

TULSA METROPOLITAN AREA PLANNING COMMISSION
MINUTES of Meeting No. 1447
Wednesday, March 16, 1983, 1:30 p.m.
Langenhiem Auditorium, City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Draughon Gardner Higgins Hinkle, Secretary Kempe, Chairman Petty, 2nd Vice Chairman C. Young, 1st Vice Chairman T. Young	Benjamin Miller Inhofe	Chisum Compton Gardner Wilmoth	Linker, Legal Department

MINUTES:

On MOTION of C. YOUNG, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the minutes of March 2, 1983 (No. 1445).

REPORTS:

Comprehensive Plan Committee:

Chairman Kempe advised there will be a meeting of the Comprehensive Plan Steering Committee on April 6, 1983, at 12:00 p.m. The meeting scheduled for today was not held.

RESOLUTIONS:

Mr. Gardner noted that the Commission held a public hearing on March 2, 1983, to consider a proposed increase in fees. The Commission instructed the Staff at the closing of this public hearing to prepare resolutions reflecting the fee increases as proposed. The following resolutions are therefore presented for adoption:

Resolution No. 1447:568

A RESOLUTION ADOPTING AN AMENDED FEE SCHEDULE FOR FILING AND PROCESSING REZONING, CORRIDOR SITE PLAN REVIEW, FLOODWAY, PLANNED UNIT DEVELOPMENT AND BOARD OF ADJUSTMENT APPLICATIONS WITHIN THE TERRITORIAL JURISDICTION OF THE TULSA METROPOLITAN AREA PLANNING COMMISSION

WHEREAS, the fees for filing and processing applications heard by the Tulsa Metropolitan Area Planning Commission have remained unchanged since 1974; and

Resolution (continued)

WHEREAS, the cost of services rendered in processing these applications has increased substantially since the fees were adopted; and

WHEREAS, Section 1640 and Section 1730.1 (a), Title 42, City of Tulsa Revised Ordinances and Section 1640 and Section 1730.1 (a), Tulsa County Zoning Code permits the Planning Commission to adopt fees, the amount of which shall be established by resolution adopted by the Planning Commission and approved by the City Commission and County Commission; and

WHEREAS, on the 2nd day of March, 1983, the Tulsa Metropolitan Area Planning Commission did hold a Public Hearing and did give public notice thereof, for the purpose of considering an increase of the fees to be paid by persons filing applications for rezoning, corridor site plan review, floodway, planned unit development and Board of Adjustment; and

WHEREAS, after due study and deliberation, it is deemed to be necessary that the present fee schedule be amended, in order to maintain proficiency in the processing of these applications and to recover a reasonable percentage of the expense incurred.

NOW, THEREFORE, BE IT RESOLVED, pursuant to the authorization set forth in Title 42, Tulsa Revised Ordinances, Sections 850.2, 1000, 1170.2, 1640 and 1730.1 and as set forth in Sections 850.2, 1000, 1170.2, 1640 and 1730.1 of the Tulsa County Zoning Code, that the following fees shall be paid by persons filing and processing applications for rezoning, corridor site plan review, floodway, planned unit development and Board of Adjustment.

<u>Zoning Categories (Zoning Classification)</u>	<u>Base Fee</u>	<u>Sliding Fee</u>
A. Low Intensity (AG, RS-1, RS-2, RS-3, RD)		
1. 5.0 acres or less	\$ 90.00	
2. For each additional acre increment and/ or fraction thereof		\$ 2.00
3. Maximum	\$ 300.00	
B. Medium Intensity (RMH, RM-0, RM-T, RM-1, RM-2, P, OL, OM)		
1. 5.0 acres or less	\$ 180.00	
2. For each additional acre increment and/ or fraction thereof		\$ 5.00
3. Maximum	\$ 400.00	
C. High Intensity (RM-3, OMH, OH, CS, CG, CH, CO, IR, IL, IM, IH)		
1. 5.0 acres or less	\$ 375.00	
2. For each additional acre increment and/ or fraction thereof		\$ 10.00
3. Maximum	\$ 700.00	
D. Multiple Zoning Classifications ¹		
1. Highest of base fees ²	(A-1, B-1, C-1)	
2. Plus per acre cost per category ³	(A-2, B-2, C-2)	
3. Maximum	\$ 700.00	

Resolution (continued)

E. Planned Unit Development and Corridor Site Plan Review		
1. 10.00 acres or less	\$ 300.00	
2. For each additional acre or fraction thereof over 10.0 up to and including 100.0		\$ 5.00
3. For each acre or fraction thereof over 100.0		\$ 1.00
4. Maximum	\$1,000.00	
F. FD Zoning District Boundary Amendment	\$ 30.00	NA
G. Abandonment of a Planned Unit Development	\$ 35.00	NA
H. Minor Amendment to a Planned Unit Development		
Bulk & Area Variances (5% or less)	\$ 25.00	NA
Bulk & Area Variances (10% to 5%)	\$ 50.00	NA
I. Zoning Identification Letter	\$ 5.00	NA

¹ In addition to charging the highest base fee in a multiple zoning application (Item 2 below) the highest sliding fee shall be charged for the total area included in a multiple zoning classification request, unless the applicant calculates and records on the zoning application form the specific number of acres for each zoning classification requested.

² Only one base fee (A-1, B-1, C-1) shall be charged for multiple zoning classification requests and it shall be the highest of the base fees per type of zoning requested.

³ The applicant shall be charged, in addition to the highest of the base fees, a sliding fee (A-2, B-2, C-2) for each acre of each category requested, except the first (5) acres of the highest category which has already been charged in the base fee.

NOTE: The above fees do not include the cost of publication notice and posting of signs. Publication notice shall be billed to the applicant.

BOARD OF ADJUSTMENT FILING AND PROCESSING FEES

Appeal from Building Inspector	\$ 50.00
Minor Variances and Exceptions (Mobile Homes)	\$ 75.00
Other Variances of Bulk and Area	\$ 100.00
Special Exception	\$ 125.00
Use Variances	\$ 200.00

NOTES: The above fees do not include the cost of publication notice which shall be billed to the applicant.

BE IT FURTHER RESOLVED THAT an emergency exists for the preservation of the public peace, health and safety, by reason whereof this Resolution shall take effect immediately upon its adoption and approval by the Tulsa Metropolitan Area Planning Commission, the Tulsa City Commission, and the Board of Tulsa County Commissioners.

A RESOLUTION AMENDING THE FEE SCHEDULE FOR FILING AND PROCESSING APPLICATIONS FOR SUB-DIVISION, LOT SPLIT, WAIVER OF PLAT AND ACCESS CHANGE ON RECORDED SUBDIVISION WITHIN THE TERRITORIAL JURISDICTION OF THE TULSA METROPOLITAN AREA PLANNING COMMISSION

WHEREAS, the fees for filing and processing subdivision plats and lot splits heard by the TMAPC have remained unchanged since 1974; and

WHEREAS, the cost of services rendered in processing these application has increased substantially since the fees were adopted; and

WHEREAS, Sections 2.3.1(a), 2.5.1(d) and 6.3.1 of the Subdivision Regulations for the Tulsa Metropolitan Area provide for the establishment of filing and processing fees, the amount of which shall be established by Resolution adopted by the Planning Commission and approved by the City Commission and County Commission; and

WHEREAS, on the 2nd day of March, 1983, the Tulsa Metropolitan Area Planning Commission did hold a Public Hearing and did give public notice thereof, for the purpose of considering an increase of the fees to be paid by persons filing subdivision plats, lot splits, waiver of plat and access changes on recorded plats; and

WHEREAS, after public hearing and upon due study and deliberation, it was deemed to be in the public interest and in keeping with the purposes of the Planning Commission as set forth in the Tulsa Metropolitan Area Planning Commission Enabling Act, Title 19, Oklahoma Statutes, Section 863.6, to adopt a resolution increasing the filing and processing fees for subdivision plats, lot splits, plat waiver and access changes on recorded plats.

NOW, THEREFORE, BE IT RESOLVED, pursuant to the authorization set forth in Sections 2.3.1(a), 2.5.1(d) and 6.3.1 of the Subdivision Regulations for the Tulsa Metropolitan Area, that the following filing fees shall be paid by persons filing and processing applications for subdivision plats, lot splits, waiver of plat and access changes on recorded plat:

1. For each preliminary plat submitted, the Planning Commission shall collect a fee of \$150.00, regardless of size or number of lots.
2. For each final plat submitted, the Planning Commission shall collect fees as follows:
 - (a) Base Fee, all plats, regardless of size or number of lots \$150.00
 - (b) Plus additional processing fees computed as follows:
 - 1 to 100 lots inclusive \$2.00 per lot
 - 101 or more lots \$.50 per lot over 100

Resolution (continued)

3. The total maximum final fees for processing a subdivision plat shall not exceed \$600.00, excluding the basic filing fees authorized by State Statutes.
4. For each "lot-split" submitted, the Planning Commission shall collect fees as follows:
 - (a) Lot-splits which meet all Subdivision Regulations and Zoning Ordinances as submitted \$15.00
 - (b) Lot-splits which require only a waiver of Subdivision Regulations subject to action by the Board of Adjustment on a Minor Variance, in accordance with the adopted policies of the Board of Adjustment \$25.00
 - (c) Lot-splits which require a waiver of Subdivision Regulations other than a Minor Variance as in (b) above or a combination thereof \$50.00
5. Request to waiver platting requirements under Section 260 of Zoning Code.

Processing and application fee (Staff Review Only) . \$25.00
Processing and application fee (T.A.C. Review). . . \$50.00

6. Request to change access points on recorded plat approved by TMAPC. *

Processing and application fee \$50.00

*When access changes are required with a platting waiver, only one \$50.00 fee is applicable.

BE IT FURTHER RESOLVED THAT an emergency exists for the preservation of the public peace, health and safety, by reason whereof this Resolution shall take effect immediately upon its adoption and approval by the Tulsa Metropolitan Area Planning Commission, the Tulsa City Commission, and the Board of Tulsa County Commissioners.

SUBDIVISIONS:

For Preliminary Approval:

Golf Estates II Amended (PUD 313)(382) 61st & S. 28th W. Ave. (RS-3, RMT)
The Staff advised the Commission this item is to be tabled.

On MOTION of HIGGINS, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to table the Preliminary Plat of Golf Estates II Amended.

For Final Approval and Release:

Kensington, Blocks 15 & 17 (PUD 128)(783) 78th & S. Wheeling (RM-1)

Rockford Circle (PUD 296)(793) 17th Pl. & S. Rockford Ave. (RD, RS-3)

Corrie Lynn Est. (2193) 35th & S. Oswego (RS-3)

Woodview Heights Amended (3492) 58th & S. Union (RS-3, RD)

The Staff advised the Commission that all release letters have been received and recommended final approval and release.

On MOTION of C. YOUNG, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the final plat of Kensington, Blocks 15 & 17, Rockford Circle, Corrie Lynn Estates, and Woodview Heights Amended and release same as having met all conditions of approval.

Access Change on Recorded Plat:

Park Plaza Square (2094) NW/c 41st & S. 129th E. Ave. (CS)

Purpose or reason for change: Reduction and relocation of access points for shopping center. Reduces total from 8 access points to 6 access points.

The Traffic Engineer and Staff recommend approval.

On MOTION of GARDNER, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the requested change of access for Park Plaza Square Addition.

Tulsa Jr. College, S.E. Campus (1884) 10300 E. 81st St. (AG)

Purpose or reason for change: Relocation of main entrance.

The Technical Advisory Committee and Staff recommended approval.

On MOTION of HIGGINS, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the requested change of access for Tulsa Jr. College.

Request to Waive Plat:

BOA #12430 Union Gardens (684) SW/c of 63rd & S. 105th E. Ave. (RS-3)

The applicant was not present.

This is a request to waive plat on Lot 1, Block 6 of the above named plat. The Board of Adjustment has approved its use as a church which requires a plat. Since it is already platted, the applicant is

BOA #12430 Union Gardens (continued)

requesting waiver. Staff notes that S. 103rd E. Avenue is partially dedicated, so the west 25' of Lot 6 will be required for right-of-way to align with previous dedications. Grading and drainage plans will be required through the permit process. The applicant indicates a Health Department approval for septic tank with file #74-327. Utility easements for future lines were requested.

The Technical Advisory Committee and Staff recommended approval of the waiver of plat on BOA #12430, subject to the conditions.

On MOTION of HIGGINS, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the request to waive the platting requirements for Union Gardens Addition, subject to the following conditions:

- (a) Dedication of the West 25 feet
- (b) Grading and drainage plans through permit process
- (c) Utility easements: 15' parallel to streets and 17½ feet along south side.

Z-5737 Greenfield Acres (2792) NE Corner of 51st & Vancouver (CS, P)

The applicant was represented.

This is a request to waive plat on Lot 6, Block 2, since it is already platted, all improvements are in place and nothing would be gained by a re-plat. This is adjacent to the Quik-Trip at the northwest corner of 51st and Union, which was not subject to platting. There will be private, mutual access across both lots and no access from Lot 6 is planned to 51st Street. Any grading plans will be subject to City Engineering through the permit process. The west 5' will be required to meet the MSP, since only 40' exists now for right-of-way.

The Technical Advisory Committee and Staff recommended approval of the waiver of plat on Z-5737, subject to the conditions.

On MOTION of GARDNER, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the request to waive the platting requirements for Greenfield Acres Addition, subject to the following conditions:

- (a) Dedication of west 5' for street plan
- (b) Grading plans through permit process
- (c) The east 11' for utility easement. (Includes existing easements)

LOT SPLITS:

For Ratification of Prior Approval:

L-15729 (3193) Alron, Inc.	L-15737 (994) City of Tulsa
15732 (3193) Alron, Inc.	15740 (283) Tree Dev. Co.
15733 (2402) City of Tulsa	15743 (603) Beatrice Orcutt
15734 (2592) George Hanks	15744 (3093) Franklin Moskowitz
15735 (3113) Mike Evans	15746 (983) Paul Hinch
15736 (2903) Stella Webb	15747 (3602) T.U.R.A.

On MOTION of C. YOUNG, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") that the approved lot splits listed above be ratified.

For Discussion and Prior Approval:

15727 Robert Flaherty and Stanley Cebuhar (583) 6700 Block S. Florence (RS-1)

This split represents a request to create an additional building site (lot) out of two tracts, thus creating three lots where two existed. The larger tract (shaded area on map) is the remainder or third tract under lot split #15674, which was approved by the TMAPC on February 9, 1983. That split has been appealed to District Court by adjacent owners who protested the application. The split for review this date (#15727) creates three lots which will meet the Subdivision Regulations requiring conformance with the zoning, which requires a minimum of 100' lot width and 13,500 square feet of area. The lots all exceed 100' width, have a minimum of 30' of frontage and are in excess of an acre in area. Since this split overlaps a portion of that tract appealed to District Court, the Staff would not recommend an approval without a review of the Planning Commission.

Applicant's Comments:

Mr. John Rupe of Newport Realty Company is the applicant. His attorney, who previously represented the case, is out of the country. Mr. Rupe stated that the application does meet all the requirements for this type of zoning with the minimum frontage, minimum lot width and exceeds the required square footage requirement. This lot is almost a mirror reflection of the lot immediately to the east. It is Mr. Rupe's plan to construct a nice, single-family home. It is abutting the lake and there is more than sufficient room to build a home comparable with others in the area. He stated that he also lives in the area.

The far east tract under application is involved because the restrictive covenants impose a one-acre minimum for all lots and the lot does not have an acre. There was some contention in the previous hearing about the location of the lot lines, so Mr. Rupe accepted what the protestants thought was their lot boundary. In order for the eastern-most lot to be sold, Mr. Rupe gave him some of the land from the center lot to make the eastern lot one acre and Mr. Rupe received from the

BOA #12430 Union Gardens (continued)

requesting waiver. Staff notes that S. 103rd E. Avenue is partially dedicated, so the west 25' of Lot 6 will be required for right-of-way to align with previous dedications. Grading and drainage plans will be required through the permit process. The applicant indicates a Health Department approval for septic tank with file #74-327. Utility easements for future lines were requested.

The Technical Advisory Committee and Staff recommended approval of the waiver of plat on BOA #12430, subject to the conditions.

On MOTION of HIGGINS, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the request to waive the platting requirements for Union Gardens Addition, subject to the following conditions:

- (a) Dedication of the West 25 feet
- (b) Grading and drainage plans through permit process
- (c) Utility easements: 15' parallel to streets and 17½ feet along south side.

Z-5737 Greenfield Acres (2792) NE Corner of 51st & Vancouver (CS, P)

The applicant was represented.

This is a request to waive plat on Lot 6, Block 2, since it is already platted, all improvements are in place and nothing would be gained by a re-plat. This is adjacent to the Quik-Trip at the northwest corner of 51st and Union, which was not subject to platting. There will be private, mutual access across both lots and no access from Lot 6 is planned to 51st Street. Any grading plans will be subject to City Engineering through the permit process. The west 5' will be required to meet the MSP, since only 40' exists now for right-of-way.

The Technical Advisory Committee and Staff recommended approval of the waiver of plat on Z-5737, subject to the conditions.

On MOTION of GARDNER, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the request to waive the platting requirements for Greenfield Acres Addition, subject to the following conditions:

- (a) Dedication of west 5' for street plan
- (b) Grading plans through permit process
- (c) The east 11' for utility easement. (Includes existing easements)

LOT SPLITS:

For Ratification of Prior Approval:

L-15729 (3193) Alron, Inc.	L-15737 (994) City of Tulsa
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On MOTION of C. YOUNG, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") that the approved lot splits listed above be ratified.

For Discussion and Prior Approval:

15727 Robert Flaherty and Stanley Cebuhar (583) 6700 Block S. Florence (RS-1)

This split represents a request to create an additional building site (lot) out of two tracts, thus creating three lots where two existed. The larger tract (shaded area on map) is the remainder or third tract under lot split #15674, which was approved by the TMAPC on February 9, 1983. That split has been appealed to District Court by adjacent owners who protested the application. The split for review this date (#15727) creates three lots which will meet the Subdivision Regulations requiring conformance with the zoning, which requires a minimum of 100' lot width and 13,500 square feet of area. The lots all exceed 100' width, have a minimum of 30' of frontage and are in excess of an acre in area. Since this split overlaps a portion of that tract appealed to District Court, the Staff would not recommend an approval without a review of the Planning Commission.

Applicant's Comments:

Mr. John Rupe of Newport Realty Company is the applicant. His attorney, who previously represented the case, is out of the country. Mr. Rupe stated that the application does meet all the requirements for this type of zoning with the minimum frontage, minimum lot width and exceeds the required square footage requirement. This lot is almost a mirror reflection of the lot immediately to the east. It is Mr. Rupe's plan to construct a nice, single-family home. It is abutting the lake and there is more than sufficient room to build a home comparable with others in the area. He stated that he also lives in the area.

The far east tract under application is involved because the restrictive covenants impose a one-acre minimum for all lots and the lot does not have an acre. There was some contention in the previous hearing about the location of the lot lines, so Mr. Rupe accepted what the protestants thought was their lot boundary. In order for the eastern-most lot to be sold, Mr. Rupe gave him some of the land from the center lot to make the eastern lot one acre and Mr. Rupe received from the

eastern-most lot more land to make the front footage 30 feet or more. Now the lots meet all restrictions of the Subdivision Regulations, as well as the private deed restrictions imposed on the area. Mr. Rupe also presented a certified letter from Hammond Engineering Company (Exhibit "A-1"), stating these lots meet the Subdivision Regulations. A survey of the area was displayed.

Protestants' Comments:

Mr. Frank Hettinger represented Mr. Bill Bovaird. He presented a plat which shows the lake on the property. Mr. Bovaird has no quarrel with the adjustment to make the lot an acre and to increase the frontage. The problem is with the rest of the split. Mr. Hettinger figured the lot averages only 57 feet in width of dry land and the remaining 50 feet is covered with water. It is his understanding the house will be cantilevered out over the lake right in front of Mr. Bovaird's house. In 1956, when his client's lot was designed, the line stopped about 25 feet from the lake. In the intervening time period, the lake has shrunk, so it is now farther from the lake. The reason the lot was stopped at that point was to keep small children away from the lake. Mr. Bovaird did not expect a house to be cantilevered over the lake.

Mr. Bill Huckin noted that Mr. Rupe's home in the area is now up for sale and was surprised Mr. Rupe did not mention that fact. It was intended when this property was platted to have four houses on four lots. Each house was to have an acre of land. The acre owned by Mr. Cebuhar also contained an acre of water. The restrictive covenants were designed to limit the area to four houses. If the lot is split, it would be a violation of the restrictive covenants. He did not think the Planning Commission had the power to change the covenants.

Commissioner C. Young asked Mr. Huckin, as an attorney, if he had read the deed restrictions and if they are still in effect. Mr. Huckin assured the Commission the restrictions are still in effect. A majority of the property owners is required to change these restrictions and the four owners are split two and two. Commissioner C. Young noted the Planning Commission cannot interpret these restrictions, only a court could interpret these. Mr. Huckin agreed and did not think the applicant has the right to ask the Commission to pass judgment. Commissioner C. Young pointed out that the covenants have not been submitted as evidence. Mr. Huckin stated that the restrictions had been presented as oral testimony and the intention of the restrictions is four houses on four lots.

Assuming the covenants prohibit this lot split, Mr. Linker advised the Commission that two things have to be accomplished: 1) a change in the covenants and a lot split approved by the Planning Commission, or 2) the covenants might be modified, which would take District Court action or approval of all property owners. If the covenants prohibit this split, the applicant has a problem even if this Commission approves the lot split.

Mr. Ridge Bond disagreed with the lot line on the far west and thought the cul-de-sac had been moved on the survey. Mr. Flaherty, whose lot is under application, received a special exception to the setback from 35' to 28' and also for a swimming pool down to 19' from the edge of the property line. Now, the whole access road has been moved and the

swimming pool is 6' from the property line. Mr. Bond does not agree with the surveys that have been done. The pond is a habitat for Golden Eagles, Great Horned Owls and large Canada Geese, which are protected species. Mr. Bond presented a letter from the Oklahoma Department of Wildlife Conservation (Exhibit "A-2") in support of the preservation of this area. Mr. Bond requested denial of this lot split until it conforms with the certified dimensions used for the previous lot split, which is now in District Court.

Applicant's Comments:

Mr. Rupe pointed out that the only objection raised to this lot split is the blockage of view. Mr. Bovaird was adjudicated out of the right to the lake several years ago, which was a court decision that he had no right to the lake. The buildable footage is more than sufficient. Mr. Rupe is a professional builder and does know how to adapt what is necessary to this lot. A certified letter has been submitted from Hammond Engineering stating the Subdivision Regulations have been met and Mr. Rupe requested the lot split be ratified.

Commissioner Higgins asked if the outside perimeter of the entire addition had been changed and Mr. Rupe stated no change has occurred in the outside perimeters. Mr. Bond disagreed. Mr. Gardner explained that the applicant started on the west side where Mr. Huckin contends his property line is and adjusted the side lines accordingly around the cul-de-sac. The street was not changed, merely the side lot lines.

Commissioner C. Young asked Mr. Linker to address the issue of dry land versus land under water on a lot. Mr. Linker felt there have been many subdivisions platted with ponds, streams and bodies of water. He does not think this was deducted from the size in computing the land area. Under previous prior approval policy, the Planning Commission has said if it meets the Subdivision Regulations, the split is approved. There was no judgment involved. If the Planning Commission has a problem with the type of lots being created by meeting the Subdivision Regulations, then the Regulations should be studied or the policy changed as related to prior approvals.

Commissioner Petty did not think a zoning case or a lot split decision should be based on aesthetics and the Supreme Court holds this same opinion. The only problem in approving this lot split is if the dimensions differ between this split and the one previously approved. This issue is confusing.

Mr. Gardner explained the street is a dedicated street and the City will not allow anyone to alter the boundaries and legal description. The engineer has no jurisdiction to change the boundaries of the cul-de-sac. If the engineer has made an error, the Planning Commission has no way of knowing.

Commissioner C. Young stated that if the protestants are correct about the covenants, this house will never be built. The protestants have not presented any legal documentation to uphold their position. Although he sympathizes with the protestants, he feels the application has to be approved. Commissioner Higgins and Chairman Kempe agreed.

MOTION was made by HIGGINS, seconded by HINKLE, to approve the lot split as presented.

Special Discussion:

Commissioner T. Young read from Section 110.1 of the Tulsa Zoning Code, which states: "This Code is enacted for the purposes of promoting the health, safety, peace, morals, comfort, convenience, property, order and general welfare; lessening danger and congestion of public transportation and travel; securing safety from fire and other dangers; preventing overcrowding of land; avoiding undue concentration of population; providing adequate light and air, police protection, transportation, water, sewerage, schools, parks, forests, recreational facilities, military and naval facilities, and other public requirements, and preventing undue encroachment thereon; conserving the value of buildings and encouraging the most appropriate use of land; encouraging the industrial, commercial and residential growth of the community; and promoting the development of the community in accordance with a comprehensive plan". He also cited as references Section 205 and Section 260 of the Zoning Code, referring to lot splits and the platting requirements. In accordance with these referenced Sections, the Planning Commission does have full and clear authority to deny this lot split and would be fulfilling the obligations stated in Section 110.1.

Commissioner C. Young wondered how Commissioner T. Young's argument could be rationalized with the rule under Prior Approval Recommended that automatic approval is given if all conditions are met under the Subdivision Regulations. Commissioner T. Young felt that anything done at Staff level is subject to the reversal or rescission of this Board. Mr. Linker explained the purposes under the Zoning Code and the Subdivision Regulations are slightly different. Both are based on the police power. The Planning Commission has been following a policy of prior approval. Either the policy should stand or the Subdivision Regulations should be changed. He does not think the purposes as set out in the Subdivision Regulations are inconsistent with what the Planning Commission is doing on prior approvals. In response to Commissioner C. Young's question, Mr. Linker did not think the Planning Commission would be inconsistent with the purposes of the Subdivision Regulations if this lot split were denied.

Commissioner Draughon asked if the lot split that was already approved and appealed in court contains any of the lot under application. The Staff advised that part of it is included because it is the residual of the piece split off. Commissioner Draughon wondered if the Commission should make a decision before the Court has heard the case. Mr. Linker thought this case could have an effect on the court case but he was not sure without additional study.

TMAPC Action: 8 members present.

On MOTION of HIGGINS, the Planning Commission voted 4-4-0 (Gardner, Higgins, Hinkle, Kempe "aye"; Draughon, Petty, C. Young, T. Young "nay"; no "abstentions"; Benjamin, Miller, Inhofe "absent") to approve the lot split.

Motion FAILED due to lack of a majority vote.

LOT SPLITS FOR WAIVER:

L-15716 Dean Nichols (2790) North side of Coyote Trail, ¼ mile west of Mud
Creek Road (AG)

This is an application to split a 2.511 acre tract into two pieces. Tract 1 will be the Northern portion of the original lot and will contain 1.11 acres with a lot width of 185+ and 15' of frontage. Tract 2 will contain 1.26 acres with a lot width of 185+ and a frontage of 207.04 feet. Both lots will require Board of Adjustment approval of the bulk and area. The tracts are served by Sand Springs RWD and will require Health Department approval for septic tanks. (A similar lot configuration exists approximately ¼ mile north on Mud Creek Road, although it is a larger tract.)

The Technical Advisory Committee and Staff recommended approval of L-15716, subject to the conditions.

On MOTION of C. YOUNG, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the request to waive the Bulk and Area requirements for L-15716, subject to the following conditions:

- (a) Board of Adjustment approval
- (b) Health Department approval

L-15720 Richard Hall (3193) 5903-05 S. Quincy Pl. (RS-3)

The Staff requested this item be tabled.

On MOTION of HIGGINS, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to table consideration of L-15720.

L-15721 Wilma Madux (2582) 10000 Block S. Elgin (AG) (County)

The applicant was represented.

This is a request to split a 5-acre tract into 3 pieces. Tract 2 will have an average lot width of 104' and a total area of 1 acre. Tract 1 will have a lot width of 208' and a total area of 1 acre. Tract 3 will be in excess of 2.5 acres with a minimum frontage of 30 feet. The three lots are served by a public water system and are on septic. Board of Adjustment approval of lot width will be required on Tract 2 and of lot area on Tracts 1 and 2. The applicant is willing to make the necessary dedication on Elgin and the lot split would be subject to approval by the Health Department. (Health Department approval was received prior to TAC meeting.) (ONG advised they had a gas line along Elgin they may need an easement for.)

The Technical Advisory Committee and Staff recommended approval of L-15721, subject to the condition.

L-15721 (continued)

On MOTION of HIGGINS, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the request to waive the Bulk and Area requirements for L-15721, subject to the following condition:

- (a) Board of Adjustment approval.

Miscellaneous: (Partial Vacation of Plat)

Silver Oaks, Block 1 (PUD 136)(983) West of the Southwest corner of 71st and Yale (RS-3)

The Staff requested this item be tabled.

On MOTION of HIGGINS, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to table Silver Oaks, Block 1.

ZONING CASES REFERRED BACK TO TMAPC FROM THE CITY COMMISSION:

Z-5790 Johnsen (Hines/Tul. Ind. Ltd.)

and

PUD 309 Johnsen (Hines/Tul. Ind. Ltd.) Between 66th St. and 68th St., East of Memorial

Staff Recommendation: (Amended PUD #309)

Planned Unit Development No. 309 is located east of the southeast corner of 66th Street and South Memorial Drive. It is 10.28 acres net in size, 12.03 acres gross and has a Staff and Planning Commission recommendation for OM and CS zoning. The applicant is requesting to amend the PUD proposal to include an office and retail complex which comes back to the TMAPC on a referral from the City Commission. The applicant is removing the cinema theater from the proposal, as approved by the Planning Commission January 26, 1983.

The Staff has reviewed the applicant's revised Text and Site Plan and finds the proposal in keeping with the intent and purpose of the PUD Ordinance. Therefore, the Staff recommends APPROVAL of the amended PUD #309, subject to the following conditions:

- 1) That the applicant's Text and Site Plan be made conditions of approval.
- 2) Development Standards:

Development Area "A"

Gross Area:	8.87 acres
Net Area:	7.78 acres
Permitted Uses:	Use Unit 11- Offices, Use Unit 12 - Eating Places, Use Unit 13 - Convenience Goods and Services, Use Unit 14 - Shopping Goods and Services and video game room, provided that convenience grocery and free-standing eating places are excluded.
Maximum Floor Area:	100,000 square feet
Maximum Stories:	1-story
Maximum Height:	28 feet
Minimum Internal Landscaped Open Space:	11% of net area, excluding landscaped right-of-way

Z-5790 and PUD #309 (continued)

Minimum Building Setback From
North Boundary: 20 feet
South Boundary: 20 feet
West Boundary: 25 feet
East Boundary: 25 feet

Off-Street Parking and
Loading Requirements: As provided within Section 1214.4
of the Zoning Code

Other Bulk and Area
Requirements: As provided within a CS District

Development Area "B"

Gross Area: 3.26 acres
Net Area: 2.5 acres

Permitted Uses: As permitted within an OM District

Maximum Floor Area: 72,000 square feet

Maximum Stories: 4 stories

Maximum Height: 56 feet

Minimum Internal Landscaped
Open Space: 11% of net area, excluding
landscaped right-of-way

Minimum Building Setback From
North Boundary: 75 feet
South Boundary: 20 feet
West Boundary: 25 feet
East Boundary: 75 feet

Off-Street Parking and
Loading Requirements: As provided within Section 1214.4
of the Zoning Code.

Other Bulk and Area
Requirements: As provided within an OM District

3) That signs shall be as follows:

Development Area "A" - Shopping

Ground Signs: Ground Signs shall be limited to two monument signs which shall not exceed a height of 6 feet nor a length of 15 feet.

Wall or Canopy Signs: The aggregate display surface area of the wall or canopy signs shall be limited to 1-1/2 square feet per each lineal foot of the building wall to which the sign or signs are affixed. Wall or canopy signs shall not

exceed the height of the building and shall be uniform in lettering.

Development Area "B" - Office

Signs shall be limited to two (2) signs which may be either monument signs or wall signs not exceeding 32 square feet each in display surface area.

- 4) That a Detail Landscape Plan be submitted to and approved by the TMAPC, prior to occupancy, including but not limited to a minimum 20-foot landscaped area (5' of net area plus 15' of unsurfaced right-of-way) that shall be maintained along the street frontages of the site excepting points of access; and, that the perimeter landscaped area, in addition to landscaped materials such as turf and shrubs, shall contain berms to a height of 36".
- 5) That a Detail Site Plan be submitted to and approved by the TMAPC prior to issuance of a building permit.
- 6) That no building permit shall be issued until the property has satisfied the requirements of Section 260 of the Zoning Code, submitted to and approved by the TMAPC and filed of record in the County Clerk's Office, incorporating within the restrictive covenants the PUD conditions of approval, making the City of Tulsa beneficiary to said covenants.

Applicant's Comments:

Mr. Johnsen explained this zoning and PUD were before the Planning Commission a few weeks ago and were referred back to the Planning Commission before being heard by the City Commission. The original plan was for three retail buildings and one building to house a cinema. There was a protest from the adjoining property owner who has an existing cinema, as well as protest from the Burning Tree residential neighborhood. For a number of reasons, the decision was made to delete the cinema from the application, realizing this was the major issue of protest. Therefore, Mr. Johnsen requested the City Commission to refer this matter back to the Planning Commission with the deletion of the cinema and identifying the site for retail use on the southerly portion and office use on the north. Mr. Johnsen did mail a copy of this revised plan to the protestants. He displayed a site plan; and, the proposed intensities would be consistent with the zoning recommended previously. The basic standards for landscaping, etc., are complied with in the new submittal, although he is more restrictive on signs. The applicant had suggested a setback that did not coincide with the actual building layout. The Staff observed this and imposed a greater one of 75 feet from the north and east boundaries. This is acceptable to Mr. Johnsen.

Mr. Gardner explained that the zoning is not at issue at this time, just the two applications were filed simultaneously and, therefore, both were referred back to the TMAPC. The north 300' of the tract is to be zoned OM per the Commission's previous recommendation.

Interested Party: Frank Spiegelberg Address: P.O. Box 35154 - 74135

Interested Party's Comments:

A letter was submitted from Mr. Frank Spiegelberg, with a transmittal letter submitted by Mr. Jack D. Miles, representatives for the Burning Tree Master Association, Inc. (Exhibit "B-1"). Mr. Spiegelberg approved of the revised plan in concept and wished to note the parking problem.

Protestants: None.

Instruments Submitted:

Letter of support from Frank Spiegelberg and Jack D. Miles, representatives of the Burning Tree Master Assoc. (Exhibit "B-1")

TMAPC Action: 7 members present.

On MOTION of T. YOUNG, the Planning Commission voted 7-0-0 (Draughon, Higgins, Hinkle, Kempe, Petty, C. Young, T. Young "aye"; no "nays"; no "abstentions"; Benjamin, Gardner, Miller, Inhofe "absent") to recommend to the Board of City Commissioners that the following described property be approved for Planned Unit Development, subject to the conditions set out in the Staff Recommendation; and, that the rezoning previously recommended by the Planning Commission stand:

Lot 3, Block 3, Woodland Hills Mall Blocks 2, 3, 4, 5 in the City of Tulsa, Tulsa County, Oklahoma

OTHER BUSINESS:

PUD 308 Wilkinson South of E. 19th St. South and 525' East of S. Memorial

Staff Recommendation - Detail Site Plan Review

Planned Unit Development No. 308 is located approximately 600' east of the southeast corner of 19th Street and South Memorial Drive. It is about 2.35 acres in size, zoned a combination of RM-0 and RD and has been approved under the PUD for a 27-unit single-family zero lot-line townhouse development. The applicant is now requesting Detail Site Plan approval.

The Staff has reviewed the submitted Site Plan and compared it to the Outline Development Plan and approved PUD conditions and find the following:

<u>Item</u>	<u>Approved</u>	<u>Submitted</u>
Area (Gross):	102,558.22 sq. ft.	102,558.22 sq. ft.
(Net):	94,495.72 sq. ft.	94,495.72 sq. ft.
Permitted Uses:	Single-family zero lot line Townhouses	Same
Maximum No. of Units:	27 units	27 units
Maximum Building Height:	35 feet	35 feet
Minimum Livability Space:	41,000 sq. ft.	Exceeds
Minimum Off-Street Parking:	67 spaces	67 spaces
Minimum Building Setbacks From:		
North Property Line	25 feet	25 feet
East Property Line	25 feet	20 feet
South and West Property Line		
a) from covered patio and storage building	18 feet	18 feet
b) from main structure	25 feet	24 feet

The above review indicates that the submitted Site Plan meets or exceeds the approved PUD conditions in all but two categories. In the southeast corner of the tract, one building is setback only 20 feet from the east property line. Since this is a side yard and all other buildings adjacent to the east property lines exceed the requirements, the Staff considers this minor. In addition, the main portion of the structures along the west and south property lines are set back only 24 feet instead of 25 feet. Since the properties abutting the subject tract on the west and south are commercial, or proposed to be commercial, the Staff feels a reduction of this setback by one-foot is also minor.

Therefore, the Staff recommends APPROVAL of the Detail Site Plan for PUD #308, subject to the Plan submitted.

PUD #308 (continued)

TMAPC Action: 7 members present.

On MOTION of HIGGINS, the Planning Commission voted 7-0-0 (Draughon, Gardner, Higgins, Hinkle, Kempe, Petty, C. Young "aye"; no "nays"; no "abstentions"; Benjamin, Miller, T. Young, Inhofe "absent") to approve the Detail Site Plan for PUD #308, subject to the conditions set out in the Staff Recommendation.

There being no further business, the meeting was adjourned at 3:05 p.m.

Date Approved March 23rd, 1983

Cherry Kempe
Chairman

ATTEST:

Marilyn Gindler
Secretary

