

**MINUTES
PLANNING COMMISSION
116 WEST NEEDLES, BIXBY, OKLAHOMA
August 15, 2016 6:00 PM**

CALL TO ORDER- 6:08 PM

ROLL CALL

PLANNING COMMISSION (PC):

Members Present: Mr. Steve Sutton
 Mr. Tom Holland
 Mr. Lance Whisman

Members Absent: Mr. Jerod Hicks
 Mr. Larry Whiteley

STAFF PRESENT:

Patrick Boulden, Esq., City Attorney
Marcaé Hilton, City Planner

CONSENT AGENDA-Lance Whisman, PC Chair

1. Approval of Minutes for the Planning Commission Meeting: June 20, 2016
Move to the August 15, 2016 Planning Commission Meeting

2. **CONDITIONAL FINAL PLAT-Quail Creek Villas (PUD 76)-Applicant, Justin Morgan of Tanner Consulting**
Discussion and Recommendation on the Approval of a Final Plat for approximately 11.605 acres for the purpose of finalizing a Single-family Residential Development in Section 02, T17N, R13E
Property Generally Located: West of Memorial one-quarter mile and south of 121st Street South one quarter to one-half mile
REQUEST: Approval of Conditional Final Plat of Quail Creek Villas PUD 76

EXISTING ZONING: (CG) General Commercial District with PUD 76

LOCATION: 7300-block of E. 121st St. S.-West of Memorial one-quarter mile and south of 121st Street South one quarter to one-half mile

STR: Section 02, T17N, R13E

SIZE OF TRACT: 11.605 Acres

LOT INFO: 46 Lots
 2 Block
 4 Reserves

PUBLIC INPUT: No known comments

BACKGROUND INFORMATION:

SURROUNDING ZONING AND LAND USE:

North: PUD 76:CG-Commercial General District-undeveloped

West: PUD 76:CG-Commercial General District-developed as Single-family Residential and undeveloped, (AG) and Frye Creek Ditch #1 to the far west of PUD 76

South: Pending: BXZO-16.05 & BXPUD-16.03 RS-3 Single-family Residential, (AG)- agriculture parcel-Frye Creek Ditch #1

East: (RS-3) Single-family Residential-Undeveloped, PUD 76:CG-Commercial General District-undeveloped

GENERAL: The Conditional Final Plat, Quail Creek Villas (PUD 76) is generally located south of 121st Street and approximately 1/4 mile west of Memorial. The proposed plat consists of forty-six (46) lots and two (2) Blocks on 11.65 acres. City Council conditionally approved the Preliminary Plat during the regularly scheduled meeting of January 13, 2014. The property is currently zoned CG with PUD 76 as an overlay. *PUD 76 "Scenic Village Park" & BZ-364*, was submitted for application by Tanner Consulting, LLC, Planning Commission recommended Approval 02/27/2013 and City Council Conditionally Approved 03/25/2013 as amended at the meeting (Ord. # 2116).

The Technical Advisory Committee (TAC) heard this item on Wednesday, August 3, 2016. TAC, Staff and Fire Marshal comments are included below. Staff requests all outstanding comments be resolved before submittal of the Final Plat to City Council.

Staff believes the Final Conditional Plat for Quail Creek Villas meets the requirements of the Zoning Regulations and Bixby Land Use.

COMPREHENSIVE PLAN:

Land Use Intensities: None

Land Use: None

Urban Design Elements: Corridor

EXHIBITS:

Conditional Final Plat Quail Creek Villas

Aerial Map

STAFF RECOMMENDATIONS:

Staff recommends approval of the Conditional Final Plat of Quail Creek Villas, PUD 76 subject to the resolution of comments from Staff and outstanding comments from the Preliminary Plat process.

TAC COMMENTS: August 3, 2016

1. Add Utility Easements:
 - a. Block 1-Lots 17/16, Lots 12/11, Lots 7/6
 - b. 5 feet on each side

PLANNING COMMENTS: Not Complete List

2. Before the City Council Final Plat hearing:
 - a. Please provide release letters from all utility companies serving the subdivision as per Subdivision Regulations Section 12-2-6.B.
 - b. Please have plat corrections completed before the City Council meeting. City Council reserves the right to make additional changes.
3. At the appointed time, please confirm the City of Bixby has the current HOA information including a copy of the Secretary of State Incorporation documents for placement in the permanent file and for notification to the Bixby Neighborhood Coordinator, along with the names and contact information of the current HOA Officers.

ENGINEERING COMMENTS: FORTHCOMING

FIRE MARSHAL COMMENTS:

Final Plat PUD 76 "Quail Creek Villas" are approved by this office with the following conditions:

4. All hydrants shall be operable before construction begins.
 - a. Brand- AVK or Mueller , Color- Chrome Yellow
 - b. Fire line supporting the fire hydrants shall be looped.
5. All roads and Second means of access capable of supporting an imposed load of 75,000 pounds shall be in place before construction of homes. (IFC 2015 Appendix D Chapter 5)
6. Islands shall have mountable curbs.

Lance Whisman, Chair: is the applicant present

Applicant, Justin Morgan, Tanner Consulting, 5323 S. Lewis: nothing to add

Tom Holland, PC: questions about zoning and PUD, discussion ensued, PUD allowed for CG with residential

Patrick Boulden, City Attorney: this is not a topic that is on the agenda, zoning is not an application before you for discussion, all you have is the plat, it may be a concern for future applications, but there is no application for a change in zoning

Tom Holland, PC: with that being said Patrick, it could still be a factor in whether or not it is approved couldn't it?

Patrick Boulden, City Attorney: I don't know how, if it is compliant with all the requirements which were imposed originally, that is the only issue.

Marcae' Hilton: He is correct, when you are looking at a plat, you are to consider the requirements for a plat. (DISCUSSION) I can address it on the next item.

Tom Holland, PC: what are the lot widths? (DISCUSSION)

Marcae' Hilton: this item is on the consent agenda, I should have said something. If you want to have a discussion, you should have pulled it from the consent agenda, and is voted on as one item. (DISCUSSION)

Steve Sutton, PC Vice Chair: Did you take roll or did you make a motion to approve the consent agenda? (DISCUSSION)

Patrick Boulden, City Attorney: The appropriate motion would be to approve item number 2 on the consent agenda (DISCUSSION)

MOTION TO APPROVE: Steve Sutton

SECOND: Tom Holland

APPROVED: 3-0-0

PUBLIC HEARINGS-Lance Whisman, PC Chair

3. ZONING-BXZO-16.05 Cottages at Quail Creek & PUD-BXPUD-16.03 Cottages at Quail Creek Applicant, Ricky Jones of Tanner Consulting

Discussion and Recommendation on the Approval of a Zoning change from AG (Agricultural District) to RS-3 (Residential Single Family District) and Approval of the companion Planned Unit Development for approximately 8.851 acres for the purpose of a Single-family Residential Development in Section 02, T17, R13E

Property Generally Located: West of Memorial one-quarter mile and north of 131st Street South one-half mile

Marcae' Hilton-REQUEST: Zoning Change from AG (Agricultural District) to RS-3 (Residential Single Family District) in conjunction with PUD *BXPUD-16.03 Cottages at Quail Creek*

EXISTING ZONING: AG (Agriculture)

REQUESTED ZONING: RS-3 (Residential Single Family District) & PUD

LOCATION: West of Memorial one-quarter mile and north of 131st Street South one-half mile

STR: Section 2, T17N, R13E

SIZE: 8.851 Acres
40 Lots, 2 Reserves

EXISTING USE: Agriculture (AG) (unplatted)

PROPOSED USE: Single-family Residential

PUBLIC INPUT: (1) REQUEST FOR A COPY OF THE PUD

BACKGROUND INFORMATION:

SURROUNDING ZONING AND LAND USE:

North: PUD 76:CG-Commercial General District-partially developed as Single-family Residential and partially undeveloped

West: PUD 76:CG-Commercial General District-developed as Single-family Residential with (AG) and Frye Creek Ditch #1 to the far west of PUD development

South: (AG)-undeveloped agriculture parcel-Frye Creek Ditch #1

East: RM-Residential Multi-family development (Encore on Memorial)

The applicant has two requests: change the Zoning to RS-3 and the acceptance of the Cottages of Quail Creek PUD in order to complete the next phase of the Quail Creek of Bixby and Quail Creek Villas of Bixby development. The Reserve Area will be combined with Reserve A and Lot 40, Block 2, of Quail Creek (Plat #6613) to provide a neighborhood amenity containing accommodations such as a pool, clubhouse, and play area. This collective area, located in the northwest corner will serve as the second point of access to the subdivision and as a connector street to Quail Creek. The Reserve A and Lot 40, Block 2, Quail Creek of Bixby will be replatted with Cottages at Quail Creek and the combined area will be set aside for use by residents of the various Quail Creek subdivisions. If the project is approved, a Minor Amendment to PUD 76 will be required for Quail Creek, to allow Lot 40 Block 2 to serve a use other than residential.

COMPREHENSIVE PLAN:

Land Use Intensities: None

Land Use: None

Urban Design Elements: Corridor

ATTACHMENTS:

Case Map Zoning

Case Map PUD

Ariel Map

Draft PUD

Plat #6613, Quail Creek of Bixby PUD 76

Staff believes the proposed Zoning and PUD request meet the requirements of the Zoning Regulations and Land Use objectives.

STAFF RECOMMENDATION

1. Staff recommends Approval of BXZO-16.05 COTTAGES AT QUAIL CREEK
2. Staff recommends Approval of BXPUD-16.03 COTTAGES AT QUAIL CREEK

Both with the following conditions:

PLANNING COMMENTS (not a complete list)

1. Review and correct PUD
2. Platting will be requisite for the new development with the necessary Right of Way and Utility Easement Dedications

3. A minor amendment to PUD 76 (Plat #6613) to allow Lot 40, Block 2 to serve as an amenity rather than a Single-family residence
ENGINEERING COMMENTS (forthcoming)

TAC

4. Look at Cul-de-sac length
5. Joey, Fire Marshal-Send modeling on new development
6. Joey, Fire Marshal-Consider radii of turnaround (80')
7. Not Gated
8. Shared Pool
9. Joey, Fire Marshal-Consider red marking for fire lane adjacent to pool

FIRE MARSHAL COMMENTS

10. All hydrants shall be operable before construction begins. Hydrants shall be located no further than 600 feet apart. (Submit water plans to this office prior to final plat approval)

- A. Brand- AVK or Mueller , Color- Chrome Yellow
- B. Hydrants shall be located at the entry of any cul-de-sacs.

11. All roads and Second means of access capable of supporting an imposed load of 75,000 pounds shall be in place before construction begins. (IFC 2015 Appendix D)

- A. Cul-de-sacs shall be designed to meet IFC 2015 Figure D130.1
- B. Fire lanes and signage may be required for second entrance.
- C. Grades shall not exceed 10%

12. Any gates proposed now or in the future shall meet the City of Bixby Ordinance 9-7-2. (Plans shall be submitted to this office for approval)

App

Applicant, Justin Morgan, Tanner Consulting, 5323 S. Lewis: it will be RS-3 zoning, the front setbacks are a little less, it is the same developer as Quail Creek and Quail Creek Villas, fits nice and acts as a good transition between multi family. 1800 sq. foot allowed minimum but most likely 2,200 square foot houses. (DISCUSSION), asking for reduction in setback and minimum lot size.

Tom Holland, PC: We have had problems every time we approve this. (DISCUSSION) 5 feet on each side, 11 feet along back.

Marcae' Hilton: nicer houses less yard

(DISCUSSION) gated vs. non-gated, number of lots with 65' vs 55', page 3 (TOM) table 3 says it would permit many more if allowed to be CG. Are you going to have 45 lots? (DISCUSSION) height limitation for a reason

MOTION TO APPROVE ZONING-BXZO-16.05 Cottages at Quail Creek: Tom Holland

SECOND: Steve Sutton

APPROVED: 3-0-0

(DISCUSSION ON HOA DUES): **Justin**, usually a 15 year maintenance schedule. Unknown costs...\$2000.00 year, less for other houses, agreement amongst 2 PC to support gate
Marcae' Hilton: How would that impact the amenity area? (DISCUSSION) Staff has not looked at it to see if they would be in support nor has the Fire Marshal. (DISCUSSION) screening, common fencing along collector street, apartments already have wrought iron, standard privacy fence along south.

Justin-Applicant: smaller lots, smaller homes, private homes, gate plus-second gate-now all gates are all slider required by Fire Marshal, currently open access between two residences.

Tom Holland, PC: NO exclusivity at all? Would it be appropriate if we proposed it be a private gated community? I want the project to go forward

MOTION TO APPROVE PUD-BXPUD-16.03 Cottages at Quail Creek as recommended by staff with the stipulation, it be a gated PUD as opposed to an open development (due to smaller lot size). (DISCUSSION)

Patrick Boulden, City Attorney: what is the connection to gated community and the size of lot?

Tom Holland, PC: the PUD'S we have addressed that have small lots are lesser income type homes and either the people that join them or adjoin them don't like them because they have created problems for their home values. In a gated community, they usually maintain a higher value because it is a restricted area and the people that buy there like the security and they don't want to mow yards. You are attracting a different clientele entirely when you do that and the price of the property maintains well...

Steve Sutton, PC: setback discussion (mowing & weed eating issue)...we all want to look back 5, 10, 15 years from now and that was nice we put that there....the value has risen, the upkeep is good, so if you do this motion and you say "why" then City Council can have that conversation, at least we have said we like what you did, can you throw in a gate....

Patrick Boulden, City Attorney: I think it is important you have a planning reason for it.

Tom Holland, PC: ...Our past experience has been mostly negative where there are small lots abutting other addition, we have filled this room before with people outraged before

Patrick Boulden, City Attorney: I don't think that logic is true, and I come from an experience where a gated community is discouraged, that is a planning thing not a legal issue...

Tom Holland, PC: more discussion (apartments could be an issue)

Marcae' Hilton: Mr. Dodson building these homes, (JUSTIN) yes that is the plan (DISCUSSION)...I am not sure what Joey's (FIRE MARSHAL) stance will be and I do not know if there is enough room to do a gate with the way it is laid out at this time. It looks to me like it would be near impossible on that cul-de-sac area to put a gate in (DISCUSSION)

Tom Holland, PC: trying to compromise in my own mind from the 55' lot width, if you want to go 65' I will vote for it....(DISCUSSION)

MOTION TO APPROVE (Tom Holland) PUD-BXPUD-16.03 Cottages at Quail Creek as recommended by staff with the stipulation, it be a gated PUD as opposed to an open development (due to smaller lot size).

(DISCUSSION): **JUSTIN:** Mr. Dodson will be at City Council and he can discuss the economics at that time... **TOM HOLLAND, PC:** optimally, if the developer could come to us and we could have this discussion, I am really not asking for City Council to make the decision...

SECOND: Steve Sutton

APPROVED: 3-0-0

Steve Sutton, PC: Mr. Dodson could call Tom Holland.

4. PRELIMINARY PLAT-Willow Creek Estates, Blocks 6-11 (PUD 78)-Applicant, Ryan McCarty of Select Design

Discussion and Recommendation on the Approval of a Preliminary Plat for approximately 60.81 acres for the purpose of a residential development in Section 12, T17N, R13E

Property Generally Located: west of Mingo Road and south of 131st Street

Marcae' Hilton-REQUEST: Approval of Preliminary Plat, Willow Creek Estates, Blocks 6-11, PUD 78

EXISTING ZONING: (RS-3) Residential Single-Family District, (RM-3) Residential Multi-Family District, & PUD 78

LOCATION: West of Mingo Road and south of 131st Street

STR: Section 12, T17N, R13E

SIZE OF TRACT: 60.81 Acres

LOT INFO: 195 Lots
6 Block
3 Reserves

PUBLIC INPUT: No known comments

BACKGROUND INFORMATION:

SURROUNDING ZONING AND LAND USE:

North: AG (Agriculture District), undeveloped farmland

West: PUD 78:RS-3 Willow Creek Estates (Single-family Residential), RS-3 (Single-family Residential), Blue Ridge II, Blue Ridge Estates

South: RE (Residential Estate), Southwood South Addition

East: AG (Agriculture District)

GENERAL HISTORY: The *Willow Creek Estates (PUD 78)* is generally located West of Mingo Road and south of 131st Street.

Step One of Willow Creek:

PUD: Willow Creek (PUD 78), applicant Rosenbaum Consulting, LLC, requested approval for a PUD *parent tract*, Planning Commission recommended Conditional Approval 05/02/2013 and City Council Conditionally Approved 05/13/2013 (Ord. # 2120 approving PUD, 09/23/2013 upon receipt of the "Final As Approved" PUD on 09/11/2013).

PRELIMINARY PLAT OF WILLOW CREEK PUD 78, applicant Rosenbaum Consulting, LLC, requested approval for a 291-lot residential subdivision for parent tract, Planning Commission recommended Conditional Approval 05/02/2013 and City Council Conditionally Approved 05/13/2013.

Step Two of Willow Creek:

FINAL PLAT OF WILLOW CREEK ESTATES PUD 78 was filed in Tulsa County on August 24, 2015 Plat # 6625, 111 Lots in five (5) Blocks and five (5) Reserves

SURVEYORS AFFIDAVIT: Multiple scrivener errors were found and corrected per DOC# 2016072984 filed with the Tulsa County Clerk for nine (9) errors found in the plat "Willow Creek Estates".

Step Three of Willow Creek:

PRELIMINARY PLAT OF WILLOW CREEK, Blocks 6-11 (PUD 78), applicant Ryan McCarty of Select Design, is requesting approval of this Phase II of the original Willow Creek Plat (PUD 78). The plat consists of one hundred sixty-five (165) lots and six (6) Blocks on 60.81 acres.

The Technical Advisory Committee (TAC) heard this item on Wednesday, August 3, 2016. Staff, TAC and Fire Marshal comments are included in report. Staff requests all outstanding comments be resolved before submittal of the Final Plat to City Council.

Staff believes the *Preliminary Plat for Willow Creek Estates Blocks 6-11, PUD 78* meets the requirements of the Zoning Regulations and Bixby Land Use.

COMPREHENSIVE PLAN:

Land Use Intensities: Medium, Low, and Development Sensitive

Land Use: Commercial, Residential, Vacant, AG, Rural Residences and Open Land

Urban Design Elements: Borders Secondary Arterial

EXHIBITS:

Preliminary Plat Willow Creek Estates Blocks 6-11, PUD 78
Aerial Map

STAFF RECOMMENDATIONS:

Staff recommends approval of the Preliminary Plat of Willow Creek Estates PUD 78 subject to the resolution of comments from Staff and outstanding comments from the Preliminary Plat process.

TAC COMMENTS: August 3, 2016

1. Marcae'-Resend Plat to Utility Companies with Utility Easements turned on
2. Get hard copy of Plat to Police Department
3. Address 300' Cul-de-sac issue with Fire Marshal
4. Address 600' spacing of hydrants
5. Set up Predevelopment Meeting after Monday, August 15th, 2016
6. Will be heard at Planning Commission on August 15, 2016

7. Will be heard at City Council on September 12, 2016 pending Planning Commission approval

PLANNING COMMENTS: (Not Complete List)

8. Before the City Council Final Plat hearing:

a. Please provide release letters from all utility companies serving the subdivision as per Subdivision Regulations Section 12-2-6.B.

b. Please have plat corrections completed and be ready to run your prints before the City Council meeting.

9. At the appointed time, please confirm the City of Bixby has the current HOA information including a copy of the Secretary of State Incorporation documents for placement in the permanent file and for notification to the Bixby Neighborhood Coordinator, along with the names and contact information of the current HOA Officers.

ENGINEERING COMMENTS: FORTHCOMING

FIRE MARSHAL COMMENTS: FORTHCOMING

Tom Holland, PC: (step 2) 2015, 111 lots, 5 blocks, 5 reserves, (step 3) is what we are seeing now...YES, (DISCUSSION ON PLATTING)

Ryan McCarty, Applicant-11063-D, South Memorial, Tulsa, OK: The preliminary plat was associated with the PUD, not associated with the project at that time. This phase follows the original layout. The rough grading has already been done. The Haikey Creek relief ditch came in. We were basically stuck with the same layout, also the sunburst interceptor runs through this. (DISCUSSION ENSUED).

MOTION TO APPROVE: Steve Sutton

SECOND: Tom Holland

APPROVED: 3-0-0

OTHER BUSINESS

5. DISCUSSION OF SUNSET CLAUSE ON ZONING PER TOM HOLLAND, PLANNING COMMISSION MEMBER.

Marcae' Hilton: essentially, it is an expiration date on Zoning or PUD.

Tom Holland, PC: I ran across this in another state, it is something I have thought about more than once. We have people coming to Planning Commission and City Council with grandeur plans only to be a façade to say it nicely, never intending to do anything, just to get the property to where it is saleable and it sets there for years and nothing ever happens. I don't think it is good for the community, I think if someone comes here with a legitimate project it needs to be built in a timely frame or revert back to the previous zoning or terminate the PUD whatever it happens to be. This is in Missouri, in any case where the "conditional use" is not in use.....(DISCUSSION)

Marcae' Hilton: there are a couple of hiccups to that, one is our Statutory Law that govern our Planning and Zoning in the State of Oklahoma

Patrick Boulden, City Attorney: the treatise is Rathkopf's, The Law of Zoning & Planning, the one zoning attorneys go to first, in the Cases cited, some jurisdictions do allow "Reverter Clauses" or "sunset clause" but some do not due to denial of due process, because of the statutory requirements for a Public Hearing before a zoning change. There is a

suggestion in Rathkopf citing an Oklahoma case, that OK would fall in the latter category, I do not necessarily agree, but it does suggest there would be a requirement before a change in zoning for a public hearing, it would not be automatic you would have to come back for a hearing.

Tom Holland, PC: I am not opposed to that, if you had language in your City Ordinance, then at that time limit it would be automatically be brought back to the Board.

Marcae': automatically would mean the City Planner would bring it back and I think it would be difficult to enforce.

Tom Holland, PC: logistically is another issue, the issue itself, it could be developed? Is the issue itself worth consideration?

Patrick Boulden, City Attorney: I will debate that with you. I think is in not necessarily a good idea, when you do a zoning decision the PC and CC determines if it is consistent with what the plan for the city is, and whether it happens in 5 or 10 years as long as it is consistent with the comprehensive plan your decision should be good. Why would you want to automatically change it in 5 years? Not knowing what 5 years looks like, and let it be the conscious decision of a property owner, if they want to change it then they can do that. Why would you go back in time, simply because it did not happen as fast as you wanted it to.

Tom Holland, PC: I see it differently, I think of it as a hindrance, you are not thinking about that piece of property, you are talking about a large piece of property, if you come in and strip zone something in the middle of that, then you've put barriers on what can be developed on that property. If someone comes in 5 years and they have an idea of what they want to develop, and now they can't, there is 50 acres or 20 acres, but in the middle is 5 which is zoned something that is....**Patrick Boulden**, that sounds like spot zoning.

Lance Whisman, PC Chair: You are thinking that is a deterrent, you want to make somebody put more thought in it rather than just rezone it with no intentional plan

Tom Holland, PC: If people come in here for solely, rezoning property for the purpose of resale, which is their prerogative, but they are misleading to some intent this commission and the City Council, because they have no plans for building that....what good has it done us to rezone that in any capacity?

Patrick Boulden, City Attorney: in the spirit of debate....The only thing you should care about is, is it consistent with the comprehensive plan and is this the direction you want the City to grow....

Marcae' Hilton: ...I would have this comment..., if you have particular zoning somewhere and you purchase your home and you do your due diligence and that land behind you is zoned commercial, you know sometime in the future there is a real possibility a business is coming in beside you. If you build your home and the zoning is residential and that zoning can expire and you bought your home thinking that only residential is going behind you, but someone has a better greater idea....

Tom Holland, PC: they have that now, nothing has changed it is his prerogative.. discussion ensued....if nothing else if someone applies for something with a conditional use

Marcae' Hilton: there are communities with conditional approval of PUD's and the PUD can expire after 2 years. **(DISCUSSION ENSUED)**

Patrick Boulden: it should come up ultimately in the context of the Comprehensive Plan...(DISCUSSION) lets keep in on the table for a discussion with City Council....**Marcae'** It will probably be the end of September.

NEW BUSINESS-NONE

ADJOURNMENT

Motion to adjourn: Tom Holland

Second: Steve Sutton

**FINAL AS APPROVED BY
PLANNING COMMISSION AT THE
SEPTEMBER 19, 2016
REGULARLY SCHEDULED MEETING**