

**MINUTES  
PLANNING COMMISSION  
7:00 P M  
116 WEST NEEDLES  
BIXBY, OKLAHOMA  
May 19,2003**

**MEMBERS PRESENT**  
**Scott Sherrill**  
**Roy Paxson**  
**Jim Powell**  
**Bill Campbell**

**MEMBERS ABSENT**  
**Bill Davis**

**STAFF PRESENT**  
**Jim Coffey**

- 1. Call to Order: Chairman Sherrill called the meeting to order at 7:00PM.**
- 2. Approval of Minutes of April 21, 2003. Bill Campbell moved and Jim Powell seconded a motion to approve.**

**VOTION FOR: Campbell, Powell, Paxson, and Sherrill**

**VOTING AGAINST: None**

**ABSTAINING: None**

**MOTION PASSED: 4-0-0**

- 3. BZ290 Public Hearing, Discussion and possible action to approve a zoning application from RS3 (Residential Single Family) to RD (Residential Duplex), Donald Raper, applicant.**

**Staff Report:** The area to be re-zoned is the old railroad bed. It is surrounded by residential development and fits well into the Comprehensive Plan. The 100-year floodplain borders the railroad bed to the west. After consultation with our Hydrologist, the staff feels that the removal of the berm created by the railroad bed could be a problem. It is true that the berm has been removed to the North in the downtown area, however this area is lower than the downtown area. The property is lower on the east side than it is on west side, which is in the floodplain. The reason is this is backwater during a 100-year flood and the water backs up along the railroad bed were it can. The area further to the south has 100-year floodplain on both sides. This is partly due to backwater from Bixby Creek that is on the East side of the railroad bed and partly because the bed has been compromised in some areas. A building permit will have to undergo review by staff and our hydrologist before a permit can be issued.

**Don Raper, applicant.** We would like to build two duplexes on the lot. We do not plan to bring in dirt. We shot grades and we believe we can handle the storm drainage problem in the area.

**Scott Sherrill,** asked the planner. Once this is zoned there is no provisions for a hydrology report on a residential development? The planner confirmed that is the case unless the staff has a problem with the storm drainage created by the building, for example in a 100-year flood plain or affecting a 100-year flood plain.

**Scott Sherrill.** Asked the applicant how many units and are they for sale. The applicant said there well be two units and they are not for sale. Sherrill stated if they are not for sale then no lot split will be required. The planner added he was not to this time aware there would be more than one unit. Since there is more than one unit the development will require a plat and the plat will require a hydrology study.

### **Public Hearing**

**Mike Daniels, 220 E Breckenridge.** Was concerned about drainage and the possible flooding of his property. At present they are getting water underneath the house in a hard rain. Where they propose to build a duplex will divert the water back to our houses, just on the other side of the railroad bed that is lower. I would like the problem we have now addressed, instead of adding to the problem we have. My concern is the diverting of water.

**Don Raper, applicant.** We shot grades and we can do what we need to do to handle the storm water.

**Scott Sherrill,** asked the planner if we zone this can we make it subject to a plat. The planner said you cannot do conditional zoning. However, since there are two duplexes a plat will be required. Sherrill asked since it is adjacent to the 100-year floodplain he will have to do a hydrology study? The planner answered yes.

**Jim Powell moved and Roy Paxson seconded for approval**  
**VOTION FOR: Campbell, Powell, Paxson, and Sherrill**  
**VOTING AGAINST: None**  
**ABSTAINING: None**  
**MOTION PASSED: 4-0-0**

**4. BZ 291 Public Hearing, Discussion and possible action to approve a zoning application from AG (Agriculture) to CG (Commercial General, Cleatus Tate, applicant.**

**Staff Report:** Proper notification of a Public Hearing for the change in zoning classification for the subject property was completed in accordance with State Statute and the Bixby City Code. No comments in opposition or in favor were received to date. One call for information was received.

The staff has review the application and finds as follows:

1. Indication is the property is being rezoned to allow the tractor sale business that is presently on Memorial the site of highway widening.
2. There is water along the highway in front of the property.
3. Sewer lines are not presently in the area, and development would require either extensive off site sewer construction or the use of a septic system, lagoon, or possibly some form of alternative system
4. The area is located North of the Cemetery across 151th Street which is HWY 67.
5. Surrounding Properties are zoned Agriculture with the accept ion of the Funeral Home on the North East Corner of 151<sup>st</sup> and Sheridan, that is CS.
6. The Comprehensive Plan designates this area as Corridor area.  
“Corridors are defined as specific areas located along expressways and are to contain major employment and region-serving functions in concert with a relatively high residential base. In specific instances, a corridor may be defined along corridor-arterials in cases where existing and planned development, zoning, existing and planned highway improvements and traffic patterns warrant such a designation. Corridors are characterized by the following standards:
  - a. High intensity zoning classifications that may be or may not be appropriate within a corridor include CG,CH, IL, IM, and IH. If such districts are approved for a corridor, it should be when a PUD is also applied. The IR zoning classification is appropriate within a corridor. The medium intensity zoning classifications of RD, RM1, RM2, RM-3, OL, OM, CS, and ST are appropriate within a corridor. ....The AG zoning classification is inappropriate within a corridor except as a holding or transitional zoning classification or for development

sensitive areas within the corridor. An RE, RS-1, RS-2, and RS-3 zoning classification is rarely appropriate within a corridor except in already established neighborhoods. It is intended that medium and high intensity zoning for corridors designated areas be allowed for large undeveloped areas. Piece-by-piece development and re-zoning of smaller undeveloped parcels along corridor areas should be according to the Urban Development Design Guidelines as applied to non-corridor areas. However, provision should be made for the provision of right-of-way necessary for service roads along a designated corridor, particularly along 151<sup>st</sup> Street South (SH67)

- b. Land uses that are more intense in nature should have exposure and convenient access to high-speed transportation facilities.
- c. Multiple land uses may be allowed within a corridor and those land uses will be interrelated by internal vehicular and pedestrian traffic systems. The corridor may be ultimately connected to the regional transit system.
- d. Appropriate access should be provided to arterial streets from corridor collector streets. All tracts with corridors should have direct access to the corridor collector streets or service roads.
- e. Corridors should have a maximum depth of 2,640 feet.”

7. Items allowed in a CG (Commercial General Zone Include)

- a. Off Street Parking Areas
- b. Offices and Studios
- c. Entertainment Establishments and Eating Establishments
- d. Convenience Goods and Services
- e. Other Trades and Services
- f. Automotive and Allied Activities
- g. Drive-In Restaurants
- h. Hotels, Motels, and Recreation Facilities
- i. Business Signs

The area in question is considered to be a prime area for Commercial Development. This is an area highly visible to citizens on a hill across the street from the cemetery. Attractive frontage is most appropriate and any development would have to present plans to the Architectural Committee for approval. As indicated above in the Corridor Information form the Comprehensive Plan the area is best developed in High Intensity Zoning

such as CG as a PUD. The Planning Commission can approve a CG zoning or a lesser zoning of CS, however the property cannot be conditionally zone indicating what areas of a zoning classification are acceptable. The zoning classification of CS would not allow Tractor Sales except by Special Exception from the Board of Adjustment.

**Ken Tate**, applicant's son. My father is the owner but he is just recently out of the hospital. We have owned the land since 1960, and my parents are retired. Mr. Allison came to my father and said he needed to move from downtown Bixby and dad agreed to sale the land. Mr. Allison plans to develop the west side of the property into his Tractor Sales. There will not be any heavy manufacturing or other things. Mr. Allison will be doing the same thing out there he is now doing downtown.

**Public Hearing:**

**Kenneth Gibson, 14901 S Kingston.** I live next to the property on the west side and I have no problem with what Mr. Allison wants to do, but what will happen to the rest of the property? The properties could sale or develop into things that I would not like to see that are part of this zoning.

**Gene Allison**, we want to build a Tractor Sale on the west side and we do not want to develop the rest of land in a way that would not be good for everyone. We have a building bought and we are just waiting for the zoning. The property were we are now has been sold and we have to move in a hurry.

**Scott Sherrill** pointed out that once the property is zoned we cannot go back and require additional things on the property. If you do not use all the property or sale off part of the property then this board has no control over what might be built there. So my recommendation tonight is that we table this item and give you time to bring the item back as PUD. CG is a strong zoning and I would like to see how the property is going to be used in a PUD with what uses can go on the property.

**Scott Sherrill moved and Jim Powell to table the item until at least the next meeting to give the applicant opportunity to come back with a PUD.**

**VOTION FOR: Campbell, Powell, Paxson, and Sherrill**

**VOTING AGAINST: None**

**ABSTAINING: None**  
**MOTION PASSED: 4-0-0**

**5. BZ 292 Public Hearing, Discussion and possible action to approve a zoning application from RM2 (Multi-Family) to CS (Commercial Shopping), Merritt Properties, applicant.**

**Staff Report:** Proper notification of a Public Hearing for the change in zoning classification for the subject property was completed in accordance with State Statute and the Bixby City Code. Comment has been received in opposition from adjacent property owners, and their position should be heard in the Public Hearing.

The staff has reviewed the application and finds as follows:

1. The Comprehensive Plan map general shows this area as Low Intensity, which is generally a guide in establishing zoning classification. However, the intensity of the area has been modified by past zoning approval of an RM2 (Multi-Family) zoning classification for Sand Plum Assisted Living Center. Therefore the Intensity of the area should now be considered as Moderate Intensity because this application is to re-zone from RM2 to CS.
2. The Comprehensive Plan allows RD (Residential Duplex), RM1 & 2 (Multi-Family), OL (Office Light), OM (Office Medium), and CS (Commercial Shopping) in a Medium Intensity area.
3. CS is appropriate in Type 0, Type 1, Type 2, and Type 3 Activity Center. However, such centers generally refer to intersecting streets, that is not the case in this application. As to the size of the partials to be re-zoned, the application fits best in a Type 0 Activity Center.
4. CS will allow the following:
  - a. Off Street Parking
  - b. Offices and Studios
  - c. Entertainment and Eating Establishments
  - d. Convenience Goods and Services
  - e. Gasoline Service Stations
  - f. Hotels, Motels, and Recreation Facilities
  - g. Business Signs.
5. Some of the uses listed for CS might be considered appropriate while others such as a Gas Station, Hotel, Eating Establishments, and Recreational Facilities may not. You would think it would follow that

since the applicants own the RM2 area with an elderly care facility that it would not be in their best interest to develop the lots in a way that would hinder that facility.

6. Commercial and office property abutting residential areas are required to provide measures designed to reduce detractive impacts and nuisances to the residential areas. Screen fences, landscaping, setbacks and lighting modifications will be required.

Staff has reservations concerning some CS development such as Gas Stations, Hotels, etc., however it is clear that other Commercial zoning is part of the area including a retail nursery. The area to the North, East, and South are residential while the area to the East in Agriculture. There is a CS zoning on the North East Corner of 121<sup>st</sup> and Mingo but the area has been used as a detention pond. Areas such as Office and Studio development; convenience goods and service are CS development that could be most appropriate. The City's Comprehensive Plan usually suggest a PUD for areas were development might affect the nature of the surrounding community.

**Ray Merritt, applicant.** I developed the Sand Plum Assisted Living Center on the property which has been very successful. We had set aside two lots on 121 Street in front of Sand Plum that we want to develop in commercial stores that are a convenience to the neighborhood. There are certain things that we would not do and that would be gas stations, and recreation business or anything that would be a problem to the neighborhood. What we develop would fit into the neighborhood and look like a little house. Things we would like to put in there are engineering offices, doctor offices, beauty shop, etc. We want to build something we can be extremely proud of. We would not put anything in there that would jeopardized are present development or the neighborhood.

### **Public Hearing:**

**Landon Walker, 9923 E 119<sup>th</sup> Pl So., Cypress Point Home Owners Assoc. President.** After discussion with many in the neighborhood we would like to oppose the zoning application on grounds of additional traffic problems, and because someone with this zoning might put something in there that is not appropriate for the area. We do not want the extra traffic and noise. We passed a petition in the neighborhood and we have a number of our property owners here to oppose the zoning. We have over 50 per cent

of the neighborhood signing a petition and may of the property owners we could not contact. He presented the petition to the Commission.

**Bill Campbell**, asked if the neighborhood had meet with the developer to work out differences. Walker said they had not. Campbell admonished the neighbors to meet with the developer and see if they could come to an understanding.

**Bob Torning, 103 E 121.** I have the property to the east and I raise horses and live on the property. When Mr. Merritt was here before for Sand Plum he promised a Fence down the property which he has never built. I have been to see Mr. Coffey on two occasions and he has written to Mr. Merritt but he never built the fence. He has not shown due diligence. So I do not have a great deal of respect for the statements made by Mr. Merritt.

**Jammie Maxie, 9843 E 119 Street.** I do not feel this is to the betterment of the community and many of us did not know about the zoning. I'm concerned about traffic with my children. We bought in the neighborhood because I thought I might put my mother in Sand Plum.

**Richard Hedgcock, 12324 S 98<sup>th</sup> E Ave, Heritage Park Home Owner Association President.** Mr. Merritt has done a beautiful job in the construction of his property. We held our Home Owner Meeting last Thursday and talked about this issue, and 80% of the Home Owners have signed a petition that you have in front of you opposing the zoning. Our opposition deals with light, noise, pollution, and traffic. The comments that we get are that we moved out of Tulsa to escape crazy zoning and now we get the same thing in Bixby. As to Mr. Campbell questions, we have not meet with the developer.

**Larry Kirpatrick, 12303 S 98<sup>th</sup> East Ave.** We moved from a house to Bixby because we though there would never be commercial develop in this area. The property value went down in the area we move from because of Multi-Family Development. I am afraid my property value will go down because of commercialization of the property around us. A doctor's office might be a benefit to us but who knows what it will be now or in years to come. Some of the people did not get notified because they had not filled their deeds.

**Ray Merritt, applicant.** We are concerned about what goes in to our developments. We manage our development and will insure they fit in with the surrounding area. We have an investment in Sand Plum and we would not jeopardize that to create commercial buildings on the lots that are in front. We want to put business in this area that will be an asset to the community.

**Scott Sherrill,** said he was on the Planning Commission when the zoning was done for Sand Plum. This property is surrounding by residential and I do not feel it is appropriate for commercial zoning. That does not mean you cannot come back at a later time with a PUD. If you will get with the neighbors I might be willing to consider something like a light office complex.

**Scott Sherrill moved and Jim Powell second to deny the request.**

**VOTION FOR: Campbell, Powell, Paxson, and Sherrill**

**VOTING AGAINST: None**

**ABSTAINING: None**

**MOTION PASSED: 4-0-0**

**6. PUD29A Discussion and possible action to approve a Final Plat for PUD 29, William Wilson, developer.**

**Staff Report:** Staff recommends approval.

**Jim Powell moved and Roy Paxson seconded for approval.**

**VOTING FOR: Campbell, Powell, Paxson, and Sherrill**

**VOTING AGAINST: None**

**ABSTAINING: None**

**MOTION PASSED: 4-0-0**

7. **Old Business:** Next meeting of the Hazard Committee is June 3, 2003 at 3:00 pm.

8. **NEW BUSINESS: None**

9. **ADJOURNMENT**

**Approval** \_\_\_\_\_ **Date** \_\_\_\_\_