

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1879
Wednesday, April 8, 1992, 1:30 p.m.
City Council Room, Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Buerge	Ballard	Gardner	Linker, Legal
Carnes	Broussard	Hester	Counsel
Doherty 1 st Vice Chairman		Matthews	
Horner		Stump	
Midget, Mayor's Designee			
Neely, 2nd Vice Chairman			
Parmeale, Chairman			
Selph			
Wilson, Secretary			

The notice and agenda of said meeting were posted in the Office of the City Clerk on Tuesday, April 7, 1992 at 11:37 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Parmeale called the meeting to order at 1:34 p.m.

Minutes:

Approval of the minutes of March 23, 1992, Meeting No. 1877:

On **MOTION** of **CARNES**, the TMAPC voted **5-0-2** (Buerge, Carnes, Doherty, Horner, Parmeale "aye"; no "nays"; Neely, Wilson "abstaining"; Ballard, Broussard, Midget, Selph "absent") to **APPROVE** the minutes of the meeting of March 23, 1992 Meeting No. 1877.

REPORTS:

Budget and Work Program Committee

Ms. Wilson reported the TMAPC training workshop on April 4, was successful and acknowledged Dane Matthews, Bob Gardner, and Jay Stump for their assistance. She stated there were approximately 90 individuals in attendance and advised the Budget and Work Program Committee will meet in May to analyze and review the workshop.

Chairman Parmeale announced the Planning Team elections will be held May 5, 1992 and requested the Planning Commissioners make an effort to be present at one of the districts to which they are assigned as liaison.

Director's Report:

Chairman Parmele announced Resolution 1878:730 is for adoption of Amendments to the District 26 Plan Map and Text.

TMAPC Action; 8 members present:

On MOTION of NEELY, the TMAPC voted 7-0-1 (Buerge, Carnes, Doherty, Horner, Neely, Parmele, Wilson "aye"; no "nays"; Selph "abstaining"; Ballard, Broussard, Midget "absent") to APPROVE Resolution 1878:730 to adopt Amendments to the District 26 Plan Map and Text as part of the Comprehensive Plan to the Tulsa Metropolitan Area.

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ZONING PUBLIC HEARING

Application No.: CZ-197 Present Zoning: RS
Applicant: John L. Madewell Proposed Zoning: IL
Location: Northeast corner of West 61st Street and South 113th West Avenue
Date of Hearing: April 8, 1992

Mr. Doherty advised he has been in contact with the applicant and reported there was confusion in the notification because this property is adjacent to Creek County. The applicant had expected a two week delay before appearing on the agenda.

There were no interested parties present.

TMAPC Action; 9 members present:

On MOTION of DOHERTY, the TMAPC voted 9-0-0 (Buerge, Carnes, Doherty, Horner, Midget, Neely, Parmele, Selph, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard "absent") to CONTINUE CZ-197 to April 22, 1992.

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ZONING PUBLIC HEARING

Application No.: **Z-6353** Present Zoning: CH
Applicant: Apex Import Auto Salvage Proposed Zoning: IM/PUD487
Location: Southwest corner of E. 32nd Street N. and Peoria Avenue
Date of Hearing: April 8, 1992
Presentation to TMAPC: Charles Norman

Relationship to the Comprehensive Plan:

The District 25 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Development Incentive Area No. 1.

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

Staff Recommendation:

Site Analysis: The subject tract is approximately 8 acres in size and is located at the southwest corner of East 32nd Street North and Peoria Avenue. It is nonwooded, gently sloping, contains three auto salvage buildings and outside storage of junk automobiles and is zoned CH.

Surrounding Area Analysis: The tract is abutted on the north by an industrial building and open storage of wooden pallets zoned IM and IL; on the east by an auto salvage business, a car wash and a bar zoned CH; on the south by the flood plain of Dirty Butter Creek and proposed Gilcrease Expressway zoned CS; and on the west by auto salvage storage which is the remainder of proposed PUD 487 zoned RS-3.

Zoning and BOA Historical Summary: There has been no zoning activity in the immediate area in the last 20 years.

Conclusion:

The proposed IM zoning is not in accord with the Comprehensive Plan; however, the existing development and zoning to the north and east as well as the flood plain and proposed expressway to the south, make the IM appropriate. This is especially true when in conjunction with a PUD as proposed here.

PUD 487 Southwest corner of 32nd Street North and Peoria Avenue

This PUD application is made in conjunction with rezoning request Z-6383 for IM, which includes the east 620' of the site. The subject tract currently has an existing nonconforming auto salvage operation zoned CH on the east half and auto salvage storage on the residentially zoned (RS-3) western half of the PUD. The applicant is proposing to divide the PUD into three development areas. Area **A** is proposed to contain medium industrial uses and a junk and salvage yard. Area **B** would allow warehousing, light industrial

uses and a junk and salvage yard. Areas C would be reserved open space and storm water drainage and detention and on the southern portion, open air storage. Area C and a small triangular area north of the PUD would contain a new storm water detention facility which serves approximately two-thirds of the site and is intended to improve the overall storm drainage problems in the area.

The PUD is isolated from surrounding uses to the west by a railroad and to the south by the floodplain of Dirty Butter Creek and the proposed Gilcrease Expressway. To the north, immediately east of the railroad, is an old platted subdivision which never had the southern portion of the street system built nor lots developed. To the north, near Peoria and to the east across Peoria, are various industrial, auto salvage and commercial uses. The Comprehensive Plan calls for the western half of the tract to be medium intensity residential and the eastern half is Development Incentive Area No. 1. Neither classification would allow Use Unit 28 Junk and Salvage Yards nor medium intensity industrial uses. The Incentive Area would allow up to IL type uses, but the medium intensity residential would not. It is staff opinion that because of the existing zoning and land use the Comprehensive Plan for this area is not feasible and the proposed PUD and rezoning request will provide a use of the tract which is compatible with the area and improve the present storm drainage problems in the area.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Based on the following conditions, Staff finds PUD 487 to be: (1) consistent with the Comprehensive Plan; (2) in harmony with the existing and expected development of surrounding areas; (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 Code.

Therefore, Staff recommends APPROVAL of PUD 487 subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.
2. **Development Standards:**

Area A

Land Area (Gross)	8.42 acres	366,952 SF
(Net)	7.49 acres	326,064 SF

Permitted Uses: Uses permitted as a matter of right in the IM zoning district (excluding Use Unit 20, Commercial Recreation) and Use Unit 28, Junk and Salvage Yards, and accessory uses customarily incident to permitted principal uses.

Maximum Building Floor Area: 50,000 SF

Maximum Building Height: 35'

Off-Street Parking: As required by the applicable Use Unit of the Tulsa Zoning Code.

Minimum Building Setbacks

From the centerline of N. Peoria Avenue	*80'
From the centerline of E. 32nd Street North	65'
From the south boundary of Area A	100'
From the west internal boundary of Area A	0'

Signs:

1. Two ground signs shall be permitted on the No. Peoria Avenue frontage with a maximum aggregate display surface area of 280 SF and a maximum height of 25 feet.

2. Wall signs shall be permitted not to exceed 2 square feet of display surface area per lineal foot of the building wall to which attached.

*Future buildings; existing south building is approximately 60' from centerline of North Peoria Avenue.

Area B

Land Area (Gross)	8.24 acres	358,978 SF
(Net)	8.24 acres	358,978 SF

Permitted Uses: Uses permitted in Use Units 10, Off-Street Parking Areas, 23, Warehousing and Wholesaling, 25, Light Manufacturing and Industry, and 28, Junk and Salvage yards.

Maximum Building Floor Area: 50,000 SF

Maximum Building Height: 35'

Off-Street Parking: As required by the applicable Use Unit of the Tulsa Zoning Code.

Minimum Building Setbacks

From the west boundary of Area B	350'
From the south boundary of Area B	100'
From the east internal boundary of Area B	0'
From the north internal boundary of Area B	0'

Signs:

1. Ground signs: None
2. Wall signs shall be permitted not to exceed 2 square feet of display surface area per lineal foot of the building wall to which attached, except no wall signs are permitted on the north and west sides of any building.

Open Air Storage:

Open air storage racks which are designed for the storage of automobile frames, front-ends, hoods, doors, quarter panels and other major parts shall have a minimum clear height above the ground of not less than 15 inches and shall comply with the following setbacks when the height of the rack or the material stored on the racks exceeds the height of the required screening wall or fence.

From the west boundary of Area B	150'
From the south boundary of Area B	0'
From the east internal boundary of Area B	0'
From the West 350' of the north boundary of Area B	80'

Area C

Land Area (Gross)	1.78 acres	77,486 SF
(Net)	1.52 acres	66,410 SF

Permitted Uses: Open space, storm water drainage and detention, open air storage within the south 100' of the east 310' of Area C, and screening fences shall be the only uses permitted. No open air storage whether stacked or on racks shall exceed the height of the required screening wall or fence within 150' of the northern boundary of Area C.

3. The PUD shall be screened by a screening wall or fence which meets the requirements of Section 1228 E of the Tulsa Zoning Code, except as provided for in the applicant's Outline Development Plan. After construction of the Gilcrease Expressway the TMAPC may require additional screening walls or fences on the south boundary of the PUD in order to screen the use from the general public traveling on the expressway.
4. No Zoning Clearance Permit shall be issued[for a development area within the PUD until a Detail Site Plan for the development area, which includes all buildings and requiring parking, has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
5. No sign permits shall be issued for erection of a sign within a development area of the PUD until a Detail Sign Plan for that development area has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
6. All trash, mechanical and equipment areas shall be screened from public view.
7. The Department of Public Works or a Professional Engineer registered in the State of Oklahoma shall certify to the zoning officer that all required stormwater drainage structures and detention areas [serving a development area] have been installed in accordance with the approved plans prior to issuance of an occupancy permit.
8. No Building Permit shall be issued until the requirements of Section 1107E of the Zoning Code has been satisfied 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 beneficiary to said Covenants.
9. Subject to review and approval of conditions as recommended by the Technical Advisory Committee.

Applicant's Comments

Mr. Charles Norman, representing the applicant, stated that the applicant and its predecessors have been operating an auto salvage at this location since prior to 1950. He presented photographs of the area surrounding the subject property. Mr. Norman explained the purpose of the application is to permit the expansion of the storage part of the business to a 10 acre tract located to the west of the property. Mr. Norman gave a detailed description of the area surrounding the subject tract. He advised the applicant is proposing to construct 8' high screening fences, most of which are already in place as indicated by the photos, with the exception of a portion of the south boundary which cannot be seen from Peoria.

That portion will be enclosed by a chain link fence. He added, staff has required that when the expressway is constructed the Planning Commission could require a solid screening fence at this area, if necessary, to block the view from the expressway. Mr. Norman displayed a drawing depicting the transition and buffer area from the area to the north.

TMAPC Discussion

Mr. Norman answered questions regarding acceptable height of stored items.

There was discussion among the Planning Commission as to screening storage racks from future expressway traffic and including a condition stipulating that when construction on the Gilcrease Expressway proceeds the Planning Commission can, at that time, require chain link fencing.

Mr. Gardner explained if the expressway is elevated it will not be possible to screen the area, if it is not elevated then screening will be required. He went on to advise the condition can be tied to the final plans of that expressway.

Mr. Norman suggested the Planning Commission provide the fence be constructed at the time the expressway is completed then the owner could apply for modification as a minor amendment.

Mr. Midget expressed concern over sufficient screening of the salvage yard from the residential areas.

Mr. Norman indicated the 8' high fence that is required on the west side would eliminate any sight of the salvage from residences and there would be no tall racks in that area. He pointed out that those residents currently look out across the existing salvage yard.

Chairman Parmele noted that no provisions have been made for landscaping on the PUD.

Mr. Stump replied that this is a fairly heavy industrial use and the fact that the perimeter has a screening fence of 8' high would screen contents inside the fence. He added with the cost imposed by installing such a large screening fence staff did not want to impose a landscaping requirement outside the fence as well.

Interested Parties

B.S. Roberts

Councilor Roberts advised that most of his questions have been answered, and inquired how far west the property extends.

Mr. Norman responded the property extends almost all the way to the railroad tract. He explained the view of the property from Mohawk Blvd. was obstructed by a wooded area.

Nadine Millspaugh

21919 Wekiwa Rd 74063

Ms. Millspaugh advised that she owns 4 lots adjacent to the north of this site. She was concerned as to whether eventually the salvage would expand nearer to Hawthorne Elementary School.

Chairman Parmele explained they would have to go through the process of vacating the right-of-way and would require a hearing before the City Council.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, the TMAPC voted **9-0-0** (Buerge, Carnes, Doherty, Horner, Midget, Neely, Parmele, Selph, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard "absent") to **APPROVE** Z-6353 for IM zoning and PUD 487 subject to staff conditions with condition #3 to read as follows:

3. The PUD shall be screened by a screening wall or fence which meets the requirements of Section 1228 E of the Tulsa Zoning Code, except as provided for in the applicant's Outline Development Plan. After construction of the Gilcrease Expressway the applicant is required to construct additional screening walls or fences on the south boundary of the PUD in order to screen the use from the general public traveling on the expressway.

Legal Description Z-6353

All of Blocks Eight (8) and Nine (9), Wilshire, a subdivision of the North Half of the Southeast Quarter of the Northeast Quarter (N/2 SE/4 NE/4) and the Southeast Quarter of the Southeast Quarter of the Northeast Quarter (SE/4 SE/4 NE/4) of Section 24, Township 20 North, Range 12 East, Tulsa County Oklahoma, according to the recorded Plat thereof, and the vacated right-of-way of East 31st Street North, North Owasso Avenue and North Norfolk Avenue adjacent thereto.

Legal Description PUD-487

All of Blocks Eight (8) and Nine (9), Wilshire, a subdivision of the North Half of the Southeast Quarter of the Northeast quarter (N/2 SE/4 NE/4) and the Southeast Quarter of the Southeast Quarter of the Northeast quarter (SE/4 SE/4 NE/4) of Section 24, Township 20 North, Range 12 East, Tulsa County, Oklahoma according to the recorded Plat thereof, and the vacated right-of-way of East 31st Street North, North Owasso Avenue and North Norfolk Avenue adjacent thereto.

AND

The Southwest Quarter of the Southeast quarter of the Northeast Quarter (SW/4 SE/4 NE/4) of Section 24, Township 20 North, Range 12 East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof.

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ZONING PUBLIC HEARING

Application No.: **Z-6354** Present Zoning: CS
Applicant: W.B. Smith Proposed Zoning: IL
Location: South of the southwest corner of 95th East Avenue and
51st Street South
Date of Hearing: April 10, 1992

Relationship to the Comprehensive Plan:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Special District 1, Industrial Area.

According to the Zoning Matrix the requested IL district may be found in accordance with the Plan Map. All zoning district are considered **may be found** in accordance with special Districts guidelines.

Staff Recommendation:

Site Analysis: The subject tract is approximately 1 acre in size and is located south of the southwest corner of 95th East Avenue and 51st Street South. It is nonwooded, flat, vacant, and is zoned CS.

Surrounding Area Analysis: The tract is abutted on the north by a vacant lot zones CS; on the east by a vacant lot zones CS; on the south by warehouses and light industry zoned IL; and on the west by warehouses and light industry zoned IL.

Zoning and BOA Historical Summary: Some Use Unit 15, *Other Trades and Services*, and Use Unit 17, *Automotive and Allied Activities*, have been approved by the BOA as special exceptions for the subject tract and other tracts to the north.

Conclusion:

The Comprehensive Plan envisions this tract to develop industrially and previous actions by the Board of Adjustment have already allowed some IL type uses in the commercial subdivision containing the lot. Therefore, staff feels extension of the IL zoning to the west and south is appropriate for this tract.

Therefore, Staff recommends **APPROVAL** of Z-6354 for IL zoning.

Interested Parties

Carl E. Hellerich Box 691148 74169-1148
Mr. Hellerich expressed his objection to any changes that would allow outdoor storage. He feels changing this tract to IL zoning

would jeopardize or compromise the commercial codes, aesthetics of the area, and negate the value of the surrounding lots.

Mr. Gardner explained the outdoor screening and storage requirements are applicable only if a tract abuts residential, since this is not, those requirements are not applicable. He acknowledged the present zoning is more restrictive than what is being proposed. Staff points out the Board of Adjustment has approved other uses in the area.

TMAPC Action; 7 members present:

On **MOTION** of **CARNES**, the TMAPC voted **7-0-0** (Buerge, Carnes, Doherty, Horner, Neely, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Midget, Selph "absent") to **APPROVE** Z-6354 for IL zoning as recommended by staff.

LEGAL DESCRIPTION

Lot 4, Block 1, 51st and Mingo Commercial Center, An addition to the City of Tulsa, Tulsa County, Oklahoma

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ZONING PUBLIC HEARING

Application No.: **CZ-198** Present Zoning: RS
Applicant: Owen D. Austin Proposed Zoning: IL
Location: East of the northeast corner of W. 61st Street South and
49th West Avenue
Date of Hearing: April 8, 1992

Relationship to the Comprehensive Plan:

The District 8 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Medium Intensity - Industrial, Special District

According to the Zoning Matrix the requested IL District may be found in accordance with the Plan Map. All zoning districts are considered **may be found** in accordance with Special Districts guidelines.

Staff Recommendation:

Site Analysis: The subject tract is approximately 6 acres in size and is located east of the northeast corner of 61st Street S. and 49th West Avenue. It is nonwooded, gently sloping, vacant, and is zoned RS.

Surrounding Area Analysis: The tract is abutted on the north by industrial uses zoned IM and IL; on the east by a railroad and industrial uses zoned IL; on the south by vacant property zoned RMH; and on the west by industrial uses zoned IL.

Zoning and BOA Historical Summary: Industrial zoning has been approved in the area north of 61st Street.

Conclusion: The request is in keeping with the Comprehensive Plan and surrounding development.

Therefore, Staff recommends **APPROVAL** of CZ-198 for IL zoning.

There were no interested parties present wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **BUERGE**, the TMAPC voted **8-0-1** (Buerge, Carnes, Doherty, Horner, Midget, Neely, Parmele, Wilson "aye"; no "nays"; Selph "abstaining"; Ballard, Broussard "absent") to **APPROVE** CZ-198 for IL zoning.

LEGAL DESCRIPTION

Lots 1, 2, 3, 4, 9, 10, & 11, Block 4, Bozarth Acres and being located east of the southeast corner of 49th West Avenue and 61st Street South

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OTHER BUSINESS:

PUD 288-9: Minor Amendment to building setback -- 2660 S. Birmingham Place [Lot 10, Block 1, Eight Acres Addition

The applicant is requesting a reduction in the required rear yard from 25' to 10' for lot 10, block 1, Eight Acres Addition. PUD 288 states "Required yards may be modified further for an individual dwelling unit subject to Detail Site Plan approval by the TMAPC". Eight other lot owners have requested the TMAPC to modify the required yards on their lots and TMAPC has done so.

The house on Lot 6 which abuts the subject lot at the rear property line has a house constructed on it which is only 10' from its rear property line. The house on Lot 6 was allowed to consider its side yard next to the boundary of the PUD as its rear yard just as is proposed for Lot 10. The portion of the house within 25' of the common property line with lot is, however, much less massive than the structure proposed to be closer than 25' on Lot 10.

The house proposed for Lot 10 has no windows which will face lot 6. It will, however, be 2 stories in height and because of the slope of the lot, the first floor will be approximately three feet above grade where it is nearest to Lot 6. Because the Planning Commission is specifically given the power to modify these required yards and there appear to be valid arguments for granting and

denying the request, Staff feels this is a matter for TMAPC to decide from the facts presented by both sides.

Staff Comments

Mr. Stump advised that since the Planning Commission is given the discretion to decide the appropriate setback and there have been a number of changes in the standard setbacks in the past, staff has no recommendation.

Chairman Parmele announced that the Planning Commission has received a number of letters and a package of letters and petitions in opposition to the Minor Amendment, and these will be made a part of the record.

Applicant's Comments

Roy Johnsen, attorney representing the applicant, stated the Zoning Code is somewhat confusing on the definition of rear yard when there is an irregularly shaped lot. Mr. Johnsen addressed the language in the PUD. He pointed out it was anticipated these homes would be extremely large for the size of the lots and that modifications were contemplated as being necessary when the original PUD was approved in 1982. The covenants state the Planning Commission can modify the required yards as a minor amendment with no necessity of going to other lot owners for approval. Mr. Johnsen noted the Declaration of Covenants provided that setbacks were to be as depicted on the recorded plat. He added that the Amendment to Declaration of Covenants provides for architectural review.

Mr. Johnsen advised the primary objector resides on Lot 6, adjacent to the subject tract. Mr. Johnsen reviewed the steps taken by his client to develop this lot. He noted that after meeting with the Architectural Review Committee his clients agreed to remove the window along the west wall of the upper level, nearest to the shared boundary line of Lot 6. The south end of the building has a balcony and stairway leading to the pool area which his clients agreed to provide lattice for. After resubmitting the drawings with these changes the Architectural Review Committee signed off their approval; this was on March 21, 1990. He pointed out one of the signatories is Priscilla C. Cotton also known as Priscilla Tate, one of the objectors and owner of Lot 6.

After approval by the Architectural Review Committee his clients proceeded with plans for their home. When applying for their building permit his clients first learned of resistance to the building of their home. The zoning clearance officer's interpretation of the Zoning Ordinance determined the rear lot to be the common lot line with Lot 6, his client then pursued the Minor Amendment. Mr. Johnson reiterated that modifications were contemplated and pointed out that eight others have been approved by the Planning Commission. He remarked the minor amendment on Lot 6 is similar to what his client's are requesting. Mr. Johnsen reviewed the process to determine the rear yard for Lot 6 and addressed measurements of the lot. Mr. Johnsen advised the

livability space variance modification is being withdrawn since they will meet the requirement without the necessity of any amendment.

Mr. Johnsen presented on an enhanced drawing of the proposed house and went into great detail in describing the structure. Mr. Johnsen discussed the elevations of the lot. He disclosed the roof line of the house on Lot 6 is 3' higher than then proposed structure on Lot 10. He explained the elevation from the street to the rear of the property declines and to maintain a constant first level floor the rear must be built up. He explained why it is not possible to alter the plans significantly. However he advised the architect indicated repositioning the structure to the north might gain 4'-5' more setback. Mr. Johnsen stated this has proceed on the fact that the Architectural Review Committee approved the site plan. Mr. Johnsen added an appraiser's report from the opposition indicated that hundreds of thousands of dollars worth of damage will be done if this residence is constructed as proposed due to inadequate setback. Mr. Johnsen informed if that is true then Lot 6 did the same to Lot 10 at the time of their construction when they built their home to within 10' of the Lot 10 boundary. Mr. Johnsen summarized this as an unusual subdivision that started off contemplating modifications in setback for large expensive structures. His client is a purchaser who in good faith proceeded. In the opposition's exhibit is a plan indicating a 25' easement which was not on the marketing plan given to his clients. However he pointed out also along this boundary is the same 25' requirement on Lot 6, which they did not comply with. He noted this was not furnished to the applicants. He concluded that this is an unusual situation where a provision has been made in covenants that states yards will be modified by the Planning Commission upon review and that they have been so modified in eight previous instances, a good faith purchaser who tried to comply with the rules as they believed existed and received approval from the Architectural Committee and incurred substantial expense in reliance on this. He feels the proposed structure will have no impact on Lot 6 since it is the nature of the subdivision to have large houses.

Interested Parties

William Grimm, Attorney

610 S Main 74119

Mr. Grimm, attorney for the protestants which is the Eight Acres Homeowners Association and Joe and Priscilla Tate, advised this is a subdivision located in the Woody Crest area, formerly the Holland Hall School. He gave a brief history of the area. The original proposal minimum setback requirements called for 30' on the front, 15' on the sides, and 25' in the rear. Original site plans on this lot provided for a 25' utility easement which the applicant refers to as the rear. Mr. Grimm explained this outside northwest boundary is actually the proposed side yard. Mr. Grimm presented a drawing of the applicant's site plan and displayed drawings depicting what it would look like if there was a 25' setback, as required under an RS-1 zoning. He reiterated that there would be 57' of structure plus a wall on either end that would infringe into the area. He cited the Zoning Code states the rear yard would be

immediately parallel to the front, which is easily identifiable. He summarized each of the variances granted by the Planning Commission in this addition. Mr. Grimm related that on Lot 6 the area identified as the rear yard, the northwest portion, was reduced from 25' to 21' on the corner only that was allowed as a variance. He pointed out the applicant is requesting a reduction in the rear yard setback from 25' to 10' for the full length of the back wall of this proposed house, or 70 lineal feet. This house is two stories tall and both stories will encroach on the rear yard setback requirements, constituting an immense and imposing structure next to Lot 6 potentially invading the privacy of this lot which it will overlook. Mr. Grimm explained the previously granted amendments have only included one or two corners of the respective houses that could not be configured on the lot so as to come within the setback requirements and did not involve one entire side of a house. He added that in the past Minor Amendments have gone unopposed and with agreement from the homeowners in the area. Mr. Grimm pointed out the applicant's amendment has met with resistance. He advised when the Homeowners Association became aware of the plans they voiced concerns as to where balconies would be located. At no time was it suggested how close the proposed property would be to the adjoining homeowners. In viewing those plans it was noticed the elevation of the structure had been raised an additional 4' to compensate for the drop from front to rear this property has. Mr. Grimm explained the Tates, residing on Lot 6, oppose this structure because it will be situated too close to their property line to ensure their continued privacy. Also the proposed house will tower over their home allowing unrestricted visibility onto their property and into their house. They feel the proposed structure will result in a loss of value to their property and the development will be degraded if the minor amendment is approved. Mr. Grimm displayed drawings of how the privacy of those residing on Lot 6 will be infringed upon because of the elevation. If the applicant is required to setback 25' which is called for in RS-1, it will provide some buffer which can be planted to provide screening from the two properties so the degree of sight will be blocked somewhat.

Mr. Grimm advised area homeowners are concerned about this application. They believe everyone has been acting in good faith in this matter; however the setbacks were never discussed until notice of this matter was received.

In response to a question from Chairman Parmele Mr. Grimm advised the Architectural Review Committee was looking at primarily the architectural structure as to building materials. He explained this committee is made up of homeowners who are not professional architects or surveyors. They merely reviewed the structure and materials to be used and the architectural ambiance to be used on this property.

Mr. Grimm stated this application is a major intrusion to Lot 6 and will be precedential for the other 5 remaining vacant lots. He advised there are no extraordinary circumstances which would allow

this particular intrusion into the serenity of this subdivision. Each of the homeowners have lived within the lot setback requirements or have received changes which did not exceed the 20% rule of a minor variance. He noted this structure will block out the morning sun which will cause privacy concerns since there is no way the adjoining lot owner can screen that structure by way of a fence or vegetation. He asked the Planning Commission to consider the intrusion on the adjoining land owners in this instance. Mr. Grimm asked this request be denied based on the intrusion that it makes.

Chairman Parmele commented that on Lot 5 the rear yard was chosen to be the north line, Lot 6 the northerly line was chosen to be the rear yard, on Lot 10 it is being suggested that not be the rear yard, but rather the side yard, and that a rear yard abut a side yard on Lot 6. Mr. Parmele stated the argument could be made that either of those could be the rear yard and in the rest of the addition it appears the rear yard has consistently been along the outside boundary of Eight Acres.

Mr. Doherty advised sharing the Chairman's concerns that the owner of Lot 10 could reasonably have expected his rear yard to be the side yard of his neighbor.

Mr. Grimm acknowledged that it could be expected, but a reasonable reading of the ordinance would clearly show that the northwest exterior is the rear yard.

Mr. Doherty expressed that the same interpretation would place the east boundary of Lot 6 as the rear yard because it is the side most nearly parallel to the front.

Ms. Wilson asked for a description as to the duties and responsibilities of the Architectural Review Committee. She asked if it was their duty to try to interface the two as far as determining the setbacks or if other groups, such as public agencies have that duty and responsibility.

Mr. Grimm replied it is the original homeowner's responsibility to determine where the building lines are. Secondly this group, because of the way the PUD was presented, has the power to grant variances and determinations as to the various setbacks. Finally, the Architectural Review Committee's responsibility is to ensure aesthetically the property is going to fit into the neighborhood that proper building materials are utilized and that the property is generally in compliance with the restrictive covenants.

Chairman Parmele explained the Planning Commission's role is to review the application as it pertains to subdivision regulations and if it would be a compatible amendment with the development.

Neva Brannin

2660 S Birmingham PL 74114

Ms. Brannin served on the Architectural Review Committee that studied the applicant's plans and approved them, subject to minor

changes to be made by the applicant. She explained that all property owners who build at Eight Acres are required to submit a plan to the Committee before approval for construction is given. The subjects addressed by the committee are aesthetic in nature, i.e. exterior building materials, windows to be used, driveway materials, roof materials, use of exterior lighting, construction of fences, and landscape material. She declared these stipulations are made clear to anyone planning to move to Eight Acres. Ms. Brannin explained the Committee is also responsible for reviewing plans for changes to be made after the original plans are approved. The changes already made in the applicant's plans are of such a serious nature as to be subject to reassessment by the Architectural Review Committee. The elevation of the house, 4' above that of the original is also a drastic change. She reported the committee is composed of three homeowners in Eight Acres. They are not architects or attorneys, with the kind of expertise to rule on legal requirements or city codes. They did not examine compliance with setbacks and livability requirements. They function to maintain the aesthetic integrity of the development. Ms. Brannin declared the Architectural Review Committee unanimously opposes the applicant's proposed minor changes and urged the Planning Commission to deny it.

Priscilla Tate

2660 S Birmingham Pl 74114

Ms. Tate is the owner of Lot 6 and is speaking as president of the Eight Acres Homeowners Association. She stated that eleven homes have been built in the development; eight unopposed minor amendments have been granted. These have included only one or two corners of less than five feet which have encroached on setback requirements. She pointed out there are no extraordinary or exceptional conditions pertaining to this lot which would restrict the applicant from being subject to the same setback requirements which all of the other homeowners and their architects have carefully observed. Mrs. Tate pointed out there are five remaining lots to be built upon and if this amendment is approved the remaining four lots will be directly impacted and a precedent would be set for the remaining four lots which would directly affect half of the entire development. This variance would cause a substantial detriment to the Eight Acres site plan. All of the members of the Eight Acres Homeowners Association unanimously oppose this amendment. It is not in conformity with the PUD and will seriously devalue the entire development. Mrs. Tate, on behalf of the homeowners association, urged the Planning Commission to deny this application.

Joseph N. Tate

2660 S Birmingham Pl 74114

Mr. Tate, owner of the home on Lot 6 which adjoins the southwest boundary line of Lot 10 disclosed his home would be the one most affected should this amendment be approved. He feels should this amendment be approved, their outdoor living area would be severely impacted. He advised a 60' or 70' long wall 35' high and moved 15' closer to his property than the requirements permit is a major variance to him and his wife. The applicant's house will tower over his property and will allow them unrestricted visibility to

his property and home. This massive structure will substantially reduce the amount of sunlight they receive and even affect their landscaping. As stated in a letter from Bruce L. Dill, a qualified appraiser, which has been made a part of the record, the market value of his home on Lot 6 would be reduced by as much as several hundred thousand dollars. He feels this is too large a penalty to have to pay because the applicant wants to place this massive structure on a lot that does not accommodate it. Mr. Tate declared the economic cost would be less to the applicant to position his house within setback and livability requirements than the cost to him and other homeowners if this amendment is allowed. The entire develop would suffer should this amendment not be denied. Mr. Tate believes it is unfair and inequitable to allow the applicant to circumvent the same requirements which other homeowners are forced to comply.

Mr. Tate referred to the earlier reference to the minor amendment to his property. This variance consisted of four feet which is the corner only of a one-story section of the house. Whereas a massive 70' long wall 35' high encroaching by 15' would be a major intrusion. He feels had his back yard, that part adjacent to the fence of their house been construed as the back yard they would only have had a minor variance. Mr. Tate pointed out there was no opposition to his variance or to any other minor variances heretofore granted by this Commission. None of these variances affected the privacy or value of the adjoining properties whereas the applicant's variance would do major damage to other properties, as attested to by a qualified appraiser. Mr. Tate asked this application be denied.

Applicant's Rebuttal

Mr. Johnsen advised that Mr. Jim Hendricks is the architect of the proposed structure and was in attendance at the Architectural Review Committee. He feels there is disagreement with the homeowners representation as to what occurred.

Mr. Jim Hendricks, architect from Rockwall, Texas, listed his qualifications. He reported that at the architectural review he presented the site plan, the elevations, materials, and floor plan. He stated there was discussion of the position of the structure on the site, as to setback, and the view of each yard and their pool area. Mr. Hendricks stated they were in compliance with documents received from their surveyor.

In response to a question from Mr. Horner Mr. Hendricks advised there were no changes made to the plan since the Architectural Review Committee.

Mr. Horner asked if the rear yard or side yard was delineated at the time the review committee saw the site plan.

Mr. Hendricks advised this was thoroughly discussed; the committee voiced no opposition and the applicants received approval shortly after. Mr. Hendricks advised they were in the schematic stage at

that time and that was the purpose for review so the applicant would know they had complete architectural review approval so they could proceed with their plans.

Mr. Buerge asked if any attempt had been made to reach a compromise or if there were any issues raised by the opponents that could be easily conceded on the applicant's part.

Mr. Hendricks advised being unaware of any opposition until applying for a building permit. There has been no attempt that he is aware of to discuss any type of compromise position. He advised of his willingness to do so.

Mr. Hendricks answered questions from the Planning Commission.

Chairman Parmele inquired as to the maximum distance the structure could be moved without major architectural or structural changes.

Mr. Hendricks replied it could be moved back 4-5 feet.

Mr. Johnsen disclosed the Tates attempted to minimize the extent of their setback modification. He noted they elected the southwest boundary to be their side yard and this application is an identical situation. Mr. Johnsen pointed out in this neighborhood, as large as the houses are, nobody has total privacy, it not achievable. He pointed out the pool area is past the 25' from their own line and is at ground level, so it is well removed from the 25' line. Lastly he noted that this is not even a minor amendment, Deed of Dedication provides that the Planning Commission by site plan approval can establish the yards. This was contemplated and submitted by the developer of the subdivision. Mr. Johnsen reiterated that the Architectural Review Committee gave approval of drawings for the residence and the person most affected by the proposed residence, Mrs. Tate, signed off on it with full disclosure of the plans. Design changes were made to accommodate committee requests and Mr. Johnsen feels it is unfair to request the applicants to redesign; they can compromise with the 4' setback but that is all that can be conceded without major loss.

Mr. Grimm advised that all three members of the Architectural Review Committee are present and they do not perceive the conversation that took place the way Mr. Hendricks described it.

TMAPC Review Session

Chairman Parmele asked Mr. Gardner if he were reviewing this application based on the layout of the subdivision, existing construction, and variances granted in the past with no opposition, what his determination would be on this lot as to rear yard and side yard.

Mr. Gardner replied if it were a question of equal treatment (both use the common lit line as a side yard) approval would be recommended. He explained in both instances the rear yards are to the exterior.

Mr. Doherty stated he believes all parties have acted in good faith and there has been an unfortunate misunderstanding or misreading. He has sympathy for the applicant who presented plans in good faith and the plot plan which did show the location of the building and proximity to the lot line. He understands an Architectural Review Committee could have overlooked that. He feels this is a fairness issue in subdivision layout and not architectural design as far as the Planning Commission is concerned. The owners of Lot 6 chose the east line as their side yard. It is the Planning Commission's authority and responsibility in this case to determine which is the side yard and which is the rear yard, not so much to establish variances. He believes every possible protection should be given to the owners on Lot 6 within those guidelines.

Chairman Parmele expressed sympathy for the property owners; however, in studying the plat of the subdivision there are 13 out of 16 lots that are on the perimeter of Eight Acres and it appears in all 13 the rear lot is the outside boundary. Based on staff comments that the northerly lot line would be the rear lot he sees that the Planning Commission has no choice but to call that the rear line and call the disputed line the side yard. Based on that the Planning Commission could require no additional set back, that it be 10'. He believes some relief is proper and should be granted. He agrees the rear lot should be the northerly boundary just as it is to the west and north.

Ms. Wilson asked Mr. Linker how rear lot line is defined in the code and how it may be applied today.

Mr. Linker replied in his opinion, in the subject lot it would be the shared boundary.

Mr. Gardner explained by granting approval of the plot plan for of Lot 6 the Planning Commission in effect made that (common boundary) a side yard. If equal treatment is to be granted between the two lots, not considering the architectural style of the house, treating the common lot line as a side yard in both instances is equal treatment. He added that (because of the bulk of the structure) anything the Planning Commission can do to push the structure further away will help but it can't be pushed 25' away and still construct the building; however, it can be pushed 15' away and the structure can still be built.

TMAPC Action; 9 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Buerge, Carnes, Doherty, Horner, Midget, Neely, Parmele, Selph, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard "absent") to **APPROVE** the Minor Amendment to reduce the required yard to 15' for the yard adjoining the lot line between Lot 6 and Lot 10 of PUD 288-9.

* * * * *

PUD-407 Detail Site Plan -- Area C -- Northwest corner of E.
68th Street and S. Yale Avenue

The applicant is proposing to enlarge the basement of an existing building in Development Area C, provide a covered drop-off area on the north side of the building, add an elevator, modify the existing parking to provide better handicap access, and provide dock access to the basement level. The renovations are in conjunction with conversion of the building to an outpatient surgery. Staff has reviewed the Detail Site Plan and finds it to be in conformance with the PUD standards.

Therefore staff recommends **APPROVAL** of the Detail Site Plan for Development Area "C" of PUD-407.

TMAPC Action; 6 members present:

On **MOTION** of **NEELY**, the TMAPC voted **6-0-0** (Buerge, Carnes, Doherty, Horner, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Midget, Neely, Selph "absent") to **APPROVE** the Detail Site Plan for Development Area "C" of PUD 407.

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CONTINUED PUBLIC HEARING

This is a continued public hearing to consider adoption of the Tulsa Historic Preservation Plan as a part of the Comprehensive Plan for the Tulsa Metropolitan Area (Continued from March 25, 1992).

Chairman Parmele announced the Comprehensive Plan Committee has met and recommended adoption of this Plan.

Ms. Matthews announced Kent Schell and Greg Warren are present to make a short presentation of the Plan. The Planning Commission has received excerpts of the plan in their packets and if anyone should want the full document they will be glad to make it available.

Mr. Neely asked about paragraph 2.7.4, it reads *Zoning and Comprehensive Planning changes that impact historic structures within the City of Tulsa should be submitted to the Tulsa Preservation Commission for review and recommendation before formal action is taken.* By using the word impact that implies any zoning change within a certain arbitrary area could impact it and not a zoning change involving the historic structure itself. He pointed out that might become a cumbersome process. Mr. Neely suggested changing that to state that *any change that involves an historic resource.*

Ms. Wilson expressed agreement with this suggested change

Mr. Schell stated that since the subcommittee reviewed the plan one of the neighborhoods has submitted a request to add additional information. Two structures would be added to the Brady Heights Addition and is consistent with what is there and does not affect the boundaries or the nature of that neighborhood designation. These structures are both houses located at 1102 N. Denver and 604 N. Cheyenne.

TMAPC Action; 8 members present:

On **MOTION** of **BUERGE**, the TMAPC voted **7-0-1** (Buerge, Carnes, Doherty, Horner, Neely, Parmele, Wilson "aye"; no "nays"; Selph "abstaining"; Ballard, Broussard, Midget "absent") to **APPROVE** adoption of the Tulsa Historic Preservation Plan as part of the Comprehensive Plan for the Tulsa Metropolitan Area as amended.

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There being no further business, the Chairman declared the meeting adjourned at 4:00 p.m.

Date Approved: 4-22-92



Chairman

ATTEST:



Secretary