

**MINUTES
PLANNING COMMISSION
7:00 PM
116 WEST NEEDLES
BIXBY, OKLAHOMA
MONDAY
JULY 18, 2005**

1 Call to Order

Chairman Sherrill called meeting to order at 7:02 pm. Members present: Sherrill, Powell, Paxson, Campbell, and Davis.

2 Approval of Minutes for June 20, 2005

Powell motioned for approval, Paxson seconded.

VOTING FOR: Davis, Campbell, Powell, Paxson, Sherrill

VOTING AGAINST: none

ABSTAINING: none

MOTION PASSED: 5-0-0

PUBLIC HEARINGS

- 3. PUD 43 Public Hearing, Discussion and possible action to approve a Zoning Application for CG (Commercial General) from CS (Commercial Shopping) with the supplemental zoning of PUD 43, Trinity Restoration, applicant.**

STAFF REPORT

The staff has reviewed PUD 43 and has the following comments:

- 1. The Fire Marshal cannot approve the plan as submitted because of fencing and gates that prohibit fire lanes around the building in the case of a fire. He is also not pleased with the canopy which may not allow an emergency vehicle proper clearance. The area around the building would need to be designated a fire lane with a fire hydrant place at each entry.*
- 2. The City Engineer was concerned about drainage water and how it would fit into the drainage concept and the detention design parameters as previously established. Underground drainage easements are not shown under the parking lot and may require special provision as to installation and maintenance of new lines. Drive location in relation to adjacent drives and drives to the south will need to be shown and evaluated for potential conflicting traffic movements. Additional fire hydrants may need to be installed. Sewer lines will have to be shown, be within an dedicated easement and connection to Manholes will not be allowed.*
- 3. City Planner review indicates the following:*
 - a. The development is within the general guidelines of the Comprehensive Plan, however, this property is one of the most desirable properties on Memorial. In the area we have a tire store, an auto repair, muffler shop, and car wash. It has always been envisioned that the corner would offer an opportunity to expand retail development. Originally the corner was to be a drug store.*

On this prime location we have retail development to the North and East, and the LOWES location to the southwest with a Walgreen's on the corner.

- b. When properties are zoned CG is allows a number of items not allowed in a CS and others only allowed in a PUD or by Special Exception of the Board of Adjustment. Some of these are items are part of Use Unit 15 Other Trades and Services such as a bottled gas company, a fence company, a fuel oil company, a greenhouse, ice plant, model homes, plumbing shop portable storage building sales, etc. Use Unit 17 Automotive and Allied Activities which would allow Auto, Truck, Aircraft, Motorcycle, Camper, and Farm Implement sales. Use unit 17 would also allow auto rental, car wash, mini-storage, vehicle repair and service. The PUD does not include Use Unit 15 and limits Use Unit 17 to vehicle repair and sales. However the underlining CG would allow these items. If the present use under the PUD would fail then the PUD could be modified to agree with the underlining zoning, and the use would be at the discretion of the approval of the Planning Commission and City Council.*
- c. I have received a number of calls on this item in opposition to the restoration company and the PUD and Zoning as requested. Since this is a very prime corner in Bixby I have reservation that this use is the highest and best use of the property. I would like very much for this corner to develop in the very near future, but I do believe there is a higher use for the property.*

PUBLIC HEARING

Randall Pickard; attorney for Trinity Restoration, 1500 S. Utical #400, Tulsa: Mr. Pickard states that Trinity has contracted to buy this property at \$1.38 million dollars for slightly over one acre. David Miller, president of Trinity Restoration, can afford to pay this because Trinity is “not a typical body shop”. This business caters more toward “upper end” clientele that would not take their cars to an ordinary body shop. “Trinity draws from a customer base that covers the state of Oklahoma ... and from outside the borders of Oklahoma.” Mr. Pickard goes on to talk about the uniqueness of Trinity’s clientele and the benefits of bringing in customers from all over Oklahoma and surrounding states.

The applicant understands the Staff’s concern that this is a prime retail corner, but makes that point that there is already a great deal of retail along South Memorial. Mr. Pickard states that, in his experience as a land use attorney, large well developed tracts off the corner work better than small retail tracts on the corner.

Because Trinity draws from such a wide customer base, Mr. Pickard points out the fact that new customers will be in Bixby and will want a place to eat and/or shop while they are here; thus, increasing business at other Bixby retail locations.

Powerpoint handouts were given to the Commission. The slides displayed pictures of Fox Collision center at 42nd and Peoria with a child care center next to it. Mr. Pickard points out that Fox Collision shares a mutual access drive with the child care center and the center has a playground within 60-75 feet of Fox Collision’s overhead doors. This is allowable due to the strict emissions laws placed on auto shops by the EPA. The Powerpoint presentation goes on to point out that here in Bixby we have a Chili’s restaurant right next to Robertson Tire and a Midfirst Bank next to Advanced Auto Parts.

Mr. Pickard stated that he feels they have limited the possibility of future “objectionable” uses on this property by setting it up as a PUD. He thinks they have done a good job by eliminating use unit 15 and modifying use unit 17.

Chairman Sherrill mentioned that there were comments in the staff report referring to drainage, which is not an issue the P.C. gets into until the platting stage. But the commission does need to address the issues with the Fire Marshal’s comments dealing with access to the building for emergency vehicles.

Ted Sack, Sack & Associates, 111 S. Elgin Tulsa: Mr. Sack said that he was not aware of the Fire Marshal’s comments prior to tonight, but he stated that in similar situations involving gates, they have used a Knox-box available to fire department for access in the event of an emergency. As of yet, they have not talked about eliminating the gates because they feel that the Knox-box technology is a viable solution to the problem of emergency vehicle access. It is the same technology used in gated communities.

Mr. Powell asked Mr. Sack if there is any problem with the proposed location of the fire hydrants.

Ted Sack, Sack & Associates stated that there is no issue with that.

Chairman Sherrill stated that, even with a Knox-box there is still the issue of the canopy. “It could still pose a problem unless it was high enough and that it will remain open under it at all times.”

Ted Sack, Sack & Associates: Have “handled that with the fire department with the height restrictions like I said this is the first time this has come up but that is how we have handled it in the past.” That restriction can be handled to provide adequate access to the building. At this time there is no set height for the canopy because they are still in the design stage.

Mr. Davis: “Was there any effort on your part to find another piece of property that would service your needs other than this one?”

David Miller, applicant, 8927 S. Maplewood Tulsa: “I looked at several, yes. This was by far the best one.

Ted Sack, Sack & Associates: Explained that the whole nature of body shops has changed. Mr. Sack has worked on the Fox Collision and Danny Myers buildings. Danny Myers has a credit union right next door.

Mr. Powell asked Mr. Miller, applicant, to take the microphone. Mr. Powell then asked if Mr. Miller has any retail sales out of his restoration location. He went on to ask what the proposed sales are.

David Miller, applicant: “Currently we do about \$2 million a year and about half of that is sales taxable.” The new location will allow for almost twice the space of Trinity’s current location, and Mr. Miller hopes to double his sales. At this proposed location, retail sales will consist of “very unique things” such as wheels, tires, waxes, items that one could not find anywhere in Oklahoma. This location would allow for a showroom for the proposed retail sales. Customer base is composed of “car nuts” and

this is a niche market. This facility would be the only one like it in the state. Average ticket is over \$2,000.

Mr. Paxson: Asked if Trinity were to sell in the future, what is the grandfathering situation?

Mr. Coffey: “There would be none. It would have to follow the PUD as approved, or they would have to come back for modification.

Tim Remy, 8315 E. 111th St.: Mr. Remy is fine with the establishment and the retail sales. In 2000 Mr. Remy asked for the same type of zoning Mr. Miller is asking for and was denied (Mr. Remy owns the building directly to the East of the proposed site). In 1999 Mr. Remy was also denied auto restoration for the first building he built. Another concern is that 111th and Memorial is the entrance to Bixby, “it is where our sign is”. “He could work out and be great, but once he is gone and that zoning is still lying there, the other guy may not take care of it the same way. Once we vote that in, we will have to probably live with it until they want to change the use of that. That’s where I have a problem with it.

Greg Alberty, representing Boman Acres, 502 W. 6th St.: Mr. Alberty is the attorney for Boman Acres Limited Partnership, property owner adjacent to and immediately North of the proposed site. “We agree with the staff recommendation that this is not the highest and best use.” Mr. Alberty said that it was presented very well, but it is not an appropriate use for this area. He also mentioned the fact that this is the entrance to the City and a prime retail corner. “You can dress it up however you like, but the underlying zoning is still going to be CG and you are still going to be stuck with an automotive use which allows this restoration, and allows repairs, and allows uses that I just can’t see in this primary retail corner.” Mr. Alberty pointed out that Fox Collision and Danny Myers are not on prime retail corners. Mr. Alberty and his client feel that this “could lead to a further proliferation of uses that could be really detrimental to the retail uses and the future development of this area.” Boman Acres previously owned this property and are not opposed to a good development. If this is approved, they feel that it could open the door for several inappropriate developments. Mr. Alberty then provided the commission with photographs of Trinity’s current facility and stated that he understands the new location would be a different design, but he wanted the commission to see what the current restoration facility looks like. He also mentioned the fact that, if Trinity were to be sold, the automotive use would still be there on this prime retail corner and the next owner may not keep up the property as well as Trinity.

Mr. Davis asked Mr. Coffey how the properties in Bixby Commons decided on. He had not seen them come through the Planning Commission.

Mr. Coffey stated that Bixby Commons was originally platted as one property and zoned CS.

Mr. Davis: “How did we get that Advanced building (Advanced Auto Parts)?”

Mr. Coffey explained that the Auto Parts Store and the Car Wash were allowed by a special use permit from the Board of Adjustments, which can allow those uses in a CS zone by special exception.

Powell motioned for approval, Paxson seconded.

VOTING FOR: Powell, Paxson

VOTING AGAINST: Davis, Campbell, Sherrill

ABSTAINING: none

MOTION DENIED: 2-0-3

Applicant was told that he could appeal this case to the City Council.

FINAL PLATS

4. Discussion and possible action to approve a Final Plat for Block 2 Lots 8-13, The Enclave at Legacy.

STAFF REPORT

The staff has reviewed this plat. It was originally part of the development the Enclave at Legacy but was removed from that plat on the request of the developer and approval of the City because of a boundary dispute with property owners. That issue has been resolved and the Planning Commission approved lot line adjustment. The staff recommends approval.

Powell motioned for approval, Paxson seconded.

VOTING FOR: Davis, Campbell, Powell, Paxson, Sherrill

VOTING AGAINST: none

ABSTAINING: none

MOTION DENIED: 5-0-0

5. Old Business: None

6. New Business: None

7. Adjournment

Discussion ensued regarding the procedures of the planning commission and architectural committee. Comments were made as to the lack of enforcement behind the architectural committee's decisions. The statement was made that the committee has no "teeth".

Approved

Date