

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
Minutes of Meeting No. 1799  
Wednesday, July 18, 1990, 1:30 p.m.  
City Commission Room, Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Carnes, 1st Vice Chairman	Paddock	Gardner	Linker, Legal Counsel
Coutant	Parmele	Jones	
Doherty, Secretary	Randle	Matthews	
Draughon, 2nd Vice Chairman	Woodard	Setters	
Horner			
Selph, County Designee			
Wilson			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, July 17, 1990 at 10:15 a.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:** Not applicable; no meeting July 4, 1990.

**REPORTS:**

**Report of Receipts & Deposits for the Month Ended June 30, 1990:**

On **MOTION** of **COUTANT**, the TMAPC voted **6-0-0** (Carnes, Coutant, Draughon, Horner, Selph, Wilson, "aye"; no "nays"; no "abstentions"; Doherty, Paddock, Parmele, Randle, Woodard, "absent") to **APPROVE** the Report of Receipts & Deposits for the Month Ended June 30, 1990.

**Director's Report:**

Mr. Gardner briefed the Commission members on recent City Council actions relating to zoning. He also advised of a new appointment to the TMAPC, Mr. Jack Neely, who would be attending next week's meeting.

PUBLIC HEARING:

TO CONSIDER ADOPTION OF THE COMMUNITY CULTURAL PLAN: A  
Comprehensive Plan for the Growth of the Cultural Resources  
for the City of Tulsa, AS A PART OF THE COMPREHENSIVE PLAN  
FOR THE TULSA METROPOLITAN AREA

Comments & Discussion:

Ms. Dane Matthews, INCOG, provided a brief review of the elements of The Community Cultural Plan, noting this year-long project involved several groups. Those speaking in support of adoption of the plan included the following representatives from the Metropolitan Tulsa Chamber of Commerce - Cultural Affairs Committee/Cultural Resources Planning Team and the Cultural Resources Plan Task Force:

Mr. William H. Waller	1224 East 27th Place	74114
Mr. Art Walsh	6213 East 98th Street	74137
Mr. Charles Norman	2900 Mid-Continent Tower	74103
Mr. Roy J. Lewis	3335 South Utica	74105
Ms. Katie Westby	2515 East 28th	74114
Mr. Herb Beatty	2445 East 36th Street	74105

The representatives emphasized the City's need to recognize the role of the arts and humanities to its citizenry, as well as prospective businesses, students, and future residents. The goals and objectives of the Community Cultural Plan and its implementation strategies were reviewed. Each representative spoke with great enthusiasm on the importance of this plan for the City of Tulsa. Mr. Waller noted that the 145+ groups who had participated in this project were also hopeful of the TMAPC and City Council support of the Community Cultural Plan as presented.

Mr. Coutant, Chairman of the Comprehensive Plan Committee, advised that it was with pleasure the Committee unanimously voted to recommend adoption by the TMAPC. Commissioner Selph expressed appreciation to those who had participated in the making of this plan, as it obviously appeared to be a diligent effort by many organizations and individuals in the City and County. He, too, strongly recommended adoption as presented. Mr. Doherty remarked that, initially, he was skeptical as he did not see how a cultural plan related to the Comprehensive Plan, which has traditionally been viewed as a guide to zoning and land use planning. However, during briefings and discussions, he has changed his mind completely. Mr. Doherty added that he felt this area of civic life (arts and humanities) was as much infrastructure as roads, highways, bridges, etc. Therefore, he could now wholeheartedly support the Plan's adoption.

TMAPC ACTION: 7 members present

On **MOTION** of **COUTANT**, the TMAPC voted **7-0-0** (Carnes, Coutant, Doherty, Draughon, Horner, Selph, Wilson, "aye"; no "nays"; no "abstentions"; Paddock, Parmele, Randle, Woodard, "absent") to **ADOPT** The Community Cultural Plan: A Comprehensive Plan for the Growth of a Cultural Resources for the City of Tulsa, as a part of the Comprehensive Plan for the Tulsa Metropolitan Area, as recommended by Staff and the Comprehensive Plan Committee.



**TMAPC ACTION: 7 members present**

On **MOTION** of **HORNER**, the TMAPC voted **7-0-0** (Carnes, Coutant, Doherty, Draughon, Horner, Selph, Wilson, "aye"; no "nays"; no "abstentions"; Paddock, Parmele, Randle, Woodard, "absent") to **APPROVE Z-6293 Powell for IL Zoning and DENY CG Zoning**, as recommended by Staff.

**Legal Description:**

**IL Zoning:** Part of the E/2 of the E/2 of the SW/4 of the SE/4 of Section 17, T-20-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, according to the US Government Survey thereof; being more particularly described as follows: Beginning the northeast corner of said E/2 E/2 SW/4 SE/4; thence N 89°55'12" W on the north line a distance of 58.42'; thence S 62°06'03" W parallel with and 0.6' southeasterly from an existing metal building, a distance of 88.35'; thence N 89°55'12" W a distance of 27', more or less, to the east right-of-way (R/W) line of US Highway 75; thence S 01°15' E on said R/W a distance of 89', more or less, to a point of curve; thence southeasterly on a curve to the left having a radius of 698.5' on said east R/W a distance of 476.8'; thence S 28°37' E on said R/W a distance of 16.3'; thence S 17°18' E on said R/W a distance of 204'; thence S 28°37' E on said R/W a distance of 37.3'; thence southeasterly on a curve to the right having a radius of 297' on said east R/W a distance of 45.8' to a point on the east line; thence north on the east line a distance of 879.1', more or less, to the POB.

\* \* \* \* \*

Application No.: **Z-6291** Present Zoning: **RS-3**  
Applicant: **Whitebook (Harl)** Proposed Zoning: **CH**  
Location: South of the SW/c of East 11th Street & South 74th East Avenue  
Date of Hearing: July 18, 1990  
Presented to TMAPC by: Merl A. Whitebook, 2431 East 51st, #200 (745-1105)

**Relationship to the Comprehensive Plan:**

The District 5 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity - Residential.

According to the Zoning Matrix, the requested CH District is not in accordance with the Plan Map.

**Staff Recommendation:**

**Site Analysis:** The subject tract is approximately 50' x 132' in size and located south of the southeast corner of East 11th Street South and South 74th East Avenue. It is nonwooded, vacant of structures and used for automobile storage and is zoned RS-3.

**Surrounding Area Analysis:** The tract is abutted on the north an open lot being used for storage of washers and dryers zoned CH; on the east and south by single-family dwellings zoned RS-3; and on the west by a transmission repair shop zoned CH.

**Zoning and BOA Historical Summary:** None

**Conclusion:** Based on the Comprehensive Plan and existing zoning patterns for the area Staff is not supportive of any commercial zoning for the subject tract. Staff views the request as an encroachment into a well defined residential district and feels the existing boundary must be maintained. If approved, the existing single-family dwelling across South 74th East Avenue would front high intensity commercial property which is not desirable from a planning standpoint.

Therefore, Staff recommends **DENIAL** of CH or any less intense zoning designation in the alternative.

Applicant's Comments:

Mr. Merl Whitebook, representing the applicant, acknowledged the difficulty involved with this application by asking the TMAPC to consider CH zoning on a lot surrounded by residential uses. Mr. Whitebook identified the lots owned and utilized by the applicant for the used appliance business. He also identified other commercial uses, past and present, in this area along 11th Street. Mr. Whitebook provided a history of previous commercial uses operating since the 40's on the subject lots. He also reviewed city and county records in regard to uses prior to annexation of these lots as to assessments made based on commercial uses, which he felt established that there have been existing nonconforming uses on these tracts. Mr. Whitebook referred to the Oklahoma Statutes, Title 19, which addressed established nonconforming uses. He asked the TMAPC to approve the request so his client could continue the appliance service operation, and not cause a taking of this property by mandating RS zoning.

Ms. Wilson acknowledged that the applicant may have considered a PUD approach to be too cost prohibitive, and she inquired if restrictive covenants or deed were explored to assure certain controls for the commercial operation. Mr. Whitebook replied that he had discussed this in a meeting with the neighbors who, by consensus, expressed that this type of action might not be enough.

Mr. Coutant obtained clarification of the current use of the tract, and the length of time it has been used for appliance and auto storage. In response to Mr. Horner, Mr. Whitebook re-emphasized that his client was not opposed to drawing up restrictive covenants or deeds to require certain criteria be met as to screening, nor would he be opposed to a continuance of this hearing in order to do such.

Interested Parties:

**Mr. David Lemmon** (1125 South 74th East Avenue) submitted photographs of the subject tracts showing the existing commercial operation and the condition of appliances and vehicles being stored. Due to the children in the neighborhood, Mr. Lemmon expressed concern about the refrigerators being stored which did not have the handles removed. He also mentioned the pests attracted to storage operations such as these. Mr. Lemmon pointed out that the concrete/asphalt parking lot and the privacy screening that had been requested by the residents was never installed and, to date, nothing has been done in this regard.

**Mr. Gil Petcoff** (1119 South 74th East Avenue), a resident across the street from the subject tracts, advised that vehicles were being brought in and left for over 30 days without being moved. Mr. Petcoff mentioned that the applicant does not keep the grass mowed around the stored appliances and vehicles. In response to Commissioner Selph, Mr. Petcoff confirmed that vehicles were also moved in/out at fairly odd hours, not just during normal business hours.

**Ms. Dana Williams** (1119 South 74th East Avenue) echoed concerns expressed by her neighbors. In response to Mr. Horner, Ms. Williams stated that she would remain opposed to the operation even if the applicant was required to install proper screening and landscaping, because the applicant did not have a good history for meeting previous requirements and/or maintenance and upkeep. She advised of the poor condition of the existing fencing on the premises. Ms. Williams added that people were constantly stopping by to look at the stored vehicles, thereby creating additional traffic in the neighborhood. She stated that some of the vehicles have been moved off the premises, but some of the cars have been burned and/or remained in a dilapidated condition. In reply to Ms. Wilson, Ms. Williams confirmed the applicant moved the vehicles around, but not necessarily off the lot, and most were brought in by a wrecker service.

**Mr. Chuck Campbell** (913 South Quebec) submitted a letter addressed to Mr. Lemmon from the Neighborhood Services Division of the Urban Development Department acknowledging receipt of a complaint regarding the stored vehicles. The letter indicated the complaint was assigned a Priority B classification (highly visible violations) and would be investigated. Mr. Campbell advised that Lot 4 of the subject tract had an occupied dwelling on the premises from 1945-80, thereby establishing a residential use for quite a number of years. As a witness to the auto storage problem for the past several years, he advised of the applicant's history of removing the autos for six month periods once Code Enforcement has been contacted, then moving the autos back; sometimes on the same lot, sometimes on another lot.

**Mr. Sid Sutherland** (1123 South 74th East Avenue) echoed comments made by the other protestants regarding the appliance and auto storage on the tract, and the sentiment that the applicant, again, would not install or maintain fencing, landscaping, etc. as required.

Ms. C.V. Campbell (owner of property at 1124 South 74th East Avenue) remarked that she, too, felt the applicant would not upkeep a screening fence, if required, as he has not done so in the past. Ms. Campbell expressed concern about the future impact on the residential properties if the rezoning for commercial was approved.

Additional Comments & Discussion:

Mr. Whitebook reiterated statements to the Commission the commercial uses have been in this area for the past several years.

Mr. Gardner pointed out that it has been stated a single-family dwelling had been on the tract for many years prior to 1980 and, if desired, Staff could produce an aerial to verify this fact. He stated the situation remains, a piece of property was zoned and used for residential until 1980, and since that time the tract has been used to varying degrees for commercial purposes. However, that did not change the zoning or the situation, and these commercial uses would all have been illegal usage of the property.

Commission Selph remarked that, from the statements made by the residents, there appeared to be a total lack of confidence in the owner's ability to maintain, not only a screening fence, but to do simple mowing.

In reply to Mr. Draughon regarding the use on the property at the time of annexation, Mr. Linker stated that there were "legal" nonconforming uses throughout the city, but he did not feel this case to be a legal nonconforming use as the tract had been used for residential and was zoned for residential. Mr. Linker added that he felt this to be strictly a question of zoning and he suggested the Commissioners look at the physical facts in making a decision.

Mr. Doherty commented that, regardless of maintenance, mowing, etc., the TMAPC was to determine whether or not CH zoning was proper usage of the lot. He stated that he felt the existing CH zoning along 11th Street was a mistake and that extending this line any further into the residential area would be a compounding of that mistake. Therefore, he moved for denial of the request.

Mr. Coutant stated that it was suggested by the applicant that a denial of the request would constitute "a taking", and he did not think this was a correct assumption. Due to the previous residential uses on the tract, he did not feel that a vote in favor of the denial motion to be "a taking".

TMAPC ACTION: 7 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Carnes, Coutant, Doherty, Draughon, Horner, Selph, Wilson, "aye"; no "nays"; no "abstentions"; Paddock, Parmele, Randle, Woodard, "absent") to **DENY Z-6291 Whitebook (Harl) for CH Zoning**, as recommended by Staff.

OTHER BUSINESS:

**PUD 128: Detail Site Plan for Blocks 10 & 12**  
West of the NW/c of East 73rd Street & South Lewis Avenue

Staff Recommendation:

Staff finds the Detail Site Plan for Blocks 10 and 12 to be in conformance with the PUD conditions as amended July 11, 1990 by the TMAPC. Therefore, Staff recommends APPROVAL as requested.

TMAPC ACTION: 7 members present

On **MOTION** of **COUTANT**, the TMAPC voted **7-0-0** (Carnes, Coutant, Doherty, Draughon, Horner, Selph, Wilson, "aye"; no "nays"; no "abstentions"; Paddock, Parmele, Randle, Woodard, "absent") to **APPROVE** the **Detail Site Plan for Blocks 10 & 12 of PUD 128 Johnsen**, as recommended by Staff.

There being no further business, the Chairman declared the meeting adjourned at 3:40 p.m.

Date Approved 8-1-90  
  
Chairman

ATTEST:

  
Secretary