

**MINUTES  
BIXBY BOARD OF ADJUSTMENT  
BIXBY CITY HALL, COUNCIL CHAMBERS  
7 PM, October 4, 2004**

**MEMBERS PRESENT    STAFF PRESENT    MEMBERS ABSENT**  
**CARL CARNAHAN                      JIM COFFEY**  
**DAVE HILL**  
**JEFF WILSON**  
**LONNIE JEFFRIES**

- 1. CALL TO ORDER**
- 2. Approval of Minutes from September 7, 2004. Carl Carnahan moved and Lonnie Jeffries seconded to approve minutes.  
VOTING FOR: Carnahan, Wilson, Jeffries  
VOTING AGAINST: None  
ABSTAINING: Dave Hill  
MOTION PASSED: 3-0-1**
- 3. BBOA 427 Discussion and possible action to approve a Special Exception to allow a Car Wash and Auto Detailing Shop on property zoned CS (Commercial Shopping) in Bixby Commons at 111<sup>th</sup> and Memorial. Item continued from September 7, 2004**

**STAFF REPORT:**

Item continued from last meeting with a request to have the item reviewed by the City Attorney. His comments are attached with the following documents and comments.

- 1. Covenants, Conditions and Restrictions as filed with the plat.**

See section 3.4 Use Restrictions, Item viii, which reads..”A car wash, except on an Out parcel and where the same shall have constructed and shall use sanitary sewer, water and stormwater drainage lines entirely separate from those utilized by the Lowe’s Parcel”

The sanitary for the entire area belongs to the City of Bixby. The stormwater drainage facility serves the entire complex. Please note that the car wash drainage is limited by a recapture system where the water is reused and what goes into the sanitary sewer and stormwater facility is no more than any other complex.

- 2. Agreement between Bixby Commons and Bixby Real Estate Investments, LLC. Seems to limit the car wash application.**

**Please note this is not an agreement with the City of Bixby. We do not receive these agreements and are often not privileged to their restitutions. The board can make a decision independent of this agreement.**

- 3. Agreement between TWB Enterprises LLC and Bixby Commons. Bixby Commons is aware they are selling the property for a possible development of a car wash.**

**4. Comments from City Attorney. The City Attorney's recommendation is for the Board of Adjustment to formulate its decision, excluding the agreements listed above. However, he strongly recommends to the Board of Adjustment they make all parties aware of the restrictions as to a car wash as well as the conflicts pertaining to a car wash in the covenants.**

### **Public Hearing:**

Mark Smiley, attorney for applicant, the covenants and agreements with the car wash indicate the car wash is an acceptable use of the property. This board approved Robinson Tire that is in the same use group and the car wash will fit well as did Robinson Tire. Lowes has no objection to the car wash, nor does Robinson Tire or Chili's Restaurant. Faced with the legal documentation of the use being allowed we would ask the Board of Adjustment to approve this item. Mark Smiley shows the elevation drawing and explains how the equipment for washing cars is contained within the building, and how appealing the structure is to the eye.

George Pendell, applicant, Walgreen's Store, Robinson Tire, and Chili's are open to the idea of a car wash. Lowes anticipated there would be a car wash on one of the out parcels. Gold Bank is in favor. There is a car repair shop across the street called White's, a Convenience Store across the street on the corner of 111<sup>th</sup> and Memorial that has an open bay car wash. Our equipment is housed within the building and access (in and out) is from the frontage road and not from Memorial. A new technology is being used to re-capture the water from the car wash and about 85% of the water is re-used.

Lonnie Jeffries asked if the car wash would generate sales tax. The planner said only on the retail items sold not on the service car wash item.

David Davis, manager of new car wash, described the building, and elaborated on the new technology for re-use of the water. It will be a clean upscale car wash that will fit well into the area.

Marshall Hill, a developing partner, spoke to Chris Guy the manager of Chili's and he had no objection to the car wash, and felt the use of the car wash would bring additional customers to the restaurant.

Jeff Wilson asked the group to go through the plan and describe the car wash building lay out which they did.

Jerry Kite, Bixby Telephone General Manager, owns the property across the entry from the proposed car wash. Bixby Telephone has done business in Bixby for 100 years. The new building on Memorial will be the sales office and customer service. We will sale the Dish Network, Internet, cell phones, home and business phones, and other products. Bixby Telephone is number two for the city when it comes to generating tax income. Our purchase agreement indicates that a car wash cannot be constructed on this property, that the zoning use is limited to retail sales and service. See Restrictions in Article V. We would have opposed Robinson Tire had we been notified of the change to allow them to build. Robinson Tire is also outside of our agreement with DESCO to purchase the property.

We support Bixby and want new business in our town. But we want businesses that contribute to the City. Sales tax will not be realized from this business. We are one of the larger taxpayers in the city having paid taxes of \$800,000.00. We want growth, but not this kind of growth. We want growth that helps the city and pays taxes.

We need a car wash, but this is not a good location, the agreement with the property owners prohibits them, they pay no sales tax, and they would be better in another location.

Francine Halter, Bixby Telephone, We re a big supporter of the Chamber of Commerce, and I serve on the Economic Development Committee. We are pro Bixby and big supporters of growth. This is a prime piece of property, one of the first you see when you enter Bixby, Do we want the first impression of Bixby to be a car wash? We love car washes and use them to wash our trucks, but this is not the right location for a car wash.

Jerry Kite, My discussion with DESCO indicated there would be no items such as a car wash in this area. We have invested millions of dollars in our property and building. We want a business next to us that brings tax dollars to the City of Bixby. A car wash will not promote the growth of Bixby.

The board looked at the Concept Drawings, and discusses how the building was positioned.

Dave Hill made a motion to grant the Special Exception and Lonnie Jeffries seconded the motion.

**VOTING FOR:** Hill, Jeffries, and Wilson,

**VOTING AGAINST:** Carnahan

**ABSTAINING:**

**MOTION PASSED: 3-1-0**

**4. New Business: None**

**5. Old Business: None**

**6. Adjournment**

**Approved** \_\_\_\_\_ **Date** \_\_\_\_\_