

AGENDA
PLANNING COMMISSION
116 WEST NEEDLES
BIXBY, OKLAHOMA
February 19, 2013 6:00 PM

CALL TO ORDER

ROLL CALL

CONSENT AGENDA

- ② 1. Approval of Minutes for the January 21, 2013 Special Meeting

PUBLIC HEARINGS

- ④① 2. **PUD 76 – Scenic Village Park – Tanner Consulting, LLC.** Public Hearing, discussion, and consideration of a rezoning request for approval of a Planned Unit Development (PUD) for 92 acres in part of the E/2 of Section 02, T17N, R13E.
Property Located: South and west of the intersection of 121st St. S. and Memorial Dr.
3. **BZ-364 – Tanner Consulting, LLC.** Public Hearing, Discussion, and consideration of a rezoning request from AG Agricultural District to CG General Commercial District for 92 acres in part of the E/2 of Section 02, T17N, R13E.
Property Located: South and west of the intersection of 121st St. S. and Memorial Dr.

PLATS

- ⑨③ 4. **Preliminary Plat / Final Plat – Bixby Centennial Plaza II – Rosenbaum Consulting, LLC.** Discussion and consideration of a Preliminary Plat and a Final Plat and certain Modifications/Waivers for “Bixby Centennial Plaza II,” Lot 7 and the N. 42’ of Lot 8, Block 1, *Bixby Centennial Plaza*.
Property Located: Approximately the 11900-block of S. Memorial Dr.

OTHER BUSINESS

OLD BUSINESS

NEW BUSINESS

ADJOURNMENT

Posted By: Emyart Date: 01/24/2013 Time: 8:40 AM

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

SPECIAL-CALLED MEETING

STAFF PRESENT:
Erik Enyart, AICP, City Planner

OTHERS ATTENDING:
See attached Sign-In Sheet

CALL TO ORDER:

Chair Thomas Holland called the meeting to order at 6:04 PM.

ROLL CALL:

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

CONSENT AGENDA:

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

Chair Thomas Holland introduced the item and asked to entertain a Motion. John Benjamin made a MOTION to APPROVE to the Minutes as presented by Staff. Chair Thomas Holland SECONDED the Motion. Roll was called:

ROLL CALL:

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

During the Roll Call, Jeff Baldwin explained that he was voting "Abstain" as he was not present at that 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.

Chair Thomas Holland introduced Agenda Items Numbered 2 through 4, inclusive, 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: 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.

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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 – Omaha 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 flooded'¹ [footnote: Water Management Analysis Report, Flood of September - October 1986, Appendix B, U.S. Army Corps of Engineers, Tulsa District, August 1987, Plate A-10.] 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*

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

Erik Enyart referred to the aerial map on page 64 of the agenda packet, and stated that it would give the Commissioners the best visual representation of the subject property and its context.

Chair Thomas Holland asked if the Applicant was present and wished to speak on the item. Applicant JR Donelson of 12820 S. Memorial Dr. # 100 was present and stated that his clients owned 7.66 acres [in this parcel], and that the 0.61-acre portion south of the "walk trail" was the area being requested for approval. Mr. Donelson stated that the property actually went to the center of the Arkansas River. Mr. Donelson questioned why the entire property was designated "Water," when the portion south of the walk "trail was" not in the river. Mr. Donelson stated that the Comprehensive Plan was a thorough, well-researched document, and asked that it be amended for this application. Mr. Donelson stated that the property was only 0.61 acres in size. Mr. Donelson stated that the [U.S. Highway 64 / Mingo Road to Riverview Road] bridge went out in [a flood in] 1957. Mr. Donelson stated that the remainder of the property was in the Arkansas River or was riverbank, and could not be developed, nor was there desire to do so. Mr. Donelson stated that the balance of the property was landlocked, but that it had frontage on the river. Mr. Donelson stated that the City of Bixby was presently preparing a [FEMA Conditional Letter Of Map Revision] CLOMR for Bentley Park, and that the 0.61 acres was to be included. Mr. Donelson stated that the finished floor of the fourplex would have nothing lower than the floor of the multipurpose building. Mr. Donelson stated that the Base Flood Elevation would be established by the CLOMR. Mr. Donelson stated that the owner would elevate the property out of the [100-year] Floodplain. Mr. Donelson stated that his client had owned this property prior to the construction of Bentley Park. Mr. Donelson indicated the amount of elevation required would be approximately one (1) foot.

Jeff Baldwin stated that he was on the Bixby Soccer Club board and stated that he had seen that the new concession building was elevated six (6) or seven (7) feet, and asked how the one (1) foot JR Donelson was talking about compared to this. Mr. Donelson stated that the soccer fields were lower in elevation.

Erik Enyart addressed Chair Thomas Holland and asked to interject statements for the purpose of clarification. Mr. Holland recognized Mr. Enyart. Mr. Enyart stated that the City of Bixby had received a request to include the subject property in the Bentley Park CLOMR application, and that the current application only included Bentley Park and no private properties at this time. Mr. Enyart stated that the City Council will be given the opportunity to consider this request to include this private property.

JR Donelson stated that, if approved, the property could be developed with a fourplex with about four (4) to eight (8) cars. Mr. Donelson stated that this would not be noticeable compared to the traffic in Bentley Park. Mr. Donelson stated that there was existing public water that would be extended into the property. Mr. Donelson stated that there was sanitary sewer to the south of the multipurpose building, and that the property would drain [stormwater runoff] directly into the Arkansas River with a flap gate. Mr. Donelson stated that the lights affect existing properties in the area. Mr. Donelson stated that the subject property had worth. Mr. Donelson stated that the owner owned the land since before Bentley Park. Mr. Donelson stated that the owner gave the City of Bixby the opportunity to put the "walk trail" through their property, and did not complain when the Bentley Park multipurpose building was built, and did not complain when the City of Bixby stored materials on the property. Mr. Donelson stated that the Little League [parents] drive their cars across and park on the property, and the kids practice on the property. Mr. Donelson stated that [he and the owners] believed [a fourplex] would be a good fit, overlooking the Arkansas River. Mr. Donelson stated that the owners were present as well.

Chair Thomas Holland recognized Clinton Miller of 4420 N. Walnut, Broken Arrow, OK from the Sign-In Sheet. Mr. Miller stated that he had no comment at this time.

Chair Thomas Holland recognized Roger Metcalf of 15329 S. Sheridan Rd. from the Sign-In Sheet. Mr. Metcalf stated that there were "duplexes right across the street from us," and that he "can't see why this [would be] a problem." Mr. Metcalf stated that he was "not trying to cause any bad deals."

Chair Thomas Holland recognized D. R. Piercy of 806 N. Riverview Rd. from the Sign-In Sheet. Mr. Piercy stated that he lived across the street from the multipurpose building, and that he had separate issues with that as it is. Mr. Piercy asked if water and sanitary sewer had been taken into consideration. Mr. Piercy stated that there would be [concern for] a little extra traffic at the end of the street, but that he was "not necessarily against the project." Mr. Piercy urged the Commissioners to look at the project carefully. Mr. Piercy described the area as a "tight spot" with "a lot going on."

Jeff Baldwin stated that he had no empirical data but, two (2) years ago, a little kid was hit crossing the street [in this area]. Mr. Baldwin expressed concern for traffic and speeds, mostly because of Bentley Park. Mr. Baldwin stated that the soccer complex had been broken in to four (4) times last fall, and that it was difficult to get police to the area [fast enough]. Mr. Baldwin stated that there were also issues of vandalism.

JR Donelson stated that there has been an increase in traffic and activity going on, and that the speed limit was 25 [miles per hour]. Mr. Donelson stated that any speed limit reduction would have to go through [Police] Chief [Ike] Shirley. Mr. Donelson asked D. R. Piercy if he had observed any

concerns over security, and Mr. Piercy responded that he had, recently. Mr. Donelson asked Mr. Piercy if he had made any contact with Chief Shirley, and Mr. Piercy responded that he had, and was told the police would get out as fast as they could, but that the bank of the river was County jurisdiction.

JR Donelson stated that he recalled when this property was first developed in 1976, before FEMA [mapped the floodplain].

Jeff Baldwin asked if the owner had a projected rent structure. Roger Metcalf stated that it would “depend on the cost of the project.” Mr. Metcalf stated that he would require an 18 month lease and would do background checks. Mr. Metcalf stated that he owned other properties and that [these units] would be fairly priced.

JR Donelson asked the Commissioners to put themselves in [the owners’] situation. Mr. Donelson stated that “the City of Bixby said they don’t recommend anything there.” Mr. Donelson stated that the owner “asked the City if they want[ed the property],” and that “there’s been some negotiation, but the City has not come back favorably yet. The City wanted it at one time for the park.” Mr. Donelson asked that the Comprehensive Plan be changed “because it’s not water.”

Jeff Baldwin thanked Clinton Miller and Roger Metcalf for granting the City of Bixby easement for the trail and the other accommodations they had made for the City.

Erik Enyart addressed Chair Thomas Holland and asked to interject statements for the purpose of clarification. Mr. Holland recognized Mr. Enyart. Mr. Enyart addressed Clinton Miller and Roger Metcalf and thanked them on behalf of the City and the citizens who use the trail, for giving easement to allow the trail. Mr. Enyart addressed the Commission and stated that JR Donelson had insinuated that the City of Bixby said there could be no development. Mr. Enyart stated that this was not correct. Mr. Enyart stated that the property was zoned RS-2, which would allow the construction of one (1) single-family house, provided that the property was elevated out of the floodplain and platted. Mr. Enyart stated, as it concerns the “Water” designation of the Comprehensive Plan, JR Donelson’s argument made sense: the subject property was south of the bank of the Arkansas River, and so should not have been designated “Water.” Mr. Enyart stated that he would amend the Staff recommendation to support redesignating the 0.61-acre subject property area from “Water” to Low Intensity. Mr. Enyart stated that there are or had been negotiations between the City and landowner on the acquisition of the property, but that he had not been involved in them and was in no position to comment on that. Mr. Enyart stated that the owners were present and could comment on the negotiations, if they desired to.

Chair Thomas Holland stated that his concern was over the Floodplain. Mr. Holland stated that the houses that were currently there were in jeopardy, but that, if the owner could bring the land up and out of the [100-year] Floodplain they have the right to build. Mr. Holland expressed concern for the Floodway.

JR Donelson stated that the Floodway was on the north side of the “walk trail” and clarified this point with Chair Thomas Holland.

JR Donelson stated that he had met with the Mayor and City Engineer, and the City Engineer indicated the property could be elevated as a part of the City's project.

Chair Thomas Holland stated, "I've seen it flood, and it will again."

Jeff Baldwin asked if the Floodplain elevation changes from time to time. Mr. Baldwin asked about the floodplain and certain elevations as related to the soccer club facility. JR Donelson responded that there had been several new maps in the past few years.

Roger Metcalf stated that he grew up in a house where Bentley Park is, and the area used to be a slough.

Erik Enyart addressed Jeff Baldwin and stated that JR Donelson was correct, and that there had been two (2) new Floodplain maps published by FEMA in the past few years. Mr. Enyart stated that he could not speak specifically to the facility Mr. Baldwin was referring to, but that the maps can change per new FEMA modeling of the floodplain, and also due to new, better elevation data. Mr. Enyart stated, as a point of clarification, that it appeared people discussing this matter may be referring to two (2) different things, the 1986 flood, which was greater than a 100-year flood event, and the 100-year Floodplain.

JR Donelson stated that the 1986 flood was [approximately] a 350-year flood event.

Lance Whisman stated that he was not against any development, but stated that all should be careful with the floodplain.

Clinton Miller, referring to the City's previous storage of materials on the subject property, stated "They didn't know any better" than to store the "containers and backhoes."

John Benjamin stated that he respected that the property owner wanted to develop the land. Mr. Benjamin stated that he used the trails and knew exactly where the properties were located. Mr. Benjamin referenced Staff's presentation and stated that the application was viewed more negatively than positively. Mr. Benjamin stated that, if the [Planning Commission and/or City Council] declined the requested change, then he would urge the City to work with the landowner to purchase the property. Mr. Benjamin stated that it would be perfect to combine with Bentley Park.

John Benjamin made a MOTION to Recommend DENIAL of BCPA-7, PUD 74, and BZ-362.

JR Donelson stated that, if the Commission declined the applications, [he and his clients] wanted [John Benjamin's] recommendation to be read to the City Council.

Roger Metcalf noted that [he and Clinton Miller] offered the land to the City. Mr. Miller noted the size of the whole parcel of land was 1240' in length [by some certain measurement].

Erik Enyart stated that Staff had revised the recommendation on BCPA-7 to approve the Comprehensive Plan map designation from "Water" to "Low Intensity," recognizing the 0.61-acre area was south of the bank of the Arkansas River. Chair Thomas Holland and Lance Whisman

clarified with Erik Enyart that they would prefer the amendment only be approved if the subject property was out of the Floodway, in addition to being south of the bank of the Arkansas River. Mr. Enyart stated that the Comprehensive Plan map was not particularly precise when it came to small areas, and that he would use GIS to determine if the shapefiles showed the 0.61-acre area out of the "Water" designation, and to confirm that all of the 0.61-acre area was south of both the Floodway line and the south bank of the river, before presenting the recommendation to the City Council.¹

The Commissioners discussed separating the items into different Motions.

Lance Whisman made a MOTION to Recommend APPROVAL of BCPA-7 for redesignating the subject property of 0.61-acres from "Water" to "Low Intensity," subject to Staff determining that it was out of the Floodway and south of the bank of the Arkansas River. John Benjamin SECONDED the Motion. Roll was called:

ROLL CALL:

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

John Benjamin made a MOTION to Recommend DENIAL of PUD 74 and BZ-362. Lance Whisman SECONDED the Motion.

Lance Whisman asked if the Motion should include a recommendation on the purchase of the land to the City Council. After some discussion, Chair Thomas Holland stated that it should be a separate Motion and could be taken up as a matter of New Business.

Roll was called:

ROLL CALL:

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

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.

¹ After the meeting, Staff reviewed GIS and found that the 0.61-acre area was located fully outside the "Water" designation and was already designated "Low Intensity."

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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.

Chair Thomas Holland introduced Agenda Items Numbered 2 through 4, inclusive, 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: 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 ¼ 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.).

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 171" 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.

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"), 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).

Erik Enyart stated that, just prior to the meeting, the Applicant had submitted a revised PUD Text and Exhibits package, which may have addressed some or all of the recommended corrections, modifications, and Conditions of Approval. Mr. Enyart stated that he had not had opportunity to see what changes had been made. Mr. Enyart recommended approval with the corrections, modifications, and Conditions of Approval, to the extent they remained after the changes made to the submittal.

Applicant JR Donelson stated that he had addressed all of the items except # 23, pertaining to building a sidewalk along Sheridan Rd. Mr. Donelson stated that a sidewalk would not be advantageous to the population of Bixby because “everything out there is [borrow] ditch.” Mr. Donelson stated that, in the area, another developer had put money in escrow for sidewalks, rather than construct their own.

Roger Metcalf stated that he had lived in this house since 1984. Mr. Metcalf stated that he [would eventually] have commercial [developed on the acreage next to] his property along 151st St. S. Mr. Metcalf stated that he had a mobile home park below him [to the east], and a cemetery with tombstones across the street to the west.

Chair Thomas Holland asked Roger Metcalf what was to the south of his property. Mr. Metcalf responded that there was “one place there—he’s got 40 acres—one resident, and [the] Atherton [acreage].” Mr. Metcalf stated that [the] McCutchin [family] owned 160 acres that “just sits there.”

Chair Thomas Holland recognized Phil Faubert of 15802 S. Sheridan Rd. from the Sign-In Sheet. Mr. Faubert stated that he had the Atherton Farms property. Mr. Faubert stated that he did not think this was a good place for apartments, but indicated he would not necessarily object if they were of “high quality.” Mr. Faubert expressed concern over traffic, and traffic safety at the intersection of Sheridan Rd. with 151st St. S. / State Highway 67, especially for westbound turns. Mr. Faubert stated that he had a ranch south of the subject property. Mr. Faubert stated that there seemed to be “apartments everywhere in Bixby,” and that, for this, he was “a little concerned.”

Certain Commissioners expressed concern over traffic and Sheridan Rd. itself, questioned if the road was capable of handling the traffic and the added stress that this development would bring, and questioned whether or not it was a County road or a City street, and if the acreage to the north of the subject property would be required to access 151st St. S. exclusively or would be permitted access to Sheridan Rd.

Erik Enyart stated that Sheridan Rd. was a County-maintained road to his knowledge, and that he agreed it needed improvement. Mr. Enyart stated that it was a “chicken-or-the-egg” situation, the question being whether to allow development to occur prior to adequate infrastructure being put in place, or to insist that the infrastructure be adequate before allowing development to occur. Mr. Enyart stated that, in this part of the country, it seemed to be the norm that development is allowed first, and the infrastructure improvements follow when public revenues allow. Mr. Enyart stated that approximately 400 residential lots had been platted in this area along 141st St. S. and Sheridan Rd. in the past few years, and all of them funnel down [Sheridan Rd. and other north-south arterial streets] to 151st St. S., in order to gain access east and west. Mr. Enyart stated that it was yet to be determined whether the 20-acre commercial development tract abutting to the north would have curb cuts allowed on 151st St. S. or Sheridan Rd. Mr. Enyart stated that, like the acreage to the north, the north 15 acres of the subject property was currently designated “Corridor” on the Comprehensive Plan, and that it was planned for something intensive to develop. Mr. Enyart stated that the sidewalk matter JR Donelson had mentioned stemmed from a conversation he had with Mr. Donelson prior to the meeting, wherein he pointed out that the developer of the *Southridge at Lantern Hill* housing addition to the north on Sheridan Rd. had objected to building a sidewalk due to the borrow ditches, and instead, agreed to put an amount of money equal to the cost of

constructing the sidewalk into an escrow account owned by the City of Bixby, that the City could then use to build sidewalks elsewhere when it had new street improvement projects. Mr. Enyart stated that this would probably be a rare event, as most developers want their money invested next to their property, where it would benefit their property values, and not be spent somewhere else in the City.

Chair Thomas Holland asked how many apartment units there would be. JR Donelson responded that the PUD would allow up to 454 units. Mr. Holland indicated this was a large number, and Mr. Donelson stated that this was just what the PUD would allow, and would not necessarily mean all of them would be constructed.

Chair Thomas Holland asked about the cost of constructing a sidewalk. JR Donelson responded that a 4'- to 5'-wide sidewalk would cost approximately \$1.50 per [square] foot, and so approximately \$6.00 per [linear] foot. Mr. Holland expressed concern that a developer would not want their money to go into escrow in lieu of building the sidewalk, and would rather see their money go into their own project.

Lance Whisman asked how a sidewalk would work with a borrow ditch, and JR Donelson answered that one would have to "engineer around it," and discussed the likely location of a sidewalk in relation to the borrow ditch.

JR Donelson expressed objection to the Comprehensive Plan's designation of the subject property, including narrow strips of one designation or another. Upon request for comment from a Commissioner, Erik Enyart responded that he believed the intent was to draw the map based on property lines, and that the narrow strips of different designations may have been a mapping oversight, or otherwise it should be permitted to amend it to correspond with the existing acreage property lines.

JR Donelson stated that he and Erik Enyart had discussed the need to use care when amending the Comprehensive Plan. Mr. Donelson expressed objection to there being five (5) different designations on one piece of land, and stated that he had talked to Mr. Enyart about various ways that property owners be notified when the Comprehensive Plan is being updated, since [consistency with the Plan was mandatory], and not eight (8) or nine (9) years after the fact.

Erik Enyart stated that, when the City Council decides to have the Comprehensive Plan updated, he will recommend to them that they broadcast the notice of the process as widely as possible, to secure the highest public participation rates, because only when there is significant participation in the planning process, when the public provides input and takes ownership of the Plan, will it have broad political support and stand the test of time and be useful down the road.

Chair Thomas Holland referred to the Staff Report and asked Erik Enyart about the narrow strip of "Special District # 4" designation, and if that would be problematic for the development. Mr. Enyart stated that the narrow strip would be removed by the Comprehensive Plan amendment, and so then would be moot.

Chair Thomas Holland referred to the Staff Report and asked Erik Enyart if there would be an issue with the fact that the proposed amendment would not confer a specific land use designation. Mr. Enyart stated that the Comprehensive Plan text provided that, when the Plan Map had a specific land use designation, such as residential, commercial, or industrial, that is what type of land use should be developed there, but when it was designated "Vacant, Agricultural, Rural Residen[ces], and Open Land," that was not interpreted as a permanent land use, and so such areas "could be anything."

Erik Enyart stated that it was important to point out one recommended Condition of Approval was a departure from custom. Mr. Enyart stated that recommended Condition of Approval # 31 was based on conversations with the City Attorney, which pertained to PUDs that were not in their final form before being presented to the City Council for approval by ordinance. Mr. Enyart stated that the recommendation called for the receipt of "fixed copies" before the PUD was presented to the City Council for approval by ordinance. JR Donelson was asked, and stated that he agreed with the statement Erik just made, and that he had presented the revised PUD according to the recommendations.

Chair Thomas Holland asked to entertain a Motion. John Benjamin made a MOTION to Recommend APPROVAL of BCPA-8, PUD 75, and BZ-359 subject to the corrections, modifications, and Conditions of Approval as recommended by Staff.

Jeff Baldwin asked Erik Enyart for clarification of the sidewalk matter, and expressed concern that the sidewalk would not connect to anything in the area, and expressed concern over the escrow matter. Mr. Enyart stated that, broadly speaking, the requirement could result in a patchwork of sidewalks, but, if the requirement was consistently enforced, through time as each property develops, there will ultimately be continuous sidewalks. Mr. Enyart stated that, in the area of 151st St. S. and Sheridan Rd. in particular, a continuous sidewalk would be likely because all the properties were primarily undeveloped at this time. Mr. Baldwin stated that he was still struggling with the recommendation # 23 [pertaining to sidewalks], and would Abstain from the vote because of that issue.

(The original Motion did not receive a Second).

Lance Whisman made a MOTION to Recommend APPROVAL of BCPA-8, PUD 75, and BZ-359 subject to the corrections, modifications, and Conditions of Approval as recommended by Staff. John Benjamin SECONDED the Motion. Roll was called:

ROLL CALL:

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

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.

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: 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: 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 Schlotzsky'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 Koepf – 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 Koepf – 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.

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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.”

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 curbline.

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.

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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. $5' \times 10' = 50$ sq. ft. 4×200 square feet.

- The pylon will also support, underneath the main identification sign, a non-rotating changeable-letter message board sign element measuring $8' \times 4' = 32$ square feet.
- Finally, at the top, the pylon would support a large, $13' 2'' \times 6' 5''$, 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, $13' 2'' \times 6' 5'' = 84.5$ 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 $6' \times 3' 2\frac{1}{2}'' = 19.25$ square feet.
- Under the identification sign element, a changeable-letter message board sign element is proposed measuring approximately $6' \times 3.5' = 21$ 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, $10' \times 5' 10'' = 58.3$ 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 $20'' \times 36'' = 5$ square feet.
- The "Exit" sign would measure approximately $20'' \times 36'' = 5$ 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

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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).*

Chair Thomas Holland asked JR Donelson why there was a difference between the 35' sign height proposed for the *Andy's* project and the 40' height listed in the PUD Major Amendment. Mr. Donelson stated that he could not answer the question as to why there was a difference, but was instructed to list the height at 40'. Mr. Donelson stated that the architect had measured the height of two (2) other [*Andy's*] sites, including the new one in Joplin, and that they came close to 40'.

Chair Thomas Holland asked Erik Enyart what the Commission could do about the sign height. Mr. Enyart stated that it was the Commission's prerogative to recommend anything specifically in this regard.

Lance Whisman consulted the Minutes of the previous meeting in the agenda packet and noted that the approved height was 35'.

Lance Whisman asked Erik Enyart if the *Andy's* project had additional landscaping. Mr. Enyart responded that, as noted in the Staff Report, there was more landscaping proposed than would otherwise be required, and that was an argument in favor of allowing the additional parking proposed.

After further discussion of the sign height matter, Erik Enyart stated that the Commission could achieve the 35' sign height change by including in its Motion that recommended Condition of

Approval # 2 specify the maximum height would be 35'. Mr. Enyart stated that he would work out the particulars after the Motion.

Lance Whisman made a MOTION to Recommend APPROVAL of the proposed PUD 63 Major Amendment # 1 with all of the corrections, modifications, and Conditions of Approval as recommended by Staff, with the second recommendation to specify the maximum sign height would be 35'. Jeff Baldwin SECONDED the Motion. Roll was called:

ROLL CALL:

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

PLATS

Chair Thomas Holland asked if there were any plats to consider. Erik Enyart stated that there were none. No action taken.

OTHER BUSINESS

Chair Thomas Holland asked if there was any other business to consider. Erik Enyart stated that there was none. No action taken.

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 stated that the Commissioners had discussed taking up a matter of new business related to an item on the agenda.

John Benjamin read a statement (clarified later) recommending the City of Bixby purchase the Roger Metcalf and Clinton Miller property as an addition to Bentley Park.

JR Donelson stated that [he and his clients were going to] request an appeal [of the recommended Denial of PUD 74 and BZ-362] to the City Council, so that John Benjamin's statement could be read into the record.

John Benjamin stated that his statement was his Motion.

Jeff Baldwin recommended that the Motion be amended to qualify the purchase recommendation by adding the words, "make a good faith effort to."

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JR Donelson asked that the Motion be amended to replace the word "purchase" with "purchase or acquire," and noted that the City of Bixby sometimes trades for properties, rather than buying them outright.

John Benjamin accepted the recommended amendments to his Motion and made that his MOTION as follows:

"In reference to the property listed, item 3 of today's [Planning Commission] agenda, PUD 74 – Riverloft Addition, the Planning Commission recommends that the City of Bixby make a good faith effort to purchase or acquire said property as an addition to the Bentley Park acreage."

Jeff Baldwin SECONDED the Motion. Roll was called:

ROLL CALL:

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

ADJOURNMENT:

There being no further business, Chair Thomas Holland declared the meeting Adjourned at 8:00 PM.

APPROVED BY:

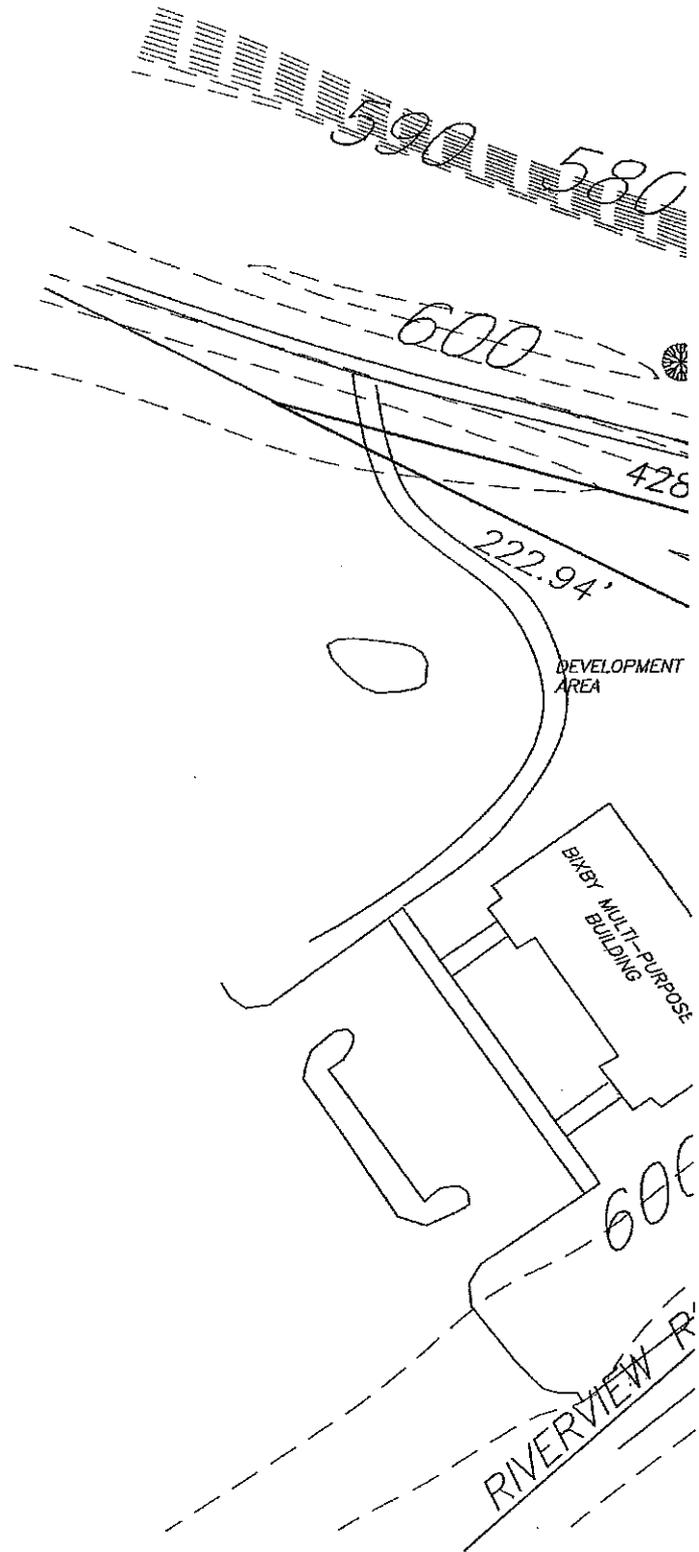
Chair

Date

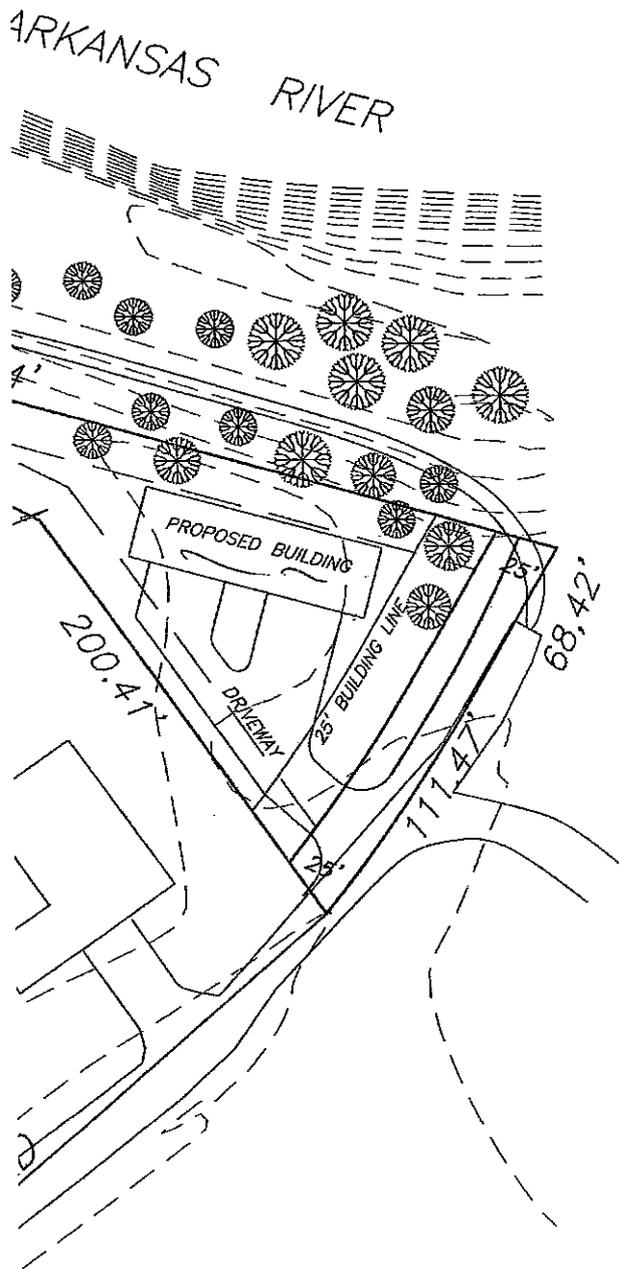
City Planner/Recording Secretary

35

RiverLoft



Addition



CITY OF BIXBY

JAN 21 2013

RECEIVED

By Enyark

cf. BCMA-7, PUD 74, +
BZ-36

**LeAnn Acres
Bixby, Oklahoma**

January 15, 2013

*Placeholder for PUD
not fully re-
produced here*

Prepared For:

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

CITY OF BIXBY

JAN 21 2013

RECEIVED

By *Enyart*

Prepared By:

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

LeAnn Acres, Planned Unit Development No. _____

BIXBY PLANNING COMMISSION
SIGN IN SHEET
DATE: January 21, 2013

NAME	ADDRESS	ITEM
1. JR DANIELSON	12820 S. Memorial ^{#100}	#2, #3, #4 #5 #6 #7 #8 #8
2. Clinton Miller	4420 W. Walnut B.A.	#2 #4
3. D. Fogu M. Staley	15329 S. Sheridan	#2, #3, #4, 5, 6, 7
4. D. Piery	806 N. Riverview	#2, 3, 4
5. Phil Faubert	15802 S. Sheridan	2, 3, 4 5, 6, 7
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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: Thursday, February 14, 2013
RE: Report and Recommendations for:
PUD 76 – “Scenic Village Park” – Tanner Consulting, LLC, and
BZ-364 – Tanner Consulting, LLC

LOCATION:

- The 7300-block of E. 121st St. S.
- South and west of the intersection of 121st St. S. and Memorial Dr.
- Part of the E/2 of Section 02, T17N, R13E

LOT SIZE: 92 acres, more or less

EXISTING ZONING: AG Agricultural District

EXISTING USE: Agricultural

REQUESTED ZONING: CG General Commercial District & PUD 76

SUPPLEMENTAL ZONING: None

SURROUNDING ZONING AND LAND USE:

North: (Across 121st St. S.) RS-3, RS-1, AG, & OL/CS/PUD 51; The *Fox Hollow* and *North Heights Addition* residential subdivisions; the Fry Creek Ditch # 2 and the North Elementary and North 5th & 6th Grade Center school campuses to the northwest zoned AG; agricultural land to the northeast zoned OL/CS/PUD 51.

South: AG & CS/PUD 37; Fry Creek Ditch # 1 to the south zoned AG and the *Crosscreek* “office/warehouse” heavy commercial / trade center and retail strip center zoned CS with PUD 37.

East: AG, CG, RS-3, OL, CS, & RM-2/PUD 70; Agricultural land, the *Easton Sod* sales lot zoned RS-3, OL, & CS, the *Encore on Memorial* upscale apartment complex zoned RM-2/PUD 70, a *Pizza Hut* zoned CG, and a *My Dentist Dental Clinic* zoned CS; Memorial Dr. is further to the east.

West: AG & RS-4; Fry Creek Ditch #2; beyond this to the west is vacant/wooded land owned by the City of Bixby, the *Three Oaks Smoke Shop* located on a 2-acre tract at 7060 E. 121st St. S., the *Seven Lakes I* and *Seven Lakes II* residential subdivisions, and additional vacant land zoned RS-4 for a future “Seven Lakes” phase or phases.

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

PREVIOUS/RELATED CASES:

BBOA-367 – Holley Hair for Charles Roger Knopp – Request for Special Exception approval to allow a Use Unit 20 “golf teaching and practice facility” on part of the subject property – BOA Conditionally Approved 04/02/2001 (not since built).

BBOA-442 – Charles Roger Knopp – Request for Special Exception approval to allow a Use Unit 20 golf driving range (evidently same as BBOA-367) on part of the subject property. Approval of BBOA-367 expired after 3 years, per the Staff Report, and so required re-approval – BOA Approved 05/01/2006 (not since built).

BL-340 – JR Donelson for Charles Roger Knopp Revocable Trust – Request for Lot-Split approval to separate a 41.3384-acre tract from the southern end of the large 140-acre acreage tracts previously owned by Knopp, which includes subject property – It appears it was Administratively Approved by the City Planner on 07/20/2006, but the Assessor’s parcel records do not reflect that the land was ever since divided as approved.

PUD 70 & BZ-347 / PUD 70 (Amended) & BZ-347 (Amended) – Encore on Memorial – Khoury Engineering, Inc. – Request to rezone from AG to RM-3 and approve PUD 70 for a multifamily development on part of subject property – PC Continued the application on 12/21/2009 at the Applicant’s request. PC action 01/19/2010: A Motion to Recommend Approval failed by a vote of two (2) in favor and two (2) opposed, and no followup Motion was made nor followup vote held. The City Council Continued the application on 02/08/2010 to the 02/22/2010 regular meeting “for more research and information,” based on indications by the developer about the possibility of finding another site for the development. Before the 02/22/2010 City Council Meeting, the Applicant temporarily withdrew the applications, and the item was removed from the meeting agenda, with the understanding that the applications were going to be amended and resubmitted.

The Amended applications, including the new development site, were submitted 03/11/2010. PC action 04/19/2010 on the Amended Applications: Recommended Conditional Approval by unanimous vote. City Council action 05/10/2010 on the Amended Applications: Entertained the ordinance Second Reading and approved the PUD and rezoning, with the direction to bring an ordinance back to the Council with an Emergency Clause attachment, in order to incorporate the recommended Conditions of Approval. City Council approved both amended applications with the Conditions of Approval written into the approving Ordinance # 2036 on 05/24/2010.

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

BZ-54 – [Charles] Roger Knopp – Request for rezoning from AG to OM & CG for a 3.56-acre area to the east of subject property at approximately the 12600-block of S. Memorial Dr. – PC Recommended Approval of CG zoning 02/28/1977 and City Council Approved 03/01/1977 (Ord. # 328).

BZ-135 – Eddie McLearan – Request for rezoning from AG to CS for an approximately 19-acre tract at 12300 S. Memorial Dr. abutting the subject property to the east (now the *Easton Sod* business) – Withdrawn by Applicant 03/21/1983.

BZ-139 – Eddie McLearan – Request for rezoning from AG to RM-2, OL, & CS for an approximately 19-acre tract at 12300 S. Memorial Dr. abutting the subject property to the east (now the *Easton Sod* business) – Planning Commission recommended Modified Approval of RS-3, OL, & CS Zoning on 04/25/1983 and City Council Approved RS-3, OL, & CS Zoning on 05/02/1983 (Ord. # 482).

BZ-196 – Donna Saunders for Nuel/Noel Burns – Request for rezoning from AG to CG for a 2-acre tract at the 7700-block of E. 121st St. S. (then possibly addressed 7600 E. 121st St. S.) abutting the subject property to the east – PC Recommended Denial 01/21/1991 per notes on the application form. Lack of ordinance and other notes in the case file indicate it was either withdrawn, not appealed, or not finally approved by the City Council.

BZ-200 – Charles Roger Knopp – Request for rezoning from AG to CG for an approximately 2.27-acre area to the east of subject property at approximately 12340 S. Memorial Dr. – PC Recommended Approval 07/20/1992 and City Council Approved 07/27/1992 (Ord. # 671).

BZ-214 – City of Bixby – Request for FD Floodway Supplemental District for all of the (then proposed) Fry Creek Ditch drainage system right-of-way, including a section abutting the subject property to the west – PC Tabled Indefinitely 11/20/1995.

BZ-279 – Charles Norman/Martha Plummer Roberts et al. – Request for rezoning from AG to CS, OM, RM-1, and RS-2 for 73 acres, more or less, located across 121st St. S. to the north of the subject property, which 73 acres became *Bixby Centennial Plaza* and *Fox Hollow* and an unplatted 11-acre tract later approved for PUD 51 – PC Recommended Approval as amended for CS, OM, OL, RS-3, and RS-2 on November 19, 2001 and Approved by City Council December 10, 2001 (Ord. # 842).

BZ-317 – Sack & Associates, Inc. for Martha Roberts et al. – Request for rezoning from OL to CS for part of an unplatted 11-acre tract located across 121st St. S. to the north of subject property – PC Action 08/21/2006: Motion to Approve failed for lack of a Second, and Chair declared the item “denied by virtue of there being no second to the motion.” See PUD 51.

PUD 51 – [No Name] – [Sack & Associates, Inc.] – Request to approve PUD 51 and a partial rezoning from OL to CS for an unplatted 11-acre tract located across 121st St. S. to the north of subject property – No application submitted, but prepared by Sack & Associates, Inc. in support of the CS and OL zoning proposed per BZ-317 – PC recommended Approval 10/02/2006 and City Council Approved 10/23/2006 (Ord. # 951/951A).

BSP 2010-03 – Encore on Memorial – Khoury Engineering, Inc. (PUD 70) – Request for Detailed Site Plan approval for a multifamily development on 14 acres to the east of subject property – PC Conditionally Approved 07/19/2010.

Preliminary Plat of Encore on Memorial (PUD 70) – Request for Preliminary Plat approval for a multifamily development on 14 acres to the east of subject property – PC

recommended Conditional Approval 07/19/2010 and City Council Conditionally Approved 07/26/2010.

Final Plat of Encore on Memorial (PUD 70) – Request for Preliminary Plat approval for a multifamily development on 14 acres to the east of subject property – PC recommended Conditional Approval 08/16/2010 and City Council Conditionally Approved 08/23/2010 (plat recorded 04/12/2011).

BZ-355 – Town & Country Real Estate Co. – Request for rezoning from AG to CS for 1.6 acres, more or less, located at the 7700-block of E. 121st St. S. (possibly previously addressed 7600 E. 121st St. S.) abutting the subject property to the east – PC Recommended Approval 03/19/2012 and City Council Approved 03/26/2012 (Ord. # 2077).

BACKGROUND INFORMATION:

ANALYSIS:

Subject Property Conditions. The subject property of 92 acres is relatively flat and appears to drain, if only slightly, to the south and west. The development will be planned to drain to the south and west to the Fry Creek Ditch # 2 and # 1, respectively, using stormsewers and paying a fee-in-lieu of providing onsite stormwater detention. It is zoned AG (CG and PUD 76 is requested) and may or may not be presently used for agricultural crops.

The subject property appears to presently be served by the critical utilities (water, sewer, electric, etc.) and has immediate access to the stormwater drainage capacity in the Fry Creek Ditches abutting to the west and south. Plans for utilities are indicated on Exhibit F and are discussed in the City Engineer's memo.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Corridor and (2) Vacant, Agricultural, Rural Residences, and Open Land.

The “Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan” (“Matrix”) on page 27 of the Comprehensive Plan provides that CG zoning *May Be Found In Accordance* with the Corridor designation of the Comprehensive Plan Land Use Map.

The Matrix does not indicate whether or not the requested CG 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.

Per the Matrix, PUDs are *In Accordance* with the Corridor designation of the Comprehensive Plan Land Use Map.

General. Because the review methodology is similar, and both applications are essentially rezoning-related and propose to prepare the subject property for the same multiple-use development, this review will, except as noted, include both applications simultaneously, and not attempt to differentiate between the analyses pertaining to each of the different applications.

The submitted site plans do not show specific planned improvements, but rather, general land use categories associated with each of the eight (8) Development Areas (DAs) by means of permitted uses listed in the Development Standards within each, summarized and commented upon as follows:

DA A: "Uses permitted as a matter of right in the CS District and customary accessory uses." This would include Use Units (UUs) 1, 4, 5, 10, 11, 12, 13, 14, and 19. Uses within UU 19 may be too intensive relative to the proximity of the Fox Hollow neighborhood. Staff recommends that, if UU 19 is retained, it be restricted to hotel use only, which would be restricted by the 2 stories and 35' maximum height restriction of Development Area A. The small size of the lots within DA A, however, would likely preclude hotel use.

DA B: "Life Care Retirement Center as set forth within Use Unit 8. Multifamily Dwelling and Similar Uses and customary accessory uses." The period following the numeral "8" is potentially ambiguous, and may be interpreted as either restricting the use to a "Life Care Retirement Center" or that plus a standard multifamily development. Please clarify as appropriate. Regardless of clarification outcome, recommendations in this report pertaining to multifamily development quality apply to this Development Area.

DA C: "Detached or attached residential dwelling units including single-family, duplex, patio home, townhouse, and multifamily, and customary accessory uses, including common area facilities such as club house, swimming pool and recreational open space." Recommendations in this report pertaining to multifamily development quality apply to this Development Area.

DA D: "Uses permitted as a matter of right in the CG Zoning District and principal uses permitted by special exception within the CG Zoning District including Use Unit 15 - Other Trades and Services, Use Unit 23 - Warehousing and Wholesaling (office/warehouse), and Use Unit 15 - Mini-Storage, Use Unit 17 - Automotive and Allied Activities and permitted uses shall be conducted within enclosed buildings, provided however sexually oriented businesses shall be excluded. Notwithstanding the foregoing, open air storage may be permitted by minor amendment submitted to and approved by the Bixby Planning Commission."

Staff understands this DA is intended for multi-tenant "office/warehouse" / "trade center" (such as that found in Crosscreek to the south), ministorage, and/or automotive-related businesses. These three (3) land use types are found in UUs 15, 16, and 17, respectively. The term "including" would be followed by "only" if the intent was to limit the use to those three (3) UUs. Without qualification, the "Uses permitted as a matter of right in the CG" part would also include UUs 1, 4, 5, 10, 11, 12, 13, 14, 15, 17, 18, and 19. Restriction on sexually-oriented businesses (SOBs) would appear applicable if including UUs 13, 14, and 19 (that specific restriction here is duplicative considering the overall prohibition in Section III.A "Restricted Uses"). If intended to qualify the "and principal uses permitted by special exception within the CG" part, it should not specify UU 15, as that is allowed by right. UU 15 mini-storage should be UU 16 ministorage. UU 16 ministorage developments are only permitted by PUD, not Special Exception. This section should be clarified.

Staff believes that the location and configuration of Development Area D and the character surrounding area satisfactorily meet the expectations of Zoning Code Section 11-9-16.C.13 for ministorage developments.

DA E: “Uses permitted as a matter of right in the CS Zoning District, and customary accessory use.” This would include UUs 1, 4, 5, 10, 11, 12, 13, 14, and 19. Although, like DA A, DA E is relatively close to Fox Hollow, it is separated therefrom by the collector street and an 11-acre commercial development tract on the north side of 121st St. S., so the recommendation for DA A regarding UU 19 is not held here.

DA F: “Uses permitted as a matter of right in the CG Zoning District, and office/warehousing as set forth within Use Unit 23. Warehousing And Wholesaling, and customary accessory use, provided however sexually oriented businesses and uses set forth in Use Unit 17 – Automotive and Allied Activities shall be excluded.” This would include UUs 1, 4, 5, 10, 11, 12, 13, 14, 15, 18, 19, and 23. The specific SOBs restriction is duplicative considering the overall prohibition in Section III.A “Restricted Uses.”

DA G: “Uses permitted as a matter of right in the OM Zoning District, and customary accessory use.” This would include UU 1, 5, 10, and 11 (offices).

DA H: “Uses permitted as a matter of right in the CG Zoning District, and office/warehousing as set forth within Use Unit 23 - Warehousing and Wholesaling uses.”

And alternative standards: “As an alternative use within Development Area G, multifamily dwellings are permitted, not exceeding 15 acres, and customary accessory uses, including common area facilities such as club house, swimming pool and recreational open space.”

Combined, this would include UUs 1, 4, 5, 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, and 23.

As noted above, the PUD development appears to have been written for maximum land use and design flexibility. Although there may be a limited number of development types expected, no absolutely known land uses are indicated for any particular development area. Probable land uses may be inferred by reading the lists of land uses permitted in each Development Area. Thus, the PUD Text does not describe, nor do the Exhibits reflect particular buildings, parking areas, internal driveways, or other such site development particulars.

Zoning Code Section 11-7I-8.B.1 requires:

“1. A site plan reflecting:

a. Proposed location of uses, including off street parking, open spaces and public uses;

b. Development standards for location, height, setback and size of buildings and other structures;

- c. Public and private vehicular and pedestrian circulation;
- d. The approximate intensity of residential uses expressed in number of dwelling units and the approximate intensity of nonresidential uses expressed in floor area, allocated to each identifiable segment of the planned unit development;
- e. Proposed screening and landscaping;
- f. Proposed location, height and size of any ground sign; and
- g. Sufficient surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed.” (emphasis added)

Because of the way the PUD is structured in terms of land use flexibility, the Applicant has not represented proposed location of uses, off-street parking, open spaces, public and private vehicular and pedestrian circulation, or signage. The PUD chapter of the Zoning Code may anticipate such generalized PUDs, as it includes in Sections 11-7I-8.B.1.b and .d requirements that are conventionally expressed in the PUD Text, and not on the site plan itself.

To satisfy the spirit and intent of the specific informational elements of the PUD conceptual site plan, Staff has listed certain recommendations at the end of this report, including the connection of required elements between the Text and the site plan Exhibits.

Zoning Code Section 11-7I-6 gives the Planning Commission authority and discretion to require adequate perimeter treatments, including screening, landscaping, and setbacks. Staff believes that the site plan should, regardless of the absence of other elements, reflect any and all proposed screening, perimeter landscaping, sidewalks, and perimeter trails (existing and as may be improved) on the site plans Exhibits C, C.1, and C.2. This also goes for a development entrance sign if/as may be proposed at 121st St. S., advertising developments without arterial street frontage and accessed via the proposed collector street. Such may be anticipated per language in PUD Section III.E.

Grade elevation changes, minimalistic signage, and generous landscaping can be used to good effect and result in attractive, upscale developments, and the developer should consider incorporating standards for these measures in the PUD.

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 PUD 76 at its regular meeting held February 06, 2013. Minutes of that meeting are attached to this report.

Access & Circulation. As proposed, primary access to the development would be via a proposed collector street connecting 121st St. S. to Memorial Dr. via the existing 126th St. S. constructed in the past couple years. By this collector road, all the Development Areas within the PUD would have access. There is a gap between the existing 126th St. S. right-of-way and the subject property, suggesting the necessity of separate instrument dedication of right-of-way to connect to 126th St. S. This should be explained in the Access section of the PUD Text and connection will be a Condition of Approval of this PUD.

The collector street is proposed to intersect with 121st St. S. at the location where there is an existing curb cut/driveway entrance constructed when 121st St. S. was widened. To the west of this, there is a smaller street proposed to intersect with 73rd E. Ave., which serves *Fox Hollow* and the *North Heights Addition*. The PUD should specify proposed rights-of-way and roadway widths; a typical section for the collector street and the minor streets may also be employed for further illustration.

The proposed access points to 121st St. S. require City Engineer and/or County Engineer curb cut approval, and the Fire Marshal's approval in terms of locations, spacing, widths, and curb return radii.

Subdivision Regulations Section 12-3-2.S provides:

“S. Street Offsets: Street centerline offsets of less than one hundred twenty five feet (125') for minor streets shall be avoided.”

The City Engineer and City Planner believe that the intent of this Subdivision Regulations design standard is to have streets and/or major curb cut/driveway entrances align, for traffic safety, flow, and accessibility purposes.

To facilitate acceptable traffic flow and accessibility, in the future, traffic lights may be warranted at certain of the intersections of these streets with Memorial Dr. and/or 121st St. S.

Sidewalks are required by the Subdivision Regulations along 121st St. S. and along internal streets to be constructed within the PUD. The PUD Text section entitled “Access and Circulation” reflects that interior sidewalks will be constructed, and is generally adequate, but it should be amended to specify this is also the case along 121st St. S.

During the TAC meeting held February 06, 2013, Staff suggested to Tanner Consulting, LLC that the Fry Creek Ditch access drives could be improved as a walking trail amenity for the development. If the developer would be willing to make this improvement, appropriate language should also be added to the PUD Text section entitled “Access and Circulation.”

Surrounding Zoning and Land Use. Surrounding zoning is a mixture of AG, CG, CS, OL, RS-1, and RS-3. See the case map for illustration of existing zoning patterns, which are described in the following paragraphs.

To the north (across 121st St. S.), the *Fox Hollow* and *North Heights Addition* residential subdivisions are zoned RS-3 and RS-1, respectively, the Fry Creek Ditch # 2 to the northwest is zoned AG, and an 11-acre agricultural/vacant tract to the northeast is zoned OL/CS/PUD 51.

The Fry Creek Ditch # 1 to the south is zoned AG and the *Crosscreek* "office/warehouse" heavy commercial / trade center and retail strip center is zoned CS with PUD 37.

The Fry Creek Ditch #2 abuts to the west and is zoned AG. Beyond this to the west is vacant/wooded land owned by the City of Bixby, the *Three Oaks Smoke Shop* located on a 2-acre tract at 7060 E. 121st St. S., and along Sheridan Rd., the *Seven Lakes I* and *Seven Lakes II* residential subdivisions and additional vacant land zoned RS-4 for a future "Seven Lakes" phase or phases.

To the east is agricultural land zoned AG, CS, and CG, the *Easton Sod* sales lot zoned RS-3, OL, & CS, the *Encore on Memorial* upscale apartment complex zoned RM-2/PUD 70, a *Pizza Hut* zoned CG, and a *My Dentist Dental Clinic* zoned CS. Memorial Dr. is further to the east.

Per the Comprehensive Plan, all the land between Fry Creek Ditch # 1 and # 2 and 121st St. S. and Memorial Dr., including the subject property, approximately 180 acres in all, is planned for Corridor-intensity development, which provides that all of the available Zoning districts are either *In Accordance* or *May Be Found In Accordance* with the Comprehensive Plan. This 180 acre area is anticipated to be developed intensively, as it is in a prime location, is one of the last, exceptionally large undeveloped acreages in all of South Tulsa County north of the Arkansas River, has all the necessary utilities, has Memorial Dr. frontage and improved access by the widened 121st St. S., and is out of the 100-year Floodplain.

Circa 2005, 121st St. S. between Sheridan Rd. and Memorial Dr. was widened to a 4-lane major street with a 5th, dedicated turning lane in the center, consistent with its designation on the Tulsa City-County Major Street and Highway Plan (MHSP) and Bixby Comprehensive Plan as a Primary Arterial. This infrastructure improvement has further enabled the intensive development of this 1-mile major street corridor.

It appears that, with the exception of the approximately 320' of frontage on 121st St. S. belonging to *Fox Hollow*, all of the private land along 121st St. S. between Sheridan Rd. and Memorial Dr. has, or is planned or expected to develop/redevelop with intense uses.

In a trend accelerating since the street widening, the 121st St. S. corridor between Sheridan Rd. and Memorial Dr. has seen a significant amount of intensive zoning and development activity. The land to the northwest is the Bixby North Elementary school on a 23-acre campus, and next to that is the Bixby North 5th and 6th Grade Center on a 10-acre campus and the *LifeChurch* 4.4-acre facility. The *Three Oaks Smoke Shop* is located on a 2-acre tract approximately 1,100 feet from the subject property on the south side of the street, and all of the balance of the land to the west along the south side of 121st St. S. has been zoned CS with PUD 53 and platted in *WoodMere* for commercial use and office buildings. The 11-acre tract to the northeast was approved for CS and OL zoning and commercial development per PUD 51 in 2006. The 40-acre *Bixby Centennial Plaza* is just beyond that to the east, and was approved for CS zoning, in

2001, and for commercial development by the plat of *Bixby Centennial Plaza* in 2006. A 1.6-acre, more or less, tract located at the 7700-block of E. 121st St. S. (possibly previously addressed 7600 E. 121st St. S.), abutting the subject property to the east, was rezoned to CS in March of 2012.

The requested CG zoning and PUD 76 propose a moderately intensive, multiple use suburban development of the subject property. Within the 180-acre area above-defined, there are three (3) instances of approved CG zoning immediately east of the subject property. Immediately south of Fry Creek Ditch # 1, the Crosscreek development is more consistent with CG zoning than its existing CS zoning. Across Memorial Dr. to the east of the 180-acre area above-defined, there is an existing ministorage business, *Spartan Self Storage*, and just to the east of that is a 16-acre tract approved for “office/warehouse” / “trade center” and ministorage development (PUD 68). Thus, there is located in the immediate area precedent for CG zoning and all of the uses contemplated by this multiple-use PUD. Therefore, Staff believes that, for the most part, the applications are consistent with the surrounding zoning, land use, and development patterns and are appropriate in recognition of the available infrastructure and other physical facts of the area.

Development Quality / Multifamily Use PUD Element. 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. To ensure the highest value and quality for any multifamily development that may occur on the subject property, consistent with the City Council’s recent Conditional Approval of multifamily PUD 75, Staff recommends the PUD specify the following, which should help ensure the development product is of adequate quality and is adequately invested for the long term:

1. Consistent with the most recent and relevant three (3) multifamily development approvals in Bixby, the adequacy of multifamily construction quality shall be determined by means of a PUD Detailed Site Plan, to be approved by both the Planning Commission and the City Council.
2. Consistent with the Encore on Memorial project and PUD 75, this PUD should propose specific masonry requirement for each multifamily development 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”), and a 40% masonry requirement for the leasing office. The garages and carport buildings had no masonry requirement).

Staff has the following additional recommendations pertaining to overall development quality:

3. Describe in the PUD Text and amend the Exhibits as necessary to address what will be done with the existing stand of mature trees along the west side of the acreage; i.e. will any of the trees be preserved within the development?

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4. During the TAC meeting held February 06, 2013, Staff suggested to Tanner Consulting, LLC that the Fry Creek Ditch access drives could be improved as a walking trail amenity for the development. Internal trails could also be planned, linking each DA to the Fry Creek trails. If the developer would be willing to make such improvements, appropriate language should also be added to the PUD Text section entitled "Access and Circulation."
5. 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 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 Zoning approvals supporting the development proposal if it (1) offers quality-enabling standards such as mature tree preservation plans and quality of life upgrades (e.g. walking trails), (2) provides for land use buffering and compatibility needs, and (3) helps ensure the highest value and quality for any multifamily development that may occur on the subject property by means of minimum masonry requirements and a requirement for Detailed Site Plan approval by both the Planning Commission and City Council. 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 PUD and rezoning applications generally. Therefore, Staff recommends Approval of both requests, subject to the following corrections, modifications, and Conditions of Approval:

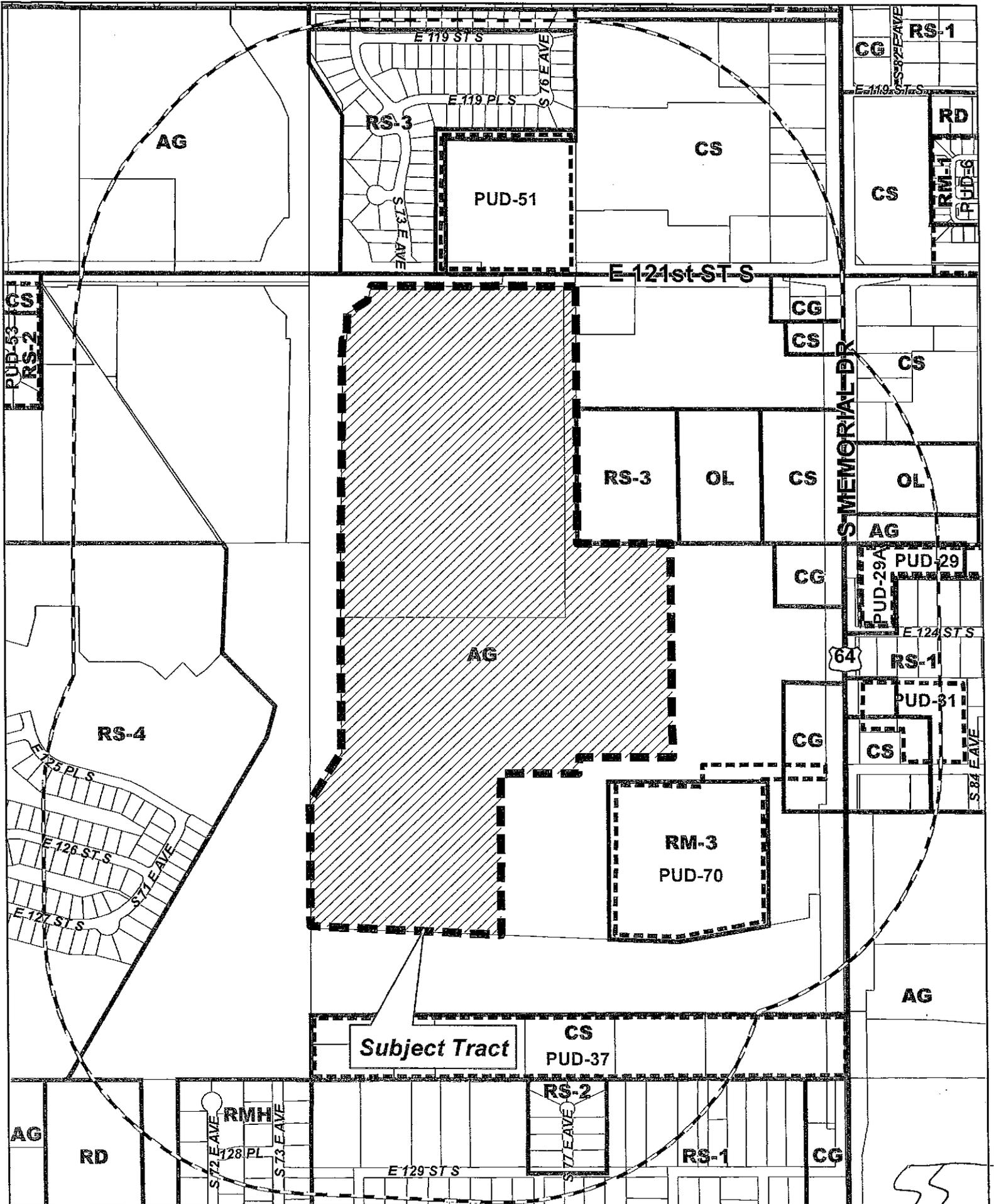
1. Subject to the satisfaction of all outstanding Fire Marshal, City Engineer, and City Attorney recommendations.
2. The approval of CG zoning is subject to the final approval of PUD 76 and vice-versa.
3. Please incorporate within the Development Standards the specific land use / Use Unit recommendations per Development Area listed in the analysis above.
4. Please incorporate within the Text and Exhibits the five (5) numbered recommendations listed above pertaining to development quality and multifamily developments.
5. Page 3, Development Concept: Per other recommendations in this report, in the final paragraph, please amend the text such as, "...detailed site plans of each phase of the development submitted to and approved by the Bixby Planning Commission and the Bixby City Council."
6. In satisfaction of Zoning Code Section 11-7I-8.B.1.a, please tie land uses to the site plan by adding to Exhibit C/C.1/C.2 verbiage reflecting that the letters used correspond to Development Areas described within the text.
7. Exhibit C/C.1/C.2: Please include, represent, identify/label, and/or dimension, or otherwise correct as follows:
 - a. Date of preparation
 - b. Internal dimensions such as were on the initial PUD site plan submittal
 - c. Sufficient surrounding area elements (Section 11-7I-8.B.1.g) including, but not necessarily limited to:
 - i. *Encore on Memorial*
 - ii. Fry Creek Ditch # 1
 - iii. Fry Creek Ditch # 2
 - iv. *Easton Sod* sales lot
 - v. Agricultural tracts abutting to the east
 - vi. *Fox Hollow* and 73rd E. Ave. as recommended elsewhere herein
 - d. Street names as follows (confirm first with all appropriate City Staff):
 - i. East-west Collector Street: East 126th Street South
 - ii. North-south Collector Street: South 74th East Avenue
 - iii. North-south minor Street: South 73rd East Avenue
 - iv. East-west minor Street: East 121st Place South
 - e. Rights-of-way and roadway widths per other recommendations in this report
 - f. Consistent with other recommendations in this report, please identify what screening will be proposed for which property lines (where known; can be qualified as appropriate)
 - g. Sidewalks
 - h. Fry Creek Ditch access roads on adjoining right-of-way tracts
 - i. Perimeter and/or internal trails (if/as may be planned)
 - j. Development entrance sign if/as may be proposed at 121st St. S.

8. Missing elements: Soil analysis per Zoning Code Section 11-7I-8.B.2. This is a minimum requirement for PUDs per the Zoning Code.
9. There is a gap between the existing 126th St. S. right-of-way and the subject property, suggesting the necessity of separate instrument dedication of right-of-way to connect to 126th St. S. This should be explained in the Access section of the PUD Text and connection will be a Condition of Approval of this PUD.
10. The PUD should specify proposed rights-of-way and roadway widths; a typical section for the collector street and the minor streets may also be employed for further illustration.
11. Subject to City Engineer and/or County Engineer curb cut approval for the proposed access points to 121st St. S., and the Fire Marshal's approval of locations, spacing, widths, and curb return radii.
12. Section III.B: Please specify what screening and landscaping will be proposed for which property lines (type and height) per Zoning Code Section 11-7I-8.B.1.e. This section may also be used to describe height and setback restrictions within specific non-residential Development Areas in relation to residential land uses and zoning districts. Specifics should address proximate properties and zoning districts including, but not necessarily limited to:
 - a. Fox Hollow to the north
 - b. Non-residential Development Area D in relation to Seven Lakes subdivisions to the west, residential areas to the southwest, and multifamily residential to the east (Encore multifamily).
 - c. RS-3 zoning in the *Easton Sod* sales lot abutting to the east (may be qualified as appurtenant only if actually developed residentially)
 - d. Non-residential alternate for Development Area H in relation to multifamily residential to the south (Encore multifamily)
13. Section III.D: Please correct: "...South Memorial Road Drive..."
14. Section III.D: Please specify if the collector street and minor streets shown on the site plans will be publicly or privately owned and maintained.
15. Section III.D: Please specify sidewalks will also be constructed by the developer along 121st St. S.
16. Section III.E: The text allowing off-site signs (circumventing the "billboard" prohibition) needs to have typos corrected: "A—sSigns identifying an interior property..."
17. Section III.E: Consider revising the text allowing off-site signs to specify: (1) will such signs be allowed in addition to the ground signage otherwise allowed for the primary use of the lot on which located, and (2) if so, will it be allocated its own exclusive display surface area, or have to share it with the primary use, and (3) what will be the allowable height, display surface area, number, spacing, and other particulars?
18. Consider the likelihood that the maximum parking number standard of Zoning Code Section 11-10-2.H would be exceeded by any particular use or Development Area, and whether the PUD should add a measure of flexibility in this regard. Consider also whether the PUD should add a measure of flexibility with mutual parking privileges language, in an effort to reduce unnecessary parking and its construction and maintenance expense, and the other externalities excessive parking may generate.
19. Development Standards.

- a. DA B: Double asterisks before “Minimum Off-Street Parking” should be clarified or removed if not operative.
 - b. DA C: 320 maximum dwelling units proposed exceeds allowance of Zoning Code Section 11-7I-5.A.1 even presuming all multifamily apartment units would have less than 2 bedrooms. 16.014 acres would allow for a maximum of 291 dwelling units. Please revise.
 - c. DA C: Maximum density: 20 DUs (multifamily) per acre exceeds Zoning Code allowance (see above). Please revise.
 - d. DA C: Maximum density: 7 DUs (detached single family) per acre exceeds Zoning Code allowance (~5.808/acre for 16.014 acres). Please revise.
 - e. DA C: Maximum density: Please differentiate between multifamily dwelling units having 1 or fewer bedrooms and those having 2 or more.
 - f. DA C: 5’ side yard setback and 20’ setbacks between “townhome buildings” provided, but setback not provided between townhouse units within a “townhouse development.” Please add per Zoning Code Section 11-7B-4.A.1 Table 3: “...0 feet on attached side only.”
 - g. DA C: In anticipation of possible multifamily development, provide a setback for multifamily buildings from DA and lot line boundaries, such as 20’.
 - h. DA D: In anticipation of possible ministorage development, add height restrictions commensurate with those listed in UU 16 or specify in the Development Standards that the height listed also applies to ministorage buildings.
 - i. DA D: In anticipation of possible ministorage development, add proposed setbacks between ministorage buildings as required by Zoning Code (30’ or as otherwise required by the Fire Marshal).
 - j. DA E, F, & H: Minimum landscaped percentage: 10% is already required by Code if commercial, but 15% would be required if office. Specify 15% for office or otherwise please remove (to allow default to Code).
 - k. DA G: Minimum landscaped percentage: 15% is required by Code for office but 10% is proposed. Specify 15% or otherwise please remove (to allow default to Code).
 - l. DA H (Alt.): 300 maximum dwelling units proposed exceeds allowance of Zoning Code Section 11-7I-5.A.1 even presuming all multifamily apartment units would have less than 2 bedrooms. 15 acres would allow for a maximum of 272 dwelling units. Please revise.
 - m. DA H (Alt.): Double asterisks before “Minimum Off-Street Parking” should be clarified or removed if not operative.
20. 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.

21. 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).

54



Subject Tract

PUD-76

300' Radius

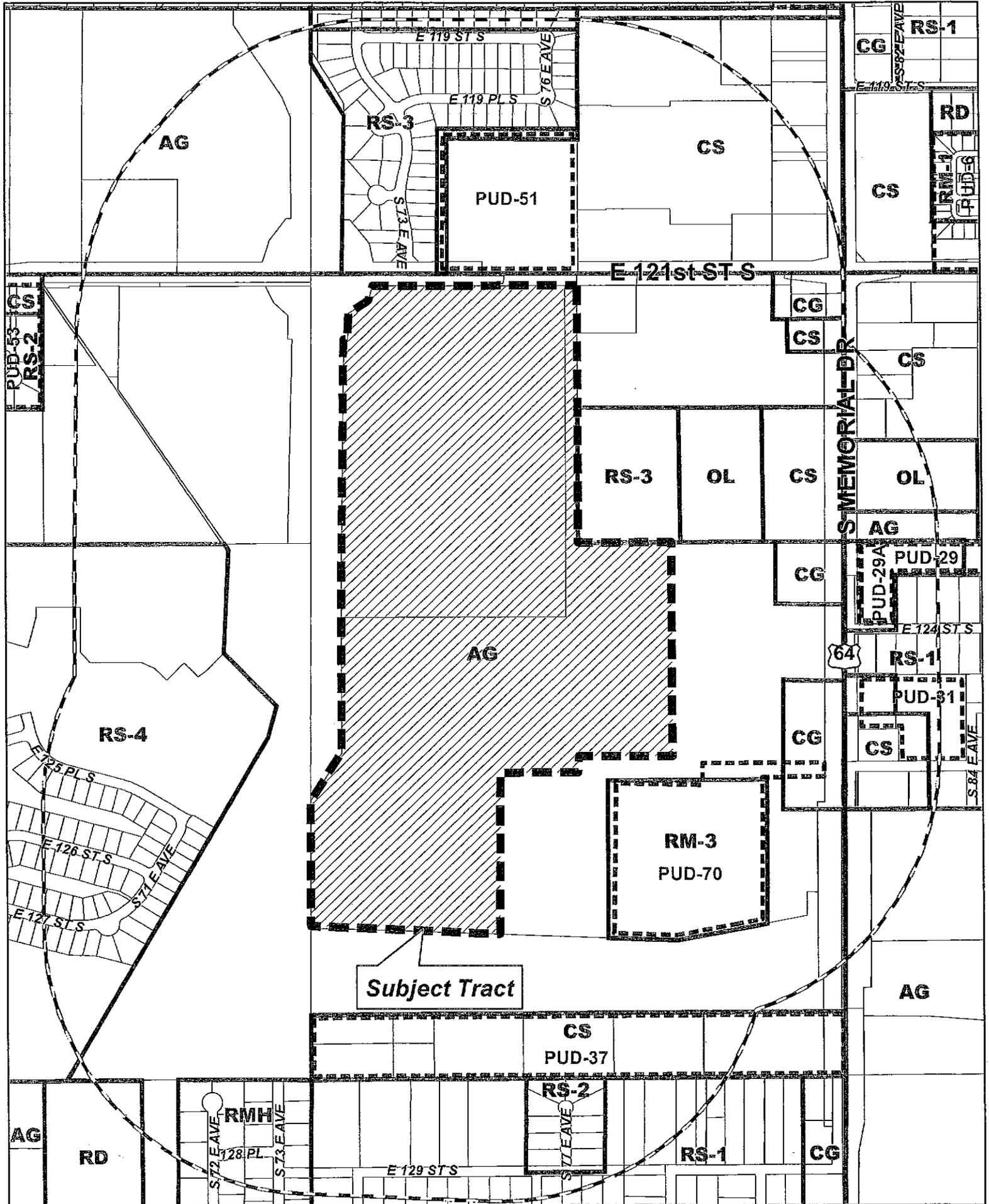
Subject Tract

0 150 300 600
Feet

02 17-13



55

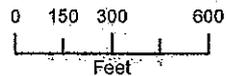


300' Radius



Subject Tract

BZ-364



02 17-13



Memo

To: Erik Enyart, City Planner

From: Jared Cottle, PE

CC: Bea Aamodt, PE
File

Date: 02/05/13

Re: Scenic Village
PUD 76

General Comments:

1. An Infrastructure Master Plan for the project will be required that addresses sanitary sewer, storm water, and water systems with the Preliminary Plat.
2. Infrastructure Master Plan will need to include sanitary sewer and storm sewer connections available to off-site properties that are not currently served.
3. The storm sewer system must accommodate runoff from adjacent properties under fully developed conditions. Project development should not inhibit the existing drainage patterns.
4. Fee-in-lieu charges of \$0.20/sf of impervious area are applicable to this area. Detention is not required.
5. A water loop extending service to Lot 1, Block 1 must be provided.
6. Street right-of-way should be of sufficient width to permit future roadway widening and/or turning lanes to serve future development of adjacent tracts.

Memo

To: ERIT ENYART, AICP, CITY PLANNER

From: JIM SWEEDEN

Date: 1/24/2013

Re: PUD 76 "SCENIC VILLAGE PARK"

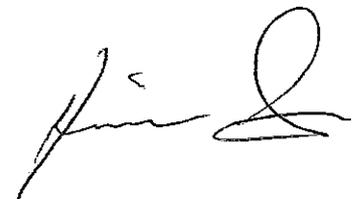
PUD 76 DEVELOPMENT CONCEPT & SITE PLAN IS APPROVED BY THIS OFFICE, AS PER FOLLOWING.

CODES: ICC - 20009: IBC/IFC CODES, PLUMBING CODES, MECHANICAL CODES, ADA CODES, ELECTRICAL CODES 2011 AND CITY CODES & ORDINANCES.

ALL LOTS (A THRU G) MUST MAINTAIN TWO (2) MEANS OF EXIT/EGRESS. PLEASE BE PREPARED TO ILLUSTRATE HOW WE WILL BE ABLE TO ACCOMPLISH THIS.

ALL FIRE HYDRANTS SHALL BE NO FURTHER THAN 300 FEET APART. SEE CITY REQUIREMENTS ON TYPES OF HYDRANTS ALLOWED IN CITY DISTRICT.

ALSO NEED TO DISCUSS THE SITE PLAN (SECTION "D") OF THE ENTRANCES AND POSSIBLE DEAD END STREETS IN THAT AREA.



MINUTES
TECHNICAL ADVISORY COMMITTEE
DAWES BUILDING CITY OFFICES
113 W. DAWES AVE.
BIXBY, OK 74008
February 06, 2013 – 10:00 AM

MEMBERS PRESENT

Jim Peterson, *BTC Broadband*

STAFF PRESENT

Erik Enyart, AICP, City Planner, City of Bixby
Jim Sweeden, Fire Code Enforcement Official, City of Bixby
Joey Wiedel, Fire Marshal, City of Bixby

OTHERS PRESENT

Ricky Jones, *Tanner Consulting, LLC*
Justin Morgan, *Tanner Consulting, LLC*
Weldon Bowman, AIA, NCARB, *W Design, LLC*
Brian Letzig, *W Design, LLC*
Ken Adams
Claudette Adams

1. Erik Enyart called the meeting to order at 10:05 AM.

Ricky Jones proposed to take the agenda items out of order, and indicated that the PUD 76 item would take longer to discuss. After some discussion, those present indicated their agreement.

3. **Preliminary Plat / Final Plat – Bixby Centennial Plaza II – Rosenbaum Consulting, LLC.**
Discussion and review of a Preliminary Plat and a Final Plat and certain Modifications/Waivers for “Bixby Centennial Plaza II,” Lot 7 and the N. 42’ of Lot 8, Block 1, *Bixby Centennial Plaza*.
Property Located: Approximately the 11900-block of S. Memorial Dr.

Erik Enyart introduced the item and summarized the project and its location. Mr. Enyart addressed Weldon Bowman and stated that the owners had decided to divide their interests prior to platting, and that he was presently working with the title company on the deeds for the approved Lot-Split. Mr. Enyart stated that, due to the previous Lot-Splits that affected the property and the sequencing of events, it was a requirement of Lot-Split approval that the southerly tract pieces be legally attached each to the other, to meet the frontage requirements of the PUD. Mr. Enyart stated that, when the lots were split, the plat would follow along and place the common property line in the same location.

Jim Peterson asked why the land was being platted. Erik Enyart responded that the frontage was not adequate for the Lot-Split, so the owners did a PUD to reduce the frontage requirement, and after a PUD is approved, a plat is required.

Erik Enyart asked if there were any questions or comments at this time.

Jim Peterson asked if the Mutual Access Easement would be paved, and Weldon Bowman responded that it would. Mr. Bowman stated that it was actually part of the parking lot and indicated it would connect the two (2) lots to the parking areas and drives to the south and north. Mr. Peterson stated that a conduit under the drive would be necessary.

Erik Enyart stated that, at the time the Lot-Split application was submitted, the owners made application to close an easement, and the City approved it. Mr. Enyart asked Weldon Bowman if he knew if the owner followed through and had the easement permanently vacated by the court. Mr. Bowman stated that he did not know.

Erik Enyart asked Weldon Bowman if he recalled whether the PUD included a PUD Detailed Site Plan approval requirement. Mr. Bowman stated that he was not sure. Mr. Enyart stated that, if it was a requirement of the PUD, the PUD Detailed Site Plan would have to be approved by the Planning Commission; if otherwise, it would simply need site plan approval by Staff in the context of a Building Permit application. Mr. Enyart stated that there was now an application form for site plan approval. Mr. Enyart stated that he knew there was a conceptual plan submitted with the PUD, but that it would need to be refined for permitting purposes.

Erik Enyart asked Weldon Bowman if Barrick Rosenbaum would also be in attendance. Mr. Bowman stated that he would not, and that is why he was attending instead.

Erik Enyart asked Weldon Bowman if he knew the preferred timeline for the development, and Mr. Bowman indicated the owners wanted to proceed as soon as possible.

Erik Enyart advised Weldon Bowman that he hoped to have the draft Staff Report completed and sent to him and Barrick Rosenbaum by the end of the week.

Erik Enyart asked if there were any further questions or comments. There were none.

Weldon Bowman and Brian Letzig left at this time.

2. **PUD 76 – Scenic Village Park – Tanner Consulting, LLC.** Discussion and review of a rezoning request for approval of a Planned Unit Development (PUD) for 92 acres in part of the E/2 of Section 02, T17N, R13E.
Property Located: South and west of the intersection of 121st St. S. and Memorial Dr.

Erik Enyart introduced the item and stated that the PUD was 92 acres in size.

Ricky Jones stated that the PUD had changed somewhat as [the developer and the design professionals] were continually meeting to discuss the project. Mr. Jones stated that Development

Area G had been divided into two (2) Development Areas, and that this did two (2) things: (1) that lot originally planned for multifamily was too big, so this reduced the size, and (2) the [new Development Area G] would be planned for office use, which would be a buffer, and would direct multifamily traffic toward Memorial Dr. via 126th St. S., rather than north to 121st St. S.

Ricky Jones stated that Development Area A would be planned for retail type uses. Mr. Jones stated that the developer had secured only one (1) [sale] so far, to an assisted living / independent living facility. Mr. Jones indicated this was planned for Development Area B, and stated that the south side of the land would be for independent living, to take the form of duplexes or similar freestanding small structures. Mr. Jones stated that the development standards were amended to provide for residential intensity for the independent living part.

Erik Enyart asked Ricky Jones if this use was to be done by Scenic Development of Kansas City, and Mr. Jones confirmed. Mr. Enyart stated that the City had been talking to them for some time and knew they were interested in the site. Mr. Jones stated that [he and his associates] had toured the project Scenic Development was building in Kansas and that it was a high quality development.

Ricky Jones stated that the retail uses for Development Area A would likely compliment the assisted living facility's use, such as a pharmacy. Justin Morgan stated that [Scenic Development] was under contract to buy [Development Area A] also.

Ricky Jones stated that Roy Johnsen was the attorney working on the PUD, and that he would be proposing a neighborhood meeting the following week. Mr. Jones stated that the invitation would be mailed to the property owners that received the Public Notice. Erik Enyart stated that there were about 220 addresses to which he had mailed the Public Notice, and remarked at how large the number was. Mr. Jones acknowledged and stated that it was because of the new law pertaining to multifamily use. Mr. Enyart stated that he would get the address list to Mr. Jones [to send out invitations].

Ricky Jones stated that there would be an 80' [right-of-way width] collector road built in the development. Mr. Jones noted that the City had been insisting on this collector road connection for some time, and Erik Enyart indicated agreement.

Erik Enyart asked if the Fire Marshals had any questions or comments. Joey Wiedel stated that fire hydrants would need to be spaced no more than 300' apart. Mr. Wiedel stated that Development Area D did not appear to have much street frontage, and stated that it would have to have two (2) ways in and out.

Ricky Jones addressed Joey Wiedel and stated that he was firming up the site plans, and that they were not 100% completed, but that he would work with him on the access matter.

Erik Enyart asked how much street frontage was available for Development Area D. Justin Morgan referred to a draft plat drawing and specified the street frontage at well over 100'.

Erik Enyart pointed to the location of the Encore on Memorial multifamily development. Mr. Enyart stated that the Encore development had only 126th St. S. for access, but had improved the

existing Fry Creek Ditch maintenance drive from Memorial Dr. west for fire access and emergency ingress/egress, and that it connected to a gated driveway located at its southeast corner. Jim Sweeden stated that this was a good outcome. Mr. Enyart stated that the same could be done by extending the improved surface west to Development Area D, if necessary.

Erik Enyart stated that, as it was related to the improved access drive, when the Encore on Memorial project was being planned, Staff had recommended that the improved access drive be used as a walking trail amenity. Mr. Enyart asked Ricky Jones if the developer had considered this possibility of making an off-site improvement for the benefit of the development as an amenity. Mr. Jones stated that he was a proponent of walking trails and would talk to the client about the issue. Mr. Jones stated that it would appear a good fit for the assisted living facility. Claudette Adams indicated favor for walking trails at this location.

Justin Morgan asked Erik Enyart if the Comprehensive Plan did not show a trail along the Fry Creek Ditch. Mr. Enyart stated that it showed it along the west side of Fry Creek # 2, but not on this east side. Mr. Enyart stated that, in the long term, however, he would expect trails on both sides of both channels.

Ricky Jones stated that he would work with Jared [Cottle] on the off-site stormsewer extension matter.

Erik Enyart stated that the City has long recognized the value of this acreage from an economic development standpoint, due to its size and location. Mr. Enyart stated the City has wanted to see this property developed with quality development for some time.

Erik Enyart advised Ricky Jones that the City Staff will recommend, for the multifamily element of the development, certain Conditions of Approval to ensure the highest development quality. Mr. Enyart stated that the City had seen two (2) multifamily developments in the past five (5) years or so, the first of which, Marquis on Memorial, Tanner Consulting had planned, and the other being Encore on Memorial. Mr. Enyart stated that, in both cases, the developments were of the highest quality, and the City wanted to be sure that any new such facilities are built to at least that level of quality. Mr. Jones confirmed with Mr. Enyart the original site the Encore on Memorial development was planned for, and Mr. Enyart confirmed it was directly across from the Fox Hollow neighborhood at 73rd E. Ave. Mr. Jones confirmed with Mr. Enyart that that development was relocated to its current site based on the negative response from surrounding areas. Mr. Enyart stated that that particular development experienced an overwhelming amount of protest, including from residents living over a mile away from the site. Mr. Enyart stated that, when the developer agreed to relocate it to 126th St. S. and Memorial Dr., at that next meeting, there was absolutely no protest. Claudette Adams indicated agreement, and stated that she was part of the meeting with the City and the developer when the site was relocated.

Erik Enyart stated that, related to the quality matter, in the past month, the City had approved a multifamily development south of the [Arkansas] River, at about 153rd and Sheridan Rd. Mr. Enyart stated that, per Staff recommendation, there were Conditions of Approval placed on that development designed to ensure that the development would be high quality. Mr. Enyart stated that those Conditions included, in part, (1) requiring a PUD Detailed Site Plan be [recommended upon]

not only by the Planning Commission but also be approved by the City Council, which can confirm at that time that the development is of sufficient quality, and (2) a specific masonry requirement, consistent with that specified with the Encore on Memorial development. Mr. Jones indicated agreement. Mr. Enyart stated that Mr. Jones may expect to find similar recommendations from Staff.

Justin Morgan stated that the assisted living facility building's footprint would be 80,000 square feet, and that the independent living element would consist of freestanding homes in the back [south side of Development Area B]. Mr. Morgan stated that the company ultimately planned to develop three (3) to five (5) such facilities in the Tulsa market.

Erik Enyart stated that he had just started to review the PUD but had found some things that needed corrected or clarified as far as uses permitted in specific Development Areas. Mr. Enyart stated that Development Area A allowed uses permitted by right in the OM district, which would not support retail use. Justin Morgan stated that that was the change that he had sent Mr. Enyart recently. Mr. Enyart acknowledged and stated that he had started the review using the original submittal posted on the City's website.

Erik Enyart asked if there were any further questions or comments. There were none.

Erik Enyart recognized guests Ken and Claudette Adams from the Fox Hollow neighborhood and asked if they had any questions or comments. Mr. Adams clarified with Ricky Jones using the draft plat where the new Development Area G was located.

Ricky Jones asked Ken and Claudette Adams if either or both of them were executive officers of the Fox Hollow Homeowners Association. Claudette Adams stated her position at the Association but stated she was not an executive officer. Ms. Adams stated that she was one at the time that Encore on Memorial was first proposed. Mr. Adams stated that he was retired and had time to meet during the day, whereas other officers of the HOA worked during the day.

Claudette Adams stated that it has been helpful coming to this meeting and seeing the plans.

Erik Enyart asked if there were any further questions or comments. There were none.

4. Old Business

5. New Business

6. Meeting was adjourned at 11:00 AM.

BIXBY TAC MEETING
SIGN IN SHEET
Wednesday, February 06, 2013

NAME	COMPANY	PHONE
1. <u>Ken Adams</u>	<u>Fox Hollow</u>	<u>918-369-1969</u>
2. <u>Claudette Adams</u>	<u>Fox Hollow</u>	<u>"</u>
3. <u>BRIAN LETZIG</u>	<u>W DESIGN</u>	<u>918-794-6616</u>
4. <u>WELDON BOWMAN</u>	<u>W DESIGN</u>	<u>918-794-6616</u>
5. <u>RICKY JONES</u>	<u>Tanner</u>	<u>918-745-9929</u>
6. <u>Justin Morgan</u>	<u>"</u>	<u>"</u>
7. <u>Jim Peterson</u>	<u>BTC Broadband</u>	<u>918-366-0253</u>
8. <u>Jim Swedden</u>	<u>Fire Marshal office</u>	<u>918-366-0436</u>
9. <u>Joey Wiedel</u>	<u>JM O</u>	<u>918-366-0436</u>
10. _____	_____	_____
11. _____	_____	_____
12. _____	_____	_____
13. _____	_____	_____
14. _____	_____	_____
15. _____	_____	_____
16. _____	_____	_____
17. _____	_____	_____
18. _____	_____	_____
19. _____	_____	_____
20. _____	_____	_____

SCENIC VILLAGE PARK

Planned Unit Development No. 76

92 acres West of the Southwest Corner of
East 121st Street South and South Memorial Road

Bixby, Oklahoma

Applicant/Owner:

121st and Memorial, LLC
c/o Rick Dodson, Manager
6205 E. 105th Street
Tulsa, OK 74137
dodsonbuilding@cox.net

Development Engineer:

Tanner Consulting, LLC
c/o Ricky Jones
5323 South Lewis Avenue
Tulsa, OK 74105
ricky@tannerbaitshop.com

January 21, 2013

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I. DEVELOPMENT CONCEPT

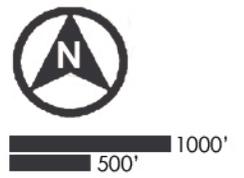
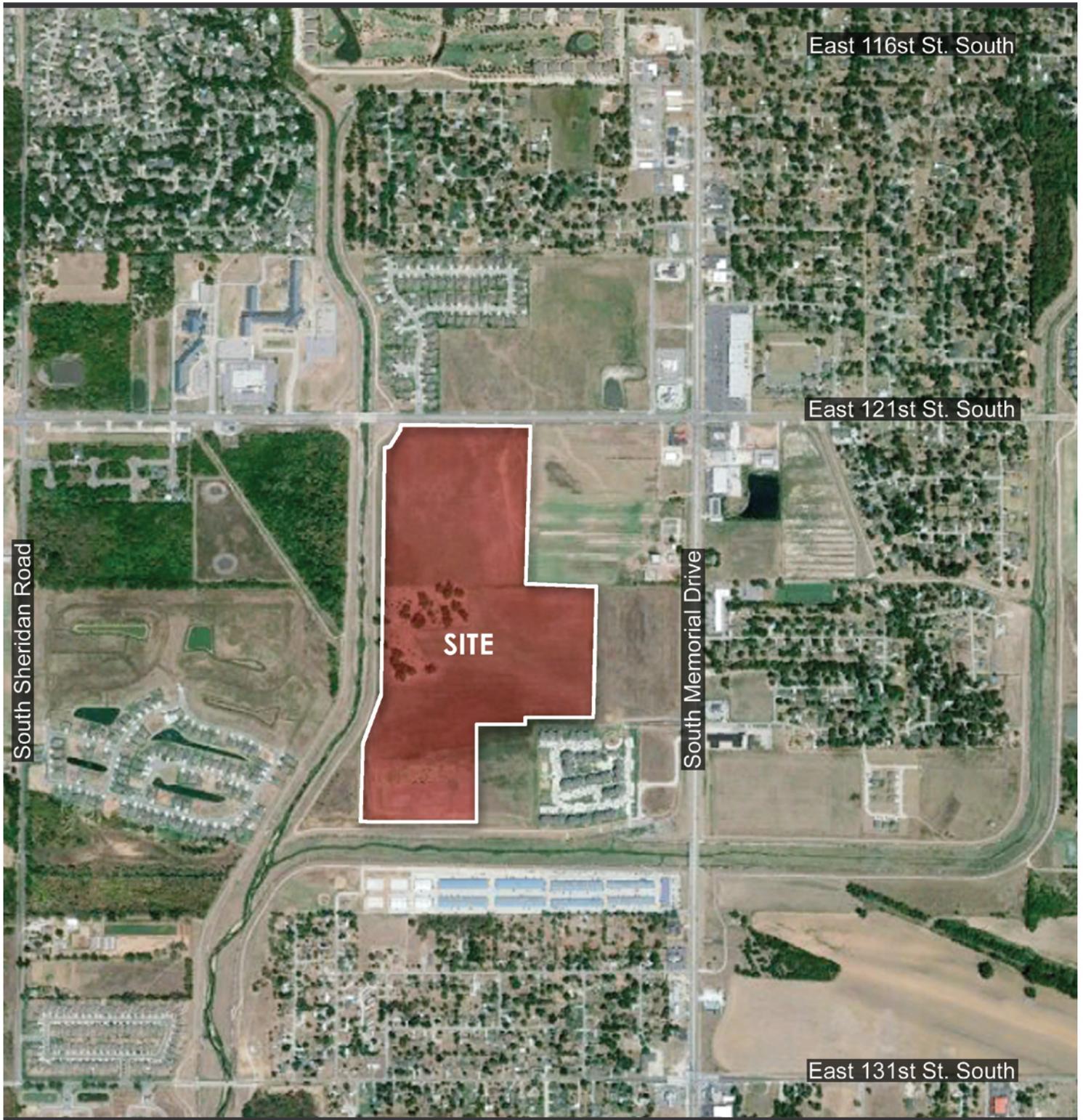
Planned Unit Development No. 76 (hereinafter "PUD 76") comprises 92 acres (hereinafter the "Property" or "Site") located approximately 1320 feet west of the southwest corner of East 121st Street South and South Memorial Drive, Bixby Oklahoma. The Property is presently zoned AG.

Scenic Village Park is planned as a mixed-use development, including retail, general commercial, office, office warehouse, mini-storage, continuing care and various residential uses.

The Property is located within the South Memorial Corridor Development Area established by the Bixby Comprehensive Plan 2001-2020 which principally designates the Corridor for commercial uses. Current development of proximate sites include retail, mini-storage, office warehouse and apartment uses.

This planned unit development is intended to establish a conceptual site plan with designation of development areas, allocation of uses and intensity of uses and development standards and conditions to be followed by detailed site plans of each phase of development submitted to and approved by the Bixby Planning Commission. The Property is presently zoned AG Agriculture District. In order to implement this Planned Unit Development, an accompanying application has been filed to rezone the Property to a CG Commercial General District.

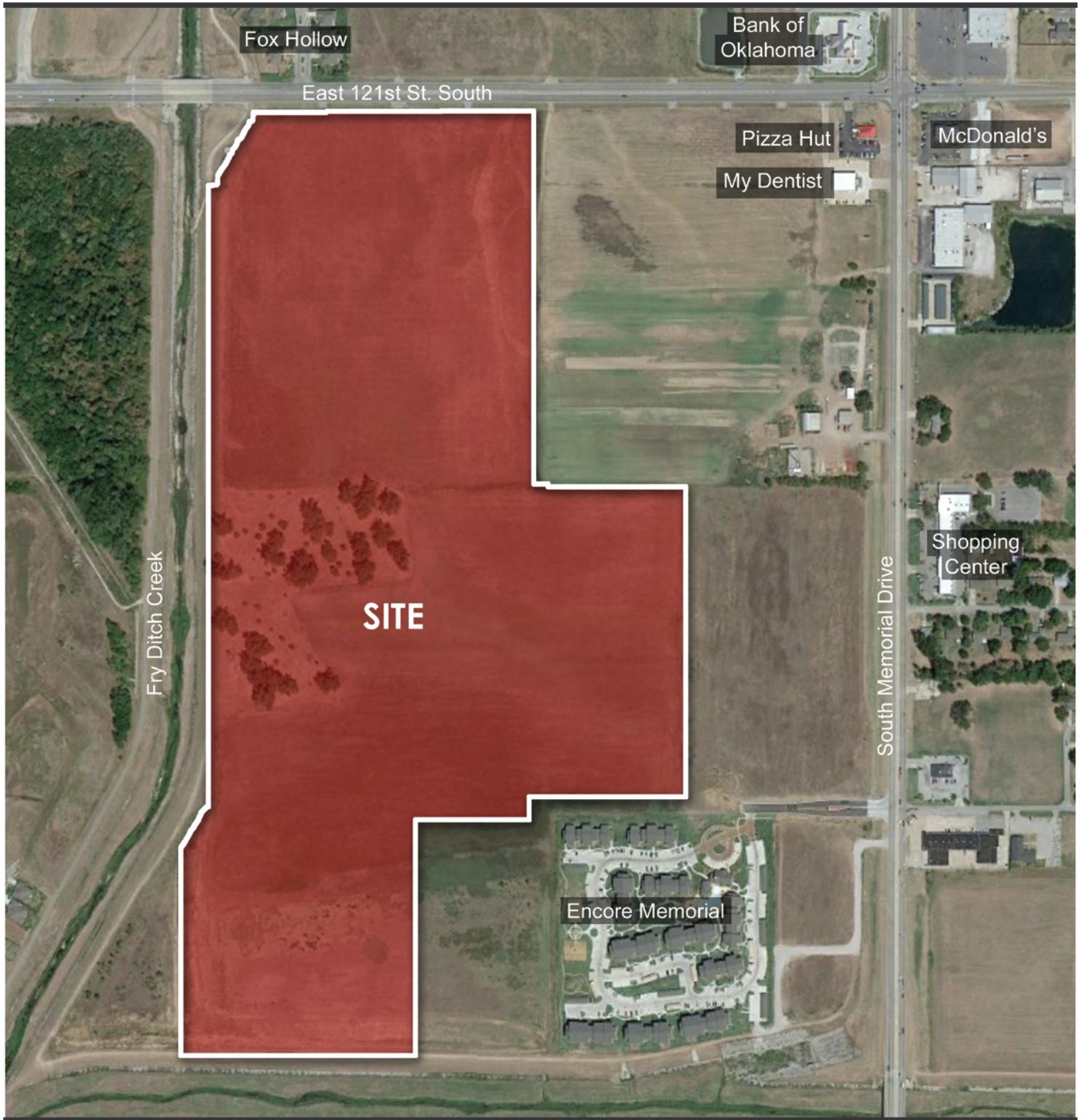
EXHIBIT A AERIAL PHOTOGRAPHY



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

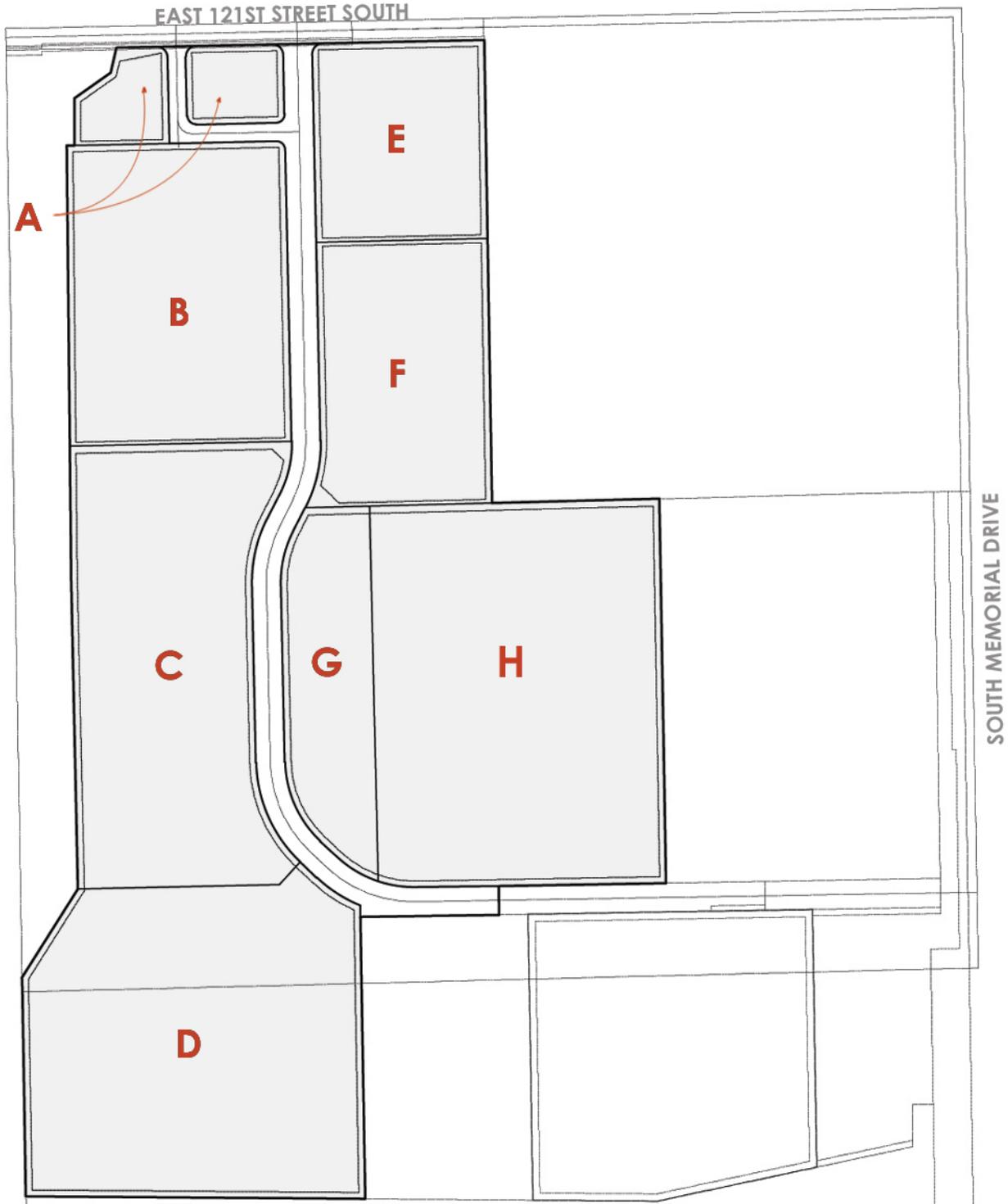
EXHIBIT B AERIAL PHOTOGRAPHY WITH CONTEXT



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

EXHIBIT C OVERALL CONCEPT PLAN



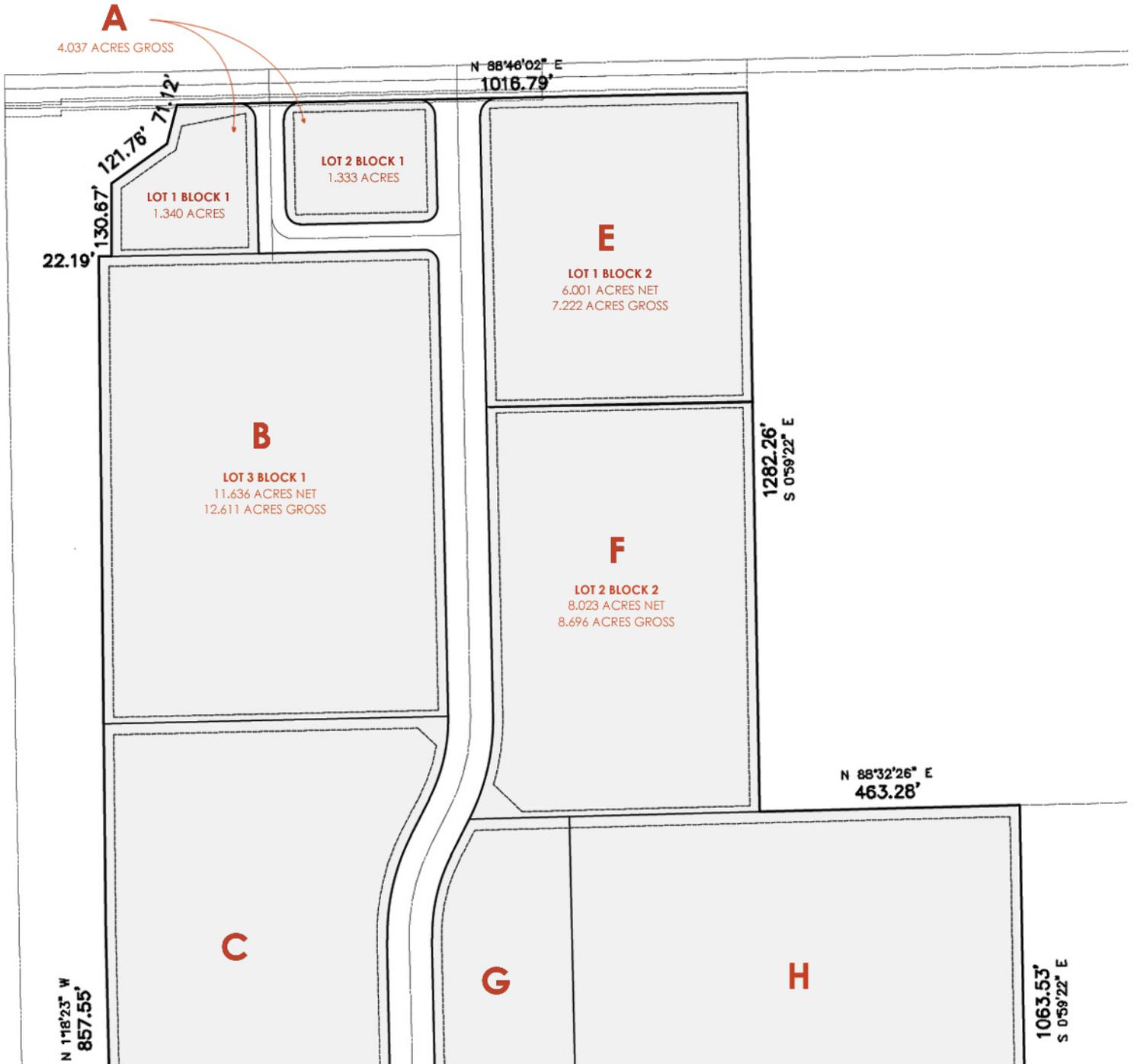
SEE EXHIBIT C.1 - C.2 FOR LOT AREAS AND DIMENSIONS



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

EXHIBIT C.1 CONCEPT PLAN WITH DEVELOPMENT AREAS (NORTH)



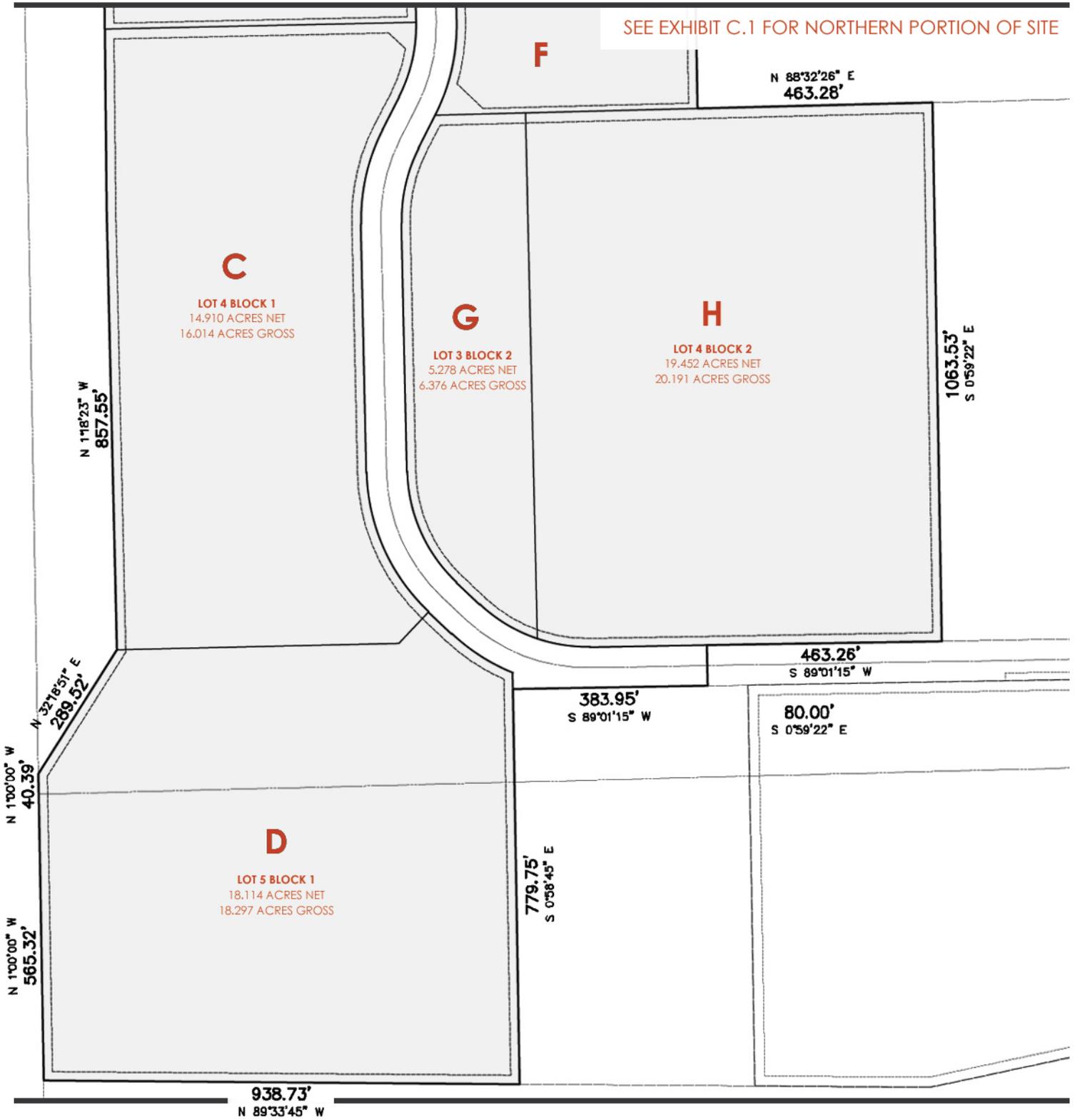
SEE EXHIBIT C.2 FOR SOUTHERN PORTION OF SITE



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

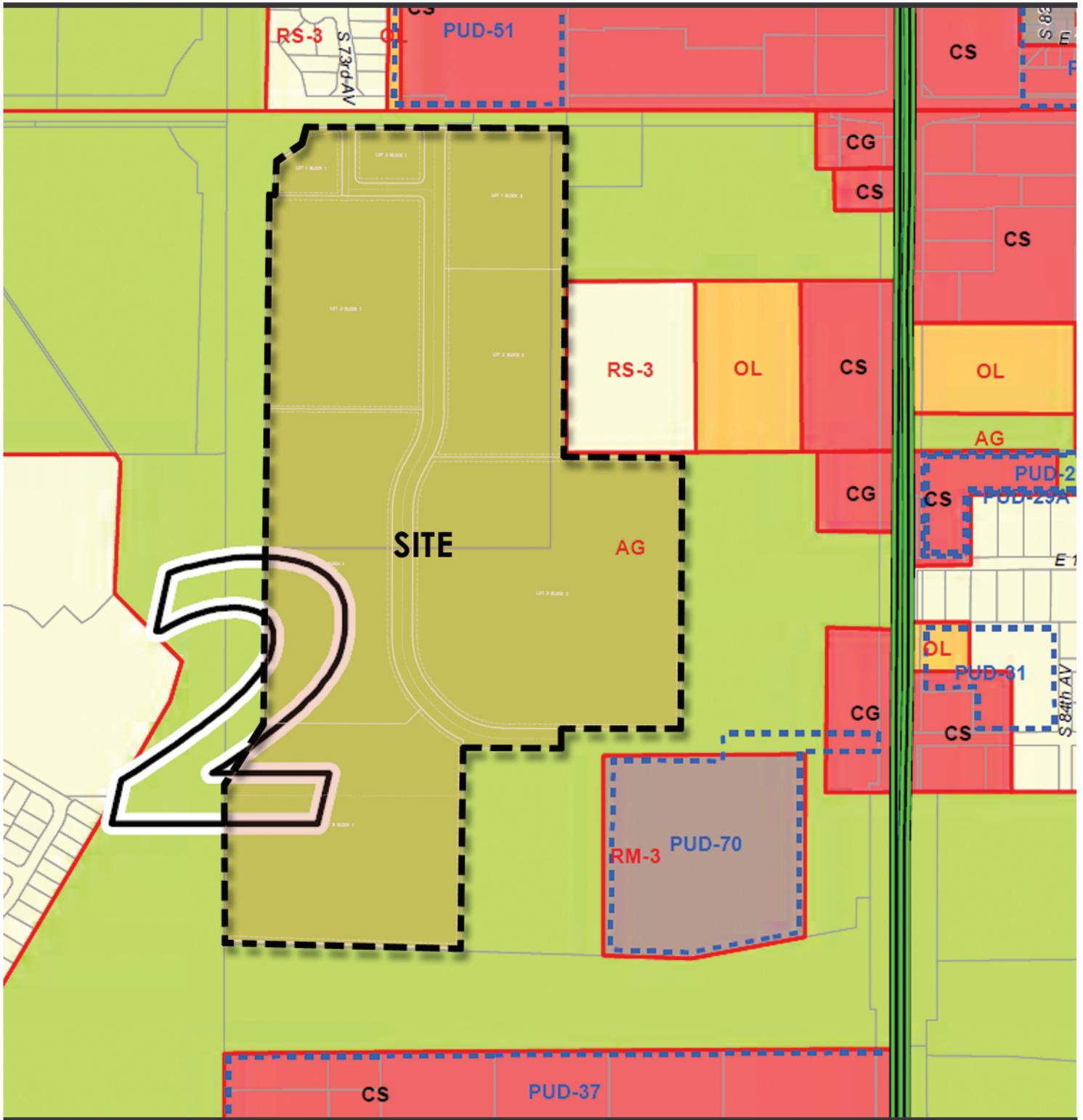
EXHIBIT C.2 CONCEPT PLAN WITH DEVELOPMENT AREAS (SOUTH)



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

EXHIBIT D CURRENT ZONING MAP



Legend

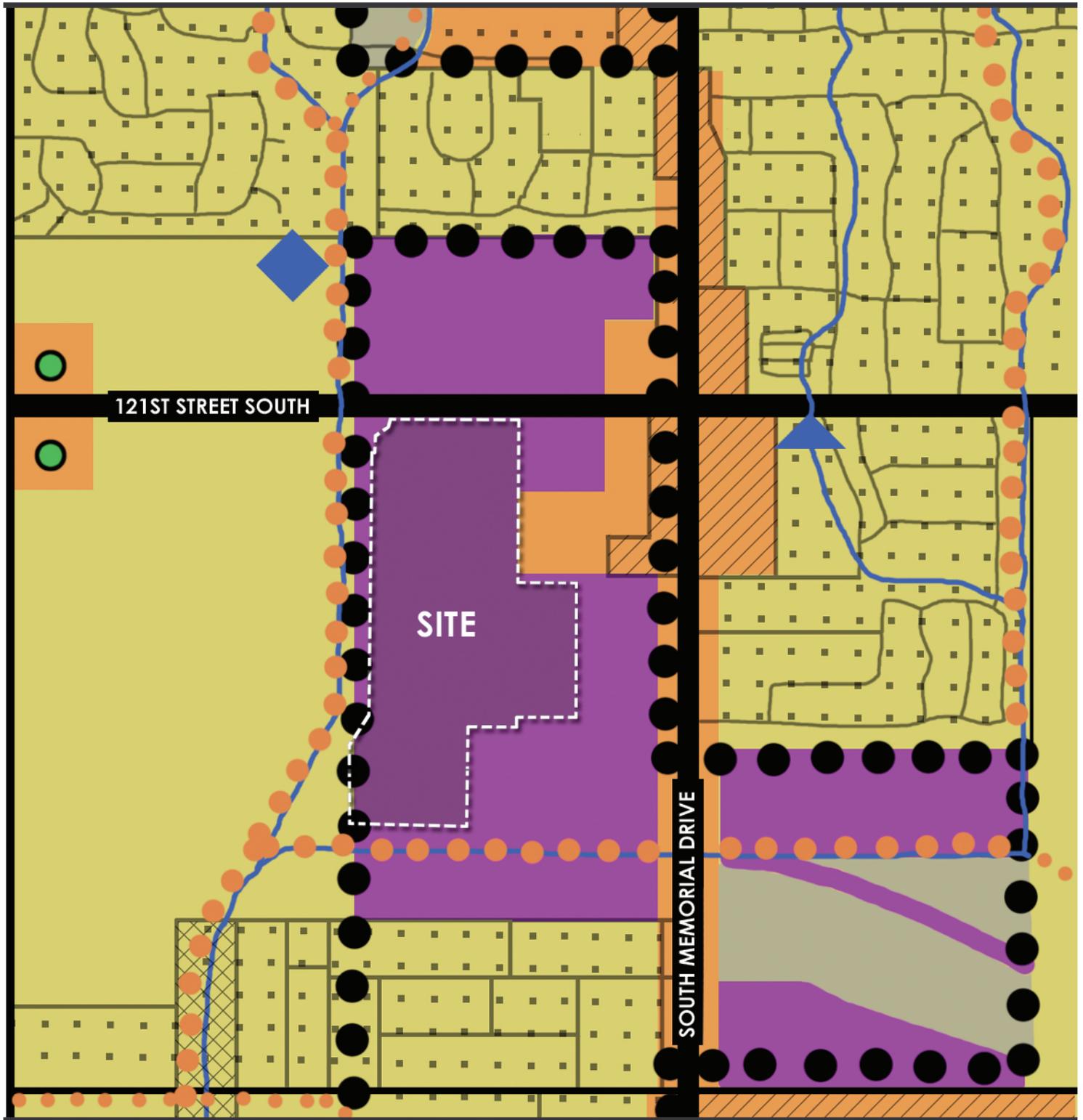
- | | | | |
|-----------------------|------------|---------------------------|----------------|
| Historic Preservation | Commercial | Residential Single-Family | Flood District |
| PUD | Corridor | Residential Multi-Family | |
| Agriculture | Office | Industrial | |



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

EXHIBIT E COMPREHENSIVE PLAN MAP



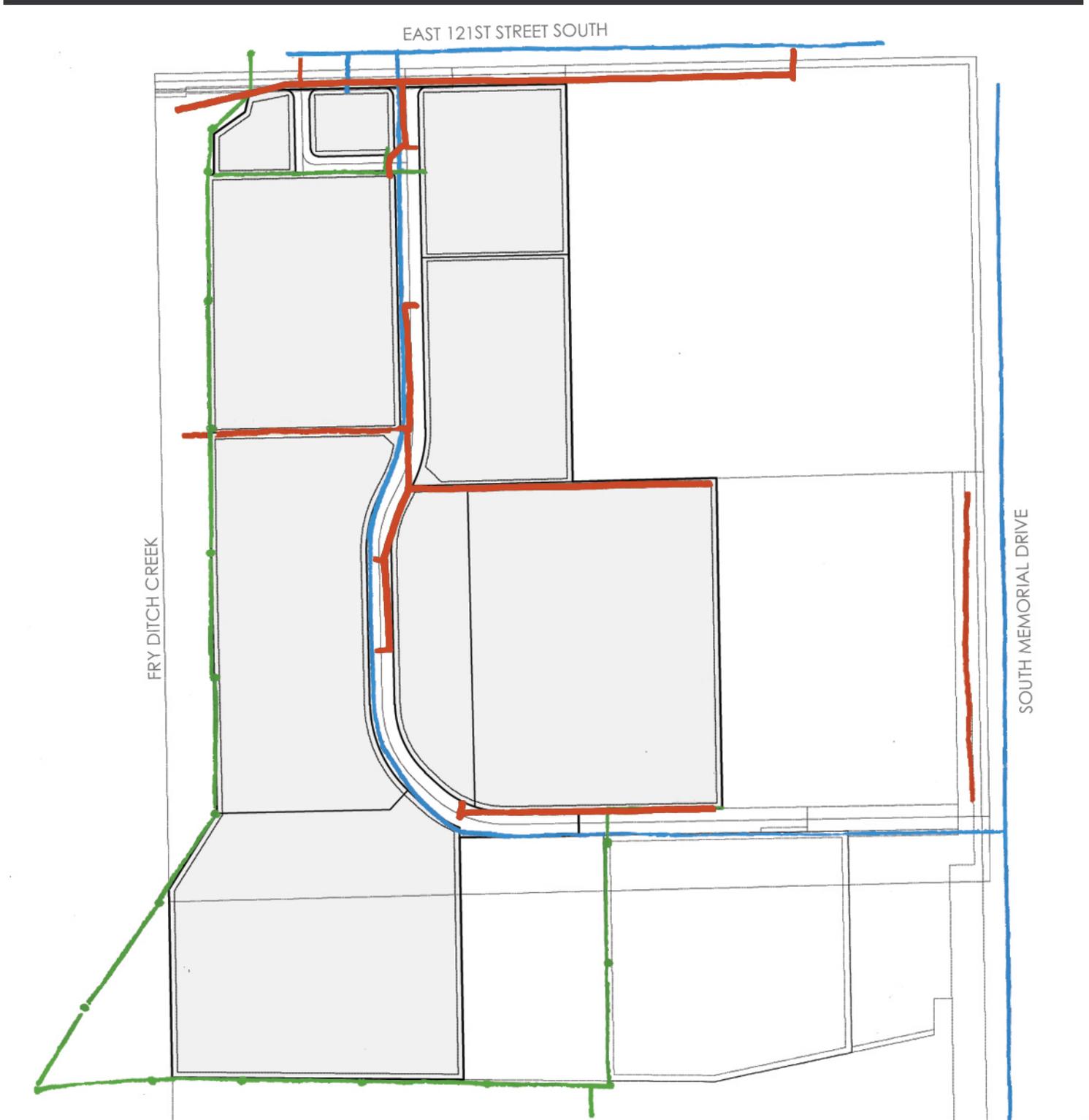
Existing	Planned	Corridor Arterial	Commercial Area	High
■ Neighborhood Park	■ Elementary School	— Primary Arterial	■ Industrial Area	■ Medium
◆ Secondary School	◆ Fire Station	— Secondary Arterial	■ Public + Quasi-Public	■ Low
▲ Regional Trail	▲ Community Trails	— Collector Streets	■ Recreation and Open Space	■ Rural
●●●●	●●●●	— Bixby Fence Line	■ Residential Area	■ Development Sensitive
		— Corridor	■ Vacant, Agricultural, Rural Residences, and Open Land	■ Water
		●●●● Entry Treatment		



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

EXHIBIT F EXISTING AND PROPOSED UTILITY LAYOUT



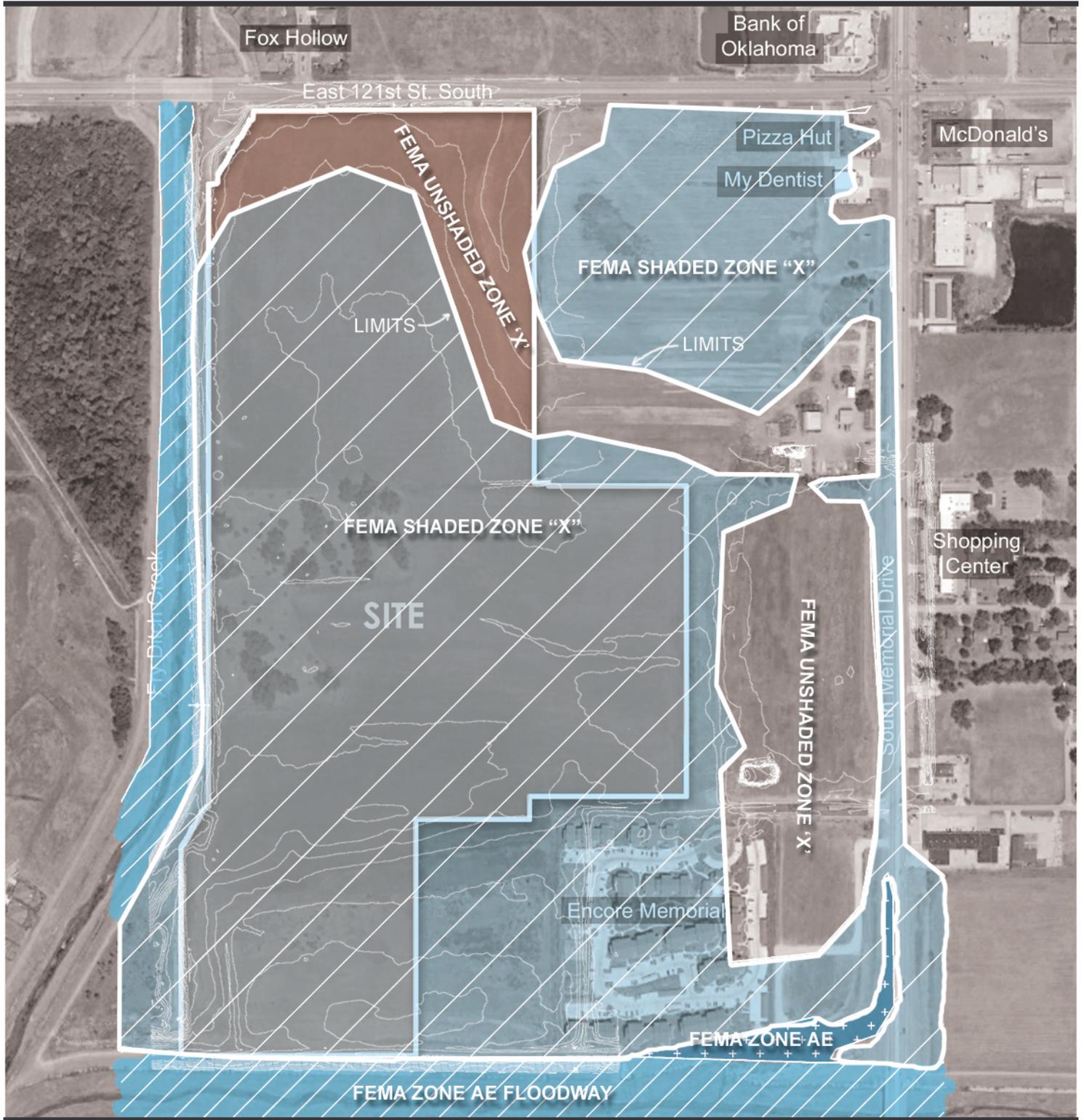
- STORM SEWER
- SANITARY SEWER
- WATERLINE



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

EXHIBIT G EXISTING TOPOGRAPHY AND FLOODPLAIN



SCENIC VILLAGE PARK PUD# 76

TANNER CONSULTING, LLC. | 5323 S LEWIS AVE., TULSA, OKLAHOMA 74105 | 918.745.9929

II. DEVELOPMENT STANDARDS

DEVELOPMENT AREA A

GROSS LAND AREA 4.037 acres

NET LAND AREA 2.673 acres

PERMITTED USES: Uses permitted as a matter of right in the CS District and customary accessory uses.

MAXIMUM FLOOR AREA RATIO: 0.50

MAXIMUM BUILDING HEIGHT: 35 ft.

MAXIMUM STORIES: 2

MINIMUM BUILDING SETBACKS:

FROM NON-ARTERIAL STREET RIGHT-OF-WAY: 20 ft.

FROM ARTERIAL STREET RIGHT-OF-WAY: 20 ft.

FROM RESIDENTIAL DEVELOPMENT AREAS: 20 ft.

FROM OTHER BOUNDARIES: 11 ft.

MINIMUM LANDSCAPING: 15 % of net lot area

MINIMUM OFF-STREET PARKING: As required within the applicable use unit

MASONRY REQUIREMENTS: An exterior building wall fronting 121st Street shall have a masonry finish of not less than 25% excluding windows and doors.

OTHER BULK AND AREA REQUIREMENTS: As Required within an CS District

DEVELOPMENT AREA B

GROSS LAND AREA 12.611 acres

NET LAND AREA 11.636 acres

PERMITTED USES: Life Care Retirement Center as set forth within Use Unit 8. Multifamily Dwelling and Similar Uses and customary accessory uses.

MAXIMUM INDEPENDENT LIVING DWELLING UNITS: 91 DUS

MAXIMUM ASSISTED LIVING DWELLING UNITS: 39 DUS

SKILLED NURSING BEDS: 41 Beds

MAXIMUM FLOOR AREA: 160,000 SF

MAXIMUM STORIES: 2*

*Architectural features may extend a maximum of 25' above the second story.

MINIMUM YARDS AND BUILDING SETBACKS:

FROM MINOR STREET RIGHT-OF-WAY: 20 ft.
FROM COLLECTOR STREET RIGHT-OF-WAY: 25 ft.
FROM OTHER BOUNDARIES: 17.5 ft.

MINIMUM LIVABILITY SPACE PER DWELLING UNIT: 440 SF
[open space not allocated to parking or drives]

**MINIMUM OFF-STREET PARKING:

Independent Living Dwelling Units 0.75 spaces per DU
Assisted Living Dwelling Units 0.50 spaces per DU
Skilled Nursing Beds 0.35 spaces per bed

OTHER BULK AND AREA REQUIREMENTS As required within an RM-2 District.

DEVELOPMENT AREA C

GROSS LAND AREA: 16.014 acres

NET LAND AREA: 14.910 acres

PERMITTED USES: Detached or attached residential dwelling units including single-family, duplex, patio home, townhouse, and multifamily, and customary accessory uses, including common area facilities such as club house, swimming pool and recreational open space.

MAXIMUM DWELLING UNITS: 320 DUS

MAXIMUM DENSITY:

DETACHED DWELLING UNITS:	7 DUS per acre
DUPLEX DWELLING UNITS:	10 DUS per acre
TOWNHOUSE DWELLING UNITS:	16 DUS per acre
MULTIFAMILY DWELLING UNITS:	20 DUS per acre

MAXIMUM BUILDING HEIGHT: 58 ft.

MAXIMUM STORIES: 4

MINIMUM YARDS AND BUILDING SETBACKS:

FROM STREET RIGHT-OF-WAY:	20 ft.
FROM REAR LOT LINE:	20 ft.
FROM SIDE YARD LOT LINE:	5 ft.
BETWEEN DETACHED DWELLING UNITS:	10 ft.
BETWEEN DUPLEX BUILDINGS:	10 ft.
BETWEEN TOWNHOME BUILDINGS:	20 ft.
BETWEEN MULTIFAMILY BUILDINGS:	20 ft.

MINIMUM OFF-STREET PARKING: As required within the applicable use unit.

OTHER BULK AND AREA REQUIREMENTS:

DETACHED SINGLE FAMILY DWELLINGS:	As required within a RS-3 District.
DUPLEX DWELLINGS:	As required within a RD District
TOWNHOUSE DWELLINGS:	As required within a RT District
MULTIFAMILY DWELLINGS:	As required within a RM-2 District

DEVELOPMENT AREA D

GROSS LAND AREA: 18.297 acres

NET LAND AREA: 18.114 acres

PERMITTED USES: Uses permitted as a matter of right in the CG Zoning District and principal uses permitted by special exception within the CG Zoning District including Use Unit 15 - Other Trades and Services, Use Unit 23 - Warehousing and Wholesaling (office/warehouse), and Use Unit 15 - Mini-Storage, Use Unit 17 - Automotive and Allied Activities and permitted uses shall be conducted within enclosed buildings, provided however sexually oriented businesses shall be excluded. Notwithstanding the foregoing, open air storage may be permitted by minor amendment submitted to and approved by the Bixby Planning Commission.

MAXIMUM FLOOR AREA RATIO: 0.50

MAXIMUM BUILDING HEIGHT: 40 ft.

MINIMUM BUILDING SETBACK:

FROM STREET RIGHT-OF-WAY: 50 ft.

FROM RESIDENTIAL DEVELOPMENT AREAS: 50 ft.

FROM OTHER EXTERIOR BOUNDARIES: 20 ft.

MINIMUM LANDSCAPING: 10% of net lot area

MINIMUM OFF-STREET PARKING: As required within the applicable use unit.

OTHER BULK AND AREA REQUIREMENTS: As Required within a CG District.

DEVELOPMENT AREA E

GROSS LAND AREA: 7.222 acres

NET LAND AREA: 6.001 acres

PERMITTED USES: Uses permitted as a matter of right in the CS Zoning District, and customary accessory use.

MAXIMUM FLOOR AREA RATIO: 0.50

MAXIMUM BUILDING HEIGHT: 40 ft.

MINIMUM BUILDING SETBACK:

FROM ARTERIAL STREET RIGHT-OF-WAY: 50 ft.

FROM NON-ARTERIAL STREET RIGHT-OF-WAY: 25 ft.

FROM RESIDENTIAL DEVELOPMENT AREAS: 50 ft.

FROM OTHER EXTERIOR BOUNDARIES: 20 ft.

MINIMUM LANDSCAPING: 10% of net lot area

MINIMUM OFF-STREET PARKING: As required within the applicable use unit.

MASONRY REQUIREMENTS: An exterior building wall fronting 121st Street shall have a masonry finish of not less than 25% excluding windows and doors.

OTHER BULK AND AREA REQUIREMENTS As Required within a CS District

DEVELOPMENT AREA F

GROSS LAND AREA: 8.696 acres

NET LAND AREA 8.023 acres

PERMITTED USES: Uses permitted as a matter of right in the CG Zoning District, and office/warehousing as set forth within Use Unit 23. Warehousing And Wholesaling, and customary accessory use, provided however sexually oriented businesses and uses set forth in Use Unit 17 – Automotive and Allied Activities shall be excluded.

MAXIMUM FLOOR AREA RATIO: 0.50

MAXIMUM BUILDING HEIGHT: 40 ft.

MINIMUM BUILDING SETBACK:
FROM NON-ARTERIAL STREET RIGHT-OF-WAY: 25 ft.
FROM RESIDENTIAL DEVELOPMENT AREAS: 50 ft.
FROM OTHER BOUNDARIES: 20 ft.

MINIMUM LANDSCAPING: 10% of net lot area

MINIMUM OFF-STREET PARKING: As required within the applicable use unit.

OTHER BULK AND AREA REQUIREMENTS: As Required within a CG District

DEVELOPMENT AREA G

GROSS LAND AREA: 6.376 acres

NET LAND AREA 5.278 acres

PERMITTED USES: Uses permitted as a matter of right in the OM Zoning District, and customary accessory use.

MAXIMUM FLOOR AREA RATIO: 0.40

MAXIMUM BUILDING HEIGHT: 40 ft.

MINIMUM BUILDING SETBACK:

FROM NON-ARTERIAL STREET RIGHT-OF-WAY: 25 ft.

FROM RESIDENTIAL DEVELOPMENT AREAS: 10 ft.

FROM OTHER BOUNDARIES: 10 ft.

MINIMUM LANDSCAPING: 10% of net lot area

MINIMUM OFF-STREET PARKING: As required within the applicable use unit.

OTHER BULK AND AREA REQUIREMENTS: As Required within a OM District

DEVELOPMENT AREA H

GROSS LAND AREA: 20.191 acres

NET LAND AREA: 19.452 acres

PERMITTED USES: Uses permitted as a matter of right in the CG Zoning District, and office/warehousing as set forth within Use Unit 23 - Warehousing and Wholesaling.

MAXIMUM FLOOR AREA RATIO: 0.50

MAXIMUM BUILDING HEIGHT: 40 ft.

MINIMUM BUILDING SETBACK:
FROM NON-ARTERIAL STREET RIGHT-OF-WAY: 25 ft.
FROM RESIDENTIAL DEVELOPMENT AREAS: 50 ft.
FROM OTHER BOUNDARIES: 20 ft.

MINIMUM LANDSCAPING 10% of net lot area

MINIMUM OFF-STREET PARKING: As required within the applicable use unit.

OTHER BULK AND AREA REQUIREMENTS As Required within a CS District

ALTERNATIVE STANDARDS – DEVELOPMENT AREA H

GROSS LAND AREA: 20.191 acres

NET LAND AREA 19.452 acres

PERMITTED USES: As an alternative use within Development Area G, multifamily dwellings are permitted, not exceeding 15 acres, and customary accessory uses, including common area facilities such as club house, swimming pool and recreational open space.

MAXIMUM DWELLING UNITS: 300 DUS

MAXIMUM BUILDING HEIGHT: 48 ft.

MAXIMUM STORIES: 3

MINIMUM LIVABILITY SPACE PER DWELLING UNIT: 440 SF
[open space not allocated to parking or drives]

MINIMUM YARDS AND BUILDING SETBACKS:
FROM STREET RIGHT-OF-WAY: 20 ft.
FROM OTHER BOUNDARIES: 20 ft.
BETWEEN MULTIFAMILY BUILDINGS: 20 ft.

**MINIMUM OFF-STREET PARKING: As required within the applicable use unit.

OTHER BULK AND AREA REQUIREMENTS: As required within an RM-2 District.

III. GENERAL PROVISIONS AND DEVELOPMENT STANDARDS

A. Restricted Uses

All uses classified as “Sexually Oriented” within the City of Bixby Zoning Code (Section 11-7D-6) are hereby excluded from any development area within PUD 76.

B. Landscaping and Screening

Landscaping shall meet the requirements of the Bixby Zoning Code, except as hereinafter modified. In addition to the requirements of the Zoning Code, perimeter landscaping shall include plant materials designed to achieve an attractive street view. A screening fence not less than 6 feet in height and a landscaped area of not less than 10 feet in width shall be maintained along the boundaries of commercial areas adjoining residential development.

C. Lighting

Exterior lighting shall be limited to shielded fixtures designed to direct light downward. Lighting shall be designed so that the light producing element of the shielded fixture shall not be visible to a person standing within an adjacent residential district or residential development area.

D. Access and Circulation

The principal access is to be derived from East 121st South and South Memorial Road and an interior collector street that connects to the two arterial streets. Interior public and/or private minor street systems and mutual access easements will be established as needed. New public street construction shall comply with the applicable geometric street standards of the City of Bixby.

Sidewalks along the interior streets shall be constructed by the developer in accordance with the Bixby Subdivision regulations including a minimum width of four feet and ADA compliance.

E. Signs

Signs shall comply with the applicable provisions of the Bixby Zoning Code, provided however, prior to installation; a detailed sign plan shall be submitted to and approved by the Bixby Planning Commission. A signs identifying an interior property may be located off site within a parcel located within Scenic Village Park, but shall require a detailed sign plan submitted to an approved by the Bixby Planning Commission.

F. Utilities and Drainage

Utilities are at the site or accessible by customary extension. Fee-in-lieu of storm water detention facilities will be provided.

G. Parcelization

After initial platting setting forth permitted uses and the allocation of commercial floor area or residential density, division of platted lots may occur by approved lot split application and subject to the approval by the Bixby Planning Commission of proposed floor area or residential density allocations and confirmation of the existence of any necessary cross parking and mutual access easements.

H. Transfer of Allocated Floor Area

Allocated commercial or residential density may be transferred to another lot or lots by written instrument executed by the owner of the lot from which the floor area or residential density is to be allocated, provided however, the allocation shall not exceed 15 % of the initial allocation to the lot to which the transfer of floor area or residential density is to be made. Allocation exceeding 15% shall require an application for minor amendment to be reviewed and approved by the Bixby Planning Commission.

I. Site Plan Review

Development areas may be developed in phases and no building permit shall issue until a detailed site plan (including landscaping) of the proposed improvements has been submitted to the Bixby Planning Commission and approved as being in compliance with the development concept and the development standards. No certificate of occupancy shall issue for a building until the landscaping of the applicable phase of development has been installed in accordance with a landscaping plan and phasing schedule submitted to and approved by the Bixby Planning Commission.

J. Platting Requirement

Development areas may be developed in phases, and no building permit shall issue until the development phase for which a permit is sought has been included within a subdivision plat submitted to and approved by the Bixby Planning Commission and the Council of the City of Bixby, and duly filed of record. The required subdivision plat shall include covenants of record implementing the development standards of the approved planned unit development and the City of Bixby shall be a beneficiary thereof.

IV. EXPECTED SCHEDULE OF DEVELOPMENT

Development of the project is expected to commence and be completed as market conditions permit.

V. LEGAL DESCRIPTION

The legal description of the Property is set forth within the attached Exhibit H.

Exhibit "H"
121st & Memorial
Zoning Legal Description

A TRACT OF LAND BEING A PART OF THE EAST HALF (E/2) OF SECTION TWO (2), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTEEN (13) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNEMENT SURVEY THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 2; THENCE SOUTH 88°46'02" WEST AND ALONG THE NORTH LINE OF SAID SECTION 2, FOR A DISTANCE OF 1323.13 FEET TO THE NORTHEAST CORNER OF THE GOVERNMENT LOT 2 OF SAID SECTION 2; THENCE SOUTH 0°59'22" EAST AND ALONG THE EAST LINE OF SAID LOT 2, FOR A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 0°59'22" EAST AND CONTINUING ALONG SAID EAST LINE, FOR A DISTANCE OF 1282.26 FEET; THENCE NORTH 88°32'26" EAST AND ALONG THE SOUTH LINE OF GOVERNMENT LOT 1 OF SAID SECTION 2, FOR A DISTANCE OF 463.28 FEET; THENCE SOUTH 0°59'22" EAST, FOR A DISTANCE OF 1063.53 FEET; THENCE SOUTH 89°01'15" WEST, FOR A DISTANCE OF 463.26 FEET; THENCE SOUTH 0°59'22" EAST, FOR A DISTANCE OF 80.00 FEET; THENCE SOUTH 89°01'15" WEST, FOR A DISTANCE OF 383.95 FEET; THENCE SOUTH 0°58'45" EAST, FOR A DISTANCE OF 779.75 FEET; THENCE NORTH 89°33'45" WEST, FOR A DISTANCE OF 938.73 FEET TO A POINT ON THE WEST LINE OF THE SE/4 OF SECTION 2; THENCE NORTH 1°00'00" WEST AND ALONG SAID WEST LINE, FOR A DISTANCE OF 565.32 FEET TO THE SOUTHWEST CORNER OF THE NE/4 OF SAID SECTION 2; THENCE CONTINUING NORTH 1°00'00" WEST AND ALONG THE WEST LINE OF SAID NE/4, FOR A DISTANCE OF 40.39 FEET; THENCE NORTH 32°18'51" EAST, FOR A DISTANCE OF 289.52 FEET; THENCE NORTH 1°18'23" WEST, FOR A DISTANCE OF 857.55 FEET; THENCE NORTH 0°35'18" WEST, FOR A DISTANCE OF 1201.05 FEET; THENCE NORTH 89°59'36" EAST, FOR A DISTANCE OF 22.19 FEET; THENCE NORTH 0°00'24" WEST, FOR A DISTANCE OF 130.67 FEET; THENCE NORTH 54°41'57" EAST, FOR A DISTANCE OF 121.76 FEET; THENCE NORTH 13°51'23" EAST, FOR A DISTANCE OF 71.12 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF EAST 121ST STREET SOUTH; THENCE NORTH 88°46'02" EAST AND ALONG SAID RIGHT-OF-WAY, FOR A DISTANCE OF 1016.79 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINING 92.00 ACRES, MORE OR LESS.

SCENIC VILLAGE PARK
121ST and Memorial, LLC
6205 E. 105th Street
Tulsa, Oklahoma 74137

CITY OF BIXBY

FEB 08 2013

RECEIVED

By *Emyart*

February 7, 2013

To the Neighborhood:

Re: Pending Zoning BZ 364 and
Planned Unit Development No.76

121st and Memorial LLC (Rick Dodson/Danny Brumble) have purchased 92 acres located approximately 1320 feet west of the southwest corner of East 121st Street South and South Memorial Drive.

The property is planned as a mixed-use development, including retail, general commercial, office, office warehouse, mini-storage, continuing care and various residential uses. The referenced zoning and planned unit development applications have been filed and are scheduled for hearing by the Bixby Planning Commission on February 19, 2013. The planned unit development is a form of zoning that addresses a site specific development and provides a means of review of the particulars of the development and the establishment by the City of appropriate conditions and standards, which are not customarily achieved by conventional rezoning and development.

The purpose of this letter is to give you a brief explanation of the development and to invite you to a meeting to discuss the development. We have scheduled a meeting at the Legends Club House on February 13, 2013 at 6:00 P.M. The address is 9651 East 108th Place (it is near 108th and Mingo). We hope you will attend. We are mailing a similar letter to other owners of property within the neighborhood and who should have received notice from the Planning Commission of the February 19, 2013 hearing.

If you have questions, please contact the undersigned at 638-3303 or Tanner Engineering, our project engineers, at 745-9929 or Roy Johnsen, our zoning attorney, at 585-5641. If the scheduled meeting is inconvenient, call and we will try to schedule an additional meeting.

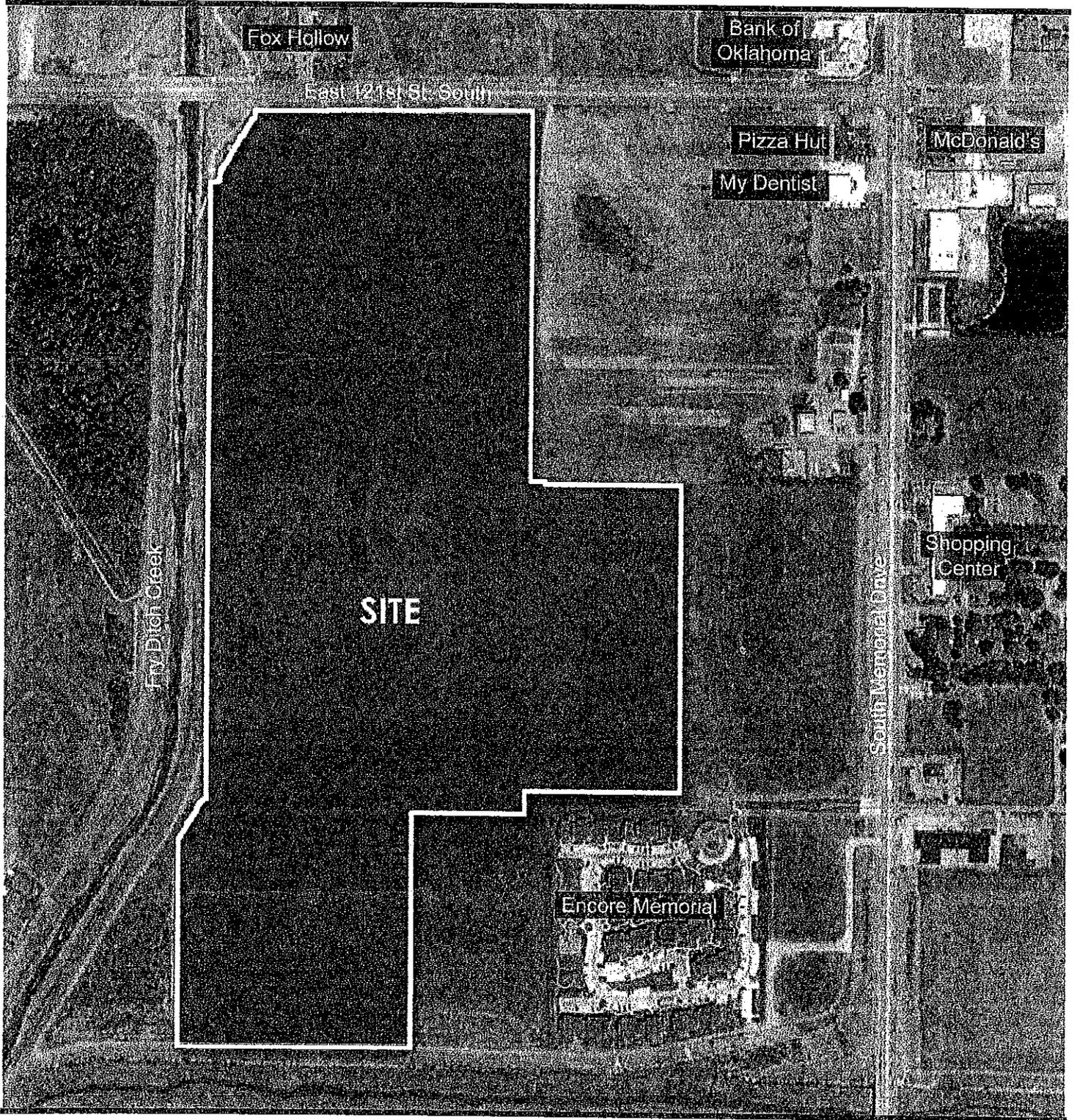
Sincerely,



Rick Dodson

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EXHIBIT B AERIAL PHOTOGRAPHY WITH CONTEXT



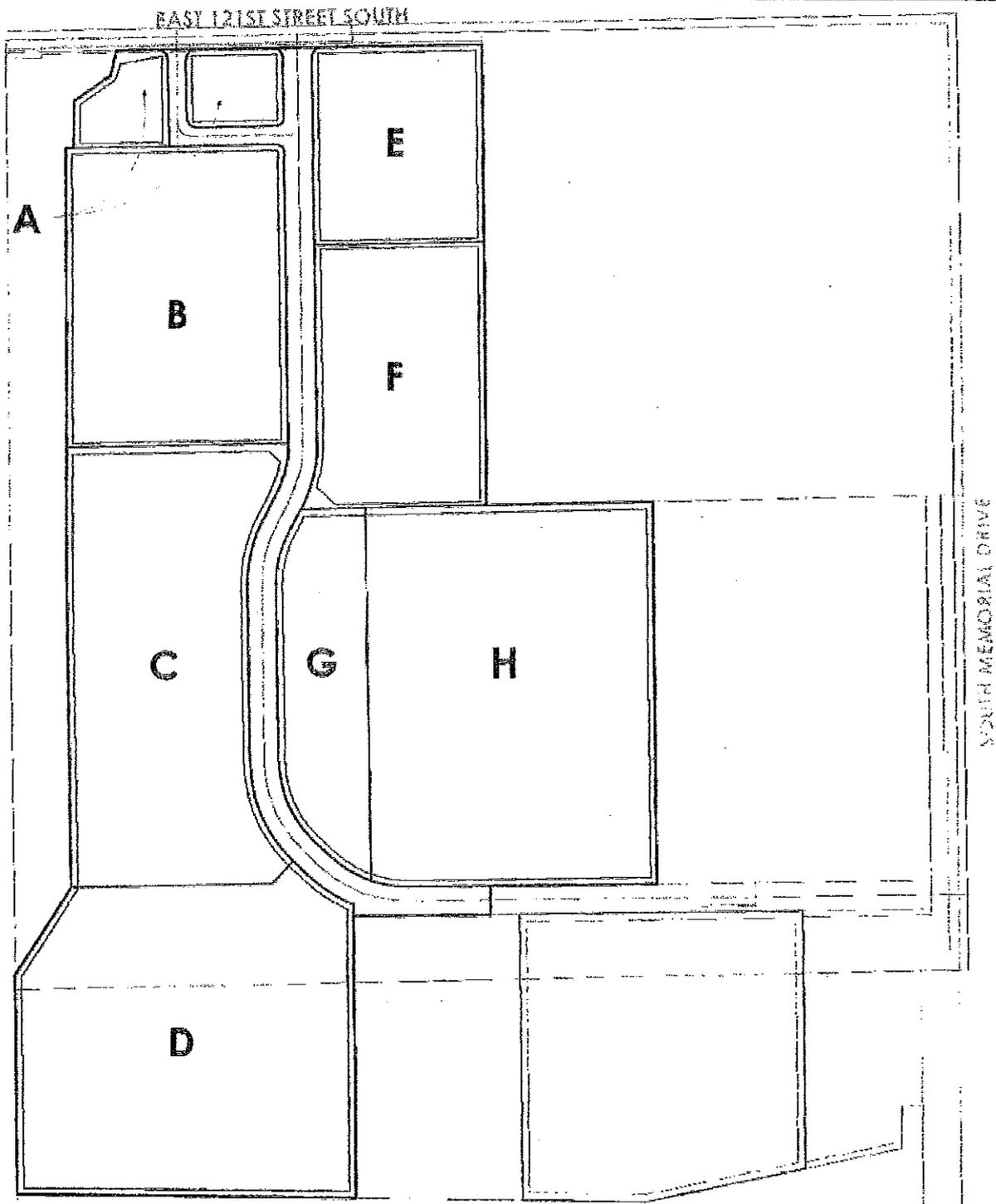
500'
250'

SCENIC VILLAGE PARK PUD# 76

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EXHIBIT C OVERALL CONCEPT PLAN



SEE EXHIBIT C.1 - C.2 FOR LOT AREAS AND DIMENSIONS



500'
250'

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SCENIC VILLAGE PARK PUD# 76

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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, February 15, 2013
RE: Report and Recommendations for:
Preliminary Plat & Final Plat of Bixby Centennial Plaza II

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

ZONING: CS Commercial Shopping Center District + PUD 73

SUPPLEMENTAL ZONING: Corridor Appearance District

EXISTING USE: Vacant commercial lots

REQUEST: Preliminary Plat & Final Plat approval for a 2-lot commercial subdivision

COMPREHENSIVE PLAN: Corridor + Medium Intensity + Commercial Area.

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

BZ-279 – Charles Norman/Martha Plummer Roberts et al. – Request for rezoning from AG to CS, OM, RM-1, and RS-2 for 73 acres, more or less, which became *Bixby Centennial Plaza* and *Fox Hollow* and an unplatted 11-acre tract later approved as PUD 51 – PC Recommended Approval as amended for CS, OM, OL, RS-3, and RS-2 on November 19, 2001 and Approved by City Council December 10, 2001 (Ord. # 842). Subject property included in that part approved for CS zoning.

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Preliminary Plat of Bixby Centennial Plaza – Request for Preliminary Plat approval including subject property – PC Approved 07/17/2006 and City Council Approved 07/24/2006.

Final Plat of Bixby Centennial Plaza – Request for Final Plat approval including subject property – PC Approved 10/16/2006 and City Council Approved 10/23/2006 (plat recorded 04/04/2007).

BL-351 – Khoury Engineering, Inc. – Request for Lot-Split approval to separate the north 42' of Lot 8 and add to Lot 7 of *Bixby Centennial Plaza* (included subject property) – PC Conditionally Approved 03/17/2008.

PUD 73 – Eagle SPE Multi I, Inc. – Rosenbaum Consulting, LLC – Request for approval of PUD 44 supplemental zoning for subject property – PC recommended Approval 11/19/2012 and City Council approved 11/26/2012 (Ord. # 2105).

V-43 – Rosenbaum Consulting, LLC for Eagle SPE Multi I, Inc. – Request to close a Utility Easement within subject property – PC recommended Approval 11/19/2012 and City Council approved 11/26/2012 (Ord. # 2104).

BL-387 – Rosenbaum Consulting, LLC for SPE Multi I, Inc. – Request for Lot-Split for subject property – PC Conditionally Approved 11/19/2012.

BACKGROUND INFORMATION:

As per the required Conditions of Approval of BL-351 and BL-387, the smaller pieces composing the southerly tract produced by the latter Lot-Split application were deed-restricted each to the other, to satisfy the minimum lot-width/frontage requirements of PUD 73. This plat will place the common lot line between the two (2) lots where they presently exist.

ANALYSIS:

Subject Property Conditions. The subject property is vacant and zoned CS. It consists of Lot 7 and the N. 42' of Lot 8, Block 1, *Bixby Centennial Plaza* (since divided into 2 tracts per BL-387; see above). It has a combined total of 174' of frontage on Memorial Dr., but access directly to Memorial Dr. is restricted by Limits of No Access (LNA) per the plat of *Bixby Centennial Plaza*. Instead, access is afforded via existing private drives within Mutual Access Easements (MAEs).

Part of the north and west sides of the property are covered by parts of MAEs, which MAEs contain existing private commercial drives. This was represented on the Exhibit 1 Conceptual Site Plan included with PUD 73.

Per the PUD 73 Exhibit 2 Topographic Survey, the land is relatively flat and appears to drain to the north and east, ultimately to the borrow ditch along S. Memorial Dr., which drains south. When developed, the land should drain through a stormsewer system to the temporary stormwater detention pond located to the southwest of the subject property. This pond is ultimately planned to be replaced in favor of a stormsewer system to be installed along 121st St. S. and to drain west to the Fry Creek Ditch # 2.

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Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Corridor, (2) Medium Intensity, and (3) Commercial Area. The commercial development anticipated by this plat would be consistent with the Comprehensive Plan.

General. The proposed replat subdivision contains two (2) Lots, one (1) Block, and no (0) Reserve Areas.

The resulting tracts would not meet the 150' minimum lot frontage/width requirement in the CS district. However, PUD 73 reduced the lot frontage/width requirement such that would allow the Lot-Split. Both lots and the subdivision itself appear to meet the requirements of PUD 73.

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 this application at its regular meeting held February 06, 2013. Minutes of that meeting are attached to this report.

Access and Internal Circulation. As noted above, the subject property has Limits of No Access to Memorial Dr., but has access to Memorial Dr. and 121st St. S. via the Mutual Access Easements (MAEs) platted with *Bixby Centennial Plaza*, which MAEs contain existing drives.

Additional MAEs will be platted through the subject property, allowing cross-access between the two (2) lots in this plat, and also access through them between the MAE drive to the north and the former *Santa Fe Cattle Co.* restaurant to the south.

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

1. Subject to compliance with all Fire Marshal, City Attorney, and City Engineer recommendations and requirements.
2. Title Block Page 1, Deed of Dedication / Restrictive Covenants (DoD/RCs) Preamble, Possible Other Places: Refers to the existing property as located within Bixby Centennial Plaza, "An Addition to the City of Bixby," when Bixby Centennial Plaza is known as "A Subdivision of Part of the..." Please reconcile all instances.
3. The 174' dimension for the LNA is in mathematical conflict with the subject property frontage minus the 20' Access Opening.
4. "Engineer/Surveyor" listed on the face of the plats should be clarified as "Rosenbaum Consulting, LLC, or the correct legal name of the corporate entity."
5. Subdivision statistics summary: 2.431 acres total area is incorrect; subject property is slightly more than one (1) acre.
6. Per by Ordinance # 2104, approving application V-43, the City Council closed a 10' U/E platted along the north line of the underlying Lot 8 portion of subject property. The easement does not show up on the plat. If the owner has had the easement permanently vacated through District Court, please provide a copy of the final Court Order. Otherwise, please represent the U/E on the plat along with qualifier such as "Closed by City of Bixby Ordinance # 2104."

7. Per SRs Section 12-4-2.A.5, the Location Map (“Vicinity Map”) must include:
 - All platted additions represented with the Section:
 - *The Links at Bixby* (misrepresented as to configuration)
 - *Resubdivision of Lots 3 and 4 of Bixby Commons* (missing)
 - *Woodcreek Village Amended* (missing)
 - *The Estates of Graystone* (mislabeled)
 - *Citizens Security Bank Addition* (not labeled)
 - *Amended Plat of Block 7, North Heights Addition* (missing)
 - East 111th Street South (mislabeled)
 - South Sheridan Road (mislabeled)
 - Scale at 1” = 2,000’.
8. Plat missing notes pertaining to monumentation (reference SRs Section 12-1-8).
9. Add addresses to the lot such as follows (may be adjusted as desired provided changes are consistent with accepted addressing conventions):
 - Lot 1: 11910 S. Memorial Dr.
 - Lot 2: 11920 S. Memorial Dr.
10. Plat missing standard address caveat/disclaimer: “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.”
11. MAEs on face of plat: Please clarify as follows: “24’ Mutual Access Easement.”
12. Title Block Page 2: Reference to Broken Arrow needs to be changed to Bixby – match Title Block on Page 1.
13. Title Block Page 2: Geographic citation incorrect – match Title Block on Page 1.
14. Deed of Dedication / Restrictive Covenants (DoD/RCs): Does not appear to provide any section for the dedication, purpose, beneficiaries, use conditions, or division of shared maintenance responsibilities of the MAEs as indicated on the face of the plat.
15. DoD/RCs Preamble: Per the deeds recorded pursuant to BL-387, there are new, different owners of the two (2) tracts being replatted (ZIM Holdings, LLC and Ward and Hall, LLC). The legal description of the land being platted does not differentiate between what part of the underlying land is owned by which property owner. For clear title and tax purposes, Staff believes that each dedicating owner should have their respective legal description specified in the DoD/RCs. Reference how this was done with the plat of *101 South Memorial Plaza*.
16. DoD/RCs Section I.D.4: Occurrence of “easement_ways” for “easement-ways” or “easements,” as presumed intended.
17. DoD/RCs Section I.F: Please qualify this section as follows: “...damage to landscaping and paving, **when permitted by the City of Bixby**, occasioned....”
18. DoD/RCs Section II Preamble: Refers to “Sections 1100-1107 of Title 42, Bixby Revised Ordinances (Bixby Zoning Code).” This appears to point to the City of Tulsa’s Zoning Code. Please revise to simply “... the provisions of the Bixby Zoning Code pertaining to Planned Unit Developments (PUDs),” or something to that effect.
19. DoD/RCs Section II: Complete blanks and correct ordinance publication date pertaining to approval of PUD 73.
20. DoD/RCs Section II: Confirm language contains all of the last and final version of PUD 73 as approved. For example, the “Parking” and “Signs” subsections appear to be missing part of the language of the approved PUD. Please check and correct thoroughly.

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21. DoD/RCS Section II.G: Refers to agreements to be executed as to shared parking, driveways, sidewalks, and signs. Such agreements should be incorporated into the DoD/RCS in an appropriate section, if same are completed prior to plat recording.
22. DoD/RCS Section II.K: Please complete blank with acceptable date.
23. Final Plat: Elevation contours, floodplain boundaries, physical features, underlying Zoning district boundaries, minimum improvements acknowledgement, and other such mapping details as required per SRs Section 12-4-2.B.6, by approval of this Final Plat, shall not be required on the recording version of the Final Plat, as such would be inconsistent with Final Plat appearance conventions and historically and commonly accepted platting practices.
24. A copy of the approved PUD 73 including all recommended corrections shall be submitted for placement in the permanent file.
25. A copy of the Preliminary Plat including all required corrections shall be submitted for placement in the permanent file (1 full size, 1 11" X 17", and 1 electronic/PDF copy).
26. A copy of the Final Plat including all required corrections shall be submitted for placement in the permanent file (1 full size, 1 11" X 17", and 1 electronic/PDF copy).

97

Memo

To: Erik Enyart, City Planner

From: Jared Cottle, PE *JWC*

CC: Bea Aamodt, PE
File

Date: 02/05/13

Re: Bixby Centennial Plaza II
Preliminary and Final Plat

General Comments:

1. No additional infrastructure proposed to serve the site. Existing infrastructure from Bixby Centennial Plaza sufficient to support proposed development.
2. All development standards and requirements in effect for Bixby Centennial Plaza also will apply to Bixby Centennial Plaza II – i.e. fee-in-lieu, excess capacity fees, etc.
3. No exceptions taken.

98

Memo

To: ERIK ENYART, AICP, CITY PLANNER

From: JIM SWEEDEN

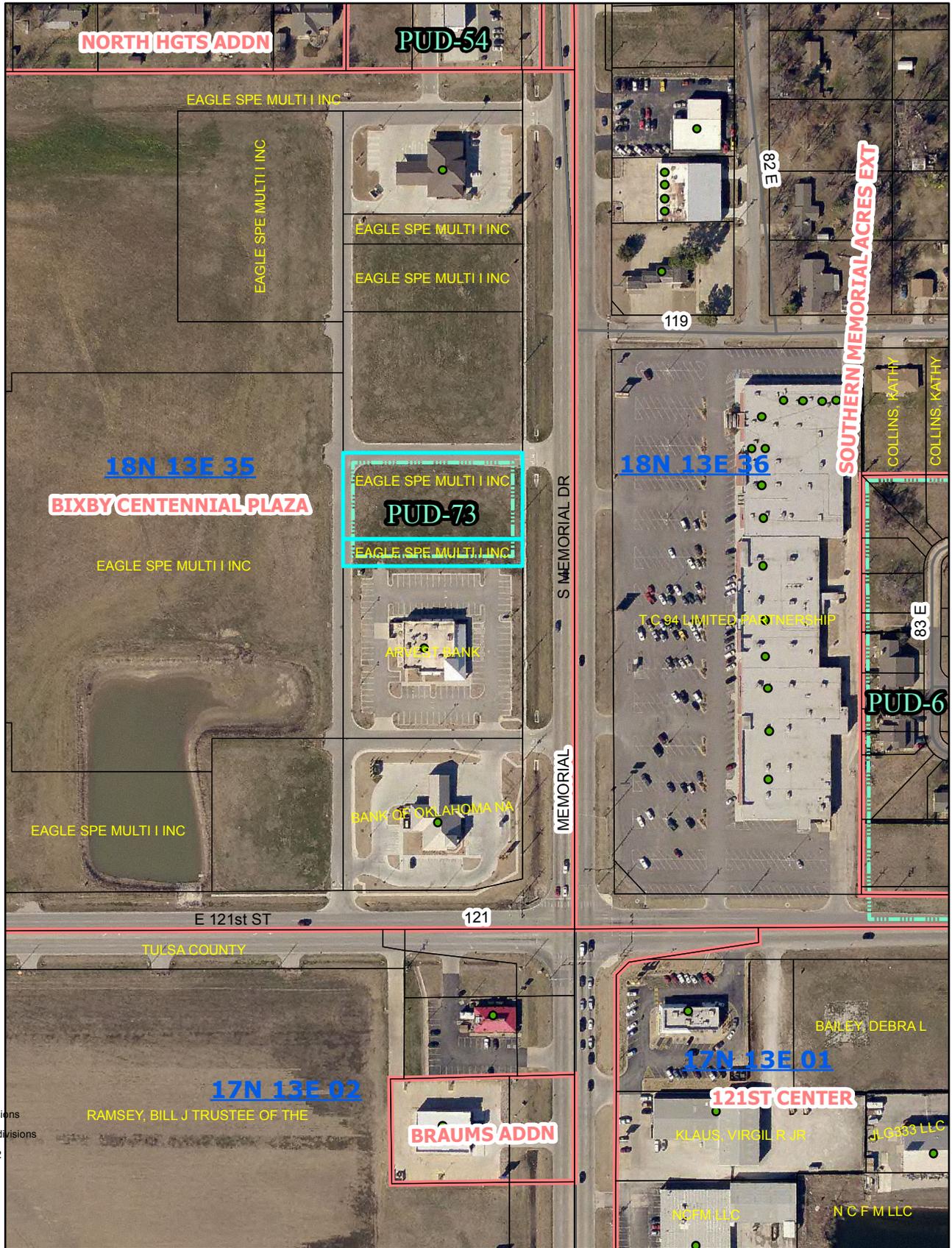
Date: 1/24/2013

Re: PRELIMINARY & FINAL PLAT OF "BIXBY CENTENNIAL PLAZA II"

BIXBY CENTENNIAL PLAZA II, PRELIMINARY & FINAL PLAT IS APPROVED BY THIS OFFICE.



Preliminary Plat / Final Plat – Bixby Centennial Plaza II Rosenbaum Consulting, LLC



- Businesses
- bixby_streams
- Tulsa Parcels 01/13
- WagParcels 08/12
- TulsaCountySubdivisions
- WagonerCountySubdivisions
- WagRoads_Aug2012
- E911Streets
- PUD
- bixby_s-t-r



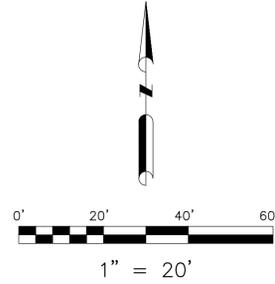
FINAL PLAT

BIXBY CENTENNIAL PLAZA II

A REPLAT OF ALL OF LOT 7 AND PART OF LOT 8, BLOCK 1, "BIXBY CENTENNIAL PLAZA,"
AN ADDITION TO THE CITY OF BIXBY, TULSA COUNTY, STATE OF OKLAHOMA.

LEGEND

D/E DRAINAGE EASEMENT
LNA LIMITS OF NO ACCESS
M/A/E MUTUAL ACCESS EASEMENT
U/E UTILITY EASEMENT



Owner:

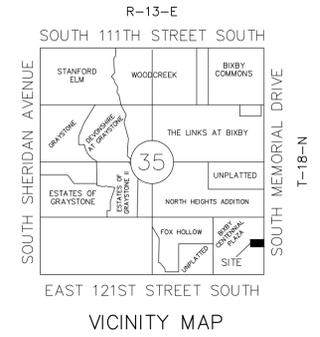
ZIM HOLDINGS LLC &
WARD AND HALL ENTERPRISES LLC
2608 W. Kenosha St., #304
Broken Arrow, OK 74012
PHONE: (918) 895-0669

Engineer:

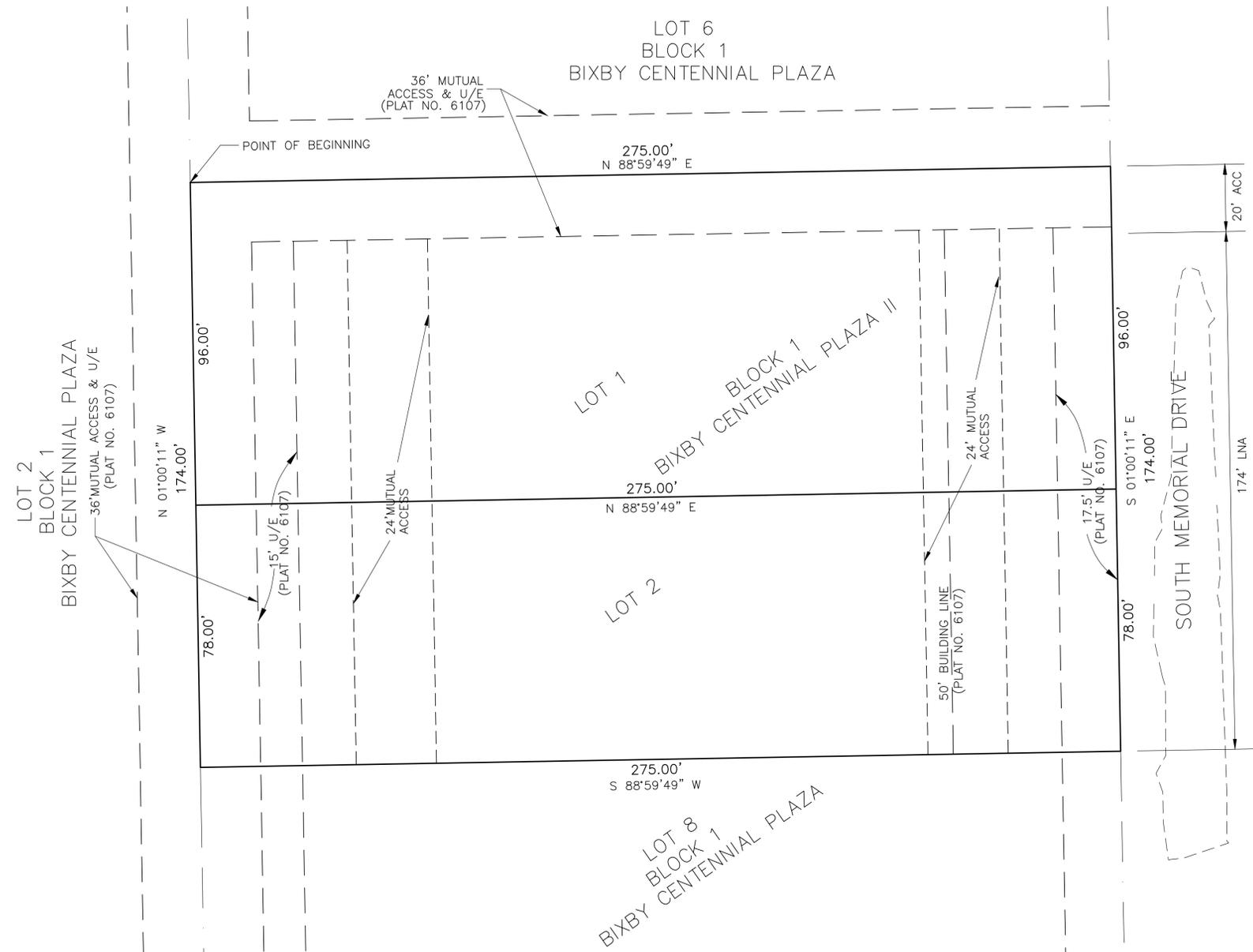
Rosenbaum Consulting
Certificate of Authorization No. 6470, Exp. June 30, 2013
2608 W. Kenosha St., #304
Broken Arrow, OK 74012
PHONE: (918) 798-0210

Surveyor:

Tulsa Land Surveying LLC
Certificate of Authorization No. 6038, Exp. June 30, 2013
1903 S. Boston Ave.
Tulsa, OK 74119
PHONE: (539) 664-5539



SUBDIVISION CONTAINS 2 LOTS IN 1 BLOCK
TOTAL AREA: 2.431 ACRES
BASIS OF BEARING:
WESTERLY RIGHT-OF-WAY LINE OF SOUTH MEMORIAL DRIVE
BEING SOUTH 01°00'11" EAST



I HEREBY CERTIFY THAT THIS PLAT WAS APPROVED
BY THE CITY COUNCIL OF THE CITY OF BIXBY.
ON _____
BY _____
MAYOR - VICE MAYOR
THIS APPROVAL IS VOID IF THE ABOVE SIGNATURE
IS NOT ENDORSED BY THE CITY MANAGER OR CITY
CLERK.
BY _____
CITY MANAGER OR CITY CLERK

COUNTY CLERK STAMP

COUNTY TREASURER STAMP

BIXBY CENTENNIAL PLAZA II

AN ADDITION TO THE CITY OF BROKEN ARROW
BEING A SUBDIVISION OF THE NW/4
OF SECTION 22, TOWNSHIP 18 NORTH, RANGE 14 EAST, TULSA COUNTY, OKLAHOMA

BIXBY CENTENNIAL PLAZA II DEED OF DEDICATION AND RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

ZIM Holdings, LLC, an Oklahoma Limited Liability Company and Ward & Hall Enterprises, LLC, an Oklahoma Limited Liability Company, hereinafter referred to as the "Owner/Developer" is the owner of the following described real estate situated in the City of Bixby, Tulsa County, State of Oklahoma, to wit:

All of Lot 7 and Lot 8, less the south 264 feet of Lot 8, Bixby Centennial Plaza, an addition to the City of Bixby, County of Tulsa, State of Oklahoma, According to the recorded plat thereof (Plat Number 6107)

and has caused the above described lands to be surveyed, staked, platted and subdivided in conformity with the accompanying plat, and has designated the subdivision as "Bixby Centennial Plaza II", a Subdivision in the City of Bixby, Tulsa County, Oklahoma (hereinafter "Bixby Centennial Plaza II" or the "Subdivision").

SECTION I. EASEMENTS AND UTILITIES

A. Utility Easements.

The Owner/Developer does hereby dedicate for public use the utility easements as depicted on the accompanying plat as "U/E" or "Utility Easement", for the several purposes of constructing, maintaining, operating, repairing, replacing, and/or removing any and all public utilities, including storm sewers, sanitary sewers, telephone and communication lines, electric power lines and transformers, gas lines, water lines and cable television lines, together with all fittings, including the poles, wires, conduits, pipes, valves, meters and equipment for each of such facilities and any other appurtenances thereto, with the rights of ingress and egress to and upon the utility easements for the uses and purposes aforesaid, provided however, the Owner/Developer hereby reserves the right to construct, maintain, operate, lay and re-lay water lines and sewer lines, together with the right of ingress and egress for such construction, maintenance, operation, laying and re-laying over, across and along all of the utility easements depicted on the plat, for the purpose of furnishing water and/or sewer services to the area included in the plat. The Owner/Developer herein imposes a restrictive covenant, which covenant shall be binding on each lot owner and shall be enforceable by the City of Bixby, Oklahoma, and by the supplier of any affected utility service, that within the utility easements depicted on the accompanying plat no building, structure or other above or below ground obstruction shall be placed, erected, installed or maintained, provided however, nothing herein shall be deemed to prohibit drives, parking areas, curbing and landscaping that do not constitute an obstruction.

B. Utility Service.

- Overhead lines for the supply of electric, telephone and cable television services may located within the utility easements along South Memorial Drive. Elsewhere throughout the subdivision all supply lines shall be located underground in the easements dedicate for general utility services, as depicted on the accompanying plat. Service pedestals and transformers, as sources of supply at secondary voltages, may also be located in the general utility easements.
- Underground service cables and gas lines to all structures which may be located within the subdivision, may be run from the nearest service pedestal or transformer to the point of usage determined by the location and construction of such structure as may be located upon the lot, provided that upon the installation of a service cable or gas service to a particular structure, the supplier of service shall thereafter be deemed to have a definitive, permanent and effective easement on the lot covering a 5 foot strip extending 2.5 feet on each side of the service cable, extending from the service pedestal, transformer or gas main to the service entrance on the structure.
- The supplier of electric, telephone and cable television services, through its agents and employees, shall at all times have right of access to all general utility easements shown on the plat or otherwise provided for in this deed of dedication for the purpose of installing, maintaining, removing or replacing any portion of the underground electric, telephone or cable television facilities installed by the supplier of the utility service.
- The owner of the lot shall be responsible for the protection of the underground service facilities located on his lot and shall prevent the alteration of grade or any construction activity which would interfere with the electric, telephone, cable television or gas facilities. The supplier of service shall be responsible for ordinary maintenance of underground facilities, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner or his agents or contractors.
- The foregoing covenants set forth in this paragraph B shall be enforceable by the supplier of the electric, telephone, cable television or gas service and the owner of the lot agrees to be bound hereby.

- The owner of the lot shall be responsible for the protection of the public water mains, sanitary sewer mains and storm sewers located on his lot.
- Within the restricted waterline easement and utility easement areas depicted on the accompanying plat, the alteration of grade in excess of 3 feet from the contours existing upon the completion of the installation of a public water mains, sanitary sewer mains and storm sewers, or any construction activity which would, in the judgment of the City of Bixby, interfere with public water mains, sanitary sewer mains and storm sewers shall be prohibited.
- The City of Bixby, Oklahoma, or its successors, shall be responsible for ordinary maintenance of public water mains, sanitary sewer mains and storm sewers, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner, the owner's agents or contractors.
- The City of Bixby, Oklahoma, or its successors, shall at all times have right of access to all easements depicted on the accompanying plat, or otherwise provided for in this deed of dedication, for the purpose of installing, maintaining, removing or replacing any portion of underground water mains, sanitary sewer mains and storm sewers facilities.
- The foregoing covenants set forth in this paragraph C shall be enforceable by the City of Bixby, Oklahoma, or its successors, and the owner of the lot agrees to be bound hereby.

C. Water, Sanitary Sewer and Storm Sewer Service.

- The owner of the lot shall be responsible for the protection of the public water mains, sanitary sewer mains and storm sewers located on his lot.
- Within the restricted waterline easement and utility easement areas depicted on the accompanying plat, the alteration of grade in excess of 3 feet from the contours existing upon the completion of the installation of a public water mains, sanitary sewer mains and storm sewers, or any construction activity which would, in the judgment of the City of Bixby, interfere with public water mains, sanitary sewer mains and storm sewers shall be prohibited.
- The City of Bixby, Oklahoma, or its successors, shall be responsible for ordinary maintenance of public water mains, sanitary sewer mains and storm sewers, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner, the owner's agents or contractors.
- The City of Bixby, Oklahoma, or its successors, shall at all times have right of access to all easements depicted on the accompanying plat, or otherwise provided for in this deed of dedication, for the purpose of installing, maintaining, removing or replacing any portion of underground water mains, sanitary sewer mains and storm sewers facilities.
- The foregoing covenants set forth in this paragraph C shall be enforceable by the City of Bixby, Oklahoma, or its successors, and the owner of the lot agrees to be bound hereby.

D. Gas Service.

- The owner of the lot shall be responsible for the protection of the underground gas facilities located on the lot.
- Within the depicted utility easement areas, the alteration of grade or any construction activity, which may interfere with the underground gas facilities, shall be prohibited.
- The supplier of gas service or its successors shall be responsible for ordinary maintenance of the gas facilities, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner, his agents or contractors.
- The supplier of gas service or its successors shall at all times have right of access with their equipment to all easement ways depicted on the plat or otherwise provided for in this deed of dedication for the purpose of installing, maintaining, removing or replacing any portion of underground gas facilities.
- Underground gas service lines to all structures which may be located within the subdivision may be run from the nearest gas main to the point of usage determined by the location and construction of such structure as may be located upon the lot, provided that upon the installation of a service line to a particular structure, the supplier of service shall thereafter be deemed to have a definitive, permanent and effective easement on the lot, covering a 5 foot strip extending 2.5 feet on each side of the service line, extending from the gas main to the service entrance on the structure.
- The foregoing covenants set forth in this sub-section D shall be enforceable by the supplier of gas service or its successors and the owner of the lot agrees to be bound hereby.

E. Surface Drainage.

The property shall receive and drain, in an unobstructed manner, the storm and surface waters from lots and drainage areas of higher elevation and from public streets and easements. The owners shall not construct or permit to be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across the lot. The foregoing covenants set forth in this paragraph E shall be enforceable by any affected lot owner and by the City of Bixby, Oklahoma.

F. Paving and Landscaping Within Easements.

The owner of the property affected shall be responsible for the repair of damage to landscaping and paving occasioned by necessary installation or maintenance of underground water, sewer, storm sewer, natural gas, communication, cable television or electric facilities within the utility easement areas depicted upon the accompanying plat, provided however, the City of Bixby, Oklahoma or the supplier of the utility service shall use reasonable care in the performance of such activities.

G. Limits of No Access.

The undersigned owners hereby relinquish rights of vehicular ingress or egress from any portion of the property adjacent to South Memorial Drive within the bounds designated as "LNA" or "limits of no access" on the accompanying plat, which limits of no access may be amended or released by the Bixby Planning Commission, or its successors, and with the approval of the City of Bixby, Oklahoma, or as otherwise provided by the statutes and laws of the state of Oklahoma pertaining thereto, and the limits of no access above established shall be enforceable by the City of Bixby

H. Sidewalks.

Sidewalks are to be provided along the arterial streets in conformance with subdivision regulations.

Section II. Planned Unit Development Restrictions. PUD No. 73

Whereas, Bixby Centennial Plaza II, was submitted as a planned unit development (designated as PUD No. 73) as provided within Sections 1100-1107 of Title 42, Bixby Revised Ordinances (Bixby Zoning Code), and

Whereas, PUD No. 73 was affirmatively recommended by the Bixby Planning Commission on November 19, 2012, and approved by the City Council of the City of Bixby, Oklahoma, on November 26, 2012, the implementing Ordinance No. _____ being adopted on November 26, 2012 and published on November 26, 2012, and

Whereas, the planned unit development provisions of the Bixby Zoning Code require the establishment of covenants of record, inuring to and enforceable by the City of Bixby, Oklahoma, sufficient to assure the implementation and continued compliance with the approved planned unit development, and

Whereas, the Owner/Developer desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the Owner/Developer, its successors and assigns, and the City of Bixby, Oklahoma.

THEREFORE, the Owner/Developer does hereby impose the following restrictions and covenants which shall be covenants running with the land and shall be binding upon the Owner/Developer, its successors and assigns, and shall be enforceable as hereinafter set forth.

A. Development in Accordance With PUD.

Bixby Centennial Plaza II shall be developed and used in substantial accordance with the restrictions and development standards of PUD No. 73 approved by the City Council of the City of Bixby, Oklahoma, or in substantial accordance with such modifications or amendments of the restrictions and development standards of PUD No. 73 as may be subsequently approved.

B. Applicable Ordinance.

The development of Bixby Centennial Plaza II shall be subject to the planned unit development provisions of the Bixby Zoning Code, as such provisions existed on November 26, 2012.

C. Use.

All uses allowed by right in the CS zoning district and specifically Use Unit 11 office and studios.

D. DEVELOPMENT STANDARDS

1) Dimensional Standards.

PUD No. 73 allows for lot splitting the remaining 174' frontage on lot 7 block 1 of Bixby Centennial Plaza (Plat No. 6107) into two lots with frontages of approximately 96 feet and 78 feet (respectively north and south). Currently lot 7, Block 1 (Bixby Centennial Plaza) has 18' of mutual access on its northern boundary and lot 7 & lot 8, block 1 (of Bixby Centennial Plaza) has 18' of mutual access on their western boundaries.

All other dimensional standards will be as per CS zoning guidelines and the subject plat.

E. Transportation and Access.

Limits of access shall be provided along South Memorial Drive along the entire frontage of Bixby Centennial Plaza II. Additionally a mutual access easement will be provided for the new driveway connections from the existing lot 8, block 1 Bixby Centennial Plaza (plat no. 6107) to the platted mutual access on the north side of this plat.

F. Sidewalks.

Sidewalks currently exist along South Memorial Drive in this area of Bixby Centennial Plaza II. The existing sidewalk shall remain and a pedestrian access from South Memorial Drive shall extend from the existing sidewalk in an accessible route to the buildings on each lot. One common connection may be used for this purpose as shown on the site plan.

G. Parking.

PUD No. 73 allows for 53 parking spaces to be shared between the proposed lots, four of which are to be shared handicap. A shared parking and sidewalk access agreement will be created between the owners of each lot created by lot split addressing all issues of maintenance, repair and use of driveways, common sidewalks and signs.

H. Signs.

Signs shall be installed as per City of Bixby Zoning Code Regulations Section III-7B-3.B.4.b: In specific to CS districts the code defines sign and place as per 11-9-21.D. CS District Use, Conditions For Business Signs:

- 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.
 - Wall and canopy signs shall not exceed an aggregate display surface area of three (3) square feet per each linear foot of the building wall to which the sign or signs are affixed.
 - Other signs, including, but not limited to, roof, projecting, ground and portable (except wall, canopy and promotional business signs), whether permitted as provided herein or nonconforming, shall not exceed an aggregate display surface area of two (2) square feet per each linear foot of street frontage if only one such sign is erected, and shall not exceed one square foot per each linear foot of street frontage if more than one sign is erected.
- PUD No. 73 shall allow the placement of one monument sign at the northeast corner of Lot 1, Block 1 Bixby Centennial Plaza II (Lot 7, Block 1 Bixby Centennial Plaza) to promote and advertise both users of the new lots within this PUD No. 73. This monument sign shall be placed outside of the existing utility easements along South Memorial Drive. A sign permit will be required to be approved prior to construction of this monument sign.

I. Screening and Landscaping.

Screening of all roof top units shall be provided as per City of Bixby zoning code. In addition, the common dumpster shall be screened as per City of Bixby zoning code.

J. Landscaping within PUD No. 73 shall be per City of Bixby zoning code.

K. Definitions.

In the event of ambiguity of any word or term set forth in this Section II, the meaning thereof shall be deemed to be defined as set forth within the Bixby Zoning Code as the same existed on _____

Section III Enforcement, Duration, Amendment and Severability.

A. Enforcement.

The restrictions herein set forth are covenants to run with the land and shall be binding upon the Owners, their successors, and assigns. Within the provisions of Section I, Easements and Utilities are set forth certain covenants and the enforcement rights pertaining thereto and whether or not therein so stated the covenants within Section I shall inure to the benefit of and be enforceable by the City of Bixby, Oklahoma. If the undersigned owners, or their successors or assigns, shall violate any of the covenants within Section I, the supplier of utility service or the City of Bixby, Oklahoma may bring an action at law or in equity against the person or persons violating or attempting to violate any such covenant, to prevent them from so doing or to compel compliance with the covenant or to recover damages. The covenants contained in Section II, Planned Unit Development restrictions, are established pursuant to the Planned Unit Development provisions of the Bixby zoning code and shall inure to the benefit of and may be enforceable by the owners of any lot or parcel within "Bixby Centennial Plaza II" and shall inure to the benefit of and be enforceable by the City of Bixby, Oklahoma.

B. Duration.

These restrictions, to the extent permitted by applicable law, shall be perpetual but in any event shall be in force and effect for a term of not less than thirty (30) years from the date of the recording of this Deed of Dedication unless terminated or amended as hereinafter provided.

C. Amendment.

The covenants contained within Section I, Easements And Utilities may be amended or terminated at any time by a written instrument signed and acknowledged by the owner of the land to which the amendment or termination is to be applicable and approved by the Bixby Planning Commission, or its successors and the City of Bixby, Oklahoma.

The covenants contained within Section II, Planned Unit Development restrictions, may be amended or terminated at any time by a written instrument signed and acknowledged by the owner of the land to which the amendment or termination is to be applicable and approved by the Bixby Planning Commission, or its successors and the City of Bixby, Oklahoma.

D. Severability.

Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any Court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof as set forth herein, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned owner has executed this instrument this day of _____ 2013.

ZIM Holdings, LLC, an Oklahoma Limited Liability Company

By: _____
Ryan V. Nowlin, DDS, MS, Manager

Ward and Hall, LLC, an Oklahoma Limited Liability Company

By: _____
James Ward, O.D., Manager

By: _____
David K. Hall, O.D., Manager

STATE OF OKLAHOMA)
) ss.

COUNTY OF TULSA)

This instrument was acknowledged before me on this _____ day of _____, 2013 by Ryan V. Nowlin, DDS, MS as manager of ZIM Holdings, LLC, an Oklahoma Limited Liability Company and James Ward, O.D. and David K. Hall, O.D. as managers of Ward and Hall, LLC, an Oklahoma Limited Liability Company

Notary Public

My commission expires:

My commission number is:

CERTIFICATE OF SURVEY.

I, Joshua R. Lamb, a Registered Professional Land Surveyor, in the State of Oklahoma, do hereby certify that I have carefully and accurately surveyed, subdivided, and platted the tract of land described above, and that the accompanying plat designated herein as "Bixby Centennial Plaza II", a subdivision in the City of Bixby, Tulsa County, State of Oklahoma, is a representation of the survey made on the ground using generally accepted practices and meets or exceeds the Oklahoma Minimum Standards for the practice of land surveying.

Joshua R. Lamb, PLS, P.E.
Registered Professional Land Surveyor
Oklahoma No. 1678

STATE OF Oklahoma)
) ss.

COUNTY OF Tulsa)

The foregoing Certificate of Survey was acknowledged before me on this _____ day _____, 2013, by Joshua R. Lamb, PLS, P.E., as a registered professional land surveyor.

Notary Public

My commission expires:

My commission number is:

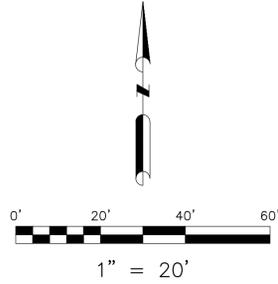
PRELIMINARY PLAT

BIXBY CENTENNIAL PLAZA II

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AN ADDITION TO THE CITY OF BIXBY, TULSA COUNTY, STATE OF OKLAHOMA.

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- D/E DRAINAGE EASEMENT
- LNA LIMITS OF NO ACCESS
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Owner:

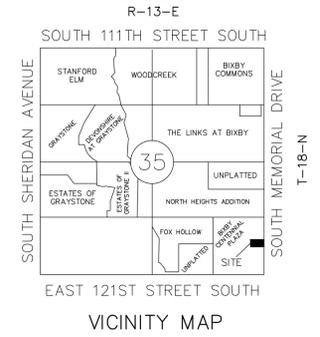
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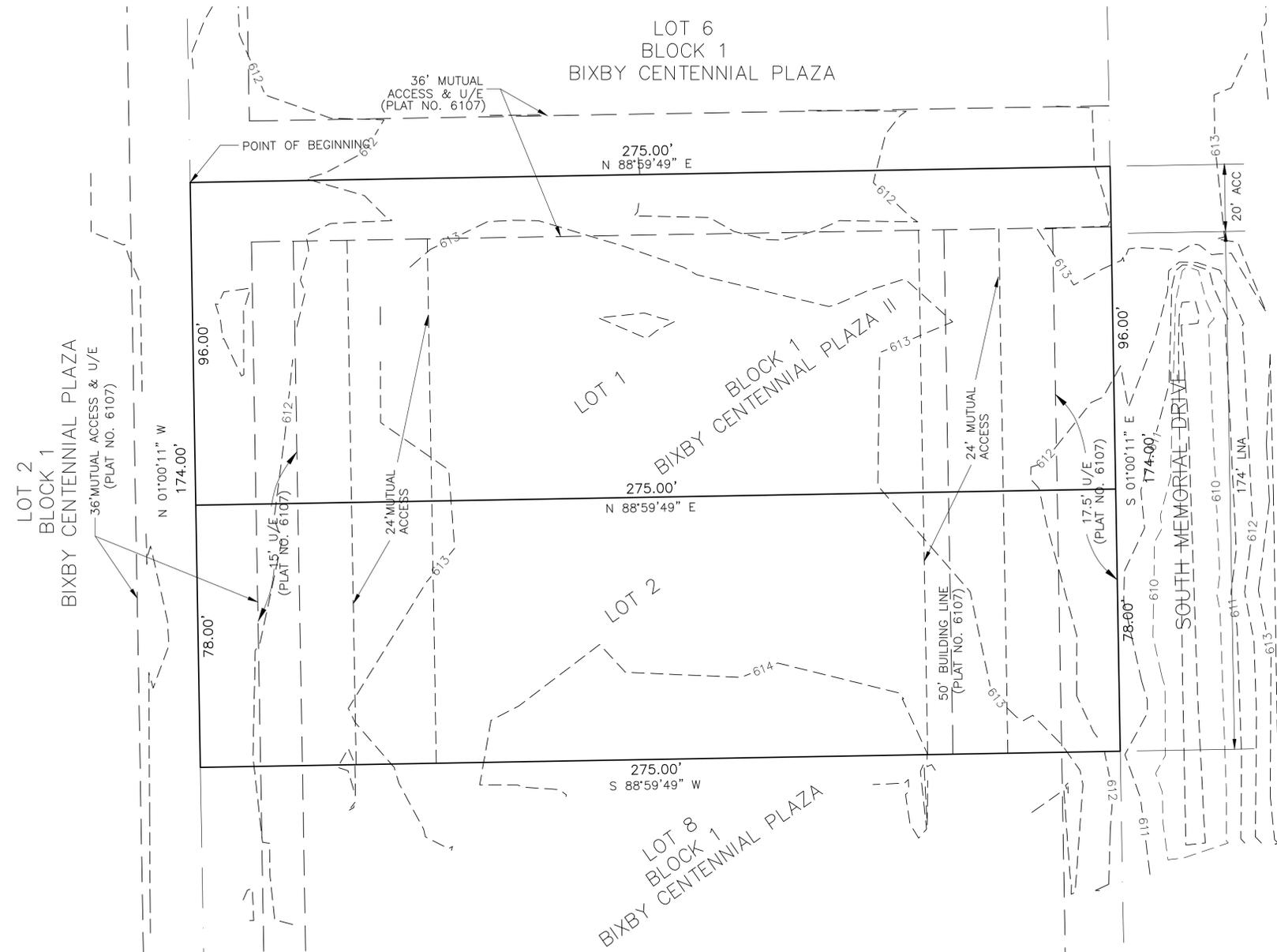
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Certificate of Authorization No. 6038, Exp. June 30, 2013
1903 S. Boston Ave.
Tulsa, OK 74119
PHONE: (539) 664-5539



SUBDIVISION CONTAINS 2 LOTS IN 1 BLOCK
TOTAL AREA: 2.431 ACRES
BASIS OF BEARING:
WESTERLY RIGHT-OF-WAY LINE OF SOUTH MEMORIAL DRIVE
BEING SOUTH 01°00'11" EAST



I HEREBY CERTIFY THAT THIS PLAT WAS APPROVED
BY THE CITY COUNCIL OF THE CITY OF BIXBY.

ON _____

BY _____
MAYOR - VICE MAYOR

THIS APPROVAL IS VOID IF THE ABOVE SIGNATURE
IS NOT ENDORSED BY THE CITY MANAGER OR CITY
CLERK.

BY _____
CITY MANAGER OR CITY CLERK

COUNTY CLERK STAMP

COUNTY TREASURER STAMP

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AN ADDITION TO THE CITY OF BROKEN ARROW
BEING A SUBDIVISION OF THE NW/4
OF SECTION 22, TOWNSHIP 18 NORTH, RANGE 14 EAST, TULSA COUNTY, OKLAHOMA

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All of Lot 7 and Lot 8, less the south 264 feet of Lot 8, Bixby Centennial Plaza, an addition to the City of Bixby, County of Tulsa, State of Oklahoma, According to the recorded plat thereof (Plat Number 6107)

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- The foregoing covenants set forth in this paragraph B shall be enforceable by the supplier of the electric, telephone, cable television or gas service and the owner of the lot agrees to be bound hereby.

- The owner of the lot shall be responsible for the protection of the public water mains, sanitary sewer mains and storm sewers located on his lot.
- Within the restricted waterline easement and utility easement areas depicted on the accompanying plat, the alteration of grade in excess of 3 feet from the contours existing upon the completion of the installation of a public water mains, sanitary sewer mains and storm sewers, or any construction activity which would, in the judgment of the City of Bixby, interfere with public water mains, sanitary sewer mains and storm sewers shall be prohibited.
- The City of Bixby, Oklahoma, or its successors, shall be responsible for ordinary maintenance of public water mains, sanitary sewer mains and storm sewers, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner, the owner's agents or contractors.
- The City of Bixby, Oklahoma, or its successors, shall at all times have right of access to all easements depicted on the accompanying plat, or otherwise provided for in this deed of dedication, for the purpose of installing, maintaining, removing or replacing any portion of underground water mains, sanitary sewer mains and storm sewers facilities.
- The foregoing covenants set forth in this paragraph C shall be enforceable by the City of Bixby, Oklahoma, or its successors, and the owner of the lot agrees to be bound hereby.

C. Water, Sanitary Sewer and Storm Sewer Service.

- The owner of the lot shall be responsible for the protection of the public water mains, sanitary sewer mains and storm sewers located on his lot.
- Within the restricted waterline easement and utility easement areas depicted on the accompanying plat, the alteration of grade in excess of 3 feet from the contours existing upon the completion of the installation of a public water mains, sanitary sewer mains and storm sewers, or any construction activity which would, in the judgment of the City of Bixby, interfere with public water mains, sanitary sewer mains and storm sewers shall be prohibited.
- The City of Bixby, Oklahoma, or its successors, shall be responsible for ordinary maintenance of public water mains, sanitary sewer mains and storm sewers, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner, the owner's agents or contractors.
- The City of Bixby, Oklahoma, or its successors, shall at all times have right of access to all easements depicted on the accompanying plat, or otherwise provided for in this deed of dedication, for the purpose of installing, maintaining, removing or replacing any portion of underground water mains, sanitary sewer mains and storm sewers facilities.
- The foregoing covenants set forth in this paragraph C shall be enforceable by the City of Bixby, Oklahoma, or its successors, and the owner of the lot agrees to be bound hereby.

D. Gas Service.

- The owner of the lot shall be responsible for the protection of the underground gas facilities located on the lot.
- Within the depicted utility easement areas, the alteration of grade or any construction activity, which may interfere with the underground gas facilities, shall be prohibited.
- The supplier of gas service or its successors shall be responsible for ordinary maintenance of the gas facilities, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner, his agents or contractors.
- The supplier of gas service or its successors shall at all times have right of access with their equipment to all easement ways depicted on the plat or otherwise provided for in this deed of dedication for the purpose of installing, maintaining, removing or replacing any portion of underground gas facilities.
- Underground gas service lines to all structures which may be located within the subdivision may be run from the nearest gas main to the point of usage determined by the location and construction of such structure as may be located upon the lot, provided that upon the installation of a service line to a particular structure, the supplier of service shall thereafter be deemed to have a definitive, permanent and effective easement on the lot, covering a 5 foot strip extending 2.5 feet on each side of the service line, extending from the gas main to the service entrance on the structure.
- The foregoing covenants set forth in this sub-section D shall be enforceable by the supplier of gas service or its successors and the owner of the lot agrees to be bound hereby.

E. Surface Drainage.

The property shall receive and drain, in an unobstructed manner, the storm and surface waters from lots and drainage areas of higher elevation and from public streets and easements. The owners shall not construct or permit to be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across the lot. The foregoing covenants set forth in this paragraph E shall be enforceable by any affected lot owner and by the City of Bixby, Oklahoma.

F. Paving and Landscaping Within Easements.

The owner of the property affected shall be responsible for the repair of damage to landscaping and paving occasioned by necessary installation or maintenance of underground water, sewer, storm sewer, natural gas, communication, cable television or electric facilities within the utility easement areas depicted upon the accompanying plat, provided however, the City of Bixby, Oklahoma or the supplier of the utility service shall use reasonable care in the performance of such activities.

G. Limits of No Access.

The undersigned owners hereby relinquish rights of vehicular ingress or egress from any portion of the property adjacent to South Memorial Drive within the bounds designated as "LNA" or "limits of no access" on the accompanying plat, which limits of no access may be amended or released by the Bixby Planning Commission, or its successors, and with the approval of the City of Bixby, Oklahoma, or as otherwise provided by the statutes and laws of the state of Oklahoma pertaining thereto, and the limits of no access above established shall be enforceable by the City of Bixby

H. Sidewalks.

Sidewalks are to be provided along the arterial streets in conformance with subdivision regulations.

Section II. Planned Unit Development Restrictions. PUD No. 73

Whereas, Bixby Centennial Plaza II, was submitted as a planned unit development (designated as PUD No. 73) as provided within Sections 1100-1107 of Title 42, Bixby Revised Ordinances (Bixby Zoning Code), and

Whereas, PUD No. 73 was affirmatively recommended by the Bixby Planning Commission on November 19, 2012, and approved by the City Council of the City of Bixby, Oklahoma, on November 26, 2012, the implementing Ordinance No. _____ being adopted on November 26, 2012 and published on November 26, 2012, and

Whereas, the planned unit development provisions of the Bixby Zoning Code require the establishment of covenants of record, inuring to and enforceable by the City of Bixby, Oklahoma, sufficient to assure the implementation and continued compliance with the approved planned unit development, and

Whereas, the Owner/Developer desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the Owner/Developer, its successors and assigns, and the City of Bixby, Oklahoma.

THEREFORE, the Owner/Developer does hereby impose the following restrictions and covenants which shall be covenants running with the land and shall be binding upon the Owner/Developer, its successors and assigns, and shall be enforceable as hereinafter set forth.

A. Development in Accordance With PUD.

Bixby Centennial Plaza II shall be developed and used in substantial accordance with the restrictions and development standards of PUD No. 73 approved by the City Council of the City of Bixby, Oklahoma, or in substantial accordance with such modifications or amendments of the restrictions and development standards of PUD No. 73 as may be subsequently approved.

B. Applicable Ordinance.

The development of Bixby Centennial Plaza II shall be subject to the planned unit development provisions of the Bixby Zoning Code, as such provisions existed on November 26, 2012.

C. Use.

All uses allowed by right in the CS zoning district and specifically Use Unit 11 office and studios.

D. DEVELOPMENT STANDARDS

1) Dimensional Standards.

PUD No. 73 allows for lot splitting the remaining 174' frontage on lot 7 block 1 of Bixby Centennial Plaza (Plat No. 6107) into two lots with frontages of approximately 96 feet and 78 feet (respectively north and south). Currently lot 7, Block 1 (Bixby Centennial Plaza) has 18' of mutual access on its northern boundary and lot 7 & lot 8, block 1 (of Bixby Centennial Plaza) has 18' of mutual access on their western boundaries.

All other dimensional standards will be as per CS zoning guidelines and the subject plat.

E. Transportation and Access.

Limits of access shall be provided along South Memorial Drive along the entire frontage of Bixby Centennial Plaza II. Additionally a mutual access easement will be provided for the new driveway connections from the existing lot 8, block 1 Bixby Centennial Plaza (plat no. 6107) to the platted mutual access on the north side of this plat.

F. Sidewalks.

Sidewalks currently exist along South Memorial Drive in this area of Bixby Centennial Plaza II. The existing sidewalk shall remain and a pedestrian access from South Memorial Drive shall extend from the existing sidewalk in an accessible route to the buildings on each lot. One common connection may be used for this purpose as shown on the site plan.

G. Parking.

PUD No. 73 allows for 53 parking spaces to be shared between the proposed lots, four of which are to be shared handicap. A shared parking and sidewalk access agreement will be created between the owners of each lot created by lot split addressing all issues of maintenance, repair and use of driveways, common sidewalks and signs.

H. Signs.

Signs shall be installed as per City of Bixby Zoning Code Regulations Section III-7B-3.B.4.b: In specific to CS districts the code defines sign and place as per 11-9-21.D. CS District Use, Conditions For Business Signs:

- 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.
 - Wall and canopy signs shall not exceed an aggregate display surface area of three (3) square feet per each linear foot of the building wall to which the sign or signs are affixed.
 - Other signs, including, but not limited to, roof, projecting, ground and portable (except wall, canopy and promotional business signs), whether permitted as provided herein or nonconforming, shall not exceed an aggregate display surface area of two (2) square feet per each linear foot of street frontage if only one such sign is erected, and shall not exceed one square foot per each linear foot of street frontage if more than one sign is erected.
- PUD No. 73 shall allow the placement of one monument sign at the northeast corner of Lot 1, Block 1 Bixby Centennial Plaza II (Lot 7, Block 1 Bixby Centennial Plaza) to promote and advertise both users of the new lots within this PUD No. 73. This monument sign shall be placed outside of the existing utility easements along South Memorial Drive. A sign permit will be required to be approved prior to construction of this monument sign.

I. Screening and Landscaping.

Screening of all roof top units shall be provided as per City of Bixby zoning code. In addition, the common dumpster shall be screened as per City of Bixby zoning code.

J. Landscaping within PUD No. 73 shall be per City of Bixby zoning code.

K. Definitions.

In the event of ambiguity of any word or term set forth in this Section II, the meaning thereof shall be deemed to be defined as set forth within the Bixby Zoning Code as the same existed on _____

Section III Enforcement, Duration, Amendment and Severability.

A. Enforcement.

The restrictions herein set forth are covenants to run with the land and shall be binding upon the Owners, their successors, and assigns. Within the provisions of Section I, Easements and Utilities are set forth certain covenants and the enforcement rights pertaining thereto and whether or not therein so stated the covenants within Section I shall inure to the benefit of and be enforceable by the City of Bixby, Oklahoma. If the undersigned owners, or their successors or assigns, shall violate any of the covenants within Section I, the supplier of utility service or the City of Bixby, Oklahoma may bring an action at law or in equity against the person or persons violating or attempting to violate any such covenant, to prevent them from so doing or to compel compliance with the covenant or to recover damages. The covenants contained in Section II, Planned Unit Development restrictions, are established pursuant to the Planned Unit Development provisions of the Bixby zoning code and shall inure to the benefit of and may be enforceable by the owners of any lot or parcel within "Bixby Centennial Plaza II" and shall inure to the benefit of and be enforceable by the City of Bixby, Oklahoma.

B. Duration.

These restrictions, to the extent permitted by applicable law, shall be perpetual but in any event shall be in force and effect for a term of not less than thirty (30) years from the date of the recording of this Deed of Dedication unless terminated or amended as hereinafter provided.

C. Amendment.

The covenants contained within Section I, Easements And Utilities may be amended or terminated at any time by a written instrument signed and acknowledged by the owner of the land to which the amendment or termination is to be applicable and approved by the Bixby Planning Commission, or its successors and the City of Bixby, Oklahoma.

The covenants contained within Section II, Planned Unit Development restrictions, may be amended or terminated at any time by a written instrument signed and acknowledged by the owner of the land to which the amendment or termination is to be applicable and approved by the Bixby Planning Commission, or its successors and the City of Bixby, Oklahoma.

D. Severability.

Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any Court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof as set forth herein, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned owner has executed this instrument this day of _____ 2013.

ZIM Holdings, LLC, an Oklahoma Limited
Liability Company

By: _____
Ryan V. Nowlin, DDS, MS, Manager

Ward and Hall, LLC, an Oklahoma Limited
Liability Company

By: _____
James Ward, O.D., Manager

By: _____
David K. Hall, O.D., Manager

STATE OF OKLAHOMA)
) ss.

COUNTY OF TULSA)

This instrument was acknowledged before me on this _____ day of _____, 2013 by Ryan V. Nowlin, DDS, MS as manager of ZIM Holdings, LLC, an Oklahoma Limited Liability Company and James Ward, O.D. and David K. Hall, O.D. as managers of Ward and Hall, LLC, an Oklahoma Limited Liability Company

Notary Public

My commission expires:

My commission number is:

CERTIFICATE OF SURVEY.

I, Joshua R. Lamb, a Registered Professional Land Surveyor, in the State of Oklahoma, do hereby certify that I have carefully and accurately surveyed, subdivided, and platted the tract of land described above, and that the accompanying plat designated herein as "Bixby Centennial Plaza II", a subdivision in the City of Bixby, Tulsa County, State of Oklahoma, is a representation of the survey made on the ground using generally accepted practices and meets or exceeds the Oklahoma Minimum Standards for the practice of land surveying.

Joshua R. Lamb, PLS, P.E.
Registered Professional Land Surveyor
Oklahoma No. 1678

STATE OF Oklahoma)
) ss.

COUNTY OF Tulsa)

The foregoing Certificate of Survey was acknowledged before me on this _____ day _____, 2013, by Joshua R. Lamb, PLS, P.E., as a registered professional land surveyor.

Notary Public

My commission expires:

My commission number is: