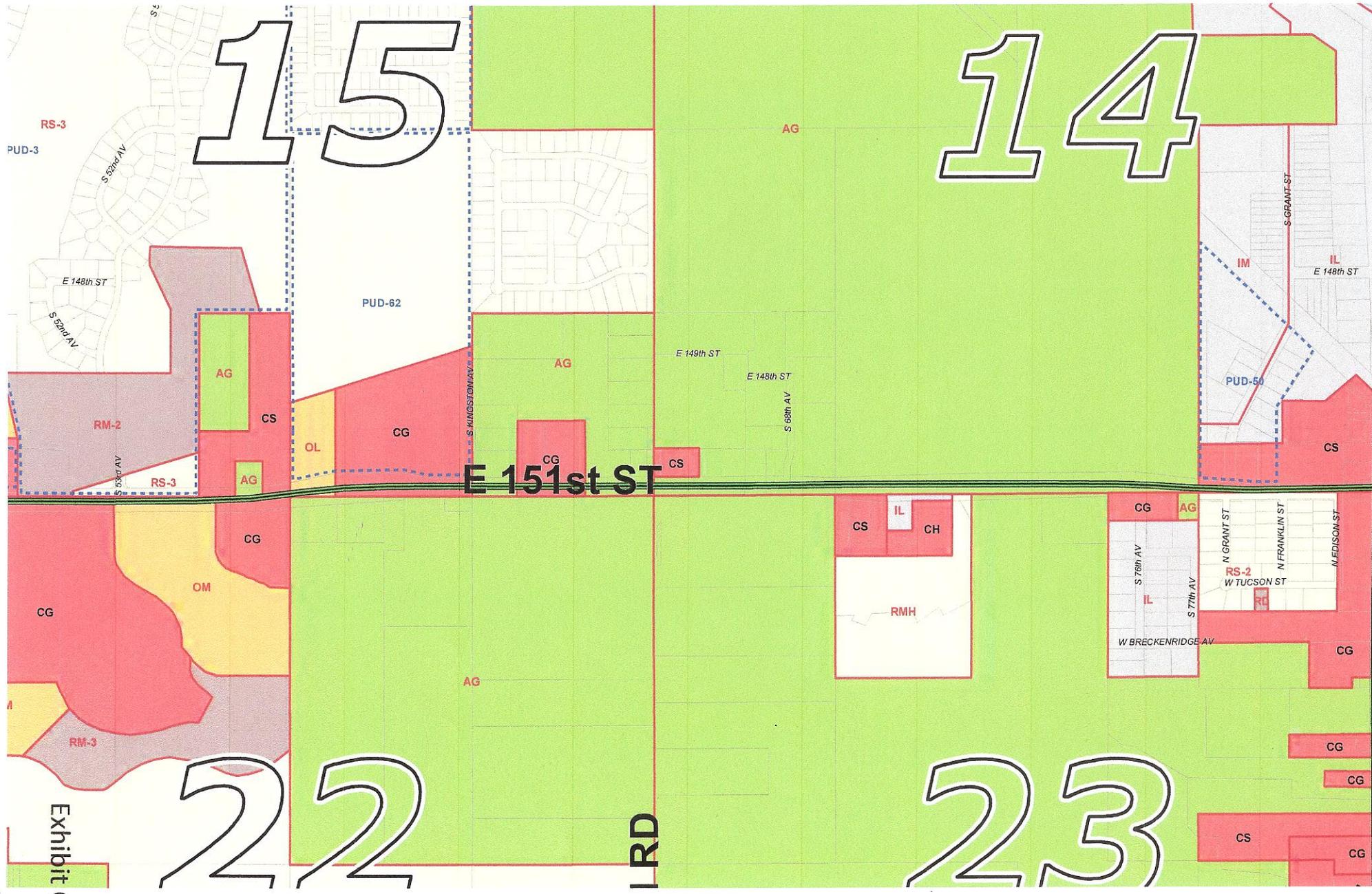
SHADOW VALLEY
MOBILE HOME PARK

Exhibit B

Exhibit B-1

PUD Site Legal Description

The S/2 NW/4 NW/4, less the S/2 S/2 S/2 NW/4 NW/4 of Section 23, T-17-N, R-13-E, Tulsa County, State of Oklahoma, containing 15 acres more or less.....and.....
the South 165 feet of the NW/4 NW/4 and the North 165 feet of the SW/4 NW/4 of Section 23, T-17-N, R-13-E, Tulsa County, State of Oklahoma, containing 10 acres more or less.



15

14

22

23

Exhibit C

LRD

E 151st ST

RS-3
PUD-3

PUD-62

PUD-50

RM-2

RS-3

CG

RM-3

E 148th ST

E 148th ST

CS

IL

CH

RMH

W BRECKENRIDGE AV

S 76th AV

S 77th AV

W TUCSON ST

N GRANT ST

N FRANKLIN ST

N EDISON ST

IM

IL

E 148th ST

CS

CG

CG

CS

CG

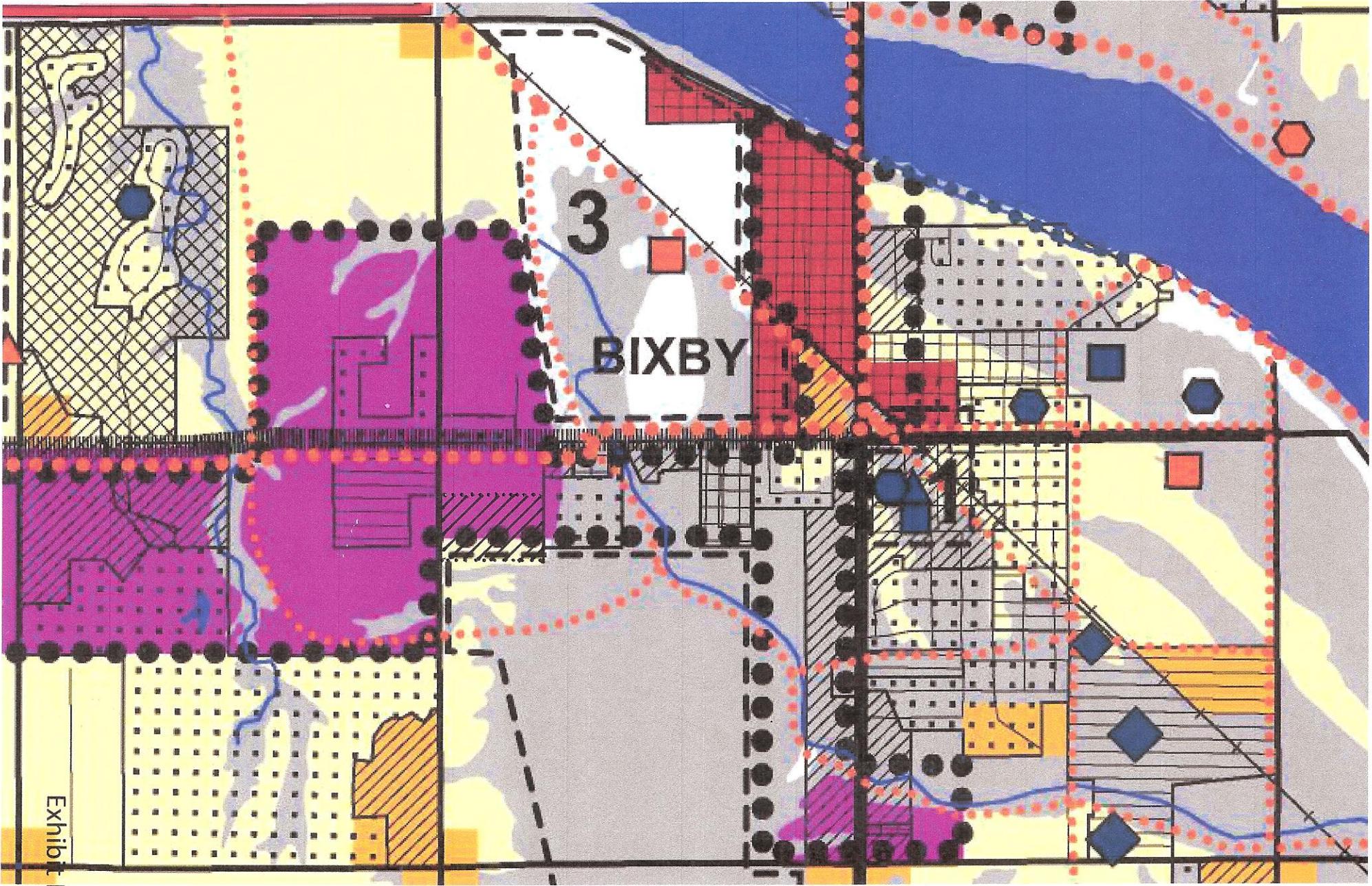


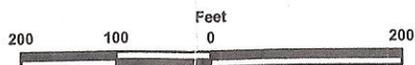
Exhibit D



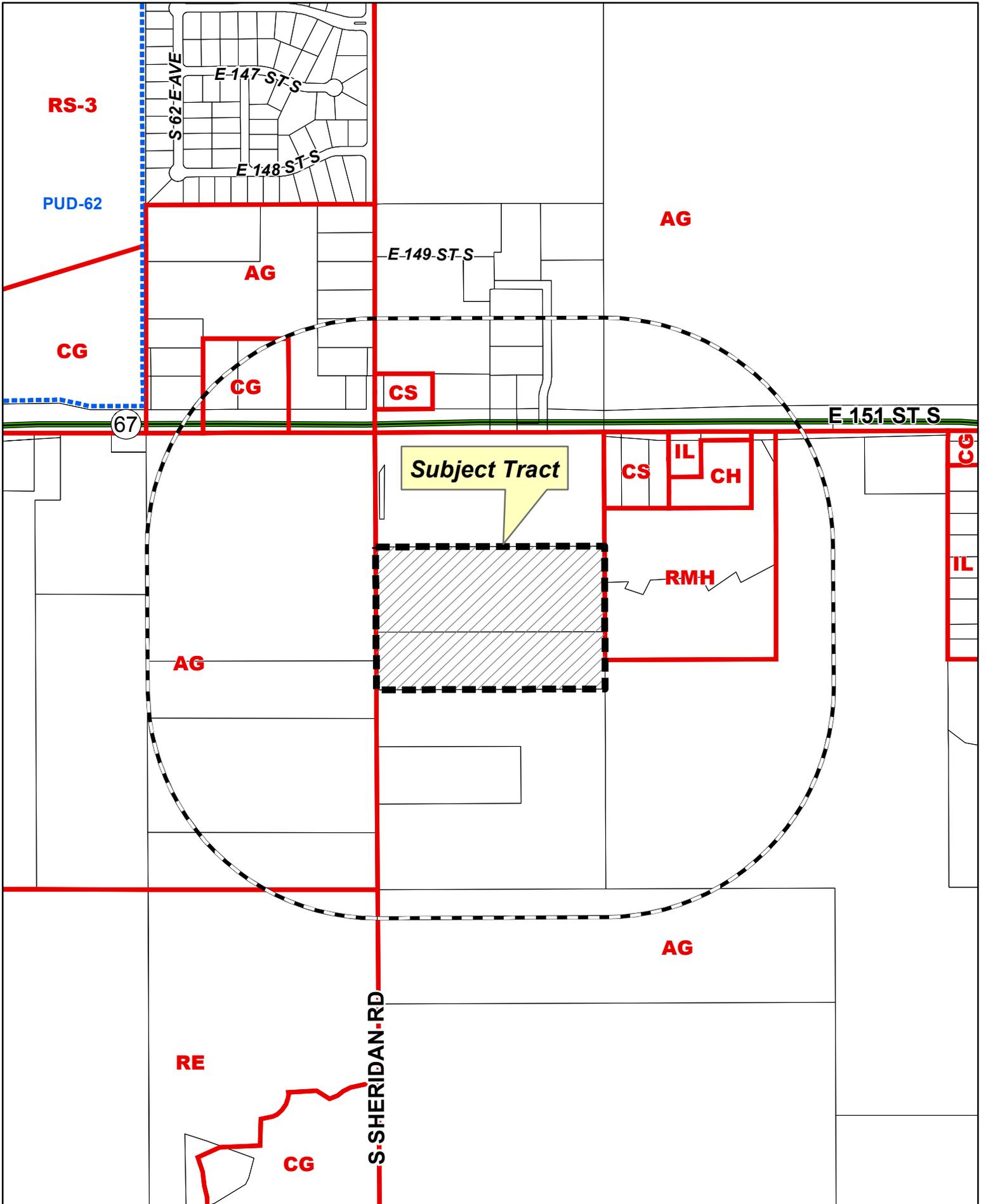
Exhibit E



Contour Data Sources:
Tulsa County Engineer
City of Tulsa Public Works
City of Broken Arrow



Date of Photo
MARCH
Date of Contour
2002

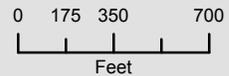


1320' Radius



Subject Tract

BCPA-8



23 17-13



JR Donelson, Inc.

12820 So. Memorial Dr., Office 100

Bixby, Oklahoma 74008

918-394-3030

Email: jrdon@easytelmail.com

November 9, 2012

Erik Enyart
City Planner
City of Bixby
Bixby, Oklahoma

CITY OF BIXBY

NOV 13 2012

RECEIVED

By Enyart
C.F. BCPA-8

Re: Request to modify the Bixby Comprehensive Plan

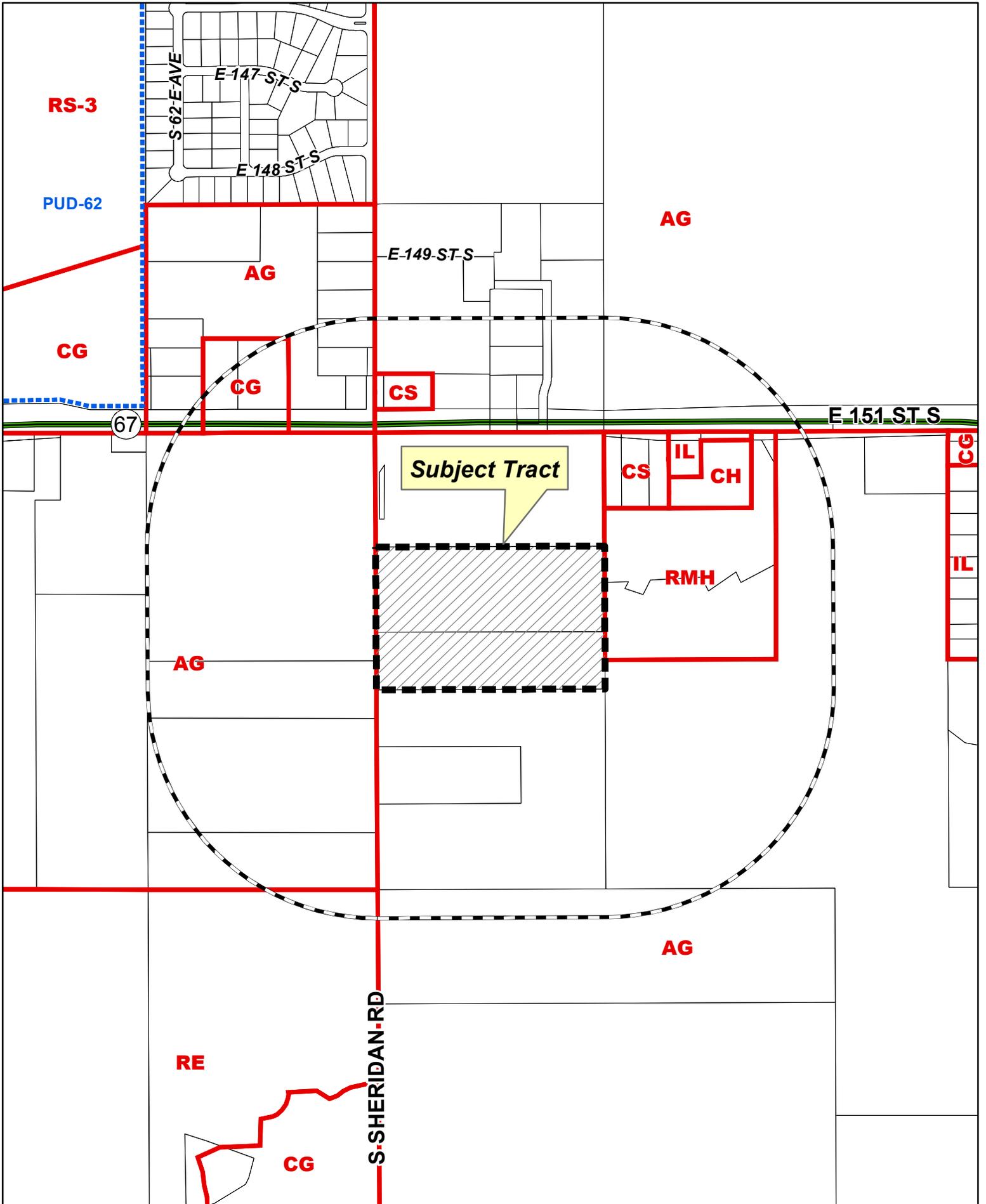
Roger and LeAnn Metcalf own the S/2 NW/4 NW/4 , less the S/2 S/2 S/2 NW/4 NW/4 of Section 23, T-17-N, R-13-E, Tulsa County, State of Oklahoma containing 15 acres more or lessand..... The South 165 feet of the NW/4 NW/4 and the North 165 feet of the SW/4 NW/4 of Section 23, T-17-N, R-13-E, Tulsa County, State of Oklahoma, containing 10 acres more or less.

This site has the designations of "Corridor , Low Intensity, Residential Area and Special District #4". The owners request the Bixby Comprehensive Plan be modified to allow Medium Intensity, Residential "RM-2", Residential Multi-family zoning classification on their property.

Thank you,


JR Donelson

103

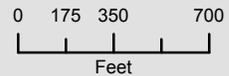


1320' Radius



Subject Tract

BZ-359



23 17-13



APPLICATION FOR ZONING

BZ-359 CZM N/A

CITY OF BIXBY

STR 2347-13 Atlas

PD

GENERAL LOCATION 151ST & SHERIDAN RD

REQUESTED ZONING RM-2 PROPOSED USE APARTMENTS

RECORD OWNER ROGER & LEANN METCALF PRESENT USE RESIDENCE & PASTURE

LEGAL DESCRIPTION OF TRACT (ATTACH PLAT OF SURVEY IF METES AND BOUNDS):

[Empty box for legal description of tract]

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

If Applicant is other than Owner, indicate interest: _____

Is subject tract located in 100 year floodplain? [] YES [X] NO

BILL ADVERTISING CHARGES TO: ROGER METCALF

15329 S. SHERIDAN RD BIXBY, OK (Address) (City) 74008 (Name) 918-906-7500 (Phone)

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

Signature [Signature] Date: 8/20/2012

Address: 15329 S. SHERIDAN RD. BIXBY, OK Phone: 918-906-7500

APPLICANT - DO NOT WRITE BELOW THIS LINE

P.H. Date 10/15/2012 Date Received 08/20/2012 Received By Enyart

PRESENT ZONING A G RECEIPT NOS.

Table with columns: FEES, TYPE, ZONING, ACREAGE, BASE FEE, ADD., TOTAL. Row 1: L M H MP

Sign(s) at \$ each = \$ Postage \$ Total Sign/postage \$

PC ACTION CITY ACTION PROVISIONS DATE/VOTE STAFF REC. ORD. NO. PLAT NAME

901

E SO. SHERIDAN ROAD

50'

N00°21'13"E 824.94'



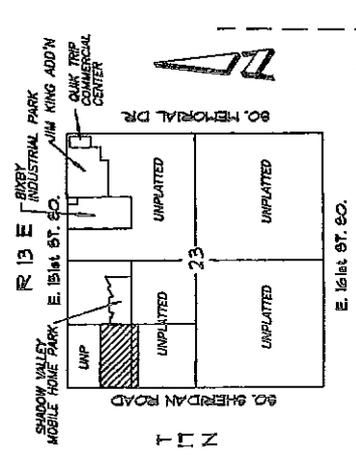
OWNER:
ROGER P. METCALF AND LEANN SANNIE METCALF
15375 SO. SHERIDAN RD.
BIXBY, OK 74008-4006
PHONE: 918-966-1814
CONTACT: ROGER METCALF

N89°30'49"W 1321.38'

THE S/2 NW/4, NW/4 LESS
THE S/2 S/2, S/2 NW/4 NW/4
SECTION 23, T-17-13-E, TULSA
COUNTY, OK
CONTAINING 15 AC +-

THE SOUTH 165 FEET OF THE NW/4 NW/4 AND
THE NORTH 165 FEET OF THE SW/4 NW/4 OF
SECTION 23, T-17-N, R-13-E, TULSA COUNTY, OK,
AND CONTAINING 10 AC +-

N89°30'49"W 1320.85'



TULSA COUNTY
LOCATION MAP

N00°23'27"E 824.94'

No
Image
Available



Ken Yazel
Tulsa County Assessor

Server Date 06-10-2008

Account Number 97323-73-23-34260

Inspection Date 05-2005

Mailing Addr. METCALF, ROGER P &
SAMMIE LEANN
15329 S SHERIDAN RD
BIXBY OK 74008-4006

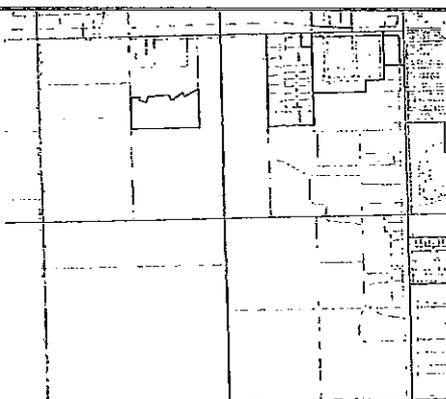
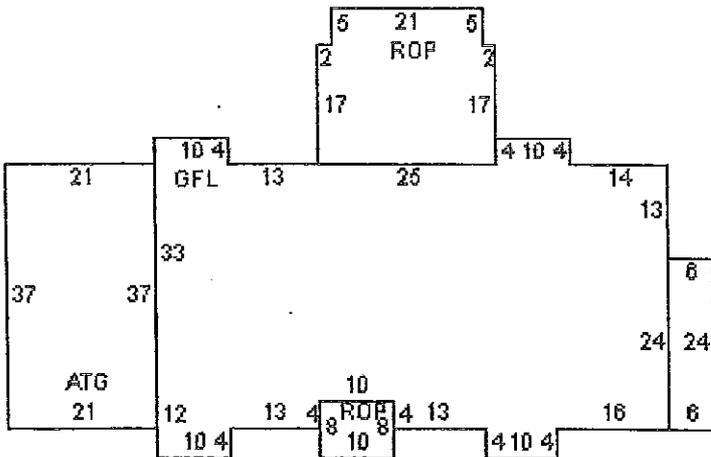
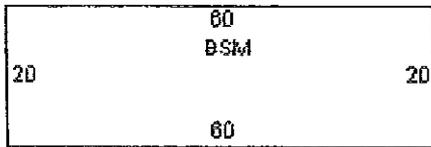
Book/Page 04791-02292 GWD Deed Date 05-22-84

Property Addr. 15329 S SHERIDAN RD E

Subdivision

Legal Description

S165 NW NW & N165 SW NW SEC 23 17 13 10AC



Class Code	XAX	Nbrhd	9005
Zone	AG	School Dist	BI-4B
Constr. Quality	AVERAGE+	Year Built	1980
Living Area	3984 sqft	Story Height	100
1st Floor	2784 sqft	Exterior Wall	FRAME
2nd Floor		Air Cond	HEAT DUCTS
3rd Floor		Roof Material	ASPHALT
Finished Bsmt	1200 sqft	Fireplace	2
Balcony		Full Bath	3
Physical Cond	GOOD	Half Bath	0
Porch 1	224 sqft OPEN		
Porch 2	530 sqft OPEN		
Garage 1	777 sqft ATT FRAME		
Garage 2			
Pool			
Site Addn 1			
Site Addn 2			
Site Addn 3			
Site Addn 4			
Land Area	435600.00 Sq. Ft.		
Snd Land	\$ 1,490		
Snd Impr.	\$ 214,600		
Total Snd	\$ 216,090		
Taxb Land	\$ 1,490		
Taxb Impr.	\$ 214,600		
Total Taxb	\$ 216,090		
Asd Land	\$ 164		
Asd Impr.	\$ 23,606		
Total Asd	\$ 23,770		
Homestead	1000		
Dbl Homestead	0		
Freeze	N		

107

**No
Image
Available**



**Ken Yazel
Tulsa County Assessor**

Server Date 06-10-2008

Account Number 97323-73-23-29260

Inspection Date

Mailing Addr. METCALF, ROGER P &
SAMMIE LEANN
15329 S SHERIDAN
BIXBY OK 74008

Book/Page 06459-01801 GWD

Deed Date 01-04-01

Property Addr.

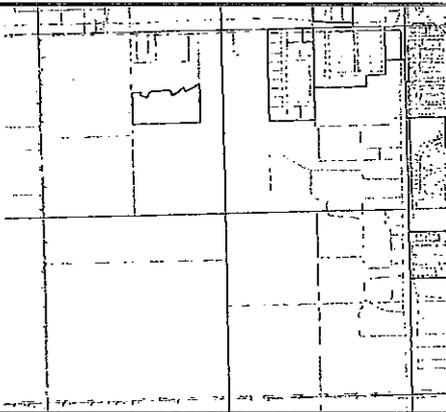
Subdivision

Legal Description

S/2 NW NW LESS S/2 S/2 S/2 NW NW SEC 23 17 13 15AC
S

Sketch

Class Code	XV	Nbrhd	9005
Zone	AG	School Dist	BI-4B
Constr. Quality		Year Built	0
Living Area		Story Height	0
1st Floor		Exterior Wall	
2nd Floor		Air Cond	
3rd Floor		Roof Material	
Finished Bsmt		Fireplace	0
Balcony		Full Bath	0
Physical Cond		Half Bath	0
Porch 1			
Porch 2			
Garage 1			
Garage 2			
Pool			
Site Addn 1			
Site Addn 2			
Site Addn 3			
Site Addn 4			
Land Area	653400.00 Sq. Ft.		
Snd Land	\$ 1,720		
Snd Impr.	\$		
Total Snd	\$ 1,720		
Taxb Land	\$ 1,720		
Taxb Impr.	\$		
Total Taxb	\$ 1,720		
Asd Land	\$ 189		
Asd Impr.	\$		
Total Asd	\$ 189		
Homestead	0		
Dbl Homestead	0		
Freeze	N		



108

14

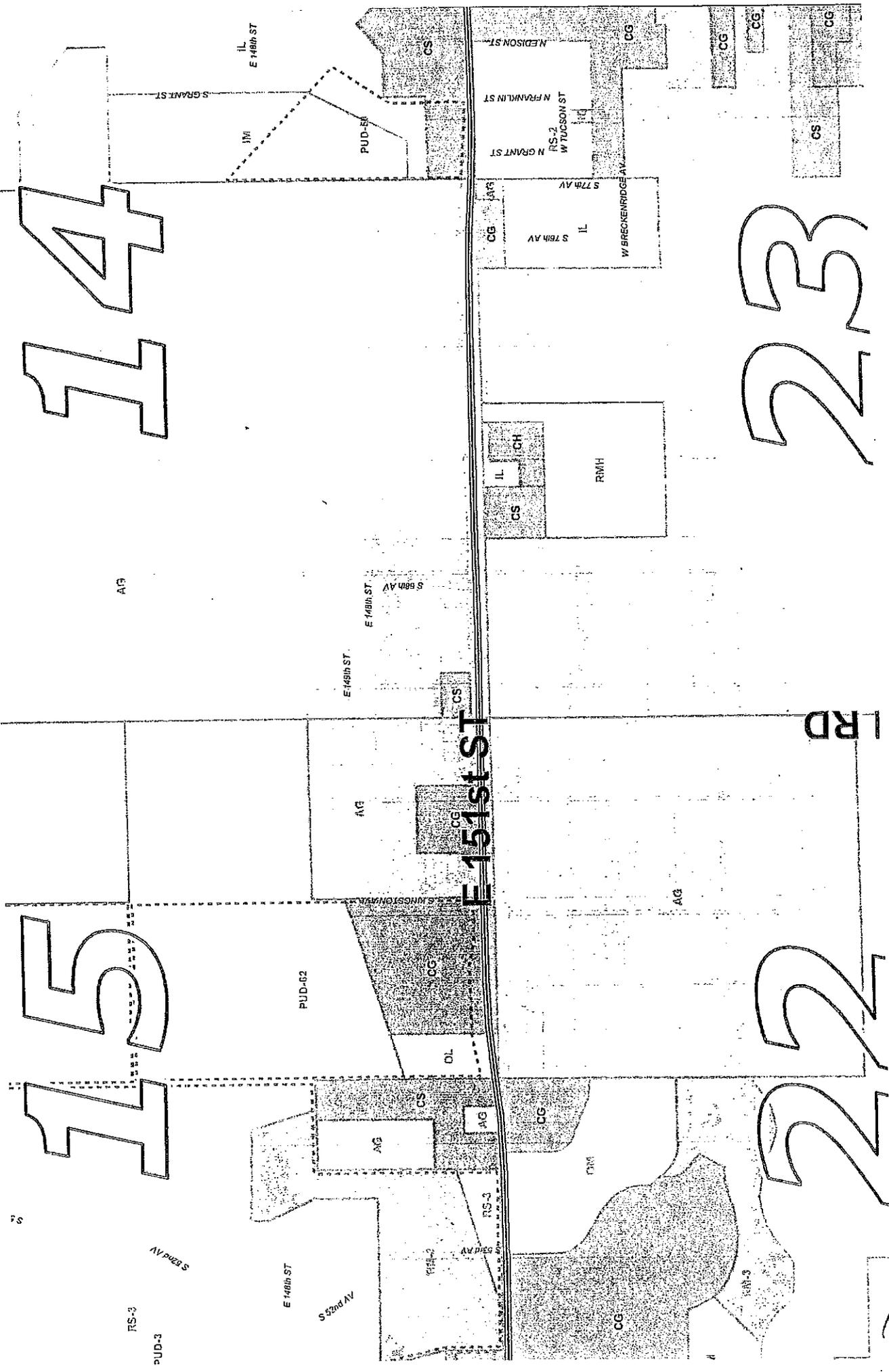
15

23

22

IRD

109



011

SO. SHERIDAN ROAD

50'

N00°21'13"E 824.94'



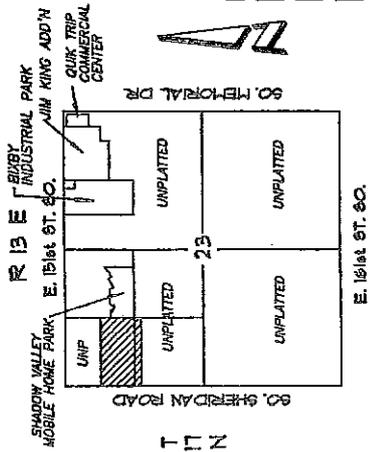
OWNER:
ROGER P. METCALF AND LEANN SAMMIE METCALF
15329 SO. SHERIDAN RD.
BIXBY, OK. 74008-4006
PHONE: 918-366-1824
CONTACT: ROGER METCALF

N89°30'49"W 1321.38'

THE S/2 NW/4 NW/4 LESS
THE S/2 S/2 NW/4 NW/4
SECTION 23, T-17-13-E, TULSA
COUNTY, OK.
CONTAINING 15 AC +-

THE SOUTH 165 FEET OF THE NW/4 NW/4 AND
THE NORTH 165 FEET OF THE SW/4 NW/4 OF
SECTION 23, T-17-N, R-13-E, TULSA COUNTY, OK.
AND CONTAINING 10 AC +-

N89°30'49"W 1320.85'



TULSA COUNTY
LOCATION MAP

N00°23'27"E 824.94'



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

STAFF REPORT

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner 
Date: Wednesday, January 16, 2013
RE: Report and Recommendations for:
PUD 63 – 101 South Memorial Plaza – Major Amendment # 1

LOCATION: – Along 102nd St. S. between Memorial Dr. and 85th E. Ave.
– All of *101 South Memorial Plaza*

LOT SIZE: 7.5 acres more or less, in four (4) platted lots

EXISTING ZONING: CS Commercial Shopping Center District and CG General Commercial District

SUPPLEMENTAL ZONING: PUD 63 & Corridor Appearance District (partial inclusion)

EXISTING USE: Vacant commercial lots in *101 South Memorial Plaza*, and a *Holiday Inn Express & Suites Tulsa South/Bixby* hotel on Lot 1, Block 3 thereof

REQUEST: Major Amendment # 1 to PUD 63 for all of *101 South Memorial Plaza*, which amendment proposes the modification of the maximum parking space standard and sign height restriction, among other things

SURROUNDING ZONING AND LAND USE:

North: CS; Vacant unplatted tracts and the vacant balance of Tract C in *101 South Memorial Center*.

South: CS; *Aldi* grocery store, *BancFirst*, and *The Palazzo* shopping center, all in *101 South Memorial Center*.

East: CS; *Dickinson Starworld 20* movie theater and the vacant Tract D in *101 South Memorial Center* and the *Warren Clinic* doctor's office in *Landmark Center*.

West: CG/CS/PUD 65, CG, & AG; *CVS/Pharmacy, Whataburger, Sprouts Farmers Market* (under construction), and vacant Lot 5, Block 1, all in *101 Memorial Square* zoned CG/CS/PUD 65, the *Schlotsky's Deli* restaurant zoned CG, and vacant land zoned AG across Memorial Dr. in the City of Tulsa.

COMPREHENSIVE PLAN: Corridor + Medium Intensity + Commercial Area.

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

BZ-89 – Ron Koepp – Request for rezoning from AG to CG for 3.6 acres (included part of subject property) – Recommended for Approval by PC 04/28/1980 and Approved by City Council 05/19/1980 (Ord. # 401).

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

BL-352 – American Southwest Properties, Inc. – Request for Lot-Split to separate northern part of Tract C of *101 South Memorial Center* from balance of property, which was later included in PUD 63 and the plat of *101 South Memorial Plaza* – Conditionally approved by PC 04/21/2008.

PUD 63 – 101 South Memorial Plaza – American Southwest Properties, Inc. – Request for PUD approval for subject property – Conditionally approved by PC and City Council in April/May of 2008 (Ord. # 1004).

Preliminary Plat of 101 South Memorial Plaza – Request for Preliminary Plat approval for subject property – Conditionally approved by PC and City Council in April of 2008. The City Council also approved a Modification/Waiver from the street right-of-way widths to allow the 30' to 40' right-of-way widths as proposed.

Final Plat of 101 South Memorial Plaza – Request for Final Plat approval for subject property – PC recommended Conditional Approval on 10/20/2008 and City Council Conditionally Approved 10/27/2008. City Staff received and approved a request for extension on the plat approval for one (1) year from 10/27/2009.

AC-09-12-05 – Holiday Inn Express – ArcTech Incorporated, PC – Request for Detailed Site Plan approval for a hotel on Lot 1, Block 3, *101 South Memorial Plaza* – Planning Commission Conditionally Approved 12/21/2009.

Plat Waiver for Holiday Inn Express – Request for temporary Waiver of the platting requirement per Zoning Code Section 11-8-13 for Lot 1, Block 3, *101 South Memorial Plaza* – Approved by City Council 03/22/2010 subject to the approval and recording of the plat of *101 South Memorial Plaza* before the end of calendar year 2010.

Revised Final Plat of 101 South Memorial Plaza – Request for revised Final Plat approval for subject property – PC recommended Conditional Approval on 04/19/2010 and City Council Conditionally Approved 04/26/2010 (plat recorded 07/30/2010).

BSP 2012-02 – Andy's Frozen Custard – Lewis Engineering, P.L.L.C. – Request for Detailed Site Plan approval for a frozen custard restaurant on Lot 2, Block 3, *101 South Memorial Plaza* – Planning Commission Conditionally Approved 12/17/2012.

RELEVANT AREA CASE HISTORY: (not a complete list)

BZ-89 – Ron Koepp – Request for rezoning from AG to CG for 3.6 acres including the southerly 0.96 acres (more or less) of the land later platted as *101 Memorial Square* abutting subject property to the north/west – Recommended for Approval by PC 04/28/1980 and Approved by City Council 05/19/1980 (Ord. 401).

BZ-148 – John Moody for William E. Manley, et al. – Request for rezoning from AG to CG (amended to CS) for land later platted as *101 Memorial Square*, less the southerly 0.96 acres (more or less) thereof (abutting subject property to the north/west) – Recommended for Approval by PC 10/31/1983 and Approved by City Council 11/07/1983 (Ord. 496).

BBOA-341 – Roy D. Johnsen for William E. Manley – Request for Special Exception to allow used car sales on the northwest 0.7 acres of land later platted as *101 Memorial Square* abutting subject property to the north/west – Denied by BOA 11/02/1998 – Notice of Appeal in District Court found in case file but with no followup information as to its ultimate disposition.

BBOA-409 – Eric Sack for William & Betty Manley – Request for Variance to Chapter 11, Section 1140(d) “Unenclosed off-street parking areas shall be surfaced with an all-weather material,” and a Special Exception per Chapter 10 Section 1002.3(a) “Temporary open air activities, may continue for a period not to exceed thirty days per each application... for the sale of Christmas Trees, wreaths, bows and other seasonal goods from November 25, 2003 through December 24, 2003 for land later platted as *101 Memorial Square* abutting subject property to the north/west – Withdrawn by Applicant in September 2003.

BBOA-410 – Eric Sack for William & Betty Manley – Request for Variance to Chapter 11, Section 1140(d) “Unenclosed off-street parking areas shall be surfaced with an all-weather material,” and a Special Exception per Chapter 10 Section 1002.3(a) “Temporary open air activities, may continue for a period not to exceed thirty days per each application... for the sale of Halloween related items such as pumpkins, gourds, hay and other seasonal goods and related activities such as pony rides and miniature train rides, from September 26, 2003 through October 31, 2003 for land later platted as *101 Memorial Square* abutting subject property to the north/west – Withdrawn by Applicant in September 2003.

PUD 65 – 101 Memorial Square – Manley 101st & Memorial, LLC – Request for PUD approval for *101 Memorial Square* abutting subject property to the north/west – Recommended for Conditional Approval by PC 11/17/2008 and Conditionally Approved by City Council 01/05/2009.

Preliminary Plat of 101 Memorial Square – Manley 101st & Memorial, LLC – Request for Preliminary Plat approval for *101 Memorial Square* abutting subject property to the north/west – Recommended for Conditional Approval by PC 11/17/2008 and Conditionally Approved by City Council 11/24/2008.

Final Plat of 101 Memorial Square – Request for Final Plat approval for *101 Memorial Square* abutting subject property to the north/west – Recommended for Conditional Approval by PC 02/17/2009 and Conditionally Approved by City Council 03/02/2009.

AC-09-02-02 – CVS/Pharmacy – Jacobs Carter Burgess – Request for Detailed Site Plan approval for Lot 1, Block 1, *101 Memorial Square* (northwest of subject property) – Architectural Committee Conditionally Approved 02/17/2009. Developer Appealed the Approval in order to do away with the landscaped berm and Council took no action on 03/09/2009 based on the City Attorney’s opinion that the Council had removed the berm requirement for this Detailed Site Plan upon the approval of the Final Plat of *101 Memorial Square*.

BSP 2009-01 – CVS/Pharmacy – Jacobs Carter Burgess – Request for Detailed Site Plan approval for Lot 1, Block 1, *101 Memorial Square* as required by PUD 65 (northwest of subject property) – PC Conditionally Approved 02/17/2009. Developer Appealed the Approval in order to do away with the landscaped berm and Council took no action on 03/09/2009 based on the City Attorney's opinion that the Council had removed the berm requirement for this Detailed Site Plan upon the approval of the Final Plat of *101 Memorial Square*.

BBOA-547 – Kimley-Horn & Associates, Inc. – Request for Special Exception per Zoning Code Section 11-10-2.H to allow a total of 40 parking spaces, in excess of the 24 space maximum standard for a proposed restaurant in the CG General Commercial District and CS Commercial Shopping Center District with PUD 65 for the S. 189.99' of Lot 3, Block 1, *101 Memorial Square* abutting subject property to the west – BOA Approved 11/07/2011.

BL-382 – Sisemore, Weisz & Associates, Inc. – Request for Lot-Split approval for Lot 3, Block 1, *101 Memorial Square* abutting subject property to the west – PC Approved 11/21/2011 subject to the attachment of the north 54.56' to Lot 2, Block 1, *101 Memorial Square*.

AC-11-01-02 – Whataburger – Kimley-Horn & Associates, Inc. – Request for Detailed Site Plan approval for a Use Unit 12 fast-food restaurant for the S. 189.99' of Lot 3, Block 1, *101 Memorial Square* abutting subject property to the west – PC Conditionally Approved 11/21/2011.

BSP 2012-01 / AC-12-04-05 – “Sprouts Farmers Market” – Sisemore, Weisz & Associates, Inc. – Request for Detailed Site Plan approval for a “Sprouts Farmers Market,” a Use Unit 13 specialty grocery store development for Lots 2, 4, and the N. 54.56' of Lot 3, Block 1, *101 Memorial Square* abutting subject property to the north/west – PC Conditionally Approved 04/16/2012.

PUD 65 – 101 Memorial Square – Major Amendment # 1 – Request for approval of a Major Amendment to PUD 65, abutting subject property to the north/west, which amendment proposed changes to parking and signage requirements – PC recommended Approval 04/16/2012 and City Council Approved 04/23/2012 (Ord. # 2082).

BACKGROUND INFORMATION:

ANALYSIS:

Property Conditions. The subject property consists of all of *101 South Memorial Plaza*, containing vacant commercial lots, with the exception of a *Holiday Inn Express & Suites Tulsa South/Bixby* hotel on Lot 1, Block 3.

101 South Memorial Plaza is moderately sloped and drains through an underground stormsewer system in a southeasterly direction to an upstream tributary of Fry Creek # 1, which tributary flows to the southeast through *101 South Memorial Center, Regal Plaza, South Country Estates*, and the *Legacy* additions before its confluence with Fry Creek No. 1 near 107th St. S. and 91st E. Ave.

Tract F in *101 South Memorial Center*, located immediately south of the *Dickinson Starworld 20* movie theater, contains a stormwater detention facility. This facility has been enlarged, and the stormsewer pipe systems have been extended and enlarged, to accommodate the additional

stormwater detention and drainage capacity necessary to serve the new commercial developments in *101 South Memorial Plaza* and *101 Memorial Square*.

General. On Lot 2, Block 3, *101 South Memorial Plaza*, the Planning Commission Conditionally Approved an *Andy's Frozen Custard* restaurant for a PUD Detailed Site Plan in December of 2012. Certain parking and signage aspects of that proposed development would not comply with PUD 63, and thus this Major Amendment # 1 has been requested.

The *Andy's Frozen Custard* restaurant is proposed to have 2,150 square feet of building floor area. Although this particular development precipitated the need for this PUD Major Amendment, the amendment proposes changes to certain parking and signage requirements for all of PUD 63 / *101 South Memorial Plaza*. The changes would affect Section E of the PUD, which are "Development Standards for All Development Area Lots." Because the changes only pertain to parking and signage and all changes were explicitly represented on the Detailed Site Plan reviewed by the Technical Advisory Committee on December 05, 2012, and no objections were raised to any proposed consequence, this PUD Major Amendment # 1 was not placed on a TAC agenda for review or additional comment.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Corridor, (2) Medium Intensity, and (3) Commercial Area.

Due to the relatively limited scope of proposed changes, the proposed PUD 63 Major Amendment # 1 should be recognized as being not inconsistent with the Comprehensive Plan.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning is primarily CS and CG. Surrounding Zoning and land use patterns would support the commercial development existing in *101 South Memorial Plaza* and contemplated by this Major Amendment to PUD 63 and the existing underlying CS and CG zoning.

The Major Amendment proposed to PUD 63 would not appear to be inconsistent with surrounding Zoning or land use patterns.

Parking Requirements. Per BSP 2012-02, the provided site plan drawings for the *Andy's Frozen Custard* development in Development Area B indicate parking lots on the east and west sides of the building with a total of 30 parking spaces. Zoning Code Section 11-9-12.D requires a minimum of 14 parking spaces for a 2,150 square foot building. Zoning Code Section 11-10-2.H provides a "minimum plus 15%" maximum parking number cap, to prevent excessive parking that results in pressure to reduce greenspaces on the development site. The maximum number of parking spaces allowed for this property, for 2,150 square feet, is 16 parking spaces (reference Zoning Code Section 11-9-12.D). In other words, the site is proposed to have a total of 87.5% more parking spaces than the minimum number required. Therefore, by this proposed Major Amendment # 1, the Applicant has proposed that parking "may exceed the minimum [sic] requirement of the Bixby Zoning Code." The text will need to be amended to state that parking may exceed the "maximum" allowed. If approved, this would allow the proposed 30 parking spaces for the Development Area B (*Andy's*) lot and all of *101 South Memorial Plaza*.

In the immediate vicinity, there is precedent for allowing the maximum parking number standard to be exceeded, and precedent for parking space number exceedances that occurred prior to advent of the maximum standard in 2009/2010.

Per PUD 65 Major Amendment # 1 in 2012, the Planning Commission recommended, and the City Council approved certain amendments to the PUD, which included a 10% increase in the number of parking spaces allowed for the *Sprouts Farmers Market* specialty foods grocery store development. PUD 65 (which consists of all of *101 Memorial Square*) abuts the subject property to the west.

Per BBOA-547 in 2011, the Board of Adjustment approved a Special Exception allowing the *Whataburger* restaurant development on the lot abutting to the west to exceed the maximum parking space allowance. That development was approved for 40 parking spaces when 24 was the maximum, resulting in a total of 92.5% more parking spaces than the minimum required.

Per Aerial data and GIS, the *Schlotzsky's Deli* restaurant on another lot abutting to the west has approximately 3,440 square feet and 43 parking spaces. At 3,440 square feet, 23 parking spaces would be required, so the 43 parking spaces are 87% higher than the minimum number required.

Per Aerial data and GIS, further to the south, the *Carl's Jr.* restaurant has approximately 4,125 square feet and the *Taco Bueno* about 3,000 square feet, and they share approximately 96 parking spaces (48 required, or 102% higher than the minimum number required).

Compared to an un-weighted average of 94% more parking spaces than the minimum number required in the three (3) other restaurant developments, this restaurant development proposes only 87.5% more parking spaces than the minimum number required.

Zoning Code Section 11-7I-5.F provides a lot percentage landscaping standard for PUDs, which would be 10% of a commercial lot in this case. Per the "Site Plan" drawing A101 received for the *Andy's Frozen Custard* development in Development Area B on 01/10/2013, 4,600 square feet would be landscaped area, which would be approximately 14% of the lot area of approximately 0.73 acres. Per the "Site Plan" drawing for the same development prepared by Lewis Engineering, P.L.L.C. and received 01/08/2013, 5,846 square feet would be landscaped area, which would be approximately 18% of the lot. Regardless of which estimate is correct, the 10% minimum standard is exceeded. Further, as detailed in the Staff Report for BSP 2012-02, the development proposes certain landscaped strips which are wider than the minimum required by the Zoning Code and PUD 63. Most developments provide only the bare minimum required landscaped strip widths. Presuming approval of this amendment, all lots will still be subject to the minimum landscaping requirements of the Zoning Code.

Lot 1, Block 3, *101 South Memorial Plaza* is developed with a *Holiday Inn Express & Suites Tulsa South/Bixby* hotel, and it was constructed with precisely the minimum number of parking spaces required (92), and thus does not require an additional parking allowance at this time. The *Andy's Frozen Custard* development in Development Area B will require the additional parking allowance, per the conditionally approved Detailed Site Plan BSP 2012-02. Based on its size, configuration, and the character of the surrounding commercial area, it is fairly likely

that Lot 1, Block 1 will be developed with a Use Unit 12 restaurant, which land use type regularly exceeds the new maximum parking number standard. The future use of the large Lot 1, Block 2 is not as easily predicted, but it is an interior lot with no frontage on Memorial Dr. or 101st St. S., and abuts a large parking lot serving *ALDI* to the south and a very large parking lot serving the *Dickinson Starworld 20* movie theater to the south/east.

For all the reasons set forth above, Staff has no objections to removing the maximum parking number requirement for PUD 63 as proposed by this amendment.

Signage – General. The “detail sign plan” element of BSP 2012-02 was recognized as consisting of certain sign plan drawings by Pinnacle Sign Group and representation of signage information on other plan sheets. During the review process and after the Planning Commission’s Conditional Approval of BSP 2012-02, certain plans replaced the original plan sets as they concern signs. This report will describe the latest plans and information as received on January 10, 2013.

The “Site Plan” drawing A101 indicates the location of certain ground signs, and certain Pinnacle Sign Group sign plan drawings represent the signage details. There is a proposed pylon ground sign at the southwest corner of the lot at 35’ in height and a proposed “monument-style” ground sign at the southeast corner of the lot at approximately 10’ to 12’ in height.

The subject property will also have “incidental signage” for traffic control and general identification information. The Pinnacle Sign Group sign plan represents them on drawing # “Directional” and drawing # “Road Signs,” page numbers 12 and 17 of the Hufft Projects site plan package, respectively. The “Enter” and “Exit” signs would exceed the maximum of 3 square feet in display surface area permitted by Zoning Code Section 11-9-21.C.3.k; the others would comply. On the “Road Signs” drawing, it appears some of the incidental signs would not be directional in nature. Non-directional signs and directional signs exceeding the 3 square feet maximum would be recognized as ground signs, subject to the regulations for ground signs.

Signage – Maximum Sign Height. For the *Andy’s Frozen Custard* development in Development Area B, the Pinnacle Sign Group sign plan drawing # 0107-13-PYLO-1 (page 10 of the Hufft Projects site plan drawings received 01/10/2013) represents the proposed pylon ground sign at a 35’ height. Zoning Code Section 11-7I-4.B.2.d restricts ground signs to 25’ in height in PUDs. Language in the PUD Major Amendment would increase the height restriction for ground signs to 40’.

The underlying CG district, in which all four (4) ground signs along 102nd St. S. would be located, has no maximum height restrictions. There are no height restrictions either in the CH, IL, IM, or IH districts. The CS district is the only commercial district with a maximum sign height restriction, and it allows up to 30’, absent a PUD.

Zoning Code Section 11-9-21.C.3.d provides a categorical exemption from signage regulations for:

“d. Signs which are not visible from a public street.”

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This suggests the primary intent of the signage regulations is to place restrictions on signage only when visible from public streets.

Within PUDs, Zoning Code Section 11-7I-4.B.2.d provides the following for ground signs in PUDs:

“d. Ground signs shall not exceed twenty five feet (25') in height, measured from the mean curb level of the lot upon which it is erected; except, a sign when located behind the building setback line may exceed twenty five feet (25'), but shall not exceed forty feet (40') in height.” (emphasis added)

The proposed pylon ground sign exceeding the height restriction would exceed the 25' building setback from the south property line per PUD 63, but would be about 10' short of the building setback line imposed by the plat of *101 South Memorial Plaza*, which appears to be 25' from the existing northerly street curblin.

For the CS district absent a PUD, Zoning Code Section 11-9-21.D.1 provides the following:

“A ground sign shall not exceed thirty feet (30') in height, measured from the mean curb level of the lot upon which it is erected, unless in addition to the minimum setback prescribed in subsection C5 of this section, the sign is set back one foot (1') for each foot of height exceeding thirty feet (30'); provided the sign shall not exceed fifty feet (50') regardless of setback.”

The latter part of the above suggests the intent was to restrict, within CS districts, sign heights to an absolute maximum of 50', and that signs were encouraged to be located further from the street by allowing additional height. It appears to recognize an inverse relationship between the sign height and proximity to the street. This concept is echoed in the language found in Section 11-7I-4.B.2.d quoted above and in certain other sections of the Zoning Code.

Lot 2, Block 3, *101 South Memorial Plaza (Andy's lot)* has no public street frontage. Lot 1, Block 2, and Lot 1, Block 3 have public street frontage only on 85th E. Ave. All three (3) named lots are interior to the shopping center, and are thus not as visible from Memorial Dr. and 101st St. S. as Lot 1, Block 1 and other commercial lots with frontage on these commercial streets. Recognizing the intent of the Zoning Code, which permits additional sign height for lots when set back from public streets, and which does not restrict signs when not visible from public streets, by logical extension, it would encourage additional sign height for commercial lots less visible from public streets. Thus, it seems reasonable to allow additional sign height for these three (3) interior commercial lots. Staff recommends the pertinent section of the PUD Major Amendment be qualified to exclude Development Area A (Lot 1, Block 1, *101 South Memorial Plaza*) from the additional height allowance. Other commercial businesses with Memorial Dr. frontage typically have approximately 25'-high signs (*CVS/Pharmacy, Sprouts Farmers Market, Whataburger, Schlotzky's*, etc.).

Signage – Maximum Number of Ground Signs. Zoning Code Section 11-9-21.C.8.b provides for the number of signs permitted: “b. CG and CH districts: One per one hundred feet (100') of arterial street frontage or a fraction thereof.”

As the Development Area B (*Andy's*) lot is a lot interior to the shopping center development, the subject property does not have any arterial street frontage. Development Areas C and D have the same condition. The PUD Major Amendment would remove the "arterial" qualifier on the street frontage requirement, and would allow up to 10 ground signs per street frontage. Ten (10) ground signs is unlikely to be achieved in any instance, however, as the number is still restricted by available street frontage.

On the Development Area B (*Andy's*) lot, if the two (2) directional signs are added to the two (2) ground signs on the 102nd St. S. frontage due to the former exceeding the 3 square feet display surface area allowance, that would be a total of four (4) ground signs along 102nd St. S. Using the 1 to 100' frontage ratio, the 192' of street frontage would allow for a maximum of two (2). The text needs to be amended to specifically allow all four (4) as actually proposed on the Development Area B (*Andy's*) lot. Staff recommends this be done by (1) adding a "Signage" subsection to PUD 63 Section B (the development standards for Development Area B) stating that the maximum number of ground signs permitted shall be 1 for 50' of street frontage or fraction thereof, and (2) by changing the proposed amendment language in PUD 63 Section E.2.a as follows: "...fraction thereof, not to exceed ten (10), or as otherwise provided within the development standards of the specific Development Area."

Staff has no objections to this change as recommended herein, as the aggregate display surface area would not be increased by this amendment, and so additional signs merely cause the allowable copy areas of each to be reduced in size.

Signage – Maximum Display Surface Area and Sign Rotation. Zoning Code Section 11-9-21.E.1 restricts ground signage display surface area to "... two (2) square feet per each linear foot of street frontage if more than one such sign is erected."

For the Development Area B (*Andy's*) lot, 384 square feet of display surface area is allowable on 192' of street frontage on 102nd St. S. now that there are four (4) ground signs.

The Pinnacle Sign Group sign plan drawing # 0107-13-PYLO-1 (page 10 of the Hufft Projects site plan drawings received 01/10/2013) provides calculations for the pylon sign, which are interpreted as follows:

- The sign would have a main identification sign element measuring approximately 10' horizontally by 10' horizontally by approximately 5' vertically. Thus, it forms a cube-like design, with opposing sides having the same copy, alternating between "Andy's" and "Frozen Custard." This sign element will rotate per a note on that plan and previous statements by the Applicant. The pertinent part of the original PUD 63 text would be amended to allow for the sign rotation. Due to its cube-like design and rotating function, by interpretation, the double-faced sign exclusion per Zoning Code Section 11-7I-4.B.2.e should not apply. Thus, all four (4) of the sign faces of should be added to the aggregate total display surface area. $5' \times 10' = 50 \text{ sq. ft.} \times 4 = \mathbf{200 \text{ square feet}}$.
- The pylon will also support, underneath the main identification sign, a non-rotating changeable-letter message board sign element measuring $8' \times 4' = \mathbf{32 \text{ square feet}}$.
- Finally, at the top, the pylon would support a large, 13 2" X 6' 5", 3-dimensional frozen custard cone. Staff believes it reasonable to measure this 3-dimensional sign element by

assuming each facet from every possible horizontal direction will contain an equal visible display surface area, but counting it only once because it is only humanly possible to see one facet at a time. However, this sign element will also rotate per a note on that plan and previous statements by the Applicant (the pertinent part of the original PUD 63 text would be amended to allow for the sign rotation). As recommended by Staff, the Applicant has added language to the PUD Major Amendment formally recognizing this interpretation and applying it to the subject property. The language used will need to be clarified as described in the recommendations section of this report. The recommended language calculates display surface area calculated by counting one (1) facet at a perpendicular angle to the street for each street abutting the Development Area in which the sign is located. Using this interpretation for the 102nd St. S. frontage and the mensuration method of the "smallest rectangle" containing the cone element, 13' 2" X 6' 5" = **84.5 square feet**.

The Pinnacle Sign Group sign plan drawing # Monument (page 11 of the Hufft Projects site plan drawings received 01/10/2013) provides information for the monument ground sign, which is interpreted as follows:

- The sign would have a main identification sign element measuring approximately 6' X 3' 2½" = **19.25 square feet**.
- Under the identification sign element, a changeable-letter message board sign element is proposed measuring approximately 6' X 3.5' = **21 square feet**.
- Finally, to the side of the other two (2) sign elements, the sign would support a (presumably) 3-dimensional frozen custard cone. If 3-dimensional, counting its 102nd St. S. frontage facet only once as per the other cone sign element described above, and using the mensuration method of the "smallest rectangle" containing the cone element, 10' X 5' 10" = **58.3 square feet**.

The Pinnacle Sign Group sign plan drawing # Directional (page 12 of the Hufft Projects site plan drawings received 01/10/2013) provides information for the directional ground signs ("Enter" and "Exit"), which are counted as ground signs because they exceed the 3 square foot exemption allowance. Although the "Site Plan" drawing A101 does not differentiate between types of ground signs, presumably the 102nd St. S. frontage will contain an "Exit" sign at the exit-only western driveway connection and an "Enter" sign at the eastern one. The two ground signs are interpreted as follows:

- The "Enter" sign would measure approximately 20" X 36" = **5 square feet**.
- The "Exit" sign would measure approximately 20" X 36" = **5 square feet**.

The aggregate display surface area for all four (4) ground signs on 102nd St. S. would be **316.5 square feet**, which is within the 384 square feet permitted by Zoning Code Section 11-9-21.E.1.

The "incidental sign" at the driveway connection to 83rd E. Ave. will have no conformity issues due to being the only the second potential ground sign on that street frontage and the known dimensions of the monument sign and incidental signs.

Staff has no objections to adding to the PUD Staff's display surface area interpretation for 3-dimensional signs and allowing the sign rotation as proposed.

Signage – Minimum Spacing Between Ground Signs. Zoning Code Section 11-7I-4.B.c provides: "Any ground sign shall maintain a minimum separation of one hundred feet (100') from any other ground sign." As described elsewhere in this report, there are four (4) ground signs recognized along the 102nd St. S. frontage. Per the "Site Plan" drawing A101, this minimum spacing standard would not be met. Two (2) signs at the southwest lot corner will be spaced approximately 25' apart, and two (2) at the southeast lot corner will be spaced approximately 10' apart. The PUD Major Amendment currently does not have any language exempting the Development Area B (*Andy's*) lot from this restriction, and it will need to be added either to PUD 63 Section E or the previously-recommended "Signage" subsection of PUD 63 Section B (Development Standards for Development Area B). As a matter of site development flexibility, Staff has no objections in either case.

Staff Recommendation. Staff believes that the proposed PUD Major Amendment # 1 is consistent with the purposes and intent of the Zoning Code and the original PUD 63, and is appropriate and in order for approval, as a tool to allow for the efficient and flexible development of the commercial property. Staff recommends Approval subject to the following corrections, modifications, and Conditions of Approval:

1. The text will need to be amended to state that parking may exceed the "maximum" allowed.
2. Staff recommends the amendment language for PUD 63 Section E.2.a be qualified to exclude Development Area A (Lot 1, Block 1, *101 South Memorial Plaza*) from the additional height allowance.
3. Staff recommends this be done by (1) adding a "Signage" subsection PUD 63 Section B (the development standards for Development Area B) stating that the maximum number of ground signs permitted shall be 1 for 50' of street frontage or fraction thereof, and (2) by changing the proposed amendment language in PUD 63 Section E.2.a as follows: "...fraction thereof, not to exceed ten (10), or as otherwise provided within the development standards of the specific Development Area."
4. Staff recommends the amendment language for PUD 63 Section E.2.a be clarified by changing the following text: "Signs with multiple facets or surfaces will use only the sign surface facing the street frontage when calculating the surface area of the sign."

to read: "Signs with three (3) or more copy areas shall not enjoy the two-sided sign exclusion of Zoning Code Section 11-7I-4.B.2.e, and shall have their display surface area calculated by counting each copy area one time, regardless of rotation or non-rotation. Three-dimensional signs without flat-surfaced copy areas shall have their display surface area calculated by counting one (1) facet at a perpendicular angle to the street for each street abutting the Development Area in which the sign is located."

5. The PUD Major Amendment currently does not have any language exempting the Development Area B (*Andy's*) lot from the ground sign separation restriction of Section 11-7I-4.B.c, and it will need to be added either to PUD 63 Section E or the previously-recommended "Signage" subsection of PUD 63 Section B (Development Standards for Development Area B).

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JR Donelson, Inc.

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CA No. 5611 Exp.Date: 6/30/2013

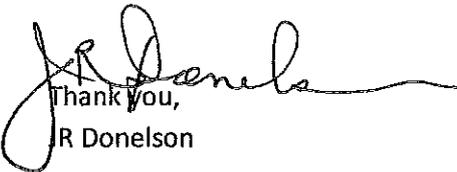
Email: jrdon@easytelmail.com

December 20, 2012

Erik Enyart
City Planner
City of Bixby
Bixby, Oklahoma 74008

Re: PUD 63, 101 South Memorial Plaza

Andy's Frozen Custard is requesting a Major Amendment to PUD 63 be considered by the Bixby Planning Commission. Andy's Frozen Custard request is based on two items. The store being situated on an interior lot, requires additional height to its sign to maintain visibility from South Memorial Drive. Historical data from other Andy's Frozen Custard stores in the region has shown a need for more than sixteen (16) parking spaces during peak summer months.


Thank you,
JR Donelson

101 South Memorial Plaza

Planned Unit Development Number 63

MAJOR AMENDMENT NO. 1

A. INTRODUCTION

The Bixby City Council approved PUD 63 on April 12, 2008 for 101 South Memorial Plaza, Ordinance Number 1004. Thereafter, all PUD areas were platted as 101 South Memorial Plaza, an addition to the City of Bixby, Tulsa County, State of Oklahoma, on October 27, 2008. The Bixby City Council approved the revised plat of 101 South Memorial Plaza on April 26, 2010. The plat was filed of record on July 30, 2010.

B. AMENDED STANDARDS.

The Development Standards for all development area lots shall be amended to read as follows:

Section E. DEVELOPMENT STANDARDS FOR ALL DEVELOPMENT AREA LOTS

2. SIGNS

- a. Signage shall comply with the PUD Chapter (Chapter 7-1), as well as the signage requirements of Use Unit 21 (Business Signs and Outdoor Advertising) of the City of Bixby Zoning Code, with the following modifications:

....Except for wall, canopy and promotional business signs, the maximum number of signs per lot of record shall be one per one hundred feet (100') of street frontage or fraction thereof, not to exceed ten (10).

....A ground sign shall not exceed 40 feet in height.

....Ground signage display surface area shall be restricted to two (2) square feet per each lineal foot of street frontage, if more than one sign is erected per lot of record. Signs with multiple facets or surfaces will use only the sign surface facing the street frontage when calculating the surface area of the sign.

- b. No sign permits shall be issued for erection of a sign within the PUD until a detail sign plan for that lot has been submitted to the Bixby Planning Commission and approved as being in compliance with the approved PUD development standards.
- c. Flashing signs, changeable copy signs, running light or twinkle signs and animated signs will not be permitted except as may be permitted by the Bixby Planning Commission as part of the approved detail sign plan. Revolving or rotating signs with movement will be permitted.

6. ACCESS, CIRCULATION AND PARKING

- a. The off street parking and loading requirements may exceed the minimum requirement of the Bixby Zoning Code.

C. AMENDED SITE PLAN. No amended Site Plan for PUD No. 63 shall be required.

D. SCOPE. Except as herein amended, the Development Standards for PUD No. 63 shall remain the same as approved by the Bixby City Council on April 12, 2008.

CITY OF BIXBY

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