

**MEETING MINUTES
PLANNING COMMISSION
116 WEST NEEDLES, BIXBY, OKLAHOMA
June 20 2016 6:03 PM**

In accordance with the Oklahoma Open Meeting Act, Title 25 O.S. Section 311, the agenda for this meeting was posted on the bulletin board in the lobby of City Hall, 116 W. Needles Ave., Bixby, Oklahoma on the date and time as posted thereon, a copy of which is on file and available for public inspection, which date and time was at least twenty-four (24) hours prior to the meeting, excluding Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

CALL TO ORDER:

ROLL CALL

PLANNING COMMISSION (PC):

Members Present: Mr. Larry Whiteley
Mr. Jerod Hicks
Mr. Steve Sutton
Members Absent: Mr. Tom Holland
Mr. Lance Whisman

STAFF PRESENT:

Patrick Boulden, Esq., City Attorney
Marcaé Hilton, City Planner
Jason Mohler, Development Services Director & City Engineer
Jim Coffey, City (Consultant)

CONSENT AGENDA

Item No. 1. Steve Sutton, Vice Chair: Approval of Minutes for the Special Called Meeting: May 31, 2016

May 31, 2016 Agenda Minutes for the consent agenda were pulled for the Special Meeting.

Item No. 2. Steve Sutton, Vice Chair: BL-403: Bixby Lot Split Request-Applicant, JR Donelson for Linda Conrad

Consideration and possible approval per staff recommendation for a Lot-Split on approximately 2.12 Acres, Section 23, Township 17, Range 13

Property generally located: one-half mile west of Memorial and south of 151st Street -7400 block of 151st Street South

Item No. 3. Steve Sutton, Vice Chair: BL-404: Bixby Lot Split Request-Applicant, Mike Williams of Gardner Capital

Consideration and possible approval per staff recommendation for a Lot-Split on approximately 10.9 Acres, Section 26, Township 17, Range 13

Property generally located: one-quarter mile north of 171st Street and west of Memorial Drive-16900 block of South Memorial Drive

Steve Sutton, Vice Chair: any comments?

Comments from Marcae' Hilton, City Planner regarding use of consent items on Planning Commission Agendas

Steve Sutton, Vice Chair: any comments?

MOTION TO APPROVE: Larry Whiteley

SECOND: Jerod Hicks

ROLL CALL:

AYE: Mr. Whiteley, Mr. Hicks, Mr. Sutton

NAY: None

ABSTAIN: None

Motion Passed: 3:0:0

PUBLIC HEARINGS:

PLATS 9 & 10:

Item No. 9. Steve Sutton, Vice Chair: PRELIMINARY AND FINAL PLAT FOR AUTO OASIS AT 151ST AND MEMORIAL: Applicant, Malek Elkhoury of Khoury Engineering on behalf of L&L Industries, LLC

Discussion and consideration of a Preliminary and Final Plat for Auto Oasis Car Wash, Lot One, Block One, 1.211 Acres
Section 17, Township 13, Range 13

Property generally located: north of 151st Street and East of Memorial
Preliminary and Final Plat for AUTO OASIS CAR WASH, applicant Malek Elkhoury on behalf of L & L Industries, LLC lot 1 blk.1, 1.211 acres, section 17, township 13, range 13.

Comments from Marcae' Hilton, City Planner: Yes, this item came to the technical advisory committee on June 1, 2016, the comments are attached.

It has been, the custom of the planning commission and the previous planning staff to allow preliminary and final plat to be heard at the same planning commission and the city council meeting, based on that I spoke with Mr. Khoury ask that we send it through at the same time it is the redevelopment of a similar product. So we are taking an old car wash and making it a new car wash there is no zoning change, or anything, it is simply a site plan approval and a plat approval. I spoke to the City Manager and he did agree that has been the process and that it was acceptable to go ahead and continue doing that.

Staff believes that the proposed use unit 17 car wash is compatible with the budding and nearby zoning. The plat meets the requirements of the zoning regulations and land use objectives. Staff recommends all comments be resolved before submittal of the final plat. They have already addressed their comments so I will go ahead and say it is essentially the same for item number 9 and 10. But Mr.Khoury has already addressed the comments and will be resubmitting before he goes to City Council and any outstanding comments from

Engineering will also be addressed before it is presented at City Council. Staff recommends approval. If you have any questions, let me know.

Marcae' Staff recommends Approval.

Steve Sutton: Vice Chair: any comments?

MOTION TO APPROVE: Jerod Hicks

SECOND: Larry Whiteley

ROLL CALL:

AYE: Mr. Whiteley, Mr. Hicks, Mr. Sutton

NAY: None

ABSTAIN: None

MOTION PASSED: 3-0-0

Item No. 10. Steve Sutton, Vice Chair: BSP 2016-05 AUTO OASIS AT 151ST AND MEMORIAL: Applicant, Malek Elkhoury of Khoury Engineering on behalf of L&L Industries, LLC

Discussion and possible action to approve the Site Plan for Auto Oasis, 1.211 Acres, the redevelopment of an existing Car Wash a Use Unit 17 automotive-related business Section 17, Township 13, Range 13 Auto Oasis 151 and East Memorial

BACKGROUND INFORMATION: This one is compatible and a companion to the preliminary and final plat we just heard the location is just north of the AT&T store that was recently built and I think will be a nice addition to that corner It should look really nice it definitely an improvement. If you have any questions please let me know?

Marcae'-improvement to corner

Steve Sutton: Vice Chair: any comments?

MOTION TO APPROVE: Larry Whiteley

SECOND: Jerod Hicks

ROLL CALL:

AYE: Mr. Whiteley, Mr. Hicks, Mr. Sutton

NAY: None

ABSTAIN: None

MOTION PASSED: 3:0:0

Item No. 4. Steve Sutton: Vice Chair: BCPA-15: Bixby Comprehensive Plan Amendment-Applicant, JR Donelson, Inc. for Norma ODA Green Revocable Trust

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 change the Comprehensive Plan Land Use map from Low

Intensity & Residential Area to Medium Intensity on Lot 11, Block 7 of the Amended Plat of Block 7, North Heights Addition to the City of Bixby, Oklahoma

Section 35, Township 18, Range 13

Property generally located: west of Memorial and north of 121st St. about one quarter mile.

BCPA-15 Bixby Comprehensive Plan amended amendment Applicant JR Donelson, Inc. for Norma ODA Green revocable trust

Public Hearing to receive public review and comment and clinic recommendations regarding the adoption of proposed amendment in the comprehensive plan of the City of Bixby Oklahoma specifically to change the comprehensive plan land use management low intensity and residential area to medium intensity on Lot 11 blk. 7 with amended by blk. 7 North Heights addition City of Bixby, Oklahoma, Section 35, Township 18, Range 13

Marcae', City Planner

BCPA proposes to remove residential area specific land use designation from lot 11 to allow it to be rezoned to OL which is office low intensity and to be developed as part of PUD 93 along with a medium intensity designation. The matrix to determine Bixby zoning relationship to Bixby comprehensive plan on page 27 of the comprehensive plan provides that OL zoning is found in accordance with medium intensity designation in the comprehensive planned land use map. Due to the surrounding zoning and land use as listed and described in your packet staff believes the proposed OL zoning and proposed PUD 93 should be found in accordance with the comprehensive plan provided they are proved together and along with BCPA 15 so you are going to see there are actually 3 parts to this PUD, the first step is to change the comprehensive plan, then if you choose to approve that we can move forward and vote on the zoning and the PUD.

I do want to note that due to a 3rd party signage error this item was scheduled to be heard on April 18th and there was a signage error and it did not meet the open meeting/public hearing act it was cancelled or I should say it was moved to the next meeting. That meeting as you kind of alluded to earlier was then cancelled on May 16 due to lack of quorum.

Steve Sutton: thank you again for your patience (public)

MR. DONELSON: Absolutely Mr. Chairman and Board I represent the Norma Green Revocable Trust we're asking that the comprehensive plan be changed which will allow the zoning of OL as you will hear in just a few minutes we believe that the OL zoning on the particular lot at 11 is consisted with other zoning in the area and it is a good zoning practice to move from commercial to OL to residential and for that reason that's the reason we made the application for the changing of the comprehensive plan. This then allows us with the OL zoning changed to present the PUD before you tonight which you will see also will be something beneficial to the City of Bixby and this particular area.

Citizen-Harley Gundy Sr., 11647 South 73rd East Avenue, Bixby, Oklahoma. I am Vice President of North Heights Homeowners Association. I am going to speak against the change because that is our main entrance to our addition, and we are not against development but we don't want anything that is going to be detrimental to us getting to our house. That's the main entrance to North Heights 118th and Memorial. Again, we are not against development. We want something very low impact in that area. Jiffy Lube has been a good neighbor across the street. Something that would not require any more effort or cars than Jiffy Lube would be satisfactory. A small office, a dental office, doctors office we are not against development. We just want to control access to our neighborhood. Thank you.

Citizen-Lyn Ledford, 7734 E 118th St. As the gentlemen just said, Mr. Gundy, my property as well as Mr. Potter's property are the ones will be most affected by this. I just think a less intensity zoning will be more appropriate and not affect the value of our property the way a medium intensity would be. I just think with the zoning being proposed at medium there's a variety of businesses that could be put in place that wouldn't be acceptable and have the impact on the value of our property. So therefore again I propose something of less intensity be considered. Thank you.

Citizen-Jay Mauldin, 7341 E 119 PL. I am here to speak in opposition to this method of going about doing what we are trying to achieve. My recollection is that at a previous meeting I believe it was Commissioner Sutton commented to some folks that if you want to stop something cold in its tracks, and please correct me if I am wrong, but Council is the place to do that. This is more the technical arm and what we decide here is less often are we or are we not going to do something as contrasted with how might we go about doing that. What I am suggesting to you this evening is that, going about doing it this this way is a massive overreach. Allow me to explain it to you, there are three components to this, the first one is the comprehensive plan amendment. In order to get to the rezoning which is the second step, which not anyone has a problem with this residential lot being rezoned as office low. I don't think anyone is going to have generic opposition to a PUD that would contemplate OL CS uses as a matter of right. What this comprehensive plan amendment does is exactly what staff did not want to do a year ago, it moves medium intensity, I think is opens the door for commercial zoning to move further into North Heights Neighborhood. If you want, I have comments from the staff report when we dealt with this last year, if you want to see that?

(copies of staff comments handed to members of the meeting)

Citizen continues: Jay Maldin, 7341 E. 119 PL, On the first of those two pages, page 40, you can see in the middle where it got blocked out, the reference to July 20, 2015, the ideal last year when we were looking at these same three lots, the exact same three lots, couple I think it was the same one you were talked about earlier this evening, it sought OL zoning on lot 11, what it did not seek was medium intensity, as this shows the low intensity designation would have been retained for the lot 11 subject property, when you get to the matrix on page 27, OL zoning may be found in accordance with low intensity, that is further evident at the bottom of this box. Same Land, same three lots, last year, sought to deal with

this by retaining the low intensity designation, what this will do will change the low intensity to medium intensity, to change from residential to commercial, so if you adopt this language which is not necessary to get to the OL, if you adopt this language, what it does it opens the door, for once this is all done, for yet another request to appear before you to take this from OL to CS, and if we do that, then that negates the transitional, it's value of a transitional buffer between residential on the west to commercial on the east. I don't know how you can say no to a future CS request. Because the land map in the comprehensive plan once a land use is assigned to a piece of land. Then the plan recommends that the land be developed in that manner. Currently the land, this is why you have this amendment in front of you, the comprehensive plan says this is low intensity residential area, and lot 11 is recommended to be developed as residential. That's why you have to take it out of residential in order to rezone it OL, which nobody has a problem with. But you don't have to have medium intensity, commercial area in order to do it. If that were the case, then what we went through last summer was a joke. So what we are saying, staff last summer did not know what it was doing when it put this together. Clearly, this time around, we've had some changes, we've got a new City Planner, new City Engineer, new City Manager, new City Treasurer and some other folks, I think the reason this was in the staff report last time was two-fold

One, we had an actual proposal we knew what we were going to deal with rather than a plethora of uses, we knew it was going to be an automated car wash town plus more and more importantly the staff had counseled applicant to seek zoning in that matter and therefore I think it was appropriate for staff to include that in the staff report last year. I want to make it clear I am not dumping on our new staff. I am very optimistic about our new staff member's ability to deliver a quality work product for your consideration.

On this second page that I handed to you, where I've got it blocked out about 2/3 of the way down it comments that the CS and OL zoning would substantially mirror that which is on the south side, which is the Jiffy Lube area, and is said it would maintain the existing intensity and the land use patterns established for this section on the west side of memorial, which is the only entrance to North Heights, Yes, you can get to it through Fox Hollow, but that is the only entrance to Fox Hollow, it is really one big neighbor with an entrance to North Heights and entrance to Fox Hollow. So let's keep in mind we are dealing with a neighborhood that has been there what 40-45 years. It has been there a while. So this is what Staff says: In other words this method does not require amending the comprehensive plan to extend medium intensity or commercial zoning further into the North Heights neighborhood. Now if you approve the language tonight, you would be opening the door for that. You would actually be moving medium intensity further into the neighborhood. In doing so in a way that I think opens the door for you have to honor any CS request that comes forward in the future. How do you say no to a zoning request for commercial zoning on land that the comprehensive plan would then recommend it be developed in a commercial manner? I think you would have to do it. Is it appropriate at this point to discuss the PUD?

Patrick Boulden, City Attorney: I think that the only thing is comprehensive plan right now, other speakers have gone beyond that, the actual zoning, but you don't even get to the zoning if you don't get to the comprehensive plan so I think it is a three step process.

Citizen continues: Jay Mauldin, Okay, well I think that is pretty much what I have for you as for regards the comprehensive plan amendment. You don't have to do it this way. I am not oppose to doing it. The folks from North Heights are not opposed. If there is anybody in the room oppose to this, raise your hands. Let the record reflect I see no hands raised. I don't know anybody who is oppose to doing this. As I mentioned at the get go, at the outset. We are not trying to stop this. We are just saying not this way. You don't have to do it this way to get to OL zone. Nothing's changed in the code in this regard since last summer when we could get to OL zone while still maintaining low intensity designation on lot 11. Now when we talk about PUD I can tie this in further. But I just wanted to bring to your attention that, the, what we were doing last year, just a year ago, 29 years ago in 1987, CG zoning was sought for these two lands. We are getting into PUD. I will leave it at that. Are there any questions? Are there any challenges? I am willing to debate anybody on this. We don't have to do it this way. My suggestion would be let's retain low intensity designation on the comprehensive land map.

Staff Member: That would mirror what Jiffy Lube is right now?

Citizen continues: Jay Mauldin, Jiffy Lube is CG with OL on the west. Here on the north side we have two lots that are CS with an RS on the west, we would change that to OL, keep the low intensity designation. That I think would preclude you from having to honor a CS request should it come before you in the future. It retains the OL characteristic for that lot which is supposed to serve as a buffer between the commercial on when end and the residential on the other.

Jerod Hicks, Planning Commissioner: I have a question as it is zoned right now with CS, we had an applicant last year that looked at it and said here is what we want to do on it and he needed that third area on the east to be zoned OL or something

Citizen continues: Jay Mauldin, That was actually on the west

Jerod Hicks, Planning Commissioner: on the west in order to achieve that. Let's say a small footprint came in, a McDonald's, something like that where they don't need that back lot. Couldn't they come in and not really have to come to planning commission to say just like here is what we are doing it is already zoned for that right now and just if they didn't need that third lot but use the front two lots that is already zoned commercial.

Citizen continues, Mauldin: Yes.....my response, of course but I would refer to the City Attorney but those two easterly lots are already zoned CS Commercial Shopping Center, so if someone desires to use that land for a purpose that is a matter of right, allowable by right, a CS zone yes, they could do that today, and this westerly lot could still remain RS. But the car wash they were seeking to do have OL and then put a PUD overlay on top of the two CS's

and the OL. But to answer your question, yes, if somebody wanted to use the two easterly lots for a CS purpose today, they could do it through straight zone.

Jerod Hicks, Planning Commissioner: I guess where I am going with that is we leave it as it is and sounds like the main reason that people don't want high traffic right there is because it is one entrance. But by changing what we are asking for, does that allow a broader spectrum of people that can potentially use that property, maybe it's doctors offices, maybe it's accountants, maybe it's something that is a wider version rather than having to stick with what's there that could potentially have a very high traffic on those front two lots that are already zoned CS.

Citizen continues, Mauldin: I think we are talking about the westerly lot right now. Am I correct? That's lot 11.

Staff Member: that's correct

Citizen continues, Mauldin: That is currently zoned RS. RS 1, Residential Single Family, intensity level one. The applicant seeks to take that to OL and I have a problem with that

Marcaé: I would like to make a comment. The OL zoning requires a medium intensity. According to page 28 of our comprehensive plan, and the medium intensity... I will just read it to you... Areas are those of moderate activity, and effect and physical impact, requiring a high level of accessibility and services. These areas are generally found at the intersection of arterial streets. Medium intensity uses are used as transitional uses between high and low intensities. Medium intensity zoning classifications include PUD, at medium intensity density such as RD, RM 1, so it still includes a medium intensity can still have residential but it would be a higher density. OL, OM, and CS, and some instances ST. Low intensity area is considered a low activity and the zoning classifications are AG, Flood Plain, Residential Estate, RS 1, 2, 3. So it cannot stay a low intensity to get the office zoning.

Citizen continues, Mauldin: I beg to differ

Marcaé: which is why they are here

Citizen continues, Mauldin: on the chart

Marcaé: the little plus sign I believe means

Citizen continues, Mauldin: it means yes, and the o means that it's optional, means it may be found in accordance. That's why I provided the comments from last year's staff report

Marcaé: It would still require them to do a PUD which they are here to do

Citizen continues: correct

Marcaé: Or get a special exception

Citizen continues, Mauldin: Just reading from last year's staff report it says the matrix here on page 27. I got copies if you would like them gentlemen

Marcaé: It is not the same project. Last year was very specific and it was controversial for different reasons not excluding these reasons, but certainly for different reasons.

Citizen continues, Mauldin: What staff found last year, what staff put in report was that, the OL zoning may be found in accordance with the Low intensity designation with the Comprehensive plan land use map. That's why we have the Z to the O when you look at the OL there's an O in reference to low intensity

Marcaé: There was never a key, we assume that means optional or exception

Citizen continues, Mauldin: My reading, if I may, of these reports in the past, particularly this one. When staff put together the report last year. Staff said, the matrix which is found on page 27 which I just handed out, provides that OL zoning may be found in accordance, that's where we have an O, circular symbol, in the box where OL zoning needs low intensity. O means, in the past meant Optional, it may be found in accordance. You can find it in accordance if you so desire.

Marcaé: or usually within certain parameters such as a PUD

City Attorney, Patrick Boulden: Marcaé, we amended that chart to add a key didn't we?

Marcaé: We did. I do not have that amendment with me.

City Attorney, Patrick Boulden: I don't have it either. I don't frankly remember it. What was designated?

Marcaé: But according to last year I don't know what Eric's interpretation of the O, O + sign was?

City Attorney, Patrick Boulden: I will look, find it

Citizen continues, Mauldin: I have looked at a fair number of staff reports and I have always interrupted through staff's language. That the O means it may be optional may be in accordance, as opposed to the horizontal dash which that means no, it's not in accordance with the plan, the plus sign that's a thumbs up yes it is in accordance with the plan. So you have in accordance, may be found, and then there's not in accordance. I don't mean to labor the point or be too argumentative about it but that's why I brought this from staff reports from last year. I know this is a different project but it is the same land, the exact same three lots. That is why I think it is germane, inappropriate, and inadmissible for discussion, because it is the exact three pieces of land. A comprehensive plan amendment to withdraw from residential to rezone to OL and then to put a PUD overlay on top of it. This is what we were doing last year but we knew what the project was going to be. And when we get to the PUD part of this, I will show you a hundred more uses than what we were looking at last year. When this thing went to the City Council and got rejected unanimously. What I am suggesting to you is that the way to pass this is to do so and retain low intensity designation. Because if you don't, if you allow the language being requested which is medium intensity, commercial barrier. How do you say no if after it comes back, once the dust is settled, when this is

finalized, and it's in the book, done deal. Applicant can come back and say now I want CS but we gave you OF, the applicant is going to say, and has the right to say, appropriate to say, the comprehensive plan's land map says its medium intensity and that's its commercial area, and your going to give me CS zone because I'm asking for it, and that's what the plan recommends. And that's where I think you are going to get a lot of angry people if we end up with three CS lots that have a PUD that essentially allows them to be treated as though there CG. We'll get to that here in a little bit. That's what I have for you on this. I know this seems like arcane (known or understood by very few; mysterious; secret; obscure; esoteric) minutia (precise details; small or trifling matters).

Citizen-Jan Swafford: I have a question

Marcaé: If you speak you need to state your name and come to the podium address the planning commission

Citizen-Jan Swafford: I'm Jan Swafford, 11974 S 73rd East Ave. Yes, I am getting lost in everything. But am I clear, that we can accomplish, what they want, by not changing the comprehensive plan. Is that what I am hearing?

Marcaé: It can be done through the PUD process, but it is recommended that they do the comprehensive plan change.

Citizen-Jan Swafford, continues: But if they don't do the comprehensive plan then that protects the residents of North Heights from getting a higher intensity that they don't like.

Marcaé: There are uses allowed in OL that regardless of the intensity, then we go back and look at the zoning, what all is allowed, what use units are allowed in office light, it may still be a use you may prefer not to have.

Citizen-Jan, continues: Well I guess it sounds like the possibility of the encroachment is higher by changing the comprehensive plan and that it would be safer for these residents to not do that part of it and to move on to the next part.

Citizen continues, Mauldin: I think in order to re-zone this as OL I think you have to change the comprehensive plan.

Marcaé: The Comprehensive plan says that OL is allowed. Let Jason read the amendment or the legend.

Jason Mohler, Director of Development Services: I found the matrix that we had modified. The Plus symbol would indicate zoning district in plan category that are in accordance. The O is a zoning district in plan category that may be found in accordance. So the O is as you have described. I think what you have identified is a little bit of conflict in our comp plan. The text portion of our comp plan would indicate that you can only have OL or OM zoning within a medium intensity but that's not what the chart indicates. You have found a bit of a conflict there. At some point we need to go back to the applicant

Citizen Jay, again: I concur.

Jason: and ask about their long term intentions of that lot changing to CS in the future, if there is some agreement there then we may find common Ground

Citizen Jay continues: I wouldn't want to put the applicant on the spot, I mean I don't think the applicant has to tell us what their plans are for the future. The applicant has told us what their plans are for the present, I know we don't want to go to far in the future. We have this in front of us. Jason, I think you are correct in that there apparently there does some exist some differences between the chart and the textural component, that follows on pages 28 & 29. Again, guys I'm just telling you where we were at a year ago with the staff, report a year ago. They said this was going to retain Low intensity designation and it may be found in accordance with the Low intensity designation of the comprehensive plan land map. My concern is, I think to unlock this in order to rezone it OL you have to take it out of the residential area on the land map. I'm not hearing any disagreement about that. I think you do have to change the comprehensive plan. In that, you are changing the land map to remove Lot 11 from residential area.

Marcaé: And that would be consistent with the surrounding area. And the fact that it is part of a corridor and part of Memorial. Which actually extends much further deep, if you looked at how far these lots and the request is verses how far if you go a little bit further south or a little bit further north the zoning is much deeper for commercial and for other land uses besides residential so it would be consistent for what is already been approved for the south.

Citizen Jay continues: But further south and further north you do not have a singular entrance into an existing neighbor. General goal number seven of the comprehensive plan on page 2, it talks about protecting, stabilizing and enhancing existing uses of land. North Heights meets all three, existing use of land. Staff, the reason staff did not want to do this, is explained on the second page of this hand out that I provided to you. It says in other words this method, the one that keeps the low intensity, does not require amending the comprehensive plan to extend medium intensity or commercial zoning farther into the North Heights neighborhood. Prior to application submission staff counseled the applicant to seek only OL zoning for Lot 11 subject property for the reasons just stated. This what you are being asked to do tonight is exactly and precisely what staff did not want to do a year ago. I find that disturbing. I am not opposed, I am not trying to stop this. Not this way. There is another way to do this, we can go it and get it done tonight and move on to council. This ain't it, it needs to retain low intensity. Any other questions?

Sutton: not of you

Mr. Chairman: Mr. Donaldson, obviously in this rodeo once...I know you were going another direction of. Do you see any problems maybe not swinging as it is teed up today, but doing the, not changing the comprehensive plan, just doing it? Can you accomplish it without changing it?

Mr. Donaldson: Mr. Chairman at the time that the application was made and the letter was submitted, we believed we were following the text and not the

Marcaé: that is correct

Mr. Donaldson: the chart matrix. So therefore we believed that we were following protocol to accomplish the rezoning of the PUD.

Marcaé: And that is what I recommended

Mr. Chairman: That was exactly expect your answer, Mr. Follow the rules over there.

Mr. Donaldson: So with that said,

Mr. Chairman: Can you accomplish your goals without?

Mr. Donaldson: no, if council needs to get with staff to clarify something so that is not kicked out after a vote is taken by not only by this board and city council then we would confer to both council and staff?

Patrick Boulden: I'm not sure what you mean by kicked out?

Mr. Donaldson: well I do not want this board to approve or disapprove something, and the city council to approve or disapprove something that then could be taken to district court on a technicality and then we are back to square one.

Patrick Boulden: Yeah, like as far as conflict between the matrix and the language?

Mr. Donaldson: Yes sir

Patrick Boulden: You know, I really haven't got any analysis which one prevail or whether they could be in conjunction or compatible, generally words prevail over maybe chart

Mr. Donaldson: That's my understanding as well

Patrick Boulden: That is a gut reaction, I research, frankly, find out more any law on this. It may boil down to common sense as which one should provide more detail in this ordinance.

Mr. Donaldson: We then would bow to staff recommendation and City Council's recommendation with regards to whether the matrix takes precedents or texts takes precedents with regards to this, knowing that a, you will make the right decision.

Sutton: Let's see that we uncover the issue as it is addressed. In an effort to keep things moving, there would be a way to lean on the side of caution maybe not do as the letter requests and maybe as the matrix consensus. Be more cautious to get going so they then can correct that issue?

Mr. Donaldson: At a later time?

Sutton: Yes

Sutton: Would that still accomplish your goals?

Mr. Donaldson: Yes sir

And yours and your owners? If we could keep things going, and not necessarily get hung up?

Jerod Hicks: Work out the detail medium intensity and low intensity?

With the approval of staff and council I have a problem with that

What is Jiffy Lube? What is that back lot they have that butts ?

It is OL.

But what is the intensity there?

Donelson: What does the comprehensive plan show?

Marcaé: I didn't look that up. Do you know if it was changed?

I believe that is corridor

It's OL but was it low intensity or medium?

I believe it's corridor. South 118th is corridor, north 118th is not

Marcaé: It's the cutting/dividing line

Larry Whiteley: If they put a stop light in at that corner and traffic can get in and out the addition

Donelson: Going actually through ODOT right now, that's not going to happen

Marcaé: No, I wouldn't recommend that either.

Larry: But would that help your addition?

Absolutely, but it's not going to happen

Jerod Hicks: I guess where I am at, I understand and sympathize with home owners and having to deal with one end and one out I mean to get out of there. I have tried to get out of there myself it's a nightmare. I guess what I was looking at, back when we were originally looking at this a year ago, I would assume that a car wash would be much less traffic than a fast food joint. A fast food joint if they only need the front two lots can go in like that (snap), because it is already zoned for that. What I was gathering from the information that were having here, is trying to do an overlay that might attract more opportunities for somebody with dental offices, accounting offices or something like that but that only stays this and that. We might be forced, but I think if you broaden the horizon, to allow, potential buyers to see that there is more than just maybe fast food can go there but something else. In the long term things could be a better benefit for that neighborhood. And if we were to stick with the

way it sits, I think, it may only have a high impact on just those two front commercial spots being a very high traffic area.

Mr. Donaldson: We will confer to staff and staff's recommendations.

Marcaé: Thank you-Based on the previous comments from the previous City Planner and the conflict in the comprehensive plan, I will leave it up to you all if you want to approve it. It sounds like according to JR's comments that he can accomplish what he feels is the vision of his applicant. With keeping it, changing the zoning but not changing the comprehensive plan. They may become a little frustrated, they may miss some opportunities.

Mr. Donaldson: That is correct, there may be some opportunities missed.

Marcaé: I recommended approval because I feel like with the Jiffy Lube and with the proper screening and set-backs with things like that it can still be a very nice. I don't know what would go in, but if you have adequate screening, adequate landscaping, adequate set-backs. It could still be a nice project that would not be a detriment to the community or I should say, would not change any more dramatically by changing the comprehensive plan than it would allowing something to go in and leaving it the same. Either way there is going to be a impact. I felt like, my recommendation, I felt like with the adequate set-backs etc. That it could still be a good project.

Citizen unknown: I would just like to say I don't think it is the intent of the Green family to do any harm to the neighbors and I am not knowledgeable at all about PUD's and different type zonings. I rely on Jay which is very knowledgeable. I think that you will see when the discussion comes up about PUD what could be that land could be used for, then might be clear cut, and we might should not do this.

Marcaé: I hope by the end of July to have an RFP. A Request for Proposals for consultants to update our comprehensive plan. I have found already through the zoning and comprehensive plan process there are a lot of conflicts. It makes these situations very difficult because do you go by what's online, or do you go by what's printed, do you go by what's on this page or do you go by what's in the matrix. It's inconsistent, it makes my job very difficult and it makes your job very difficult. Even with that said, it's a year-long process minimum. We wouldn't be having any significant changes anytime soon, but knowing that it is coming we will all have the opportunity, and the public will have the opportunity to look at the comprehensive plan make those changes at that time.

Citizen unknown: I would like to just call one thing to you all's attention. On 118th street on going back to 73rd, which is the other outlet through Fox Hollow there are three places that cars cannot pass, you got to stop and wait for the other person to go through, if we put something on that corner, and they use 118th street, and they invariably will, because I've seen them going around the stoplight at 121st. We are going to have lot more problems than we can say grace over.

Jay Mauldin: While there will be a lot of trial and error. The folks that do it realize that it's either slower or faster to through that neighborhood to make that short cut, more hassle than it would worth. I want to address Jarod's concern: about leaving things the way they are. Leaving things the way they are would involve leaving Lot 11 as RS. Leaving it as Residential 1. The applicant wants to go to OL and I'm fine with that. So I don't think we're really looking to keep things the way they are. From a zoning perspective were looking to keep what the comprehensive land map says, what it would recommend as far as intensity of use. We're currently land map says low intensity, residential area, the request is medium intensity, commercial area. That is the gist of the comprehensive plan amendment.

Marcaé: medium intensity, office

Jay Mauldin: It goes from low intensity residential to medium intensity commercial. Agenda packet 28, BCPA Staff report page 2, $\frac{3}{4}$ quarters to the bottom, where it says comprehensive plan, this is page 28 in your agenda packet, it says current map designation, low intensity, residential area to corridor, requesting map designation medium intensity commercial area.

Marcaé: Yes sir

Jay Mauldin: If we change that to medium intensity commercial area, then you could zone this CS that's the least intensive C district, would be a CS. This would say medium intensity commercial area. This was not being sought last year. Last year it was going to retain low intensity. The report was unclear, as to whether, it was not going to remain residential, but I think low intensity was an entity unto itself. When you use the evil matrix when we go to OL zone, and we come down to where it says low intensity, there is an O there that means it's optional. That's why the staff report said, last year, this time, that OL zoning may be found in accordance with the low intensity designation of the comprehensive plan land use map. Per this chart right here. So last year staff was saying we can keep this low intensity, and staff even included in its remarks that's because they advised or counseled the applicant to do it this way, if you advise an applicant to do something some way, you probably should put it in a report so it's out there. This method does not require amending the comp plan to extend medium intensity or commercial zoning farther into the North Heights neighborhood. Staff counseled the applicant to only seek OL zoning for lot 11 for the reasons just stated. It can't be any more clear that what you're being asked to do tonight is exactly what we're trying to avoid a year ago. I thought it was appropriate to bring that to your attention. I thank you so much for sharing your time. On this particular issue, I do have some comments about the PUD. I am not trying to stop this, and you guys know, I have tried to stop things before, this ain't one of them. No one here is trying to stop this. There's some people here who have filed some things. No one is trying to stop anything. Were just saying not this way. If we can pass this with low intensity, I do think we have to take this out of the comprehensive plan. I would ask the City Attorney do we have to have a comprehensive plan amendment to take this out of residential, in order to put an OL zone on it, I think we do.

Patrick Boulden: And I think you don't

Citizen, Jay Mauldin: The land use map right now says low intensity, residential. In order to re-zone this, BZ389, in order to re-zone this OL, do we have to remove the residential area designation on the land map. That's what the comprehensive plan amendment would do. That's what the BCPA

Patrick Boulden: definitely allow it, but it's arguable that the current designation allows it to go to OL also

Citizen, Jay Mauldin: it's currently designated low intensity residential area. You can't have OL or can you have OL in a residential?

Marcaé: According to the matrix you can, according to the text you cannot

Patrick Boulden: He's talking about zoning

Marcaé: oh zoning, are we on a different topic

Citizen, Jay Mauldin: now on OL zone, I want to help the applicant to get this thing through, and we can do it, if we were going to do this the way we were last year which is to have low intensity

Patrick Boulden: and I think it works that way, Yes

Citizen, Jay Mauldin: and it's not going to be designated residential and it's not going to be designated commercial, it's just going to be low intensity

Patrick Boulden: on the comprehensive plan

Marcaé: on the comprehensive plan there are different categories.

Jerod Hicks: On the low intensity I think it says residential office

Marcaé: On the Comprehensive Land Use map you have: land use, intensities and so currently it is low and the applicant has requested to change it to medium. Then you have land use: commercial areas, industrial areas, public areas residential areas. So if, I had my magnifying glass, we zoomed in to this area, and I believe there are little hash marks there which means it is a commercial area. Unless, it is that tiny little spot right there which has vacant, agriculture, rural, residential. Is it this one here? So it does not have the hash-marks? I think it is right there above that, with the little dot.

Citizen, Jay Mauldin: The current staff report says that it is, low intensity, residential area to corridor. That is what is in the current staff report.

Marcaé: yes

Citizen, Jay Mauldin: So it's not commercial right now.

Marcaé: no. It looks to me like, without a magnifying glass it has a dot on it which would indicate

Jerod Hicks: It's orange, which says medium, is that correct?

Marcaé: Yes. If you actually look at it, we are going one lot behind that

Citizen, Jay Mauldin: I think those first two CS lots those should have the striping that indicates they are commercial. This is a residential lot, lot zoned RS1.

Marcaé: That is the portion that already exists, and they are asking to take it one step further. It is for land use, it is a residential area. I think we figured it out. Above their little spot and below it, is both commercial, according to the comprehensive plan. Whenever they originally did the comprehensive plan they took that neighborhood all the way to Memorial and they left it residential, but they left it residential with medium intensity.

Citizen, Jay Mauldin: Which is how those two lots got CS zone in 1987?

Marcaé: That is correct.

Citizen, Jay Mauldin: It's a little bit of a sticky wicket, I'll grant you.

Jerod Hicks: Back to the whole deal, Mr. Donaldson I'll direct it to you, your applicant is it a make or break to be low intensity or medium?

Mr. Donaldson: Let me ask you this question Mr. Hicks: Once this board and the City Council approves OL zoning and the fear of the property owners is that it could therefore be re-zoned to CS at some future date because of the comprehensive plan change. It's then the prerogative of this board to evaluate that zoning application and to deny a CS zoning and the City Council to also deny a CS zoning. Simply because it's allowed in a comprehensive plan does not mean that this board or City Council can or will approve a re-zoning application. Specifically this particular one because we are asking OL zoning that will be over-layed with a PUD. It's really fixing it even more so, so for them to come back in at a later date to ask for a re-zoning of a portion of a PUD not only do you have to amend a major amendment to a PUD but then you're having to have re-zoning as well. That's something I have found historically difficult to do. I would expect it would be difficult in this case as well.

Jay Mauldin: I beg to differ. It is possible that the gentlemen's remarks could be accurate. I am looking at the current staff report and it talks about. A test to the interpretation of the planned land use map in addition to the matrix. It says: if a parcel is within an area designated with an specific land use other than vacant, agriculture, rural residences, and open land which cannot be interpreted as permanently planned uses, this is on page 29 of your agenda packets, so if we have a specific land use on it that is not vacant, agriculture, rural residences or open land and if that said parcel is undeveloped as Lot 11 is, it is undeveloped and has a land use attached to it called residential then 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 or provide or give direction on how re-zoning application should be considered by the planning commission and the City Council. Again, if you allow the medium intensity, commercial area designation to be attached to Lot 11, I fail to understand how you

could deny a CS zone. If it were me and if I was in that situation, and you denied it, I would litigate it. I know we are got some issues being litigated. I'm staying on top of it. We're doing a great job. If the land map is going to recommend, because it does it recommends, when it attaches a land use, it recommends how a parcel should be developed. And we're going tonight attach a land use that says medium intensity, commercial area. How do you refuse to do that in the future, that's my concern, that's the concern of the folks who own the property around the entrance to this neighborhood. And you can look north and you can look south on that same side of the street, and you can look how deep does it go. This is the entrance to a neighborhood that has been there for almost half-century. I don't want to get in the way of this. But this is not the way we were going to do it last summer. We can go back and do the OL and with the comprehensive land map as it was last summer, I am fine with it, you are fine with it, then we can go talk about the PUD, which is a horror story unto itself.

Sutton: that is something coming from you Mr. Mauldin

Jerod Hicks: I also want to make the deal; I think agree a little bit with JR, you are going to have to zone it commercial, as a board and City Council with regards to this community as a board we don't just look at one thing. We have all turned projects down for that neighborhood and other neighborhoods, based on meeting the criteria and what is best for our citizens fair blend of development, it hard to turn something down, but I have watched up here and if it doesn't make sense for the community we have all turned things down.

Mr. Mauldin: more comments mostly regarding rejection of Car Wash last year 3-2-0 vote

Patrick: if the commission was inclined to forego the Comprehensive Plan amendment, and perhaps approve the next two items, then we can go the other items, it seems we could accomplish, it seems Item 4 may be unnecessary for the applicant to accomplish what they want to do today. Am I misreading this, I think we may be belaboring the point.

Jerod Hicks: looking for information let him see if he can find it.

Mr. Mauldin: more comments about land map changes

Marcae: we did find the Jiffy Lube Comprehensive Plan was changed to Medium Intensity, which is what the applicant is requested.

Larry Whiteley: Was changed to what?

Mr. Mauldin: Jiffy Lube or Office Building?

Marcae: Office Building, the same portion

Jerod Hicks: I asked them to look up the Jiffy Lube was, almost mirror of same lot size and also backs up to the same residential, and moved to OL

Marcae: Existing zoning, CG, OL as Part of PUD 54, Medium intensity plus existing residential area,

Mr. Mauldin: comments from 29 years ago and 1 year ago for consideration, Jiffy Lube we worked with them with a win/win, better than we bargained for

Discussion: They are building

Jerod Hicks: I think we can follow suit with what is there, applicant will come in and say this is what I want to do, we could analyze what they are looking at. If we follow suite w2ith what is currently available on the south, I don't think that is not a win-win.

Mr. Mauldin: opposed to modifications on PUD- we can address as it comes up and other comments. Move to Council, we will only do what we were going to do last year.

Larry: Question for Marcae

Citizen Unknown: on the south side of 118th all the way to 121 is commercial, no housing, vacant land,

Larry: are those two lots next memorial what are they zoned.

Marcae: currently CS zoning lot 12 and 13 number 11 is RS, asking to change Lot 11 to OL and the other 2 will remain CS with a PUD overlay and a change in the comprehensive plan from Low Intensify to Medium Intensify.

Larry: is OL allowed per the comprehensive plan?

Marcae: Yes there was a debate on the final authority matrix or text on page 28. Medium intensity is considered a transitional intensity, allowed to have Residential Multifamily, OL OM and CS.

Jerod: can we move forward with a motion to allow City Council to determine whether the matrix or text is correct.

Marcae' Hilton: I believe we have to go to the Board of Adjustment for an interpretation of items.

Patrick Boulden, City Attorney: The board of Adjustment interprets the zoning code.

Larry Whiteley, PC: what if we make a motion to table it for now until decide what is right?

Steve Sutton, Vice Chair: I think we need to move something

Marcae' Hilton: I would recommend making a decision one way or the other, it has been 3 months, we have advertised.

FOR THE RECORD LARRY WHITELEY LEFT THE ROOM

Sutton: We have a 5-minute recess. 79:45

BACK IN ORDER AT 7:30

Steve Sutton, Vice Chair: we have listened to Mr. Mauldin all evening, is there anything else we

Jerod Hicks, PC: motion to approve per staff recommendations, with City to take special consideration to determine the matrix vs the text on how the property should read low intensity vs medium intensity

Patrick Boulden, City Attorney: Marcae'-is that OK? yes

Steve Sutton, Vice Chair: did you follow what we did. Motion and a second approving the project, we are asking the City Council to determine the intensity because there is a discrepancy on the matrix vs. text on which one it is. That sits you all in front of the decisioning body. Not passing the buck.

Mauldin: is the motion for Item 4?

Larry Whiteley, PC: Seconded

3-0-0

Larry Whitley, PC: What is your name?

Steve Sutton, Vice Chair: please come sign in to speak

Item 5: Steve Sutton, Vice Chair: BZ-389: Bixby Zoning Request-Applicant, Jerry Green for Norma ODA Green Revocable Trust

Public Hearing, discussion, and consideration of a rezoning request RS-1 (Residential Single-Family) to OL (Office Low Intensity) for Lot 11, Block 7 of the Amended Plat of Block 7, North Heights Addition to the City of Bixby, Oklahoma
Section 35, Township 18, Range 13

Property generally located: west of Memorial and north of 121st St. about one quarter mile

Jason: conditions and language...staff believes.....approval of BZ 389

BACKGROUND INFORMATION:

REQUEST: RS-1 (Residential Single-Family)

LOCATION: 7749 E. 118th Street S
Lot 11, Block 7 of *Amended Plat of Block 7 North Heights Addition*

STR: Section 35, T17N, R13E

LOT SIZE: 1 BLOCK, 100' x 200', +- 0.459 ACRES

EXISTING ZONING: Lot 11, Block 7, RS-1 (Residential Single-Family)
Lot 12 & 13, Block 7, CS (Shopping Center District)

REQUESTED ZONING: OL (Office Low Intensity) Lot 11, Block 7
CS (Shopping Center District) NO Change on
Lot 12 & 13, Block 7

COMPREHENSIVE PLAN: Medium/Low Intensity + Residential Area (BCPA-15 requests removal of Residential Area designation from Lot 11).

BCPA-15 proposes to remove the Residential Area specific land use designation from Lot 11, to allow it to be rezoned to OL (Office Low Intensity) and be developed as a part of PUD 93 along with the Medium Intensity designation.

The "Matrix to Determine Bixby Zoning Relationship to the Bixby Comprehensive Plan" ("Matrix") on page 27 of the Comprehensive Plan provides that OL zoning is found in accordance with the Medium Intensity designation of the Comprehensive Plan Land Use Map.

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

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

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. Removing the Residential Area designation from the Lot 11 subject property will allow the requested OL zoning to be approved.

Per the Matrix, PUDs (as a zoning district) are *in accordance* with the Medium Intensity designation of the Comprehensive Plan Land Use Map, and thus PUD 93 *is found in accordance* with the Comprehensive Plan as a zoning district.

Due to the surrounding Zoning and Land Use as listed and described above, Staff believes the proposed OL zoning and the proposed PUD 93 should be found *In Accordance* with the Comprehensive Plan, provided they are approved together and along with BCPA-15 and the recommended modifications and Conditions of Approval pertaining to the PUD listed in the recommendations below.

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.

STAFF RECOMMENDATION: Staff believes for all the reasons outlined above, the surrounding zoning, land uses and the physical considerations of the area weigh in favor of all three (3) requests generally. Therefore, Staff recommends Approval of BZ 389, subject to the following corrections, modifications, and Conditions of Approval:

1. Approval of (Office Low Intensity) OL zoning, (Planned Unit Development) PUD 93 and (Bixby Comprehensive Plan Amendment) BCPA 15 are all subject to the final approval of each other.
2. Limits of No Access (LNA) will be imposed along Memorial.
3. Sidewalks shall be constructed by the developer along the entire Memorial Drive and 118th street frontage of the Property. Sidewalks shall be a minimum of four (4) feet in width, shall be ADA compliant, and shall be approved by the City Engineer.

4. Add PUD Text stating the required sidewalks shall be constructed along Memorial Dr. and 118th St., as appropriate.

5. Screening Fencing: "an eight foot (8'0") masonry privacy fence will be constructed along the west line of Lot 11, Block 7". Staff requests extensive landscaping along the west fence to serve as an additional buffer between the residential and commercial development. Please submit detailed landscape and irrigation plan for this area if approved and before submittal to City Council on July 25, 2016.

Steve Sutton, Vice Chair: Mr. Lundy, Mr. Ledford, Mr. Mauldin, would you all like to say anything on Item no. 5?

No comments

Steve Sutton, Vice Chair: Anything extra Mr. Mauldin?

Mauldin- Yes, What did you pass for agenda item 4?

Jerod Hicks, PC: City Council to determine if this is a low intensity or medium intensity. Per everything you are saying, leaving it open to determine if it is low or medium to meet the comprehensive plan.

Mauldin: OK, the intensity level is yet to be determined, but land use has been determined to be changed from land map as residential. That is what I didn't hear in the motion, and if you do not do that then it is not in order to entertain this request (zoning).

Jerod Hicks, PC: I did state per staff recommendation

Marcae' Hilton: in the staff report, right now it says comp plan medium low intensity plus residential area, the current map is low intensity plus residential, medium intensity with commercial area. I will write it that way in my staff report.

Steve Sutton, Vice Chair: we took everyone's comments and put it in the motion. We left it in the hands of the Council. Since you did not go down the road...you don't want this. City Council makes the determination.

Mauldin: comments about motion of Item 4

Marcae' Hilton: in the staff report they are all contingent on each other, I would recommend they approve the zoning per the staff report, because it is going to go to City Council as three parts and they will have the same conversation. They have already approved the Comp Plan noting Council will have to decide the designation then vote for the zoning then the PUD.

Mauldin: questioning PC jurisdiction to entertain the motion.....other comments about motion of Item 4, I will roll with it.

Jerod Hicks, PC: I think the concern the body has tonight, can this stay low density? Everything else looked good to that point, your recommendation was good with everything

outlined, we approve per staff recommendation with Council identifying medium or low intensity and text vs. Matrix. Exactly what you proposed.

Steve Sutton, Vice Chair: exactly what you asked for

Mauldin: as a zoning board, you are perfectly capable of making the determination as to level of intensity, but you want to let Council make the decision. You have justification to entertain Item 5, zoning request, I am not opposed to OL zoning so I will sit down.

Patrick Boulden: that is correct

Steve Sutton, Vice Chair: any other comments about item 5? Entertain Motion

Larry Whiteley, PC: approve providing outcome of City Council decision of Comp Plan BCPA-15 Low or Medium. If they approve BCPA-15 with Medium intensity or Low Intensity

Marcae' Hilton: clarification: recommending per staff?

Larry Whiteley, PC: Low, I vote for it, or either way I vote for it, **Marcae':** OK recommended per staff

Patrick Boulden: (page 26) the relationship of the existing and proposed zoning districts to the zoning and planned districts is *illustrated* in the matrix to determine the zoning relationship with the comprehensive plan, shows the general intent and cannot be relied on as the final basis to for making a final decision on rezoning applications, Matrix is an illustration but not a set in stone.

Jerod Hicks: text will trump the Matrix

Marcae' Hilton: does that mean the OL zoning cannot be approved if the text trumps the matrix?

Marcae' Hilton: it is allowed in the matrix, so I think we are fine either way

Patrick Boulden: zoning can be approved with a PUD.

Jerod Hicks, PC: second motion

VOTE: motion and second:

3-0-0 approved

Item 6. Steve Sutton, Vice Chair: PUD-93: Planned Unit Development Request (PUD) Applicant, JR Donelson, Inc. for Norma ODA Green Revocable Trust

Public Hearing discussion, and consideration of a request for approval of a Planned Unit Development (PUD-93), on Lot 11, Lot 12 & Lot 13, Block 7 of the Amended Plat of Block 7, North Heights Addition to the City of Bixby, Oklahoma
Section 35, Township 18, Range 13

Property generally located: west of Memorial and north of 121st St. about one-quarter mile

BACKGROUND INFORMATION:

REQUEST: PUD-93 North Heights Court

LOCATION: 7749 E. 118th Street S,
Lot 11, 12 & 13, Block 7 of *Amended Plat of Block 7
North Heights Addition*

STR: Section 35, T17N, R13E

LOT SIZE: 1.238 acres

EXISTING ZONING: Lot 11, Block 7, RS-1 (Residential Single-Family)
Lot 12 & 13, Block 7, CS (Shopping Center District)

REQUESTED ZONING: Lot 11, Block 7, OL (Office Low Intensity)
Lot 12 & 13, Block 7, CS (Shopping Center
District)

STAFF RECOMMENDATION: Staff believes for all the reasons outlined above, the surrounding zoning, land uses and the physical considerations of the area weigh in favor of all three (3) requests generally. Therefore, Staff recommends Approval of PUD 93, subject to the following corrections, modifications, and Conditions of Approval:

1. Approval of (Office Low Intensity) OL zoning, (Planned Unit Development) PUD 93 and (Bixby Comprehensive Plan Amendment) BCPA 15 are all subject to the final approval of each other.
2. Limits of No Access (LNA) will be imposed along Memorial.
3. Sidewalks shall be constructed by the developer along the entire Memorial Drive and 118th street frontage of the Property. Sidewalks shall be a minimum of four (4) feet in width, shall be ADA compliant, and shall be approved by the City Engineer.
4. Add PUD Text stating the required sidewalks shall be constructed along Memorial Dr. and 118th St., as appropriate.
5. Screening Fencing: "an eight foot (8'0") masonry privacy fence will be constructed along the west line of Lot 11, Block 7". Staff requests extensive landscaping along the west fence to serve as an additional buffer between the residential and commercial development. Please submit detailed landscape and irrigation plan for this area if approved and before submittal to City Council on July 25, 2016.

6. Add PUD 93 to your final draft of PUD standards

Marcae' Hilton: third leg of the North Heights Court PUD, first leg BCPA-15 and zoning, which both have been approved, staff would recommend approval of Item 6: PUD 93

JR Donelson, Applicant: staff recommends approval, zoning and PUD will allow the project to move forward, similar to Jiffy Lube...glad to answer questions.

Mauldin: I am opposed to the PUD, the reason, I was told the applicant was requesting approval of a blanket PUD with minimum standards of zoning, they go well beyond what is allowed for OL and CS. The modifications between CS and CG allows Use Unit 15....exception, bait shop, bottled gas, fuel, model homes...Use Unit 15.... Numerous variations, hundreds, thousands of allowed. Car Wash allowed, Use Unit 18 can be allowed like Sonic, this is a modified CS or changing to CG minus above-mentioned. This PUD allows what is permitted only by Special Exception. Giving up oversight.....This is well beyond what I was told was the intent. Blanket placeholder....OL, CS...sexually oriented businesses would be excluded. When I got a copy of the PUD...asking the same as CG, never materialize on lots. CS-CG, this PUD goes to far. The Comprehensive plan amendment goes too far....because of what I see here in the PUD..... if the application for a rezoning to CG then vote no on PUD, opens up wider variety land use. Can do like car wash, bring it down here and talk about it.....Lot OL could turn CS as well. I would try to get CG for the heavier development...say no tonight. This is probably the clearest, this chart....better to have PUD in place that allows OL and CS as a matter of right. Something more bring it down as a major amendment. Why you want to give up your opportunity and council to give up input and oversight to what happens to these lands. This is a placeholder PUD and I think...we have had big issues with placeholder PUD's. Jiffy Lube office building or not office building? Because we did not nail things down we got into a kerfuffle. This is a horror film it is what playing in my mind.... I can only think of one reason, if I have to, I will state it at Council, I can only think of one reason for it to be approved....

Jerod Hicks, PC: I hear your concerns, what do you think should be allowed in the PUD, what is a solution?

Jay Mauldin: Solution-Low intensity with the land map, now with OL the uses should allow, that the PUD overlay should be allow uses allowed by right in OL and CS by right, PUD allows you to move the pieces around....last summer...car wash. 10 feet (120 inches to someone back yard)....more on car wash, PUD overlay gives you flexibility.

Jerod Hicks, PC: lets say if they build 8 foot wall with screening it is a business that the neighborhood would want, but would have to be moved around would you be interested in in....flexibility if another business came in would you want to do that?

Jay Mauldin: Code 11-7 allows flexibility in the code for zoning, density ratios floor area ratios. PUD encompasses more than 2 different districts must engage in mathematical computation... car wash. 1/3...quotes staff last year...flexibility provided for in code per PUD. Suggesting you limit permitted uses to OL and CS, which is what the zoning will be which are allowed by right. PUD allows for a superior qualitative outcome that we might not have

otherwise. Perhaps we can move OL and CS around, allow more landscape...more give an take in the PUD process.

Marcae' Hilton: Let me clarify, you are asking for *more restrictive uses* than what is allowed currently in the PUD? (Jay, YES) He is saying, he would like more restrictive uses on the property.

Jay Mauldin: more arguments on allowed uses.

Marcae' Hilton: Staff and the applicant would argue there are some uses which would be beneficial in 15, 17, 18, 19 maybe not everything but there are certainly some things would be beneficial and would work in that area.

Jay Mauldin: I would not necessarily disagree... accepting the PUD permitted uses as stated is paramount to rezoning to CG.

Patrick Boulden, City Attorney: approve per staff recommendation but anything allowed by Special Exception would come back as a major amendment.

Marcae; Hilton: allow the following exceptions; allow 15 minus bait shops, fuel sales, mobile homes., 17, 18, 19 only allowed with special exceptions, Patarick saying approve as staff recommended stating anything allowed by right with special exceptions would come back as major amendment.

Jerod Hicks: comments on recommendation

Steve Sutton: acknowledges audience speaker

Unknown speaker: ...longest night of the year, I express the North Heights HOA would go on record as unanimously go on record to reject PUD as written.

Steve Sutton: OK I hear you, if we try to...put some constraints, parameters, very corporative, no tug of way...OK so lets take a swing at this....

Jay: ... whoa, whoa, .let me tell you the pitch I am throwing at you here, (interrupted Sutton).....in section 9 project uses, let's just remove the line that says Use unit 17, 18 not 19 it is allowed by right. Use unit 19 is allowed, (page 39) of agenda packet... Project Uses: 19 is allowable according to the chart. Allowed by right all the way across... It is a matter of right, fine... Scratch use unit 17, 18 and everything below that. So that project uses would be those permitted by use of OL and CS zoned property with the following modification that use unit 19 is allowed. I think you could scratch that as well because 19 is allowed by right. I am saying limit this to OL and CS, just what is the underlying zoning. And then if they want to do something beyond that they can come down here and apply for a major amendment to the PUD for your consideration, we would have public input. It is the same thing you are saying, Jerod just less convoluted...

Marcae Hilton: They would not need to come back through the PUD process if it is allowed.

Jay: Correct, if it is OL and CS, well they would have to vacate the PUD would they not? (Marcae' NO, Jason NO) So if we have OL, CS, CS you can do anything you wanted to anything you wanted as a matter right. (Marcae' that is correct) And this PUD would simply overlay on top of that. OK if someone wanted to do it as a matter or right, they could just move forward and the PUD would be of no effect.

Marcae' well, whatever limitations the PUD imposes would be applied

Jay: there are no limitations, what this PUD does is expand the uses allowed by right

Marcae': what we have suggested is to approve it as recommended, they are a recommending body. But they can require if one of those other uses be propose it would be a major amendment and yes, that would require a public hearing. If approved as is, or even if they approved it as is, striking use unit 15, 17, 18 to allow CS zoning you will not see it again until it is a site plan. The applicant/builder/developer does not have to come back to Planning Commission or City Council.

Jay: OK, so I think I see where you are going with that.

Sutton: So how do we get it back in front of us?

Jerod, so how do we protect the neighborhood homeowners in the area? What Patrick just said? Anything that falls in the area of requiring a special exception would require a major amendment to the PUD? Which means it would come back to Planning Commission. Marcae'-Staff would have required).

Jay: if it requires a special exception now...what is the difference?

Patrick: well there are other things that can be varied there... set backs

Marcae' comments on set backs

Jay: suggestion, leave the existing language, but anything which require special exception in CS zone would require a PUD major amendment?

Patrick: I am going to repeat, "uses allowed in the PUD would be restricted to those allowed by right in OL and CS district and those allowed by special exception would only be permitted pursuant to a major amendment to the PUD"

Jerod: exactly what you proposed.

Jay: Ok, I think that gets us to where we are going; now I have a question? Where is the applicant on this?

Patrick: yes, of course...

Jay: the applicant....

Larry Whiteley, PC: Are you OK with that JR?

JR: Of course...

Steve Sutton, Vice Chair: (JR) it will get you in the road? And that is really what you need to have

Jay: so you will keep the existing language? OL and CS

Patrick:

JR: his recommendation has already been spelled out, you (JAY) are trying to rewrite what he has already stated. The reason the PUD specified Use Unit 17, and 18, you don't know what the various uses will be...what Patrick has recommended is acceptable.

Jerod: I make a motion

JAY: ...and Patrick.....thank you...

Sutton: start of a motion-who is going to make a motion?

MOTION: Patrick: to approve PUD 93 as recommended by staff with an amendment to permitted uses to be restricted to only those uses permitted by right on OL and CS districts and that those uses permitted by exceptions would only be permitted pursuant a major amendment to the PUD.

Steve Sutton: that is my motion

Jerod Hicks: Second

Passed 3-0-0

Jason: kerfuffle (JAY)

Item 7: Steve Sutton, Vice Chair: BZ-340: Bixby Zoning Request-Applicant, Mike Williams of Gardner Capital

Public Hearing, discussion, and consideration of a rezoning request from: AG (Agricultural District) to RM-2 (Residential Multi-Family District) for an unplatted parcel in the City of Bixby, Oklahoma
Section 26, Township 17, Range 13

Property generally located: one-quarter mile north of 171st Street and west of Memorial Drive-16900 block of South Memorial Drive

Marcae': this project came to the City of Bixby for Senior Housing development. Staff believes, this is an exciting project and good use of the land. The parcel has been lot split, which was already approved this evening. There is one caveat to all of this, which the applicant agrees to: explain...it is senior housing and is considered affordable, because it receives tax credits. Essentially, they have some hard deadlines so we have to get the item on the agenda and moving forward. If the funding does not go through, the applicant has agreed to pay to rezone the land back to AG-Agriculture, per the owner/seller of the other piece of land and Council. Staff recommend approval.

Comments:

Unknown speaker: Not against this proposal, my concern is the 30,000 gallons of water every time it sprinkles? House on corner of 171st, she has 2 feet of water standing every time it rains. I live at 7823, the only place for that water to go is onto my property.

Sutton: I am going to guess that will be addressed. This may be the exact thing you need....

Unknown Speaker: there is no no sewage, we are all on septic tanks.

Sutton: comments

Jerod: this will all have to come back to us, they will have to address those issues.

Sutton: more comments on water drainage

Quin Peterson: water behind Lazy Fisherman?

Larry Whiteley, PC: does not happen very often?

Sutton: more comments on support for drainage improvements, and not making it worse. Public Safety...

Marcae': would you like to hear from the Applicant

Mr. O'Neil speaking on behalf of his sister: Concerns over water, if structure goes on the lot it could make the situation worse. Have they done the water flow? Is that intersection...it is dangerous and adding a SR facility could have impact on transportation. Not speaking against the project just have concerns.

Jerod: there is a discussion regarding that intersection

Mike Williams-Gardner Capital: 19 Different States, experts at what we do. Good neighbors. Development will take up 6 of the 10.89b acres, part is flood plain and water run off from our own properties we manage our won properties, go inside as well. 62 and older 60% or less than medium income. Can have significant assets.

Larry Whiteley: what size of project?

Mike Williams: 5 million dollars, 48 units. We will follow the rules and regulations of City, we are going to build a structure 6 and 8 plex, the front will be brick/stone with siding on the back. Will have a safe room.

More comments/questions:

Jay Mauldin: This is a request for straight RM zoning, why not do this through PUD? I have had conversations with Councilors, they would have naked RM zoning and we can't have that, if the financing does not come to fruition the applicant is required to revert the zoning? Is that tried and true?

Marcae': it will be rezoned if it does not come to fruition.

Sutton Approve

Whiteley: second

3-0-0 approved per staff recommendation

Item 8. Steve Sutton, Vice Chair: BZ-341: Bixby Zoning Request- Applicant, JR Donelson for Linda Conrad

Public Hearing, discussion, and consideration of a rezoning request from: AG (Agriculture) to CS (Shopping Center District) for an unplatted parcel in the City of Bixby, Oklahoma

Section 23, Township 17, Range 13

Property generally located: one-half mile west of Memorial and south of 151st Street -7400 block of 151st Street South

Marcae': Thanks Mr. Chairman, lot split was approved earlier, the applicant plans to keep the residential use as her home. If she changes her home in any way she will need a special exception. Staff recommends approval.

Whiteley: Motion to approve

Jerod: second

Approved: 3-0-0

Item 11. Steve Sutton, Vice Chair: Discussion of Use Unit 17 and Use Unit 25: Development Services Staff

Discussion and consideration of Use Unit 17 and Use Unit 25 in regards to the proper zoning designation for automotive collision repair requiring the use of paint to complete their restoration project

Jerod Hicks: Motion to postpone to next meeting:

Second: Larry Whiteley

3-0-0

8:45PM closed hearing.

 11-21-14



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