

**MINUTES  
PLANNING COMMISSION  
116 WEST NEEDLES  
BIXBY, OKLAHOMA  
June 20, 2011 6:00 PM**

**STAFF PRESENT:**

Erik Enyart, AICP, City Planner

**OTHERS ATTENDING:**

See attached Sign-In Sheet

**CALL TO ORDER:**

Vice/Acting Chair Larry Whiteley called the meeting to order at 6:05 PM.

**ROLL CALL:**

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

**CONSENT AGENDA:**

2. Approval of Minutes for the May 16, 2011 Regular Meeting
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Vice/Acting Chair Larry Whiteley introduced Consent Agenda Item number 1. John Benjamin made a MOTION to APPROVE the Minutes of the May 16, 2011 meeting as presented by Staff. Lance Whisman SECONDED the Motion. Roll was called:

**ROLL CALL:**

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

Vice/Acting Chair Larry Whiteley announced, in the interest of time and those attending, that the agenda items would be taken out of order and Agenda Items numbered 9 and 10 would be introduced at this time.

**PLATS**

9. **Preliminary Plat of First National (PUD 45).** Discussion and consideration of a Preliminary Plat and certain Modifications/Waivers for "First National," part of the NE/4 NE/4 Section 25, T18N, R13E.

Property located: Southwest corner of 101<sup>st</sup> St. S. and Mingo Rd.

10. **Final Plat of First National (PUD 45).** Discussion and consideration of a Final Plat for “First National,” part of the NE/4 NE/4 Section 25, T18N, R13E.

Property located: Southwest corner of 101<sup>st</sup> St. S. and Mingo Rd.

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Vice/Acting Chair Larry Whiteley introduced the items and asked Erik Enyart for the Staff Report and recommendations. Mr. Enyart summarized the Staff Report as follows:

**To:** Bixby Planning Commission  
**From:** Erik Enyart, AICP, City Planner  
**Date:** Friday, June 10, 2011  
**RE:** Report and Recommendations for:  
Preliminary Plat & Final Plat of “First National” (PUD 45)

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**LOCATION:** – Southwest corner of 101<sup>st</sup> St. S. and Mingo Rd.  
– Part of the NE/4 NE/4 Section 25, T18N, R13E.  
**LOT SIZE:** 1.482 acres, more or less  
**EXISTING ZONING:** CS/PUD 45  
**EXISTING USE:** Vacant  
**REQUEST:** – Preliminary Plat approval  
– Final Plat approval  
– A Modification/Waiver from the standard 17.5’ Perimeter Utility Easement per Subdivision Regulations/City Code Section 12-3-3.A

**SURROUNDING ZONING AND LAND USE:**

**North:** (across 101<sup>st</sup> St. S.) CS, RM-0, & CS/PUD 364; A Kum & Go gas station and the “Cedar Ridge Village” shopping center in Cedar Ridge Village to the north, single-family residential in Cedar Ridge Village to the northwest, and the Plaza del Sol shopping center in PUD 364 across Mingo Rd. to the northeast, all in the City of Tulsa.

**South:** OL/PUD 45 & RT/PUD 36; Vacant land in PUD 45 and single-family residential homes and lots in Spicewood Villas further south.

**East:** (across Mingo Rd.) R-2; Single family residential The Greens at Cedar Ridge in the City of Broken Arrow.

**West:** CS/PUD 45 & OL/PUD 45; Vacant land in PUD 45 and a tributary of the Fry Creek Ditch # 1 further west.

**COMPREHENSIVE PLAN:** Medium Intensity + Vacant, Agricultural, Rural Residences, and Open Land.

**PREVIOUS/RELATED CASES:**

**BZ-165 – Pittman-Poe & Associates, Inc. for Allen G. Oliphant** – Request to rezone approximately 383 acres from AG to RS-3, RD, RM-2, & CS for a residential and commercial development for parts of the NW/4, NE/4, and SE/4 of this Section – Included subject property, which part was requested for CS zoning – PC recommended Approval of an amended request (including RS-2 instead of RS-3) 05/28/1985 and the City Council Approved the amended request 06/11/1985 (Ord. # 530).

**PUD 11 – Edgewood Farm – Pittman-Poe & Associates, Inc. for Allen G. Oliphant** – Request to approve PUD 11 for approximately 383 acres for a residential and commercial for parts of the NW/4, NE/4, and SE/4 of this Section – Included subject property – PC recommended Approval 05/28/1985 and the City Council Approved 06/11/1985 (Ord. # 531).

**BZ-202 – W. Douglas Jones for Tercero Corporation** – Request to rezone 382 acres, more or less, from RS-3, RD, RM-2, & CS to AG (includes subject property) – PC recommended Approval 10/19/1992 and City Council Approved 10/26/1992 (Ord. # 673).

**PUD 11 Abandonment – W. Douglas Jones for Tercero Corporation** – Request to abandon PUD 11 – PC recommended Approval 10/19/1992 and City Council Approved 10/26/1992 (Ord. # 674).

**BZ-282 – Tanner Consulting, LLC** – Request to rezone 10 acres, more or less, from AG to CS & OL for commercial and office use – Included subject property, which part was requested for CS zoning – PC recommended Approval 01/22/2002 and City Council Approved 02/11/2002 (Ord. # 847).

PUD 45 – Spicewood Neighborhood Center – Tanner Consulting, LLC – Request to approve a PUD for 10 acres, more or less, including subject property – PC recommended Approval 09/22/2005 and City Council Approved 10/10/2005 (Ord. # 920).

BL-379 – Tanner Consulting, LLC – Request for Lot-Split approval for to separate the land being platted as First National from the balance of the original 10-acre tract – PC consideration pending 06/20/2011.

**BACKGROUND INFORMATION:**

The June 20, 2011 Planning Commission agenda includes three (3) items, all related to a singular development, a First National Bank of Muskogee branch bank at the southwest corner of 101<sup>st</sup> St. S. and Mingo Rd. Included are a request for Preliminary and Final Plat approvals, and a Lot-Split to separate the land being platted, to allow the bank to acquire the land and plat it under their own name in title. The Final Plat and Lot-Split applications were not placed on the Technical Advisory Committee (TAC) agenda because they were only received Friday, June 03, 2011, and placed on this June 20, 2011 agenda with the City Manager's waiver as to deadline.

**ANALYSIS:**

Property Conditions. The subject property is vacant and zoned CS with PUD 45. The land appears to slope gently to the south and west and drains to a stormwater detention facility on City of Bixby-owned property immediately west of Spicewood Pond. This is part of the Oliphant drainage and detention system located between 101<sup>st</sup> St. S. and 111<sup>th</sup> St. S., which is itself an upstream part of Fry Creek Ditch # 1.

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

The Use Unit 11 branch bank anticipated by this plat would be consistent with the Comprehensive Plan.

General. This subdivision of 1.482 acres proposes one (1) lot, one (1) block, and no (0) Reserve Areas.

Subdivision Regulations Section 12-3-3.A requires a 17.5' Perimeter U/E. The plat proposes the required width, except for an 11' U/E along the south and west lines. This will require a Modification/Waiver of Section 12-3-3.A, and the same has been requested by the Applicant. Staff does not object to this Modification/Waiver, recognizing the existing and planned locations of utility lines primarily along 101<sup>st</sup> St. S. and Mingo Rd., that the TAC did not express objection, and recognizing the Applicant's plan to supplement the 11' U/E with another 11' from adjacent tracts when they are platted.

With the exceptions outlined in this report, the Preliminary Plat and Final Plat appear to conform to the Zoning Code and Subdivision Regulations.

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

The Technical Advisory Committee reviewed the Preliminary Plat on June 01, 2011. The Minutes of the meeting are attached to this report.

Access and Internal Circulation. The subject property has existing frontage on 101<sup>st</sup> St. S. and Mingo Rd.

The plat proposes Limits of No Access (LNA) along both street frontages, with access openings at the southeast corner of the lot and about the center of the 101<sup>st</sup> St. S. frontage. The County Engineer has approved the locations and such approval has been forwarded to the City Engineer for concurrence or response as appropriate.

A 24'-wide Mutual Access Easement (MAE) is proposed to parallel the two (2) streets with about a 30.67' offset from each, presumably to provide for a parking lot strip and landscaping. Deed of Dedication / Restrictive Covenants Section I.G provides for the MAE, but it does not appear to specify whether the MAE will afford access to other, adjacent lots to be platted at a future date.

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

1. Subject to City Council approval of a Modification/Waiver of the 17.5' Perimeter U/E standard per Subdivision Regulations Section 12-3-3.A, as the plat proposes an 11' U/E along the south and west lines. Staff does not object to this Modification/Waiver, recognizing the existing and planned locations of utility lines primarily along 101<sup>st</sup> St. S. and Mingo Rd., that the TAC did not express objection, and recognizing the Applicant's plan to supplement the 11' U/E with another 11' from adjacent tracts when they are platted.

2. *Add any utility easements areas as may be requested by the TAC. Verification of easement width and location adequacy must be provided by each serving utility company in the form of a release letter, due prior to recording the Final Plat.*
3. *Subject to the satisfaction of all outstanding Fire Marshal and City Engineer recommendations.*
4. *Final Plat needs to be titled "Final Plat" and not "Preliminary/Final Plat."*
5. *Legend items were removed from the Final Plat and need to be restored. Information should not be removed between submittals without specific notice.*
6. *Per SRs Section 12-4-2.A.5, the Location Map must include all platted additions within the Section; the following are missing, mislabeled, or inaccurately represented:*
  - a. *101 South Memorial Center*
  - b. *101 Memorial Square*
  - c. *101 South Memorial Plaza*
  - d. *Landmark Center (mislabeled)*
7. *Please add "Street" or "St." to the address 9696 E. 101<sup>st</sup> St. S.*
8. *DoD/RCs Preamble: Missing critical wording such as "And the Owner has caused the above described land to be surveyed, staked, platted, dedicated, access rights reserved, and subdivided into...."*
9. *DoD/RCs Section I.G: Will the Mutual Access Easement afford access to other, adjacent lots to be platted at a future date?*
10. *Final Plat: Elevation contours, floodplain boundaries, physical features, underlying Zoning district boundaries, 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.*
11. *All corrections made to the Final Plat received June 03, 2011 must also be made to the Preliminary Plat.*
12. *A copy of the Preliminary Plat and Final Plat, including all recommended corrections, modifications, and Conditions of Approval, shall be submitted for placement in the permanent file.*

Erik Enyart stated that the Applicant's representative was in attendance and could speak to the open-ended question per recommendation numbered 9 in the Staff Report.

The Commissioners asked and discussed where the bank was based. Applicant Ricky Jones of 5323 S. Lewis Ave. stated that he was representing the First National Bank of Muskogee. Mr. Jones stated that the bank was going through rebranding, because a bank outside [of the named city] doesn't make as much sense, and so the name on the plat is simply "First National." Mr. Jones stated that the bank was currently located at 101<sup>st</sup> St. S. and Sheridan Rd., and that it was excited to relocate to this site in Bixby. Mr. Jones stated that this location would be the bank's flagship new building. Mr. Jones stated that he and his client were in agreement with the Staff's recommendations. Mr. Jones stated that the Lot-Split was also important, as the landowner is the seller of the property, and for tax purposes, cannot be the "developer." Mr. Jones stated that the Lot-Split would allow the land to be platted under the name of "First National." Mr. Jones stated that he and his client agree with the recommendation to provide mutual access. Mr. Jones stated that, when the adjoining properties are developed, it is critical to have mutual access so that one does not have to exit the property onto the arterial to get to another business. Mr. Jones stated that the bank was excited and wanted to start as soon as possible. Mr. Jones stated that his firm and the bank had met with the City and that the development was very simple, and all the issues had been worked out. Mr. Jones asked that, since it is related to the same development, Agenda Item # 11 be considered next.

OTHER BUSINESS

- 11. **BL-379 – Tanner Consulting, LLC.** Discussion and possible action to approve a Lot-Split for part of the NE/4 NE/4 Section 25, T18N, R13E.  
Property located: Southwest corner of 101<sup>st</sup> St. S. and Mingo Rd.

John Benjamin made a MOTION to APPROVE the Preliminary Plat and Final Plat of “First National,” subject to meeting the requirements as recommended by Staff[, and to approve BL-379]. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

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

After the Roll Call, Erik Enyart clarified with the Planning Commissioners that the Motion also included the approval of BL-379. Mr. Enyart stated that the Minutes would reflect that all three (3) items had been approved by the Motion.

John Benjamin noted that the City of Broken Arrow was located to the east of the subject property, and asked if notice was given to the adjoining cities. Ricky Jones stated that the City of Tulsa was located to the north and northeast, and that this corner of the intersection was the only one located in Bixby. Mr. Jones stated that notice was given when the PUD was originally approved, and that [he and his firm] had prepared that PUD. Mr. Benjamin and Mr. Jones stated that no notice was given for these cases, and Erik Enyart clarified that the City of Bixby does post [a public notice] on the property for Lot-Split applications.

PUBLIC HEARINGS:

- 8. (Continued from April 18 and May 20, 2011)  
**BCPA-6 – City of Bixby.** 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 a certain property on the Comprehensive Plan Land Use map from “Low Intensity” to “Medium Intensity” and to remove the “Residential” land use designation.  
Property Located: Blocks 1, 2, and 3, *Privett Addition*, between 151<sup>st</sup> St. S. and Washington St., between Montgomery St. and Riverview Rd.

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Vice/Acting Chair Larry Whiteley introduced the item and asked Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the following Staff Report:

*To: Bixby Planning Commission*  
*From: Erik Enyart, AICP, City Planner*  
*Date: Friday, June 10, 2011*  
*RE: Report and Recommendations for:*  
*BCPA-6 – City of Bixby*

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**LOCATION:** *Between 151<sup>st</sup> St. S. and Washington St., between Montgomery St. and Riverview Rd.*

**LOT SIZE:** *3 acres, more or less, in 3 blocks*

**EXISTING ZONING:** *RS-3 Single Family Dwelling District*

**EXISTING USE:** *Vacant*

**SUPPLEMENTAL ZONING:** *None*

**EXISTING COMPREHENSIVE PLAN DESIGNATION:** *Low Intensity + Residential*

**REQUESTED COMPREHENSIVE PLAN DESIGNATION:** *Medium Intensity + (no specific land use designation)*

**SURROUNDING ZONING AND LAND USE:**

**North:** *(Across Washington St.) RS-3, RT, & RS-4; Single family residential and a church at 226 E. Jefferson St., all in the Privett Addition.*

**South:** *(Across 151<sup>st</sup> St. S.) RS-3 & IL; Single family residential and vacant lots in the Midland Addition. To the southwest are IL-zoned properties belonging to the Bixby Historical Society, including some old commercial/storage buildings at 21 E. Needles Ave., an old filling station at 27 E. Needles Ave., the Bixby Historical Society Museum at 24 E. McKennon Ave., and vacant and underutilized lots.*

**East:** *(Across Riverview Rd.) AG; Rural residential and agricultural land.*

**West:** *RS-3, IM, & CH; Single family residential in the Privett Addition, the Stone Mill manufactured stone manufacturing and sales at 15 and/or 21 E. 151<sup>st</sup> St. S., and a metal storage building.*

**PREVIOUS/RELATED CASES:**

**BBOA-4 – Mr. & Mrs. Jim Brock** – request for Variance to allow a mobile home to be added to the rear yard of the residence at 116 E. Washington St., Lots 7 & 8, Block 3, Privett Addition – BOA Continued 07/06/[1970]. No further Minutes for 1970 are on file, but a sheet of paper with un-dated, hand-written notes in the case file appear to indicate the BOA approved for 1 year at some other date.

**BBOA-6 – Aletha Mitchell** – request for Variance to allow a mobile home to be added to the residence at 220/224 E. Washington St., Lots 1 & 2, Block 2, Privett Addition – No Minutes for 1971 are on file, but a letter dated 06/05/1971 states that the BOA approved the application 06/04/1971.

**BZ-49 – J. W. Lee** – Request for rezoning from RS-3 to RM-2 for a duplex at 302/306 E. Washington St., The W. 15’ of Lot 11 and Lots 12 & 13, Block 1, Privett Addition – PC Recommended Denial 06/28/1976 and the City Council Denied 09/21/1976 on appeal.

**BBOA-33 – J. W. Lee** – request “to change from RS-3 to RM-2” at 302/306 E. Washington St., The W. 15’ of Lot 11 and Lots 12 & 13, Block 1, Privett Addition – No Minutes are on file for this case – Notes indicate it was scheduled for a BOA hearing 09/14/1976, but perhaps the application was deemed administratively unactionable.

**BBOA-37 – J. W. Lee** – request for Special Exception to allow a mobile home to be added to the duplex at 302/306 E. Washington St., The W. 15’ of Lot 11 and Lots 12 & 13, Block 1, Privett Addition – BOA approved “on a temporary basis” 08/09/1977 and as a “Permanent Special Exception” as an action item during the 09/13/1977 BOA meeting.

**BBOA-150 – Gladys Cochran** – request for Special Exception to allow a carport and a Variance to reduce the setback from 5’ to 1’ for Lots 7 & 8, Block 2, Privett Addition, addressed 214 E. Washington St. – BOA approved 12/09/1985.

**BL-115 –David Archer** – request for Lot-Split to divide Lots 4, 5, & 6, Block 3 of subject property, addressed 120 E. Washington St., into N/2 and S/2 – PC Denied 05/27/1986.

**BBOA-172 –David Archer** – request for Variance from the bulk and area requirements in the RS-3 district to allow a Lot-Split to divide Lots 4, 5, & 6, Block 3 of subject property, addressed 120 E. Washington St., into N/2 and S/2 – BOA Tabled 06/09/1986.

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

**BZ-298 – Brian Coody** – Request for rezoning from RS-3 to RT to allow a duplex on Lots 19 & 20, Block 8, Privett Addition, located across Washington St. to the north of subject property – PC recommended Approval 10/20/2003 and City Council Approved 11/10/2003 (Ord. # 918) (not since built).

BZ-303 – Kendal Goodell – Request for rezoning from RS-3 to RS-4 for lot-width purposes to allow a single-family dwelling on the S. 53' of Lots 1 : 5, inclusive, Block 8, Privett Addition, addressed 414 N. Riverview Rd. and located ½ block north of subject property – PC recommended Approval 06/21/2004 and City Council Approved 07/12/2004 (Ord. # 890) (metal building house since built).

**BACKGROUND INFORMATION:**

History of the Request. During the development review process for the Millworx project at 27 E. McKennon Ave., local development consultant JR Donelson suggested that the City of Bixby should anticipate redevelopment along the widened 151<sup>st</sup> St. S. corridor by amending the Comprehensive Plan map, such that it would enable more intensive redevelopment patterns.

The initial scope included areas on both sides of 151<sup>st</sup> St. S. However, since then, JR Donelson has indicated interest on his and/or others' behalf to develop the leftover land north of the widened 151<sup>st</sup> St. S. right-of-way for townhouses. Mr. Donelson has provided an exhibit indicating how the townhouses would be situated on the land, which exhibit is attached to this report.

During the City Council Worksession meeting held February 28, 2011, Staff asked the City Council for guidance on the parameters of the affected area and development type preferences. Based on the discussion during the meeting and further discussions with JR Donelson, the Mayor, and other City Staff, Staff recommended, and on March 14, 2011, the City Council authorized the preparation of a possible amendment to the Comprehensive Plan Land Use Map, limited to the three (3) blocks owned by the City of Bixby. Restricting the area to City-owned properties removes the difficulty of affecting private property owners, who may or may not approve of a change.

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 all of these have been done in this application case as well.

The Comprehensive Plan amendment is being processed in the same manner as has been used by private interests to have their properties redesignated on the Comprehensive Plan, including Public Notice and a Public Hearing before the Planning Commission, with the recommendation to be forwarded to the City Council for final action.

Additional Considerations. If the Comprehensive Plan Amendment is approved, the next step would be for the City Council to consider declaring the land as surplus and authorizing the advertisement for bids. As a part of selling the land, the City Council could, if it so chooses, require a development agreement specifying whatever terms are deemed appropriate.

Changing the Comprehensive Plan would not rezone the land. It would still be necessary for the successful bidder to rezone the land RT (along with any PUD as may be required for their specific designs), but the Comprehensive Plan amendment would enable this to occur. It would also likely increase the value of the land, helping maximize return to the City of Bixby.

**ANALYSIS:**

General. Fire Marshal's and City Engineer's memos are attached to this Staff Report. Their comments are incorporated herein by reference.

The Technical Advisory Committee (TAC) discussed BCPA-6 at its regular meeting held April 06, 2011. Minutes of that meeting are attached to this report.

Property Conditions. The subject property consists of Blocks 1, 2, and 3 of Privett Addition. Block 1 measures 336.4' east-west by 130' north-south, and so contains 43,732 square feet (slightly over 1 acre). Blocks 2 and 3 both measure 350' east-west by 130' north-south, and so contain 45,550 square feet (slightly over 1 acre) each. The blocks are located south of Washington St. between Montgomery St. and Riverview Rd. All of the land is currently vacant, having been cleared of the houses that were on the lots to make way for the 151<sup>st</sup> St. S. widening project. Zoning is RS-3 for all of the property.

The City of Bixby, in accordance with the Vision 2025 and/or 4-to-Fix-the-County program requirements, has deeded the southerly parts of these blocks (and adjacent areas) to Tulsa County as right-of-way for the Sectionline road improvements. The conveyed right-of-way is as shallow as 51.31' at the southwest corner of Block 3 and widens toward the east to be as wide as 57.44' at the southeast corner of Lot 1. Therefore, the typical remaining lot measures 25' by approximately 75'. A diagram, entitled "Typical interior Townhouse lot," indicates the right-of-way versus excess City of Bixby land and is attached to this report for illustration.

Per FEMA floodplain maps, all of the properties are located in the Shaded Zone X – 500-Year (0.2% Annual Chance) Floodplain.

Comprehensive Plan. On March 14, 2011, the City Council authorized the preparation of a possible amendment to the Comprehensive Plan Land Use Map as recommended by Staff as follows:

- Concerning only those parts of Blocks 1, 2, and 3, Privett Addition, north of the widened right-of-way, which belong to the City of Bixby,
- Change the designation from Low Intensity to Medium Intensity, and
- Remove the Residential designation, leaving it undesignated as to specific use.

RT Residential Townhouse District is the most appropriate zoning district for the considered townhouse development type. RT zoning was adopted (Ord. # 845) after the Comprehensive Plan in or around 2002 so it is not included in the "Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan" ("Matrix") on page 27 of the Comprehensive Plan. However, based on the Matrix's treatment of similar districts, Medium Intensity should be recognized as necessary to support RT zoning as being In Accordance with the Comprehensive Plan.

Removing the Residential specific land use designation would be preferable because, if this particular development did not materialize, this would enable the Medium Intensity to be used to authorize commercial, office, or other such more intensive rezonings and use types.

Access. All of the internal lots have access to 151<sup>st</sup> St. S. and Washington St. and the corner lots have access to, variously, Montgomery, Stanley, and Parker Streets and Riverview Rd. A sidewalk will be constructed along the north side of 151<sup>st</sup> St. S. as a part of the widening of that street. Sidewalk construction on the balance of the streets would be required upon rezoning and replatting the subject property.

Utilities. The subject property should have immediate access to all of the critical and the communications utilities. Levels of service for available utilities should be adequate for the development types on the subject property which would be enabled by a Medium Intensity designation.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning patterns are primarily RS-3 and land uses consist of single-family homes in the Midland Addition and Privett Addition. In the interest of efficiency and avoiding redundancy, please see the case map for illustration of existing zoning patterns, which are described, along with surrounding land use patterns, in the Surrounding Zoning and Land Use summary section of this report.

Per BZ-298 in 2003, the City Council approved a rezoning from RS-3 to RT to allow a duplex on Lots 19 & 20, Block 8, Privett Addition, located across Washington St. to the north of subject property. Per BZ-303 in 2004, the City Council approved rezoning from RS-3 to RS-4 for lot-width purposes to allow a single-family dwelling on the S. 53' of Lots 1 : 5, inclusive, Block 8, Privett Addition, addressed 414 N. Riverview Rd. and located ½ block north of subject property. Several other rezonings from RS-3 to, variously, RD, RT, and RM-1 have been approved for lots throughout the Midland Addition and [Original Town of] Bixby in the past decade, and have been used to allow duplexes to be constructed as infill projects. This demonstrates legislative intent to allow higher-intensity forms of residential redevelopment throughout the "Old Town" area of Bixby.

Per the Matrix in the Comprehensive Plan, the Medium Intensity designation, without a specific land use designation, would allow as In Accordance with the Comprehensive Plan: AG, RE, RS-1, RS-2, RS-3, RD, RM-1, RM-2, CS, ST, and presumably, RS-4. The same would potentially allow, as May Be Found In Accordance with the Comprehensive Plan: RMH, RM-3, CG, and IR. Due to the relatively shallow depth of the lots, higher intensity development types would not be feasible, leaving single-family and townhouse development the most likely forms to occur.

For the most part, therefore, the requested Medium Intensity designation would appear compatible with and complimentary to existing and future surrounding land uses and zoning patterns.

151<sup>st</sup> St. S. is being widened along the subject property, further enhancing accessibility, drainage, and utility purposes. These new infrastructure investments increase the appropriateness of higher intensity development of the subject property.

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. Therefore, Staff recommends Approval.

NEW INFORMATION AS OF MAY 10, 2011:

The Planning Commission, at its April 18, 2011 regular meeting, Continued this item to this meeting until the Commission could access more information from the City [regarding representations for the use of the excess land].

At the meeting, an individual claimed that the City represented that the excess land from the 151<sup>st</sup> St. S. widening would be used for a “park or greenbelt.”

Staff has followed up on this research matter and solicited information from (1) other City Staff, (2) City files, (3) former City Planner Jim Coffey, and (4) the Bixby Bulletin, newspaper of record for the City of Bixby.

No other City Staff had any comments which could corroborate the claim that the excess land would be used for a “park or greenbelt,” or that any representations were made as to the use of excess land.

City Clerk Yvonne Scott provided the a file on the 2006 General Obligation Bond, which contained information on the bond sales and related financial matters, but no information about the use of excess land.

An undated conceptual rendering of the 151<sup>st</sup> St. S. widening project corridor (graphic overlaid on an aerial photograph) represented a four (4) lane roadway with landscaped medians and center turn lanes, but indicated nothing beyond the right-of-way lines. The drawing was prepared by Planning Design Group of Tulsa and was titled “151st. Widening Bixby Oklahoma.”

Former City Planner and City of Bixby property acquisition contractor Jim Coffey reported, “No commitments were made concerning the [excess] land... No plans were made on how the land would be used.” A printout of Mr. Coffey’s email is attached to this report.

Finally, Staff reviewed all of the Bixby Bulletin newspapers beginning with the first mention of plans for a General Obligation Bond issue, January 04, 2006 (“Leaders plan forward, 2006”) and ending with the May 04, 2006 issue, one month after the April 04, 2006 election. Per the article, “A new concern introduced at the Town Hall Meeting scheduled for Wednesday, January 4 (after this paper had gone to press) is the possibility of a new bond issue early in the year. [Make It Happen Committee leader] Sean Kouplun [stated] “I hope the results of the bond issue include the construction of a new state of the art youth sports complex, much needed street improvements, and a new or renovated City Hall.” In that paper was an early conceptual rendering of part of Bentley Park. No other renderings of any other bond issue projects were found published during this time period.

In all of the articles relating to the bond issue, all statements were strictly related to widening 151<sup>st</sup> St. S. from Memorial Dr. to Riverview Rd. from two (2) to four (4) or five (5) lanes, with no mention whatsoever about the use of excess land. It was ultimately decided that the project and bond issue would be for a four (4) lane roadway. There were no drawings or plans published which would indicate how excess land would be used, nor how the roadway improvement itself would appear.

Staff has made a cursory inquiry and investigation into the claim that the City of Bixby represented that the surplus land would be used for a “park or greenbelt” and found no evidence to support it. It remains possible that further research could discover additional information in this regard, but it appears somewhat unlikely, based on the findings, that they would corroborate this claim.

Staff’s recommendation has not changed.

NEW INFORMATION AS OF JUNE 10, 2011:

The Planning Commission, at its May 16, 2011 regular meeting, Continued this item to this meeting and in the interim, requested that Staff ask the City Council specifically what they want built on [the subject property]. Interested parties at that meeting were encouraged to contact their City Councilors and tell them what they wanted to be done with land purchased with public funds.

By letter dated June 03, 2011, the City Attorney advised, among other things, that the Planning Commission’s request for the City Council to specify what they wanted developed on the land was “premature.” Per the City Attorney and the Mayor, the Planning Commission’s inquiry has not been placed on the June 13, 2011 City Council agenda. The City Attorney’s letter is attached to this report.

*Neighboring property owners Dale and Gail Williams of 225 E. McKennon Ave. submitted a letter to the City of Bixby, with copies to all of the City Councilors, proposing, among other things, that the land be turned into a park. A copy of the letter is attached to this report.  
Staff's recommendation has not changed.*

Erik Enyart addressed Vice/Acting Chair Larry Whiteley and suggested that, since this case had been heard at length for the previous two (2) Planning Commission meetings, that those in attendance be encouraged to express only new comments and information, and that repeating previously expressed comments be limited to a minimum.

Vice/Acting Chair Larry Whiteley recognized Gail Williams of 225 E. McKennon Ave. Ms. Williams stated that she was against this [amendment], and noted that she had written a letter to the City Council and mailed it to all of the Councilors. Ms. Williams stated that she had prepared the exhibit showing how the park could be designed.

Vice/Acting Chair Larry Whiteley stated that the Commission was only a recommending body and that only the City Council could decide to make the land a park. Erik Enyart stated that, if that was the Commission's desire, it was the Planning Commission's prerogative to recommend the City Council that the land be put to use as a park.

Vice/Acting Chair Larry Whiteley recognized Ted Crain of 404 N. Riverview Rd. Mr. Crain stated that everything has been stated [in previous meetings]. Mr. Crain stated that [one of his former neighbors] Joyce Templeton was told that "nothing would be built there." Mr. Crain expressed objections to the proposal and the City's process for amending the Comprehensive Plan, and suggested it was "illegal activity" as it pertained to the sale of City property. Mr. Crain discussed other concerns for a time.

Ted Crain stated that, if it favored the proposal, the Commission should leave the land residential. Erik Enyart stated that, at the previous meeting, he had said that there were two (2) parts to the amendment request: The proposed change from Low Intensity to Medium Intensity and, secondly, to remove the Residential land use designation. Mr. Enyart stated that, if the Commission wanted that there be nothing more than townhouses developed, it was also the Commission's prerogative to recommend only the first and leave the Residential designation.

Vice/Acting Chair Larry Whiteley recognized Cynthia Potter of 111 E. Washington St. Ms. Potter expressed concern for property values.

Jeff Baldwin stated that the proposal's effect on property values would be difficult to speculate on. Erik Enyart confirmed Mr. Baldwin's statement and said that one could find experts on both sides of that issue, one claiming a development will increase area property values while the other claiming it would detract from values, or have no effect. Mr. Enyart addressed those in attendance and stated that when they say "the City" that actually means everyone living in Bixby. Mr. Enyart stated that it is the citizens' tax dollars that were invested in this property and the City was trying to get the highest return for the citizens' money. Mr. Enyart stated that the City had to weigh the costs to mow and maintain the property versus putting it to a more constructive use.

John Benjamin asked if the first public hearing on this amendment was not before the City Council, or if it was only having its first public hearing at the Planning Commission. Erik Enyart responded that the Planning Commission was holding the first publicly-advertised, public hearing on the matter. Mr. Enyart stated that the concept was put on a regular City Council meeting agenda, and that the agenda was posted publicly and was a public meeting, but that the Planning Commission was holding the first public hearing on the matter.

Lance Whisman asked what would happen if the DOT did not approve curb cuts on 151<sup>st</sup> St. S. Erik Enyart stated that 151<sup>st</sup> St. S. was being called a “county road,” and was a Sectionline road, but that it was also a city street, and that he believed it was possible that both Tulsa County and the City of Bixby would have to approve curb cuts. Mr. Enyart stated that, for whatever was built on the land, if curb cuts were required, they could be approved wherever they were needed.

Vice/Acting Chair Larry Whiteley recognized Dale Williams of 225 E. McKennon Ave. Mr. Williams stated that the property should not be sold and should not be developed. Mr. Williams stated that the City had put 2” of asphalt on McKennon Ave. and now there was just 2” more of standing water and flooding. Mr. Williams stated that this would not work on Washington St. either. Mr. Williams stated that the two bedroom house next to his rented for \$750 per month, and so he knew there was demand for townhouses. Williams stated that his property value would decrease now that there was a four (4) lane highway behind his house. Mr. Williams stated, “We’re not ready for commercial.”

Vice/Acting Chair Larry Whiteley stated that the property was owned by the City, which meant that everyone was paying for it with taxes. Mr. Whiteley asked rhetorically if everyone in the City wanted to pay to mow the property or put in and maintain a park. Mr. Whiteley indicated that this did not just affect the immediate neighbors. Mr. Whiteley stated that he did not know if the property would be sold, but that the City wanted a suitable [Comprehensive Plan designation] so that it could be put up for sale. Mr. Whiteley stated that [the successful bidder] would have to propose a PUD. Mr. Whiteley stated that the City was just like any other citizen, and had the right to ask to change [the Comprehensive Plan designation] in order to make the land more valuable. Mr. Whiteley stated that developers do this all the time. Mr. Whiteley stated that they want to increase their property values and get their property rezoned or approved for PUD, and in a few months, nothing is being done, and there is a for sale sign on the property. Mr. Whiteley asked Erik Enyart if this was not correct. Mr. Enyart stated that he believed this was correct and that he believed it was incumbent upon the City to get as much for the property as possible in respect to what taxes were used to secure the property in the first place. Mr. Enyart stated that selling the land and allowing others to build on it, thereby taking it off the City’s rolls and putting it back on the tax rolls, would be a win-win from the City’s perspective.

Ted Crain thanked the Commission for clarifying his questions. Mr. Crain stated that he now knew that it was just the City wanting to do this, and not someone else.

Erik Enyart stated that there were private interests that initiated this amendment. Mr. Enyart stated that he did not know how they were involved in the possible development, but that they brought it to the City Council in the first place with the concept of developing townhouses on the property. Mr. Enyart stated that there was no guarantee that the City Council would put the land on sale as

surplus, that there was no guarantee that someone would buy the property, that there was no guarantee that the City would agree to sell the land for the offered price, that there was no guarantee that it would be the same people who would bid on the land [as came forward initially], that there was no guarantee that they would develop the property, and that there was no guarantee that they would develop it for townhouses. Mr. Enyart stated that he could not guarantee any of this, but could only explain how this process started and, now that we are here, describe the options available.

Jeff Baldwin stated that he appreciated everyone for discussing this case with the Commissioners. Mr. Baldwin stated that it was a reach for someone to have said that any of this was “illegal activity.” Mr. Baldwin described the public hearing process and stated that, to his knowledge, no final decisions had been made.

Vice/Acting Chair Larry Whiteley recognized Pamela J. Pope of 404 N. Riverview Rd. Ms. Pope stated that it would ruin the properties if townhouses were built. Ms. Pope stated that it would look bad to have townhouses across the street from the little houses on Washington St.

Lance Whisman expressed concern for reducing the size of the land while increasing the size of the development. Mr. Whisman indicated that the proposal would change the intensity of development.

Erik Enyart stated that one of the exercises that the Commission should be doing with this amendment proposal was to determine whether the infrastructure was there to support the increase in intensity, including streets, water, sewer, and other utilities. Mr. Enyart stated that the City has done this with the 151<sup>st</sup> St. S. widening, as there was now improved infrastructure serving the property.

Lance Whisman stated that 151<sup>st</sup> St. S. may have been widened but the proposal was to put the driveways on Washington St., and that it was not in good shape. Erik Enyart stated that, at [the last meeting], JR Donelson had said that the developer could partner with the City to upgrade Washington St. Mr. Enyart stated that this was hearsay and could not help here, but that he agreed that Washington St. was not in good shape.

Lance Whisman, Erik Enyart, the Commissioners, and others in attendance noted that it was premature to discuss conceptual site plans since it was not known what would eventually be built on the property.

Dale Williams stated that the City needed sidewalks, everywhere, for kids to use and for people to walk on and be safe.

Larry Whiteley stated that he had heard time and time again people objecting to development of that “pretty field across the street.” Mr. Whiteley asked, rhetorically, if he owned that field, would he not want to do something with it, or sell it to someone if they wanted to give five times what he paid for it.

After further discussion, Vice/Acting Chair Larry Whiteley asked to entertain a Motion. John Benjamin made a MOTION to RECOMMEND APPROVAL of BCPA-6.

Acting/Vice Chair Larry Whiteley recommended that the Motion leave the Residential land use designation in place, so that if the land sold, the Commission would have more control over the development. John Benjamin Amended his Motion to: MOTION to RECOMMEND APPROVAL of BCPA-6, but that the Residential land use designation remain. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

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

Erik Enyart advised those in attendance that this case would be on the City Council agenda the following Monday, June 27, 2011.<sup>1</sup>

Ted Crain thanked all of the Planning Commissioners for taking the time to listen and debate the matter at length. The Commissioners indicated favor for having taken the time to review the matter in detail.

Those in attendance left at this time.

Lance Whisman asked if the City could be sued if a developer was denied a Comprehensive Plan Amendment request. Erik Enyart stated that the City could be sued if a property owner was turned down at any stage in the development process, such as the Comprehensive Plan amendment, the rezoning, the PUD, or the plat. Mr. Enyart stated that, since the Comprehensive Plan was the City and the City Council's policy document, he would think that a property owner would have much more of a case if they were turned down for a rezoning that was consistent with the Comprehensive Plan than for being turned down at this stage.

Erik Enyart advised Vice/Acting Chair Larry Whiteley that there were agenda items from the beginning of the agenda which needed to be taken up, starting with Agenda Item number 1.

1. Annual nominations and elections for Chairperson, Vice-Chairperson, and Secretary (City Code Section 10-1-3).

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Vice/Acting Chair Larry Whiteley introduced the item. John Benjamin expressed favor for keeping the leadership as it is. Erik Enyart stated that he would be honored to serve another term as Secretary.

After further discussion, John Benjamin Nominated and made a MOTION to ELECT Thomas Holland as Chair, Larry Whiteley as Vice-Chair, and Erik Enyart as Secretary. Jeff Baldwin SECONDED the Motion. Roll was called:

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<sup>1</sup> Erik Enyart notified those in attendance by letter that the City Council would only read the ordinance at that meeting and would discuss and consider approving the amendment ordinance at the July 11, 2011 meeting.

ROLL CALL:

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

3. Case # AC-11-06-01. Discussion and possible action to approve a replacement ground sign for “My Dentist Dental Clinic” at 12106 S. Memorial Dr., Lot 1, Block 1, *Braums Addition*.
4. Case # AC-11-06-02. Discussion and possible action to approve wall sign(s) for “My Dentist Dental Clinic” at 12106 S. Memorial Dr., Lot 1, Block 1, *Braums Addition*.
5. Case # AC-11-06-03. Discussion and possible action to approve a ground sign for the *The Boardwalk on Memorial* shopping center at 12345 S. Memorial Dr., part of Lot 1, Block 1, *The Boardwalk on Memorial*.
6. Case # AC-11-06-04. Discussion and possible action to approve a wall sign for “The Buzz Hooka” at 8222 E. 103<sup>rd</sup> St. S., Suite 100 in the *The Palazzo* shopping center, part of Tract A, *101 South Memorial Center*.
7. Case # AC-11-06-05. Discussion and possible action to approve a wall sign for “Brainbox Tatoo” at 13330 S. Memorial Dr. Ste. 9 in the “Riverbend Shoppes” shopping center, Lots 1, 2, & 3, Block 1, *Riverbend Commercial Center Amended*.

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Vice/Acting Chair Larry Whiteley introduced Consent Agenda Items numbered 3 through 7, inclusive, and asked Erik Enyart if they were like similar such cases where they had already been approved. Mr. Enyart confirmed and stated that, in all of these cases, Staff had reviewed and approved the sign permits, finding that the signage conformed to the Zoning Code requirements. Mr. Enyart requested ratification of the approval given.

John Benjamin made a MOTION to APPROVE Consent Agenda Items numbered 3 through 7, inclusive. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

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

Lance Whisman asked why the Planning Commission was being asked to approve signs after the City already issued permits. Erik Enyart stated that the primary reason was because the Zoning Code required Planning Commission approval of all signs within the Corridor Appearance District. Mr. Enyart stated that, in or around 2006, the City passed an ordinance streamlining the process, paraphrased as, “If any sign meets the Zoning Code requirements, the Staff shall approve the permit and place it on the next Planning Commission agenda for ratification.” Mr. Enyart stated that the sign companies and businesses did not want to wait a month and a half to get their sign permits. Mr. Enyart stated that, from a planning standpoint, it was good to have control over signage within the City’s commercial corridors, but agreed that this change “cuts it off at the knees.” Mr. Enyart stated, in a perfect world, that 2006 ordinance would be repealed, but that he considered it much

more likely that it would go the other way, and that signs would not go to the Planning Commission for approval at all. Mr. Whisman indicated he considered that more likely as well.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

ADJOURNMENT:

There being no further business, Vice/Acting Chair Larry Whiteley declared the meeting Adjourned at 7:14 PM.

APPROVED BY:

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Chair

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Date

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City Planner/Recording Secretary