

TULSA METROPOLITAN AREA PLANNING COMMISSION  
MINUTES of Meeting No. 1537  
Wednesday, January 9, 1985, 1:30 p.m.  
City Commission Room, Plaza Level, Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Carnes Connery Harris Higgins, 2nd Vice- Chairman Kempe, Chairman Paddock, Secretary Wilson, 1st Vice- Chairman Woodard	Draughon VanFossen Young	Frank Gardner Holwell Lasker	Linker, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, January 8, 1985, at 10:20 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Cherry Kempe called the meeting to order at 1:32 p.m.

Consider Approval of the 1985 Calendar of Meeting Dates and Cut-off Times

Mr. Gardner informed the Planning Commission that the 1985 TMAPC Calendar had been included in the agenda packets mailed to Commission members on January 4, 1985, and that the Commission needs to adopt the calendar for the year.

Ms. Kempe and Commission members requested this item be continued for a week to allow additional time for review.

Chairman's Report:

Ms. Kempe welcomed the two new Planning Commission members: Commissioner Lewis Harris, the new Chairman of the Board of County Commissioners and Mr. Gail Carnes, the new Tulsa County appointee to the Planning Commission.

Director's Report:

Mr. Lasker presented a memo dated January 4, 1985, from Mr. Linker, Legal Counsel, which addressed the Commission's questions regarding the Health Department's authority in subdivision matters. A question had been asked as to whether the Health Dept. had the power to set a minimum one-acre requirement for percolation in determination of the configuration of a lot-split or subdivision. Mr. Linker's memo informed that Section

Director's Report (Cont'd)

1-104(b)(2) of the Oklahoma Statutes, provides that "the State Board of Health shall have the power to adopt such rules, regulations and standards as it deems necessary to carry out any of the provisions of the Oklahoma Public Health Code" and Section 1-904 also gives the State Board of Health authority to adopt regulations. Section 4 of the State Board of Health "Rules and Regulations Governing Residential Sewage Disposal" addresses this issue.

In the memo, Mr. Linker informed it was his legal opinion that the State Health Department does have authority to set minimum acreage size of tracts and may also require that lots be shaped so as to accommodate a properly designed sewage system.

Ms. Kempe informed this question had arisen as a result of a lot-split decision in which the lot-split was approved by the Planning Commission and then, based on percolation tests, the shape of the lot-split was required by the Health Department to be changed.

Mr. Gardner informed the first lot-split had been approved by the Commission, but it would not pass Health Dept. rules and regulations as to minimum size with the provision being a minimum of one acre, exclusive of mutual access roadway easements. The lot-split that was originally approved included the roadway easements in the one acre and this lot-split was denied by the Health Dept. The applicant redesigned the lot-split to meet the requirements, at the request of the Health Dept., it was returned to the Planning Commission and the Commission approved it the second time with the new configuration. The Commission then questioned if the Health Dept. had the power or right under its procedures to require an applicant to change the configuration.

CONTINUED ZONING PUBLIC HEARING:

Application No. Z-6018

Present Zoning: RS-3

Applicant: INCOG

Proposed Zoning: CS

Location: SW/corner 51st & 32nd W. Avenue

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Date of Application: October 31, 1984

Date of Hearing: January 9, 1985

Size of Tract: 135' x 104'

Presentation to TMAPC by: Bob Gardner, INCOG

Address: 707 S. Houston

Phone: 584-7526

Relationship to the Comprehensive Plan:

The District 9 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity — Residential.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the requested CS District is not in accordance with the Plan Map.

Staff Recommendation: Z-6018

Site Analysis -- The subject tract is approximately .32 acres in size and is located at the southwest corner of 51st Street and 32nd West Avenue. It is non-wooded, flat, contains the Southwest Medical Clinic and is zoned RS-3 in error.

Surrounding Area Analysis -- The tract is abutted on the north by single-family residences zoned CS, on the east by a church zoned RS-3, on the south by vacant land zoned RS-3, and on the west by a small grocery store zoned CS.

Zoning and BOA Historical Summary -- The subject tract was rezoned from U-1C (RS-3 by today's Code) to U-3D (CS by today's Code). Then in 1970 the subject tract was not included in the new CS designation in the remapping process and was "rezoned" to RS-3, in error.

At the request of TMAPC, a Special Study is being done for 51st Street between Union Avenue and 33rd West Avenue. This study and a present zoning case in this area, brought to the Staff's attention, the error of not carrying the existing U-3D zoning (now CS) forward in 1970.

Conclusion -- Although the Comprehensive Plan does not support CS zoning for the subject tract, the zoning of this tract should be amended from RS-3 to CS to correct the mapping error. The present use of this property is for office purposes which would be permitted in the CS District.

Z-6018 (cont'd)

Please Note: This case was originally advertised for OL zoning for the meeting of December 12, 1984, however, was continued until January 9, 1985, to properly readvertise for CS zoning which was necessary to correctly update the zoning maps.

Chairman Kempe announced to the Commission at the beginning of this item, that she would be abstaining on this case.

TMAPC Action: 8 members present:

On Motion of HIGGINS, the Planning Commission voted 7-0-1 (Carnes, Connery, Harris, Higgins, Paddock, Wilson, Woodard, "aye"; no "nays"; Kempe, "abstaining"; Draughon, VanFossen, Young, "absent") to recommend to the Board of City Commissioners that the following described property be Zoned CS to correct a mapping error.

Legal Description:

Lots 21 and 22, Block 1, Carbondale Second Addition to the City of Tulsa, Tulsa County, Oklahoma.

ZONING PUBLIC HEARING:

Application No. CZ-125	Present Zoning: AG
Applicant: Flynn	Proposed Zoning: RS
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Location: S of SW/c 86th St. N. & Yale	

Date of Application: November 11, 1984  
Date of Hearing: January 9, 1985  
Size of Tract: 15.32 Acres

Presentation to TMAPC by: Robert Flynn  
Address: 1717 E. 15th

Phone: 747-5159

Relationship to the Comprehensive Plan

The North Tulsa County Comprehensive Plan 1980-2000, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Corridor.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the proposed RS District is in accordance with the Plan Map.

Staff Recommendation:

Site Analysis -- The subject tract is 15.32 acres in size and located south of the southwest corner of 86th Street North and Yale Avenue. It is non-wooded, flat, contains two mobile homes and five single-family dwellings and is zoned AG.

CZ-125 (cont'd)

Surrounding Area Analysis — The tract is abutted on the north and south by a single-family dwelling and several detached accessory buildings zoned AG, on the east by vacant property zoned AG, and on the west by the Cherokee Expressway which is zoned AG.

Zoning and BOA Historical Summary — RE zoning has been allowed in the area both west of the expressway and north of 86th Street North.

Conclusion — Based on the Comprehensive Plan and the fact the subject tract is located between an expressway and secondary arterial street, the Staff can support RS zoning. Therefore, the Staff recommends APPROVAL of the requested RS zoning.

NOTE 1: The TMAPC may want to give favorable consideration to rezoning the subject tract RE rather than RS based on questions of the eventuality or likelihood of sewer being extended to the subject tract.

NOTE 2: It has come to the attention of the Staff that the applicant has filed a waiver of plat, lot-split and Board of Adjustment application on the subject tract. Based on the applicant's proposed lot-split, all lots would meet RE bulk and area requirements. With this additional information the Staff would be in favor of RE zoning and DENIAL of RS zoning.

Interested Party:

Mrs. Andrew Flynn, applicant's wife, was present and asked what size lot is required for RE zoning. Mr. Gardner informed the requirement would be a minimum of 1/2 acre.

Comments and Discussion:

Ms. Higgins asked if the RE zoning (not less than 1/2 acre per tract) was approved, would the zoning serve the lot-split question and Mr. Gardner informed a lot split would still be necessary, but a waiver of plat could be possible later.

Ms. Higgins asked if this would still be subject to the Health Dept. regulations and Mr. Gardner informed it would.

TMAPC Action: 8 members present:

On Motion of HIGGINS, the Planning Commission voted 8-0-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Wilson, Woodard, "aye"; no "nays"; no, "abstentions"; Draughon, VanFossen, Young, "absent") to recommend to the Board of County Commissioners that the following described property be Zoned RE:

LEGAL DESCRIPTION:

The NE/2 SE/4 NE/4, less the 4.68 acres to State for Highway, of Section 28, T-21-N, R-13-E, Tulsa County, Oklahoma.

Application No. CZ-126

Present Zoning: RS

Applicant: INCOG

Proposed Zoning: CS

Location: E. of NE/c 46th W. Ave. & 61st Street

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Date of Application: November 8, 1984

Date of Hearing: January 9, 1985

Size of Tract: .3 Acres

Presentation to TMAPC by: Bob Gardner, INCOG

Address: 707 S. Houston

Phone: 584-7526

Relationship to the Comprehensive Plan:

The District 8 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity — Residential.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the requested CS District is not in accordance with the Plan Map.

Staff Recommendation:

Site Analysis — The subject tract is approximately .3 acres in size and located on the north side of 61st Street at 44th West Avenue. It is non-wooded, flat, contains what appears to be an unoccupied auto repair facility and is zoned RS.

Surrounding Area Analysis — The tract is abutted on the north by single-family dwellings on large lots zoned RS, on the east by a single-family dwelling on a large lot zoned RS, on the south by single-family dwellings on large lots in Creek County, and on the west by vacant property zoned RS.

Zoning and BOA Historical Summary — The subject tract was rezoned for commercial use in 1960, but the zoning was not carried over with the new mapping classifications in 1970. The applicant has filed an application for a special exception to sell used cars in a CS District with the Tulsa County Board of Adjustment. The County Board continued this application until January 15, 1984.

Conclusion — Although the Comprehensive Plan does not support commercial, the intent of the application is considered to be to correct a mapping error. The Staff would recommend APPROVAL of CS zoning based only on the 1960 decision. This recommendation is based primarily on the rezoning being considered as a mapping correction and update more than on the merits of the application and shall not be considered as a precedent upon which to base favorable consideration of future CS rezoning applications for adjacent or abutting properties.

1.09.85:1537(6)

Comments and Discussion:

Mr. Gardner informed the application was filed at the request of the applicant and informed the zoning of this area was remapped in 1970 and the only records available at that time were the Ordinance and a large-scale map.

Mr. Paddock informed he had a problem with this zoning change as he felt there was no real justification for giving spot zoning which would be allowed if this change was approved. Mr. Gardner informed in 1960 there was a building that was used as a grocery store that accommodated an existing use that was non-conforming.

Mr. Connery informed he was also concerned about spot zoning and asked if this was not more a case of correcting a zoning error and not a mapping error. Mr. Gardner informed it was spot zoning then and is still spot zoning but that the Commission must decide if it wants to correct the mapping error.

Ms. Higgins questioned if this would be a legal question of taking away a man's rights and Mr. Linker informed it would depend on the facts of the situation. If a man has established a use which is a non-conforming use, he would probably be allowed to continue it no matter what the Commission decided. A court would probably look back at the original zoning and mapping error and see what the situation was at that time and whether the person was given notice and if he knew the change was taking place. He further informed if the Commission turned down the application, it would possibly be overturned by a court and he suggested the District Attorney's office be contacted if they need an opinion since this is in Tulsa County.

Interested Party:

Mr. Bill Ballard, Rt. 2, Box 177, Sapulpa, owner of the subject property, informed he had additional property which abutted the property in question and had intended to apply for commercial zoning for the other property at a later date.

Other Comments and Discussion:

Mr. Ballard was asked how long he had owned the property and he informed he had owned it since the early 1950's. He was asked if he had previously operated a business there and he said he had operated a grocery store.

Mr. Connery asked if Mr. Ballard was aware of the Staff Recommendation that approval of this application would not act as a precedent for other abutting property and Mr. Ballard informed he was not aware of the Staff Recommendation, but he could see how this could be considered spot zoning.

CZ-126 (cont'd)

Mr. Paddock informed he would vote against the Staff Recommendation for approval of the zoning change because he felt it was inappropriate for the area.

Mr. Harris informed he felt this would be blending the Staff Recommendation with history and was appropriate in this situation.

Ms. Kempe asked if, in the history of the Commission, a mapping error had been denied and Mr. Gardner informed there had been only one instance in which correction of a mapping error had been denied. In this instance, it was an alleged mapping error, but upon review the map was found not to be in error.

Ms. Kempe informed the precedent had been set for correcting mapping errors and Mr. Connery informed he would vote against this zoning change because of the spot zoning issue.

TMAPC Action: 8 members present:

On Motion of HIGGINS, the Planning Commission voted 5-3-0 (Carnes, Harris, Higgins, Kempe, Woodard, "aye"; Connery, Paddock, Wilson "nay"; no "abstentions"; Draughon, VanFossen, Young, "absent") to recommend to the Board of County Commissioners that the following described property be Zoned CS as recommended by Staff:

LEGAL DESCRIPTION:

The South 150' of the following described tract:

Beginning at a point 184.9' East and 35' North of the SW/c of SE/4 of SW/4 of Section 3, T-19-N, R-12-E, Tulsa County, Oklahoma, thence North 335' to a point; thence West 184.9'; thence South 185'; thence East 100'; thence South 150' to a point 35' North of the South line of the SE/4 of SW/4; thence East 84.9' to point of beginning.

Application No. Z-6020

Applicant: Mahoney

Location: E. of Atlanta Ave. & 57th Street

Present Zoning: RS-2

Proposed Zoning: RS-3

Date of Application: November 26, 1984

Date of Hearing: January 9, 1985

Size of Tract: 1 Acre

Presentation to TMAPC by: Jim Mahoney

Address: 3049 W. 57th

Phone: 446-1678

Relationship to the Comprehensive Plan:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity -- Residential.



Z-6020 cont'd

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the requested RS-3 District is in accordance with the Plan Map.

Staff Recommendation:

Site Analysis — The subject tract is approximately 1-acre in size and located east of Atlanta Avenue at 57th Street. It is wooded, gently sloping, vacant, and is zoned RS-2.

Surrounding Area Analysis — The tract is abutted on the north and west by single-family dwellings zoned RS-2, and on the east and south by the Joe Creek drainage channel zoned RS-2.

Zoning and BOA Historical Summary — The Board of Adjustment recently denied increased density (duplex use) on the subject tract. Residential development in this area away from Lewis Avenue has been at a RS-2 density.

Conclusion — Although RS-3 zoning is in accordance with the Comprehensive Plan, the Development Guidelines also considers existing land use and zoning pattern. The Staff does not feel RS-3 zoning is appropriate based on existing land use and zoning patterns.

For the record, the Staff notes this is a unique tract, but cannot support RS-3 zoning. Therefore, the Staff recommends DENIAL of RS-3 zoning.

Comments and Discussion:

Commissioner Harris asked for review of the difference between RS-2 and RS-3 zoning and Mr. Gardner informed RS-3 is a 60' wide lot, 6,900' minimum; RS-2 is 75' minimum wide; 9,000 square feet lot area. The area to the north and to the west abutting the subject property is zoned RS-2 and developed RS-2 and the eastern boundary is the realigned Joe Creek. The area to the extreme southwest that is zoned RS-3 has access only to the west to Lewis Ave.; there is a 40' landscape buffer adjacent to the southern end of the lots running the full distance along the RS-3 from the point of the triangle west to Lewis Ave.

Commissioner Harris asked if 57th Street was a thru street and Mr. Gardner informed Atlanta Ave. is not permitted any access and 57th St. does not go through since it's the creek. Commissioner Harris asked if the cul-de-sac is the end of 57th from the west and Mr. Gardner informed it was and the area in the middle that shows as a street right-of-way has been vacated by the applicant and does not cross Joe Creek.

Applicant Comments:

Mr. Mahoney informed this property meets the area requirement for RS-3 zoning and advised he was requesting RS-3 zoning because it more clearly fits the configuration of nearby zoning patterns. He informed the

Z-6020 cont'd

property would be replatted as a subdivision and would be sold. He informed the nearby property was in a PUD and included an 8-story building in the front, two four-story buildings and 28 high-rises and was zoned RS-3.

Other Comments and Discussion:

Mr. Mahoney informed the lots to the west were 65' in width and Mr. Gardner asked how deep the lots were. Mr. Gardner informed it is a question of the lot size being closer to 6,900 square feet or 9,000 square feet. Mr. Gardner further informed the majority of the lots west of the cul-de-sac, along 57th Street are over 9,000 square feet in area. They may have 65' of frontage; but there is nearly 140' of depth, which is 9,100 square feet. He also noted the area is zoned RS-2 and the frontages might be less than 75', but the total lot areas are 9,000 square feet.

Mr. Mahoney informed the length of the northern boundary across the back is 247' and he wanted to get three, 80'+ lots instead of 60'-wide lots.

Ms. Kempe asked Mr. Mahoney if it was his intention to pursue the duplex possibility for RS-3 through the Board of Adjustment and Mr. Mahoney informed it was not his intent at this point.

Mr. Gardner informed, for clarification, that the applicant already has approval for three lots, but Mr. Mahoney wants four lots, with three on the large tract and a fourth on the triangle, and this could be accomplished under RS-2 zoning, assuming approval from the BOA and Planning Commission and waiver of plat.

Ms. Kempe asked what size the lots would be and Mr. Mahoney informed the lot would be in excess of 65'.

Mr. Gardner informed there appears to be in excess of 36,000 square feet, which would be 4 x 9,000' square feet, including the private street. It was suggested if it was a matter of getting one additional lot, there would be sufficient zoning with a PUD for that, but Mr. Mahoney is suggesting he be given RS-3 zoning, then he could create four lots if he was physically able to.

Mr. Carnes asked if Mr. Mahoney was asking for four lots that would equal 9,000 square feet and Mr. Mahoney informed he was asking for RS-3 zoning.

Mr. Carnes asked if the applicant platted four lots that equal the 9,000 square feet, would the Commission have to vote on this and Mr. Gardner informed it would have to be heard by the Commission because the RS-2 would permit, area-wise four lots if the requirements are waived by the BOA for 30' of frontage on a dedicated street.

Z-6020 cont'd

Mr. Mahoney informed he had already gone to the BOA and had gotten a waiver on this 30' and Mr. Gardner informed Mr. Mahoney had processed the lot-splits through the Planning Commission for three lots instead of four.

Protestants:

Judge Jane Wiseman  
Mr. William Miller

Address: 2528 E. 57th St.  
2536 E. 57th St.

Judge Wiseman informed she had attended the BOA hearing and was uncertain what was being requested at this time. She informed she understood he wanted four lots, but was concerned duplexes might be built on the lots and she was concerned about a traffic problem because of the increased housing. She noted an increase from three houses to six (if duplexes were built) would greatly increase the traffic and noted she had no objection to the four lots, but objected to RS-3 zoning.

Mr. Miller informed his property abuts the subject property and he was not opposed to having the area developed; he just did not want more traffic than the area could hold. He noted it appeared that Mr. Mahoney's original request was for houses, but he's now asking for four duplex lots.

Applicant's Rebuttal:

Mr. Mahoney informed the objections appeared to be more concerned with traffic than with the duplexes; however, a street would be opened to allow access to the high rise units nearby and this would accommodate the additional traffic. He further informed he felt that an additional one, two or three cars would not be increasing traffic and would not become detrimental to the area.

Other Comments and Discussion:

Mr. Mahoney informed he would not be developing the property; he wanted RS-3 zoning to sell property but he was not going to do any building.

Mr. Paddock asked Mr. Mahoney if his objective was to build, or enable a future purchaser to build, four, single-family dwelling units on the property, and if the dimensions are such that a 9,000 square foot area per lot requirement for RS-2 is met, what is the need for RS-3 other than to permit the person who has such zoning to go before the BOA for special exception for duplexes. Mr. Mahoney informed he could not anticipate what the next person would do but he could not get the three lots on one side without RS-3 zoning since there are two, 24" storm sewer barrels located 5' apart and building is not allowed within 5' of each side.

Mr. Paddock asked Staff if there would be an opening into the development on Atlanta Ave. and Mr. Gardner informed the PUD prohibits access from that street.

1.09.85:1537(11)

Z-6020 cont'd

Ms. Higgins informed she did not feel RS-3 zoning was applicable and that lot-split was more appropriate.

Ms. Wilson informed she agreed with Staff Recommendation for DENIAL of RS-3 zoning since all abutting property is zoned RS-2 with the exception of one small piece of land and Ms. Kempe informed she agreed with the comments of Ms. Wilson.

Mr. Connery and Mr. Paddock informed they could not support RS-3 zoning and Commissioner Harris informed a PUD under RS-2 would be the logical procedure.

Ms. Kempe informed Mr. Mahoney this item could be continued and all fees applied to a PUD if he was interested in working with Staff on a PUD.

TMAPC Action: 8 members present:

On Motion of HIGGINS, the Planning Commission voted 8-0-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughton, VanFossen, Young, "absent") for Staff Recommendation for DENIAL of RS-3 zoning on the following described property, and instruction to Staff that all zoning fees paid be applied to PUD application if accomplished within 90 days:

LEGAL DESCRIPTION:

TRACT "A"

A portion of Lot 4, Block 2, Amended Southern Hills Manor Addition, to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof and a portion of the street easement vacated in District Court, Case #84-2838, being more particularly described as follows to-wit:

Beginning at the Northwest corner of said Lot 4, thence North  $90^{\circ} 55' 18''$  East a distance of 95 feet to a point; thence South  $90^{\circ} 59' 25''$  East a distance of 155 feet to a point; thence due West a distance of 95 feet to a point; thence North  $0^{\circ} 01' 35''$  West a distance of 155 feet to the point of beginning. The South 10 feet of the above described TRACT "A" is reserved as a private road easement for the rights of ingress and egress to the abutting property owners.

TRACT "B"

A portion of Lot 4, Block 2, Amended Southern Hills Manor Addition, to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof and a portion of the street easement vacated in District Court, Case #84-2838, being more particularly described as follows to-wit.

Z-6020 cont'd

Beginning at the Northeast corner of said Lot 4, thence due South a distance of 42.33 feet to a point; thence South 46° 31' 06" West a distance of 124.72 feet to a point; thence South 38° 38' 01" West a distance of 47.61 feet to a point; thence due West a distance of 32.39 feet to a point; thence North 0° 01' 35" West a distance of 165 feet to a point; thence North 89° 55' 18" East a distance of 152.60 feet to the point of beginning.

TRACT "C"

A portion of Lots 1 and 2, Block 7, Amended Southern Hills Manor Addition, to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof and a portion of the street easement vacated in District Court, Case #84-2838, being more particularly described as follows to-wit.

Beginning at the Southwest corner of Said Lot 2, thence North 0° 01' 35" West a distance of 165 feet to a point; thence due East a distance of 95 feet to a point; thence South 89° 59' 25" East a distance of 10 feet to a point; thence due East a distance of 32.39 feet to a point; thence South 38° 38' 01" West a distance of 199.99 feet to a point; thence North 62° 41' 51" West a distance of 2.67 feet to the point of beginning. The North 10 feet of the West 95 feet of the above described TRACT "C" is reserved as a private road easement for the rights of ingress and egress to the abutting property owners.

Application No. Z-6021

Present Zoning: OL

Applicant: Levy

Proposed Zoning: CS

Location: SW/c of 58th Place and South Memorial

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Date of Application: November 28, 1984

Date of Hearing: January 9, 1985

Size of Tract: .35 Acres

Presentation to TMAPC by: Louis Levy

Address: 5200 S. Yale

Phone: 496-9258

Relationship to the Comprehensive Plan:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity -- Residential.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the requested CS District is not in accordance with the Plan Map.

Z-6021 cont'd

Staff Recommendation:

Site Analysis -- The subject tract is .36 acres in size and located at the southwest corner of 58th Place and Memorial Drive. It is non-wooded, flat and contains a small office building zoned OL.

Surrounding Area Analysis -- The tract is abutted on the north by single-family dwellings zoned RS-3, on the east across Memorial Drive by the Eaton Square Apartments zoned CS, on the south by the Falls Shopping Center zoned CS, and on the west by a parking facility and multifamily dwelling zoned RS-3.

Zoning and BOA Historical Summary -- Due to the fact the single-family dwellings to the north face the subject tract, OL zoning was established as a buffer from the commercial area.

Conclusion -- Due to the single-family dwellings facing the subject tract to the north, the Staff feels some type of buffer between commercial and residential zoning is mandatory. Although the commercial zoning across Memorial extends farther to the north than the subject tract, this area is developed as residential apartments. Removal of the OL buffer would adversely effect the residential value of the homes to the north.

Based on the above information and Comprehensive Plan, the Staff recommends DENIAL of the requested CS zoning.

Comments and Discussion:

Mr. Frank informed the advertising fees had not been paid on this application and Ms. Kempe read from the "Rules and Regulations and Code of Ethics" of the Planning Commission and informed Mr. Levy that it was the policy of the Commission that no application would be heard until all fees are paid.

Mr. Levy informed he was advised on Friday, January 4, that the fees had been paid. He offered his personal check in order to have his application heard on this date and Ms. Higgins questioned if Staff had all information available to hear the case. Mr. Gardner informed he did and Ms. Higgins made a motion that the check be accepted and the application presented to the Commission.

TMAPC Action: 8 Members Present

On Motion of HIGGINS, the Planning Commission voted 7-1-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Woodard, "aye"; Wilson, "nay"; no, "abstentions"; Draughon, VanFossen, Young, "absent") to accept a personal check in the amount of \$108.00 made payable to the "Tulsa Daily Business Journal" for payment of fees for zoning case Z-6021. (Commission policy is that a case would not be heard unless all fees are paid.)

Z-6021 (cont'd)

Applicant Comments:

Mr. Levy informed he was representing the owners, Mr. and Mrs. Lloyd Mason. He noted the subject property is under contract for sale and would be used as a small commercial enterprise such as a shoe store or hamburger restaurant. He informed there is a hardship on the sale of the property because the south side lies in a CS District and the north side in an OL District. He presented a Plat of Survey (Exhibit A-1) of the subject property.

Comments and Discussion:

Ms. Higgins suggested another access might be needed because of additional traffic in front of the nearby residences.

Mr. Connery informed he could not approve CS zoning on this property because of the traffic congestion in the area.

Mr. Carnes asked if this was spot zoning in reverse and Mr. Gardner informed the property had been up for CS zoning before and was denied but OL zoning was allowed as a compromise and buffer.

Ms. Higgins asked if there was an entrance into the project from 58th Street and Mr. Levy informed there is a driveway for an existing office building which would be utilized for traffic flow for the office and the proposed development.

Ms. Higgins also noted the proposed development would be bringing traffic in front of the two residential properties and if there was another access, a fence would be across the property and would close off this area from the residences.

Mr. Levy requested a two-week continuance to make arrangements for the access as recommended by Ms. Higgins. Ms. Kempe asked if the interested parties had any objection to the continuance and there was no comment.

Instruments Submitted: Plat of Summary (Exhibit A-1)

TMAPC Action: 7 Members Present

On Motion of HIGGINS, the Planning Commission voted 7-0-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, VanFossen, Wilson, Young, "absent") to CONTINUE consideration of Z-6021 until Wednesday, January 23, 1985, at 1:30 p.m., in the City Commission Room, City Hall, Tulsa Civic Center.

1.09.85:1537(15)

Applications No. Z-6022 & PUD #386 Present Zoning: AG-R  
Applicant: Moody (Vardeman) Proposed Zoning: RM-2/FD  
Location: 1/4 Mile No. of NE/c of E/ 91st & Memorial

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Date of Application: November 29, 1984  
Date of Hearing: January 9, 1985 (Cont'd to January 16, 1985)  
Size of Tract: 15 Acres

Comments:

The Commission was advised that Mr. Moody had requested a one-week continuance on hearing Z-6022 & PUD #386.

There were no interested parties present.

TMAPC Action: Z-6022 & PUD #386 -- 8 Members Present

On Motion of WILSON, the Planning Commission voted 8-0-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, VanFossen, Young, "absent") to CONTINUE consideration of Z-6021 and PUD #386 until Wednesday, January 16, 1985, at 1:30 p.m., in the City Commission Room, City Hall, Tulsa Civic Center.

Application No. PUD #387 Present Zoning: (OM & OL)  
Applicant: Johnson (Albritton Prop.)  
Location: NE/c of 67th & S. Lewis

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Date of Application: December 6, 1984  
Date of Hearing: January 9, 1985  
Size of Tract: 2.65 + Acres

Presentation to TMAPC by: Roy Johnsen  
Address: 324 Main Mall

Phone: 585-5641

Staff Recommendation:

The subject PUD has a net area of 90,000 sq. ft. and is located at the northeast corner of South Lewis Avenue and East 67th Street. The site has 300 feet of frontage on both South Lewis and East 67th Street, and consists of two platted lots: the west-half is presently zoned OM, and the east-half is zoned OL. The gross area of the site, including half of the abutting street right-of-way, is 115,500 square feet. The applicant proposes to develop a three-story office building which will be sited diagonally on a northeast to southwest axis. A total of 51,817 square feet of office space is proposed with 172 parking spaces. The proposed circulation plan for internal traffic provides circulation completely around the building. A revised PUD layout indicated that two (2) large trees are proposed to be left in the drives adjacent to the northwest corner of the building and on the east side of the building. Staff considers these trees to be potential obstacles to traffic flow, as well



PUD #387 (cont'd)

as to turning and backing movements, and recommends these trees be left only with approval of the Traffic Engineering Department. Access to the site from South Lewis is proposed at the northwest corner of the site and from East 67th Street at a point adjacent to the southeast corner of the site. The drive onto East 67th Street will be a directional drive allowing existing vehicles to only turn westbound onto East 67th Street. An additional lane is also proposed to assist vehicles from the PUD area in entering East 67th Street traffic. The proposed drive onto South Lewis Avenue includes two existing lanes for separate northbound and southbound turns. The site plan allows for several very large trees which are presently on the site to be incorporated into the proposed 25% landscape and open space area layout. A screening fence is proposed along the east boundary where the development abuts an RS-1 District. The area north of the project is zoned RM-2, and south of East 67th Street is zoned OM and RM-2.

Given the above review, the Staff finds the proposal to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of the area, (3) a unified treatment of the development possibilities of the site, and (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Ordinance.

Therefore, the Staff recommends APPROVAL of the proposed PUD, subject to the following conditions:

- (1) That the applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.

- (2) Development Standards:

Land Area (Gross):		115,500 sq. ft.
(Net):		90,000 sq. ft.

	Submitted	Recommended
Permitted Uses:	As permitted within an OM District.	As permitted in an OM District, except drive-in banks are not permitted.
Maximum Building Floor Area:	51,817 sq. ft.	51,817 sq. ft.
Maximum Building Height:	42 ft. (3 stories)	42 ft. (3 stories)
Minimum Building Setback:* From Centerline of S. Lewis	122 ft.	122 ft.

PUD #387 (cont'd)

From North Boundary	63 ft.	63 ft.
From East Boundary	58 ft.	58 ft.
From Centerline of E. 67th St.	94 ft.	94 ft.
Minimum Off-Street Parking:	172 spaces	173 spaces and as required per the Zoning Code.
Minimum Landscaped Area:	25% of net area**	25% of net area**
Sign Standards:	As per the PUD Chapter of the Zoning Code and limited to one monument sign on South Lewis, not exceeding 8 feet tall with a display area no greater than 64 sq.ft.	As per the PUD Chap- ter of the Zoning Code and limited to one monument sign on South Lewis, not exceeding 8 feet tall with a display area no greater than 64 sq. ft.

\* No more than 5% variance of the figures will be permitted in the Detail Site Plan.

\*\* Required landscaped area may include landscaped parking islands, plazas and courtyards, but shall exclude walkways which solely provide minimum pedestrian circulation.

- (3) Trash and utility areas shall be screened so as not to be visible from ground level of adjacent residential areas and abutting development, and a 6-foot privacy fence shall be installed along the east boundary.
- (4) That the two (2) large trees proposed to be left in the parking drives, adjacent to the northwest corner of the building and on the east side of the building be allowed to remain only with the approval of the Traffic Engineering Department.
- (5) That a Detail Site Plan be approved by the TMAPC prior to issuance of a Building Permit.
- (6) That a Detail Landscape Plan and Sign Plan shall be submitted for review and approval by the TMAPC prior to occupancy.
- (7) That no Building Permit shall be issued until the requirements of Section 260 of the Zoning Code have been satisfied and approved by the TMAPC and filed of record in the County Clerk's office, incorporating within the Restrictive Covenants, conditions of approval, making the City of Tulsa beneficiary of said Covenants.

Applicant Comments:

Mr. Johnsen informed this property had been proposed for development on several other occasions but the nearby property owners objected because they were unhappy with the proposals. He informed the property owners appear to be pleased with this development, but several concerns remain:

- (1) They have requested that some of the trees be preserved;
- (2) They requested that signs be limited to one monument sign on the front side of the property;
- (3) They requested that lighting be limited to uplighting.
- (4) They are opposed to additional traffic on 67th Street.

Mr. Johnson informed the developers had worked with the property owners on the traffic question and have proposed adding an additional lane on 67th Street and a directional exit from the development onto 67th Street.

Mr. Johnsen informed he expected a question to be raised from the management of the apartment complex to the north of the site, Southern Hills Villa Apartments, about the sewer hookup. He noted the City would require that City standards be met on the sewer question and it was possible the City would recommend a hookup at 71st and Lewis.

Mr. Johnson further informed he concurs with the Staff Recommendation except on the building setbacks. The setback requirements submitted with the text are slightly less than those submitted with the site plan and he asked if the setbacks could be adjusted to allow a variation of 3'-4'.

Mr. Gardner informed a 5% variance would be alright and Mr. Johnsen informed a 5% variance was acceptable.

Interested Parties:

Mr. Gene Gallagher  
Mr. Ted Blackwell

Address: 6609 S. Lewis  
2528 E. 69th Street

Mr. Gallagher informed he was representing the owners of Southern Hills Villa Apartments, located just north of the subject property. He noted the apartment owners were not opposed to the project but were concerned about adding an additional sanitary sewer hookup on the line used by the apartments because of a continuing problem with surface water coming into the sanitary sewers, resulting in water retention problems and flooding in the apartments.

Ms. Kempe noted the City needed to be made aware of this problem and Mr. Gardner informed this was a platting and development issue, not a zoning issue. Mr. Gallagher informed that the City utility departments and the City/County Health Department had been advised of the problems.

PUD #387 (cont'd)

Mr. Blackwell informed he owns a home in Williamsburg Addition, one of the five housing additions which make up the Williamsburg Area Civic Club. He advised he was not an official representative of this organization, but had been president until 1983 and had successfully lead movements to quash proposed developments in this tract. He informed he was not opposed to the subject project but was concerned about additional traffic flow through the area. He informed he had a problem with additional access on 67th Street and he stated he felt all ingress and egress should be off Lewis instead of using 67th Street.

Applicant's Rebuttal:

Mr. Johnsen informed it was the general consensus of the nearby property owners that the problem of traffic flow had been dealt with in a responsible manner. He noted the question of the tie-in to the sanitary sewer would be dealt with by the City Water and Sewer Dept.

Other Comments and Discussion:

Mr. Paddock asked why an exit on 67th Street was necessary and Mr. Johnsen informed another access could not be located on Lewis because they would be too close together.

TMAPC Action: 7 Members Present.

On Motion of HIGGINS, the Planning Commission voted 7-0-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, VanFossen, Wilson, Young, "absent") to APPROVE the amended Staff Recommendation for PUD #387 to include the wording "No more than 5% variance of the figures will be permitted in the Detail Site Plan\*" be inserted as an asterisk to the setback requirements on S. Lewis, and subject to deletion of the wording of the last sentence of item (4) of the Staff Recommendation "only with the approval of the Traffic Engineering Dept."

Legal Description:

Lots 1 and 2, MUNZINGO HILL ADDITION to Tulsa, Oklahoma, according to the recorded plat thereof.

SUBDIVISIONS:

Final Approval and Release:

Country Corner Center (3092) SW/c Skyline Drive & S. 65th W. Ave.  
(CS) (County)

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

TMAPC Action: 7 Members Present.

On Motion of HIGGINS, the Planning Commission voted 7-0-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, VanFossen, Wilson, Young, "absent") to APPROVE the Final Plat of Country Corner Center and release same as having met all conditions of approval.

OTHER BUSINESS:

PUD 278-1 Pecan Tree Park

Staff Recommendation - Minor Amendment

Pecan Tree Park is a resubdivision of Lot 1, Block 1, Pecan Tree Place. The purpose of the resubdivision is to create individual building lots per the approved site plan. Since the number of buildings, total floor area, location of buildings, etc., remains the same, the Staff considers the request to be minor in nature and recommends APPROVAL subject to the following conditions:

1. That all PUD conditions as approved by the Planning Commission shall apply except as provided by this action.
2. That each lot (including existing buildings on Lot 1 and Lot 2) requires Detail Site Plan approval by the TMAPC prior to the issuance of a Building Permit.
3. That building floor area and off-street parking spaces shall meet the approved PUD conditions, except that the required parking can be located in Reserve "A" (a mutual access and utility easement) and not on the same lot as the building; provided the aggregate parking meets or exceeds the PUD requirement for the cumulative floor area constructed at any point in time.
4. That a property owners association be established for the purpose of maintaining Reserve "A".
5. The average square footage per lot is 4,445; therefore, if a specific request in the future exceeds this average, the Staff will require maximum building floor area allocations

PUD 278-1 (cont'd)

be assigned each lot. These floor area allocations may be modified from time to time provided the total floor area for the project does not exceeds 40,000 square feet.

Applicant's Comments:

Mike Taylor, representing Sisemore, Sack, Sisemore, informed he was in agreement with the Staff Recommendation and question regarding the square footage.

TMAPC Action: 7 Members Present.

On Motion of HIGGINS, the Planning Commission voted 7-0-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, VanFossen, Wilson, Young, "absent") to APPROVE the Staff Recommendation for PUD 278-1 Pecan Tree Park minor amendment.

Request for Refund of Fees on Z-5992 James P. Britt

Background

Staff advised a copy of a letter dated December 26, 1984, from Mr. Jon Comstock was enclosed in the agenda packet. Mr. Comstock is the attorney for Mr. James P. Britt, requesting a refund of fees for Z-5992. The following historical information is relevant to this request:

- July 26, 1984 - Filed Z-5992 to be heard September 12, 1984;
- Sept. 12, 1984 - TMAPC denied Z-5992, applicant not present, 2 protestants;
- Sept. 19, 1984 - Request for appeal delivered, set before City on November 13, 1984;
- Sept. 21, 1984 - Filed B.O.A. #13347 to be heard October 18, 1984;
- November 7, 1984 - City Commission appeal re-scheduled for December 4, 1984;
- October 18, 1984 - B.O.A. denied special exception and variance 4-0;
- October 26, 1984 - Applicant filed Notice of Appeal to District Court on B.O.A. Action;

Request for refund of fees on Z-5992 James P. Britt (cont'd)

December 4, 1984 - Case not heard by City (presently on hold/fee not paid);

December 26, 1984 - Received letter requesting refund of zoning fees.

Discussions with the employee in question do not confirm or dispute Mr. Comstock's allegations of receiving bad advice. All fees paid to date were for costs for work performed and now completed. At the time of the discussions with Mr. Comstock, Mr. Taylor was new at his job and not that knowledgeable of the Comprehensive Plan and zoning practices in Tulsa. Mr. Taylor was trained to receive and process the zoning applications, but was not in a position to determine what the chances of success or failure would be. To a new employee, a "yes" answer to the question "...are my chances 50/50?", would seem a rather safe position - noncommittal.

Comments and Discussion:

Mr. Comstock informed he had been unfamiliar with zoning matters when he had spoken with Mr. Taylor and had asked Mr. Taylor if he had a 50/50 chance to succeed with his case. He advised that since that time he had had discussions with other attorneys in his practice and had been informed his case would probably not have been approved by the Commission. He further informed he had spoken with Mr. Gardner since that time and Mr. Gardner had told him the Commission would probably not have approved his application.

Mr. Comstock asked that, under the circumstances, the refund of payments pertinent to the filing of the zoning request be approved.

Mr. Connery informed Mr. Comstock that he had asked the question of Mr. Taylor and Mr. Taylor had given his best judgment answer.

Ms. Higgins informed the 50/50 chance was given up when the applicant did not appear to show cause why the application should be approved and noted that Staff had nothing to do with that.

Mr. Connery asked Mr. Comstock why he wasn't at the Commission hearing on the zoning request and Mr. Comstock informed he was out of town but that one of the other attorneys was supposed to have been present but had forgotten to attend.

Ms. Higgins informed if any funds were returned, she felt no refund over 1/2 of the cost should be made.

Mr. Carnes informed if the Commission refunded monies for all denied applications such as this, this type of request would happen every week.

Commissioner Harris informed he felt this type of precedent should not be voluntarily set by the Planning Commission; it should be considered by District Court. He asked Mr. Comstock if he, as an attorney, would refund a client's fees when he had given his client his best advice and it didn't turn out that way, and Mr. Comstock informed he would if it was due to an error on his part in the processing of the client's request.

TMAPC Action: 7 Members Present.

On Motion of HIGGINS, the Planning Commission voted 7-0-0 (Carnes, Connery, Harris, Higgins, Kempe, Paddock, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, VanFossen, Wilson, Young, "absent") to DENY the request for refund of fees on Z-5992 James P. Britt.

There being no further business, the Chairman declared the meeting adjourned at 5:00 p.m.

Date Approved January 23, 1985

Cherry Kempe  
Chairman

ATTEST:

RBPaddock  
Secretary

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