

**MINUTES
PLANNING COMMISSION
6:00 PM
116 WEST NEEDLES
BIXBY, OKLAHOMA
Monday
December 11, 2006**

MEMBERS PRESENT STAFF PRESENT MEMBERS ABSENT

Neil Trowbridge
Jim Powell
Scott Sherrill
Thomas Holland

Jim Coffey

Bill Davis

Consent Agenda – Chairman explained the consent agenda and ask if there were items that should be removed for discussion. Hearing none he asked for a motion.

Motion was made by Powell and seconded by Trowbridge to approve Consent Agenda.

VOTING FOR: Powell, Trowbridge, Sherrill, Holland

VOTING AGAINST: None

ABSTAINING: None

MOTION PASSED: 4-0-0

BZ 322 Public Hearing, Discussion and possible action to approve a request for zoning from RS 1 Residential to RD Residential Duplex on property located on the Northeast corner of 171st Street and S 88th East Ave, Bixby Real Estate Investments, applicant.

STAFF REPORT

Staff is in favor of this zoning change and feels it will be an asset to the area. We have received a number of calls after the last meeting and some property owners are very upset about this change. I have been asked to resurrect an old case BZ252 were a similar request was considered and denied. The reason for the denial was the opposition of the property owners and the covenants stating single family homes. The covenants at this time have more than likely been compromised several times but they do state structures in the area will be single family homes.

PUBLIC HEARING:

Jim Jones, 8899 E 171st Street, Two weeks ago we brought you a petition from our neighborhood asking you not to approve the zoning. You all asked us to get with the developer, the telephone company, to see if we could work something out. We have talked but they wanted to continue to rezone the property. So we continue to ask you not to approve the zoning. We would welcome construction but not of a duplex. The original intent of our subdivision covenants was to restrict this kind of construction. I was the one that asked about BZ 252 was turned down by the same planning commission in the same area and we still ask you to deny the request.

Kim Hood, 11735 S 84th East Ave, represented Bixby Real Estate Investments, the applicant. We would like to build an upper end duplex on the property. This would be a 3 bedroom double car garage upper end unit. We talked to Jim Jones and we are willing to put up a privacy fence on these two lots. Our lease agreement restrict the lease to two adults with no more than three children. We are willing to do a deed restrict on how autos can be used. We are still planning to build with the same plans we showed you last time.

Holland ask if there was an expiration on the covenants. The planner said no they usually run for a designated period of time say 30 years and then they are renewed for additional periods of time by the property owners home owners associate or have a automatic renewal of so may years. What happens is the homeowners associations become inactive so even though the covenants are there they are often compromised in several different ways. They become hard to enforce because they are compromised numerous times. The homeowners can even though they have compromised the covenants have the right to take any matter violating the covenants to district court. Enforcement through the courts becomes more difficult for the courts in accordance with the times the covenants have been compromised.

Holland asked how many times these covenants had been compromised. The planner responded we do not know, however it is an older subdivision and they do not have an active home owners associations. However they still have the right to go to court.

Kim Hood pointed out they were aware of the flood problems in the area. The City has done a lot of work but we realize we will have to elevate the structures and obtain elevation certificates.

Throwbridge asked what would be the approximate appraised value of the structure. Kim Hood answered about \$225,000.00. The one we built behind the phone company appraised for that value and it is smaller than these houses.

Holland asked Kim Hood if she had proposed the restriction on the property to the homeowners? She said yes but they would like only single family homes.

Throwbridge asked about comparable values. Hood said the comps for the area show the last few houses that sold in the area sold from \$98,000.00 to \$118,000.00.

Linda McCully, 8702 East 170th Place, asked if they builder would buy or rent the property. If you bought one would you live there. Hood replied that a lot of people starting out in this business do develop a duplex and live in one side. She had a residence in the City. McCully said, I'm afraid renters would not take interest in the property. Hood responded they did screen the applicants.

Kim Baehley, 16093 s 88th East Ave. She said she did not receive a notice of this action. The process was explained by the Planner, with property owners in 300 foot been notified by mail and the legal notice in the paper at least 20 days before the hearing.

Lillie Garroutee, 16920 S 88th East Ave., All the homes on 88th are all in good condition. Please consider that we do not want duplexes only single family homes.

Jim Jones pointed out that we are dealing with the phone company who take care of their property, but at some point the property will be sold and the new owners might not take care of the property.

Chairman closed the public hearing.

Sherrill said he doubted the building of the duplexes would affect property values, and sure the present covenants had been compromised several times and might not be affective, however, it is hard to make a good decision. We want to do what is best for now and the future. The developer has the right to build single family homes the question is concerning the duplex structures.

**Powell moved and Holland seconded to Deny
VOTING FOR: Powell, Trowbridge, Sherrill, Holland
VOTING AGAINST: None
ABSTAINING: None
MOTION PASSED: 4-0-0**

PUD 52 Public Hearing, Discussion and possible action to approve a request for zoning of Agricultural property to RS2 Residential with the Supplemental Zoning of PUD 52, on property located between East 121st Street and Graystone, on the East side of Sheridan Road, Haynes Reynolds, applicant.

STAFF REPORT

Several additional problems have been discovered that need to be resolve. The major problem are storm water and sewer. The applicant has asked we continue this item until the January meeting. Staff concurs and asked the item be continued.

Powell moved and Holland seconded to continue item until January 16, 2007.

**VOTING FOR: Powell, Trowbridge, Sherrill, Holland
VOTING AGAINST: None**

ABSTAINING: None
MOTION PASSED: 4-0-0

Scott Sherrill announced he was involved in the next item so he excused himself, turned the meeting over to the Vice Chair Powell and left the room.

BZ323 Public Hearing, Discussion and possible action to approve a request for zoning of Agricultural property to RS3 Residential on property located South of 121st Street between Mingo and Garnet, Haikey Creek Partners, LLC, applicant.

STAFF REPORT:

The zoning fits well into the comprehensive plan. Water and sewer will need to be brought to the site to make the development happen, the drainage problems in the area would have to be addressed, and the other items is the unusual shape of the property and access to the property in the south part of the area being re-zoned. All of these items will be addressed in the platting stage. There is no plan for the property, no sewer plan, no water plan, no drainage plan. This is just zoning and the other items would come later as the property is developed. Staff recommends approval.

PUBLIC HEARING:

Lorrie Bewley, 3538 S 65th West Ave. Here mother owns adjacent property. The property drains to her pond. Her road to enter her home goes through the property, limited access. Most of the houses would be built in the back and would have to enter and exit through a narrow strip. We have concern about access, traffic, and drainage.

Throwbridge asked about access, and was told it was across the property being rezoned.

Holland asked if her mother lived there and was told she lived on the property.

Holland asked what were her concerns and Lorrie replied the concern is it will flood their ten acres. The property drains to the pond on our property. We are also concerned about the connecting piece of property from the front property to the rear property.

Throwbridge asked the planner if such an item can be rezoned. The planner said the property zoning the platting of the property were two separate issues. Rezoning is only a first step. This is not a PUD it is a straight zoning application. We cannot place conditions on the zoning. We are not looking at positions of street, drainage criteria, etc. we are looking at a zoning designation. There is no design for utilization of the property at this time, just a zoning application we can approve or deny.

Lorrie Bewley asked if it was a normal process to change the zoning before a plat is done. The planner said yes it was in fact the process.

Powell explained that if they cannot build after the zoning on property the property would not be developed until it could meet platting requirements. Everything that does not have a zoning classification is agriculture.

The planner volunteered that there are differences from a residential zoning and agricultural zoning and these relate to the maintenance of the property. The mowing of the property etc are different for residential than they are for agricultural

Powell explain the commission is not responsible for hydrology only for zoning. Our charge is do we move the zoning classification from agriculture to residential. They will have to give your mother access to her property.

Lorrie Bewley said also all the utilities cross the property that is being zoned. My last questions is this the best use for the property or is there a better use. Is its present use the best use?

Throwbridge said if this was a PUD he would not vote for the item. But in zoning issue the working out of all these issues is not required. What we do tonight does not mean that these issue will not be addressed.

Powell responded there may be items that we do not know about at this time. For example the purchase of more land. We do not know about there design. We have an area to either rezone on not to rezone.

Roush, adjacent property owner. I did not get a notice on this but we found out our notice was sent to an address on the county records which is not the address of our property were we now live. I do want to be notified of future action on the property. My address is 10910 east 121st Street. Our worry is the drainage problem. What does in there will drain on our property. I do not mind about residential, but it will take a lot of work to make it residential.

Holland told Roush that the development could not place storm water on her property according to the ordinance. The planner described the earth change process of engineering design, permits, and approval to move dirt from the City Council

Powell asked if we could call Sherrill into the room to answer questions. The planner said we could and Sherrill was asked to return to the room.

Powell asked Sherrill to explain why he was asking to change the area from Agriculture to Residential.

Sherrill replied that what we have is just a first step of zoning and we may come back with a PUD. We are not sure what we are going to do at this point.

Powell asked about the 10 acres that has utilities and access across the property.

Sherrill explained that access and utilities were placed across the property without proper easements, but the property owner could be assured that proper utility supply and access would be provided for everyone in the area.

Sherrill said he had not yet purchased the property but the conditions for purchase included the zoning, proper easement for utilities, access for all property owners, etc. The purchase of the property was tied to these items.

Throwbridge said he was not pleased with the access. Sherrill said he knew this was a problem and would address the item before development.

Holland moved to approve and Powell seconded.

VOTING FOR: Powell, Holland

VOTING AGAINST: Throwbridge

ABSTAINING: None

MOTION PASSED: 2-1-0

Planner said this might not be a majority vote. He would submit the item to the City Attorney for a decision.

Old Business: None

New Business: None

Adjournment.

Approved_____Date_____