

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2071

Wednesday, June 19, 1996, 1:30 p.m.

City Council Room, Plaza Level, Tulsa Civic Center

Members Present

Ballard
Carnes, Chairman
Dick
Doherty, 1st Vice Chairman
Gray
Horner
Ledford
Midget, Mayor's Designee
Pace, Secretary

Members Absent

Edwards
Boyle

Staff Present

Almy
Gardner
Jones
Stump

Others Present

Linker, Legal
Counsel

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, June 17, 1996 at 10:33 a.m., in the office of the County Clerk on Friday, June 14, 1996 at 2:44 p.m., as well as in the Reception Area of the INCOG offices.

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

Minutes:

Approval of the minutes of June 5, 1996, Meeting No. 2069:

On **MOTION** of **LEDFORD**, the TMAPC voted **5-0-3** (Carnes, Dick, Gray, Horner, Pace "aye"; no "nays"; Ballard, Doherty, Midget "abstaining"; Boyle, Edwards "absent") to **APPROVE** the minutes of the meeting of June 5, 1996 Meeting No. 2069.

* * * * *

REPORTS:

Committee Reports:

Budget and Work Program Committee

Mr. Horner informed the Commission that the Budget and Work Program Committee will meet today following the TMAPC meeting.

Comprehensive Plan Committee

Mr. Ledford reported that the Comprehensive Plan Committee met today and recommends that a Public Hearing be scheduled for July 17, 1996 to consider amending the Major Street and Highway Plan Map and the District Plan Maps for Planning Districts 1 and 10 to delete Archer, west of Guthrie, and Brady, west of Denver, as commercial collectors and redesignate them as residential streets. Mr. Ledford also recommended that a Public Hearing be scheduled for July 24, 1996 to consider adopting the Neighborhood Revitalization Planning Program Report for the Charles Page Boulevard area.

Chairman Carnes directed Staff to schedule the Public Hearings.

Rules and Regulations Committee

Mr. Doherty informed the Commission that the Rules and Regulations Committee will meet today following the TMAPC meeting to discuss the policy on setting final plats for approval on the City Council agenda, outdoor advertising, density levels in multifamily residential zoning, policies for locating apartment complexes and timing of infrastructure improvements.

Community Participation Committee

Ms. Pace reported that the Community Participation Committee met last week and will continue working on goals and procedures.

Director's Report:

Mr. Gardner informed the Commission that there is a rezoning application to be heard by the City Council on June 20, 1996.

SUBDIVISIONS:

Preliminary Plat:

Sheridan Oaks (PUD 542)(1583)

(PD-18)(CD-8)

North of the northwest corner of East 91st Street South & South Sheridan Road

TAC Comments:

Jones presented the plat with Ted Sack present.

French recommended approval of the waiver of the Subdivision Regulations dealing with the collector street subject to one sidewalk being installed.

Root noted that the detention area did not need to be dedicated to the City and sufficient language was included in the deed of dedication to require homeowners association maintenance.

French suggested that limits of no access be shown along the collector and that the entrance be widened at the Sheridan intersection. In addition, the first curve along the collector (C-4 and C-73) should be redesigned for an approximately 200'-radius curve. The sight triangle should be checked at that northeast corner as well.

Miller asked if an Subsurface Committee meeting was planned and Sack answered affirmatively.

French noted that Traffic Engineering objected to Section II.D. of the restrictive covenants dealing with construction access. Ted stated it was a PUD condition and could be discussed at the TMAPC hearing.

Sheridan Oaks is a 34-acre single-family subdivision plat which contains 51 lots. The property is accessed by an east/west public street with private cul-de-sac streets branching off. The property is zoned RS-1 and PUD 542.

Staff would offer the following comments and/or recommendations:

1. Waiver of Subdivision Regulations to permit cul-de-sacs of more than 500' in length.
2. Waiver of the Subdivision Regulations to permit a residential collector, East 86th Street South, with 50' of right-of-way (60' required by the Major Street Plan) and 26' of paving.
3. Add "PUD 542" under title.

4. Show addresses on face of plat.
5. A letter from an attorney is required prior to the approval of the final plat that the Sheridan Oaks Estates L.L.C. is a duly formed organization and the person signing the plat for the L.L.C. is qualified to do so.
6. All conditions of PUD-542 shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code in the covenants.
7. Utility easements shall meet the approval of the Utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.
8. Water and sanitary sewer plans shall be approved by the Department of Public Works (Water & Sewer) prior to release of final plat. (Include language for W/S facilities in covenants.)
9. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures, shall be borne by the owner(s) of the lot(s).
10. A request for creation of a Sewer Improvement District shall be submitted to the Department of Public Works (Water & Sewer) prior to release of final plat.
11. Paving and/or drainage plans shall be approved by the Department of Public Works (Stormwater and/or Engineering) including storm drainage, detention design, and Watershed Development Permit application subject to criteria approved by the City of Tulsa.
12. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Department of Public Works (Engineering).
13. Street names shall be approved by the Department of Public Works and shown on plat.
14. All curve data, including corner radii, shall be shown on final plat as applicable.

15. City of Tulsa Floodplain determinations shall be valid for a period of one year from the date of issuance and shall not be transferred.
16. Bearings, or true N/S etc., shall be shown on perimeter of land being platted or other bearings as directed by the Department of Public Works.
17. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
18. Limits of Access or LNA as applicable shall be shown on plat as approved by the Department of Public Works (Traffic). Include applicable language in covenants.
19. It is recommended that the Developer coordinate with the Department of Public Works (Traffic) during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
20. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
21. All lots, streets, building lines, easements, etc. shall be completely dimensioned.
22. The key or location map shall be complete.
23. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
24. The restrictive covenants and/or deed of dedication shall be submitted for review with the preliminary plat. (Include subsurface provisions, dedications for storm water facilities, and PUD information as applicable.)
25. This plat has been referred to Bixby, Jenks and Broken Arrow because of its location near or inside a "fence line" of that municipality. Additional requirements may be made by the applicable municipality. Otherwise only the conditions listed apply.
26. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)

27. All other Subdivision Regulations shall be met prior to release of final plat.

On the motion of French, the Technical Advisory Committee voted unanimously to recommend Approval of the Preliminary Plat of Sheridan Oaks Estates, subject to all conditions listed above.

Applicant's Comments:

Ted Sack, 111 South Elgin, stated that he has been in contact with Public Works about a letter they had received in regard to the inlets. Mr. Sack stated he is currently working on the design which will address how the drainage will be handled in that area. Mr. Sack informed the Commission that the water currently goes in that direction and more than likely there may be a fence installed, but it will be a type of fence that would allow the drainage to flow through. Mr. Sack stated that he is researching the possibility of relocating one of the drainage inlets on the Sheridan Oaks property.

Interested Parties Comments:

Robert Bookout, 8705 South Lakewood Avenue, expressed concern about the drainage in the area of Lots 5, 9 and 10 due to the runoff from the pond. Mr. Bookout questioned whether a fence would be installed that would hamper the drainage. Mr. Jones replied that this was discussed at the TAC meeting. If it is, in fact, overland drainage, he feels that a fence would not be allowed by the City. Mr. Jones stated that this is not one of the typical areas that the City wants dedicated to them. The City feels there is sufficient language and maintenance agreements with the homeowners association.

TMAPC Comments:

Mr. Doherty questioned how many lots are served by the south gate collector street. Mr. Sack replied that there are thirty-six lots. Mr. Doherty questioned if there were provisions for a split driveway or if it would be a two-lane driveway. Mr. Jones replied that Traffic Engineering has recommended, as on all security-gated entrances, that they review the design of the gate. Therefore, the gates will have to meet the requirements of Traffic Engineering. Mr. Doherty expressed concern over whether the design would be adequate to handle the traffic. Mr. Jones stated that adequate stacking distance was discussed at the TAC meeting.

Ms. Pace clarified that this is a 34-acre subdivision and reminded the Commission that there is a 20-acre limit for a gated community. Mr. Jones informed Ms. Pace that this development is unique in that it is two developments in one. The north section is served by two gated entries and the south is served by one gated entry.

Mr. Midget stated that initially the developer wanted a gate access off Sheridan, and in working with the developer they have split it into two sections.

Ms. Pace asked if this application was submitted prior to the adoption of the guidelines. Mr. Doherty replied affirmatively.

Mr. Doherty asked Mr. Bookout if the increased drainage through this area to Woodhill was a concern. Mr. Bookout replied in the negative. Mr. Bookout stated there are stormwater drains on his property to collect the overflow. However, Mr. Bookout expressed concern that if a fence is installed, the stormwater drains should be moved onto the Sheridan Oaks property for collection purposes.

TMAPC Action; 9 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** the Preliminary Plat of Sheridan Oaks Estates subject to the conditions recommended by TAC.

Final Approval:

The Estates of Hampton Hills (773)

(PD-21)(County)

South and west of the southwest corner of East 131st Street & South Lewis

Staff Comments:

Mr. Jones stated that Ed Schermerhorn was present representing the final approval of The Estates of Hampton Hills, which is a Tulsa County plat. Mr. Jones reminded the Commission that they approved a waiver of the Subdivision Regulations at the preliminary plat stage to permit the over-length cul-de-sac. Mr. Jones stated that all release letters and owner's papers have been received and it is in order. Therefore, Staff recommends approval.

TMAPC Action; 9 members present:

On **MOTION** of **BALLARD**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** the Final Approval of The Estates of Hampton Hills as recommended by Staff.

Plat Waiver, Section 260:

BOA-17401 (Unplatted)(1494)

(PD-17)(CD-6)

2824 South Lynn Lane

TAC Comments:

Jones presented the application with Wanda Anderson in attendance.

Board of Adjustment case 17401 is a request to permit a cellular tower in an AG-zoned district. If approved, the property would be subject to the platting requirements.

Staff is supportive of the plat waiver request since any additional development would require a rezoning or Board of Adjustment application, which would again trigger the platting requirement.

Staff recommends Approval of the plat waiver for BOA-17401 subject to the following conditions:

1. Grading and/or drainage plan approved by the Department of Public Works in the permit process.
2. Utility extensions and/or easements if needed.

On the motion of Miller, the Technical Advisory Committee voted unanimously to recommend Approval of the Plat Waiver for BOA-17401, subject to all conditions listed above.

TMAPC Action; 9 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** the Plat Waiver for BOA-17401 subject to the conditions recommended by TAC.

* * * * *

BOA-17387 (Vine Haven)(593)

(PD-4)(CD-4)

Northwest corner of East 11th Street South & South Harvard Avenue

TAC Comments:

Jones presented the application with Ted Sack present.

French stated the T.U. had agreed to dedicate additional right-of-way for South Harvard Avenue to meet the Major Street Plan and a total of 40' (measured from the centerline of East 11th Street). Jones noted that a waiver of the Subdivision Regulations is still required for East 11th right-of-way.

Root pointed out that a portion of the subject tract contains City of Tulsa regulatory floodplain.

Board of Adjustment case 17387 is a special request to permit a student life and convocation center for the University of Tulsa in a CH, OL and RS-3 zoned district. The subject tract is approximately 13 acres in size and if approved would be subject to platting requirements. The application will be heard by the Board on June 26.

Consistent with the University of Tulsa applications in the past, a plat waiver has been requested for the subject tract. Staff would point out that both East 11th Street and South Harvard Avenue are designated as 100' secondary arterials; however, only 38' of right-of-way exists on East 11th and 35' of right-of-way on South Harvard.

Based on the TMAPC approvals in the past and the existing subdivision plat, Staff is supportive of the requested waiver.

Staff recommends APPROVAL of the plat waiver for BOA-17387, subject to the following conditions:

1. Waiver of the Subdivision Regulations pertaining to right-of-way for East 11th Street (50' required, 40' proposed).
2. Grading and/or drainage plan approval by the Department of Public Works in the permit process.
3. Access control agreement, if required, by Department of Public Works (Traffic Engineering)
4. Utility extension and/or easements if needed.

On the motion of French, the Technical Advisory Committee voted unanimously to recommend Approval of the Plat Waiver for BOA-17387, subject to all conditions listed above.

TMAPC Comments:

Ms. Pace stated that this particular corner is in part of the University of Tulsa's Master Plan, and the building in question is the convocation center. Ms. Pace believes, when the inclusion of the master plan into the District 4 Plan was approved, it was requested that Public Works make any infrastructure improvements that were needed, and that this be a priority. Ms. Pace feels this is the time to look at this, since this is a plat waiver request. Ms. Pace stated she does not know what Public Works is planning. However, Ms. Pace feels that since the University owns two of the corners at the intersection, this would be a good time to see whether there will be a need for additional right-of-way.

Mr. Doherty stated that, to his knowledge, it was dealt with at TAC, recommending approval of the waiver since there is nothing to be gained from platting the property.

Ms. Pace feels it is appropriate for the Commission to question whether additional right-of-way is needed in regards to the Comprehensive Plan.

Mr. Midget recommended that if there are any questions concerning the impact this project will have on infrastructure development, that should be reviewed and discussed at a Committee meeting.

Ms. Pace recommended to continue this case until after the BOA hearing, since that is the proper order.

Mr. Midget stated that it is his understanding that it does not matter who hears the case first. Mr. Jones stated there is nothing to waive at this time. However, Legal has advised the Commission that if it is approved, they should make it subject to BOA approval.

TMAPC Action; 9 members present:

On **MOTION** of **BALLARD**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** the Plat Waiver for BOA-17387 subject to the conditions recommended by TAC and BOA approval.

* * * * *

CBOA-1429 (Unplatted)(3612)

(PD-24)(County)

7103 North Cincinnati

Staff Comments:

Mr. Jones stated that there was a location map and site plan in the agenda packets that show the proposed locations. Mr. Jones informed the Commission that there were interested parties at the Board of Adjustment case on Tuesday. Mr. Jones indicated the location of the access point and the 50' x 50' area for the tower on the location map. Based on protestants and the hearing, BOA approved a cellular tower, but the location of the tower was moved from this 50' x 50' area to somewhere else on the property. Mr. Jones feels that two items need to be pointed out. First, in the BOA application, only this 50' x 50' area was advertised for relief, so there may be some question whether the BOA can move it to another part of that ten acres without additional advertisement. Secondly, when this was reviewed by TAC, the 50' x 50' area was the only area reviewed. Mr. Jones feels that if this application went back before TAC, there would not be any additional conditions if it were moved. Mr. Jones stated that Ms. Anderson needs to be aware that the new location was not advertised or reviewed by TAC.

Mr. Midget questioned the Commission's authority to approve this application knowing it has not met the conditions. Mr. Jones replied that this is a BOA matter. Mr. Jones stated that he has discussed this matter with Jim Beach. Mr. Jones stated that this is for documentation purposes.

Mr. Doherty asked how the motion would be worded. Mr. Jones replied to recommend approval subject to TAC conditions, noting that the site plan in the agenda is not the approved location and subject to Ms. Anderson submittal of the specific site plan.

Applicant's Comments:

Wanda Anderson, Sprint Spectrum LP, 10830 East 45th Street, Suite 302, stated she presented the specific site plan to the BOA on Tuesday. Ms. Anderson stated that the stipulation by the BOA is that the tower will be located 200 feet from the property of the protestant. There is an 85-foot setback from the center of Cincinnati because it is a secondary arterial.

TMAPC Comments:

Mr. Doherty questioned if a motion was approved, then it should be subject to approval by Legal as to notice requirement before the BOA. Mr. Jones feels this is a risk that Ms. Anderson will have to take. Mr. Doherty questioned whether Mr. Jones wants this application to go back before TAC. Mr. Jones replied negatively.

TMAPC Action; 9 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** the Plat Waiver for CBOA-1429 of a site for a cellular tower within the parameters outlined by Ms. Anderson, subject to the conditions as recommended by TAC, noting that the site plan in the agenda is not the approved location, and subject to Ms. Anderson's submittal of a specific site plan.

CBOA-1431 (Unplatted)(3114)

(PD-15)(County)

North of the northwest corner of East 66th Street North & Mingo Valley Expressway

Staff Comments:

Mr. Jones stated that there was an error in the notice. Due to the error, this case has been continued to the July 16 meeting of the Board of Adjustment. Mr. Jones stated that this case has not been before the Technical Advisory Committee due to the meeting schedule

and trying to avoid undo delay on the applicant. However, Mr. Jones stated he contacted the members individually and they would recommend approval. Mr. Jones feels that if the Commission approves this case it should be subject to approval by BOA.

TMAPC Action; 9 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** the Plat Waiver for CBOA-1431 subject to BOA adjustment approval and Waiver of Subdivision Regulations Section 2.1.4 requiring TAC review.

CBOA-1432 (Unplatted)(1290)

(PD-23)(County)

19312 West Highway 51

Staff Comments:

Mr. Jones stated that this case has not been before the Technical Advisory Committee due to the meeting schedule and trying to avoid undo delay on the applicant. However, Mr. Jones stated he contacted the members individually and they would recommend approval.

TMAPC Action; 9 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** the Plat Waiver for CBOA-1432 subject to BOA adjustment approval and Waiver of Subdivision Regulations Section 2.1.4 requiring TAC review.

CBOA-1433 (Unplatted)(2723)

(PD-14)(County)

North and west of the northwest corner of 136th Street North & North Sheridan Road

Staff Comments:

Mr. Jones stated the BOA denied CBOA-1433, and therefore there is no application before the Commission. Therefore, Mr. Jones recommended striking CBOA-1433.

Chairman Carnes indicated this item has been stricken.

Lot Split for Ratification of Prior Approval:

L-18299 City of Tulsa (2493)

(PD-17)(CD-5)

3118 South Mingo Road

L-18301 City of Tulsa (1694)

(PD-17)(CD-6)

12911 East 31st Street

Staff Comments:

Mr. Jones informed the Commission that these lot-splits for ratification of prior approval are in order and meet the Subdivision Regulations.

TMAPC Action; 9 members present:

On **MOTION** of **BAKER**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** the Lot-splits for Ratification of Prior Approval, finding them in accordance with Subdivision Regulations.

ZONING PUBLIC HEARING:

Items Z-6543 and CZ-228 were heard simultaneously since each was a portion of the same tract.

Application No.: Z-6543

(PD-8)(CD-2)

Applicant: William G. Black

RS-3 to CS

Location: South of southwest corner West 59th Street South & South 33rd West Avenue

Presented to TMAPC: William G. Black

Staff Recommendation:

Relationship to the Comprehensive Plan:

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

According to the Zoning Matrix, the requested CS is **not in** accordance with the Plan Map.

Staff Comments:

Site Analysis: The subject property is approximately .59 acres in size and located south of the southwest corner of South 33rd West Avenue and West 59th Street South. It is flat, non-wooded, contains two single-family dwellings, and zoned RS-3.

Surrounding Area Analysis: The subject tract is abutted on the north by a single-family dwelling zoned RS-3; to the west by a single-family dwelling and vacant property, zoned RS in the County; to the east by single-family dwellings, zoned CS; and to the south by a vacant lot, zoned CS.

Zoning and BOA Historical Summary: Commercial zoning has been permitted in the area and in 1991, the lots directly east of the subject tract and fronting South 33rd West Avenue were rezoned CS.

Conclusion: Based on the existing development and recent rezoning action on the east side of 33rd West Avenue, Staff recommends **APPROVAL** of CS zoning for Z-6543.

Application No.: CZ-226

(PD-8)(CD-2)

Applicant: William G. Black

RS to CS

Location: South of southwest corner West 59th Street South & South 33rd West Avenue

Presented to TMAPC: William G. Black

Staff Recommendation:

Relationship to the Comprehensive Plan:

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

According to the Zoning Matrix the requested CS is **not in** accordance with the Plan Map.

Staff Comments:

Site Analysis: The subject property is approximately .33 acres in size and is located south and west of the southwest corner of South 33rd West Avenue and West 59th Street South. It is flat, non-wooded, vacant and zoned RS.

Surrounding Area Analysis: The subject tract is abutted on the north and west by single-family dwellings, zoned RS; to the south by vacant property, zoned RS; and to the east by single-family dwellings, zoned RS-3 in City Limits.

Zoning and BOA Historical Summary: Commercial zoning has been permitted in this area along the east side of South 33rd West Avenue and City of Tulsa Zoning Case Z-6543 proposes it to the same depth on the west side of 33rd West Avenue.

Conclusion: Based on the existing development and recent rezoning action in this area, Staff recommends **APPROVAL** of CS zoning for CZ-226, if Z-6543 in the City of Tulsa is approved for CS zoning.

Applicant's Comments:

Mr. Black, 1109 East 18th, stated he was in agreement with Staff's recommendation. Mr. Black informed the Commission that he has had a laundromat located at 33rd West Avenue and West 61st Street for the last eight years. However, the building was sold and the new owner increased the rent. Mr. Black decided he would help the neighborhood by building a nice facility across the street for his laundromat. Mr. Black stated he is making application at this time to have this property rezoned commercial. The property currently has a substandard single-family dwelling on it and Mr. Black feels it would be an asset to the neighborhood if his application is approved. Mr. Black stated he will comply with all the rules and regulations in the zoning code. Mr. Black pointed out that one block to the north, between 57th and 58th, is zoned CH and they are in the process of constructing a mini-mall storage area.

Interested Parties Comments:

Councilor Darla Hall, Tulsa City Council District 2, feels that Staff recommended approval of these applications because they made an exception in 1991 to approve commercial zoning across the street. Councilor Hall feels this was in error because it goes against the Comprehensive Plan. Councilor Hall stated that the Comprehensive Plan specifies Low Intensity-Residential. Councilor Hall stated she had not been a Councilor long enough to know how to oppose such a request. However, the request was approved and currently the lots have not been developed as commercial. Councilor Hall stated that the people along 33rd West Avenue were assured that when 33rd West Avenue was widened to four lanes it would not be turned into a commercial endeavor. There are currently two residents on the subject property and one to the north, and Councilor Hall feels that this is an encroachment into what should be a residential area. Councilor Hall presented a petition that was brought to her prior to the meeting. Councilor Hall feels that the Comprehensive Plan should be followed and feels that denial of the request is appropriate. She reminded the Commission that the City Council overturned the decision on Barron & Hart to encroach into a neighborhood, and she feels that the Council is on a trend of stopping commercial encroachment within neighborhoods. Councilor Hall asked for consideration to deny the request. She stated she spoke with the owner of the shopping center and he advised her that there is already another laundromat in the shopping center. The reason the shopping center owner had to redo the contract was due to the expense of the water bill he was having to pay. Councilor Hall expressed concern about there already being a laundromat in the area, and Mr. Black trying to open another one down the street. Councilor Hall feels this area could not support two laundromats.

Yolanda Gill, 5912 South 33rd West Avenue, stated that the property to the right of their house is already commercial, as well as the land across the street. The property to the left of their house is the application for a laundromat. Ms. Gill stated that three-quarters of the block would be commercial, and she would like to see the approval of the application because the surrounding area is commercial. This is a chance for the westside to develop. Ms. Gill feels that since she is surrounded by commercial and in support of this application, it should be approved. Ms. Gill feels there is not enough businesses for shopping or services in west Tulsa and requests approval of this application.

Barry Needhan, 5910 South 33rd West Avenue, stated he is the owner of this property. Mr. Needhan apologized for the condition of his property, but due to his employer relocating him, he has been unable to make necessary repairs and maintenance. Mr. Needhan stated that the property across the street is zoned commercial, and the owner is projecting to install a barbecues restaurant. Mr. Needhan feels what Mr. Black is trying to accomplish will only benefit the area and increase the tax base for the City.

Applicant's Rebuttal Comments:

Mr. Black stated that the shopping center was owned by the Farmers and Merchants Bank and he signed a lease with them. Due to there only being one meter for the center, the Bank agreed there would be no water bill. Mr. Black stated that when the new owner purchased the center a year ago, he began charging Mr. Black for water. Mr. Black stated he has been paying the water bill for the last twelve months.

TMAPC Comments:

Ms. Pace questioned the location of property for which the BOA granted an exception. Councilor Hall stated the property is located east, across the street. Councilor Hall stated that 61st and 33rd West Avenue is zoned commercial; however, she is trying to stop the encroachment to the north. Ms. Pace questioned whether the lot to the east is commercial. Councilor Hall replied it is commercial; however, a vacant residence exists on it. Ms. Pace questioned if Councilor Hall is trying to stop the commercial zoning at the south end of the applicant's property. Councilor Hall replied in the affirmative.

Commissioner Dick asked Ms. Gill to indicate on the case map the location of her property. Ms. Gill complied.

Mr. Midget questioned what is located immediately north of the subject. Mr. Black replied a single-family dwelling is located on the corner and is currently occupied. Mr. Carnes questioned whether this property owner has signed up in protest of the application. Mr. Black replied that the owner had told her grandson that she was going to have a laundromat next door to her. Mr. Black stated the property owner's name was Ms. Putty. Mr. Carnes asked if was on the petition. Mr. Doherty replied in the negative.

Mr. Midget question whether CZ-228 was a part of the subject property. Mr. Stump replied that it is, that his understanding is there are only two lots. Mr. Black responded that there are two lots, part of which are in the City and part of which are in the County.

Mr. Midget expressed concern over the lot being split between City and County. Mr. Midget stated he is a strong advocate against neighborhood encroachment; however, he feels this is an opportunity to stabilize the commercial in this one area. Mr. Midget supports this request and will work to prevent further encroachment into the neighborhood.

Mr. Horner stated he is in agreement with Mr. Midget and would support the request.

Ms. Pace feels if this request is approved, it will entrap the lot on the corner of 59th Street and 33rd West Avenue. Ms. Pace stated she cannot support the rezoning due to the property falling into disrepair, because this rewards the owner of the dilapidated house.

Ms. Gray stated she would support the request because this would make it a clean zoning line on 33rd West Avenue.

Mr. Doherty expressed concern that if these lots are approved, what will become of the lot to the north. Mr. Doherty stated that these lots back up against residential zoning, and in the past alleys and roadways were used as zoning breaks. Mr. Doherty feels that these requests will not pass the Council due to their recent dedication to maintaining commercial and residential boundaries.

Mr. Midget feels there is a distinct difference between the 15th Street request, that Council denied, and this request. Mr. Midget stated that the 15th Street property went farther to the north into a residential area and not a major arterial street. This property is on a major arterial street and not encroaching deeper into the neighborhood. Mr. Midget that Ms. Gray's point of being a clean line is very valid.

Mr. Ledford stated that the Comprehensive Plan does not work with the rehabilitation of the intersections. The intersection in an old neighborhood is rehabilitated and the Comprehensive Plan does not clean up afterwards. The intersection is where commercial should be. Mr. Ledford feels it would be difficult to deny the request with commercial across the street.

Ms. Pace feels that there is an incompatible method of zoning in the City that has not been addressed. Ms. Pace stated that there used to be a middle-range category that was used as a buffer, but now PUD's are used. Ms. Pace feels the Commission needs to do something to make it a level playing field by requiring a PUD to buffer the surrounding residents. Ms. Pace would like to see this request continued so that a PUD could also be filed.

Mr. Midget recommended denial of CZ-226 for the purpose of a buffer between the commercial and the residential to the west.

Mr. Doherty questioned if the lot to the west is occupied or vacant. Mr. Stump stated that this is a deep lot with a single-family residence. Mr. Doherty stated that if CZ-226 is used as a buffer, it would only be buffering horses. Mr. Doherty feels the issue is extending the commercial and not how deep it should be on the lot itself. Mr. Doherty understands what Mr. Midget is trying to do and agrees in principle but does not feel this will accomplish anything except making a tract at the back unusable.

Mr. Midget feels this would buffer and keep the commercial out of the residential.

Mr. Carnes stated he will vote for denial because he knows the spirit and intent of the motion to create a buffer.

TMAPC Action; 9 members present:

On **MOTION** of **GRAY**, the TMAPC voted **7-2-0** (Ballard, Carnes, Dick, Gray, Horner, Ledford, Midget "aye"; Doherty, Pace "nays"; none "abstaining"; Boyle, Edwards "absent") to recommend **APPROVAL** of CS zoning for Z-6543.

Legal Description for Z-6543:

A Tract of land beginning 35 feet West and 487.5 feet North of the Southeast Corner of Section 33, Township 19 North, Range 12 East, of the Indian Base and Meridian, thence West 125 feet; thence North 117.5 feet; thence East 125 feet; thence South 117.5 feet to the point of beginning, in Tulsa County, State of Oklahoma, according to the United States Government Survey thereof; and a part of Tract 30 in Section 33, T-19-N, R-12-E, Tulsa County, State of Oklahoma, more particularly described as follows: beginning 35' W and 370' N of the southeast corner of the SE/4 of said Section 33; thence W 125'; thence N 117.5' ; thence E 125'; thence S 117.5' to the point of beginning; less the E 15' thereof for street, and located south of the southwest corner of West 59th Street S. and South 33rd West Avenue, Tulsa, Oklahoma

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **8-1-0** (Ballard, Carnes, Dick, Gray, Horner, Ledford, Midget, Pace "aye"; Doherty "nays"; none "abstaining"; Boyle, Edwards "absent") to recommend **DENIAL** of the CS zoning for CZ-226.

Legal Description for CZ-226:

A part of the SE/4, SE/4 of Section 33, T-19-N, R-12-E, Tulsa County, State of Oklahoma, more particularly described as follows: beginning 160' W and 370' N of the Southeast corner of said SE/4; thence W 62'; thence N 117.50'; thence E 62'; thence S 117.50 to the point of beginning, and a tract of land described as follows: beginning 160' W and 487.5' N of the southeast corner of Section 33, T-19-N, R-12-E, of the IBM, Tulsa County State of Oklahoma, thence W 62', thence N 117.50', thence E 62', thence S 117.50' to the point of beginning according to the U.S. Government Survey thereof, and located south of the southwest corner of West 59th Street S. and South 33rd West Avenue, Tulsa, Oklahoma.

Application No.: PUD 306-11

(PD-26)(CD-2)

Applicant: Roy D. Johnsen

Location: West and east of South Delaware, south of East 95th Street South

Date of Hearing: June 19, 1996

Presented to TMAPC: Roy D. Johnsen

(Minor Amendment to allow additional ground signs)

TMAPC Comments:

Mr. Doherty informed the Commission that there has been a request to continue the Zoning Public Hearing for PUD-306-11 to the June 26, 1996 meeting.

TMAPC Action; 9 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **CONTINUE** the Zoning Public Hearing for PUD-306-11 to the June 26, 1996 meeting.

Application No.: PUD 426-4

(PD-26)(CD-8)

Applicant: R. L. Reynolds

Location: North of East 104th Street South and South Knoxville

Date of Hearing: June 19, 1996

Presented to TMAPC: R. L. Reynolds

(Minor Amendment to reduce required front yard)

Staff Recommendation:

The applicant is requesting approval of a Minor Amendment to allow a reduction of the front yard setback from 30' to 25' on a single-family lot. Staff has reviewed the request and finds the subject parcel to be an irregularly-shaped parcel of approximately 250' in depth and 130' in width. Staff also finds that the lot slopes steeply from east to west and that the reduced setback is part of an attempt to reduce construction costs. The applicant has represented to Staff that the neighboring residents and the Chelsea Pond architectural review committee have been contacted and that there has been no objection to the setback reduction.

Based on the hardship created by the combination of the slope and the reduced lot depth (caused by the cul-de-sac shape) Staff recommends **APPROVAL**.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **BALLARD**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **APPROVE** Minor Amendment PUD 426-4 to reduce required front yard to 25' as recommended by Staff.

Legal Description for PUD 426-4

Lot 17, Block 4, Chelsea Pond Addition.

* * * * *

OTHER BUSINESS:

PUD 306 - G. SOREM

(PD-18)(CD-2)

Appeal of staff approval of minor revision to previously approved detail site plan for Crown Chase Apartments

Staff Comments:

The law firm of Conner & Winters is representing Mr. James Spinks in appealing Staff's decision regarding the above noted minor revision to a previously approved detail site plan. Staff approved the proposed plan on May 30, 1996.

The purpose of the submittal as Staff understands it was to gain approval for revised garage and parking locations. The plan also included a revised pool area layout.

Staff reviewed the plan and determined that the proposed changes were in keeping with the spirit, intent and required number of spaces of this portion of the PUD. Therefore, Staff approved the minor revision to a previously approved site plan.

Appellant's Comments:

James Spinks, 9337 South College Court, stated he is the protestant and Ms. Sorem is his attorney who filed the appeal on his behalf. Mr. Spinks stated he has been here several times before on this situation. Mr. Spinks noted that some of the Commissioners have not been present at the prior appeals he has made to these decisions. Mr. Spinks hopes he will be able to answer any questions that the Commissioners may have. Mr. Spinks stated that he and his neighbors have, from the beginning, only expected a uniform and consistent application of the law. Mr. Spinks did not ask for any special exceptions or unusual treatment. Mr. Spinks stated that the situation has centered on a 42-cubic yard commercial trash compactor that is six inches from the street right-of-way in what he believes is an unlawful set of circumstances. Mr. Spinks feels the dumpster is in this position because this site is over-developed.

When the project originally came before this Commission in 1994, there was no mention, discussion or disclosure of any regard for elements of the Comprehensive Plan. This is a low-intensity, residential area and this project is an RM-2 density, which is not allowed by the zoning matrix as noted in Appendix D of the Zoning Code. RM-1 would be allowed. RM-2 is not allowed. Mr. Spinks stated that the argument will be put forth that 288 units were allowed through the transfer of the PUD and density that was in place. Mr. Spinks stated there is a difference between density and intensity. According to Mr. Spinks, density is units per acres and they were available. Mr. Spinks feels one could utilize 288 units on this property if one used them as one-bedroom units only. Then it would be an RM-1 property, but it is not RM-1 property, given the current distribution of one-bedroom and two-bedroom units.

Mr. Spinks expressed the development is not in compliance and has never been in compliance with the Comprehensive Plan. Mr. Spinks stated that neither the neighborhood nor himself was ever given this information in two public hearings. Mr. Spinks felt, that at the time, the homeowners across the street were unknowledgeable and inexperienced, and would not likely even know the Comprehensive Plan applied. The neighborhood did make their case in terms of density, nearness to the street, height and all of the negative elements that result by an over-development of an RM-2 versus RM-1. Mr. Spinks informed the Commission that it takes more square footage to accommodate a two-bedroom unit. It includes more square footage for the apartment, additional cars and people in general. Mr. Spinks stated that a minor amendment to the plan is to allow for additional parking. The development is on the third restriping of the parking lot in order to get sufficient spaces to meet the minimum standards of the Zoning Code. Mr. Spinks contended that the Zoning Code does not apply. Mr. Spinks stated the addition has resulted because the development does not have the space. This is another indication that this development is over-developed.

During this whole process, Mr. Spinks stated it is his contention that the Commission cannot approve this plan and Staff cannot approve this plan because it does not meet the minimum requirements that the Commission is required to uphold. Mr. Spinks feels that this development did not meet the requirements in September and October, 1994, because at the time, the PUD parking requirement was for one-garage space minimum for every dwelling unit that was placed by PUD-306-1 in 1983. This PUD-306-1 has never been amended nor vacated; therefore, it must be full-force and in effect. Mr. Spinks recited that Chapter 15 of the Zoning Code requires that the Commission enforce the Zoning Code if it exists. Mr. Spinks feels the Commission has no option but to deny the approval of this plan because it does not meet that single standard if nothing else. Mr. Spinks feels that Staff should have also denied it. Mr. Spinks feels that the authority that the Commission delegates to Staff in Chapter 11 of PUD gives Staff authority to approve minor changes to previously approved site plans. This limits Staff to the items that meet the PUD standards. Mr. Spinks feels it clearly and distinctly does not meet the established standard that has never been modified or vacated.

Mr. Spinks informed the Commission that, at the last public hearing, the attorney for the applicant raised a question of estoppel in terms of a defense. The applicant had relied upon the Commission's action and had spent money. Mr. Spinks has researched the question of estoppel and outlined several items in that regard. One is that before a court would hear a case, it would require the applicant to exhaust all administrative appeals. Mr. Spinks feels the applicant would have to file a minor amendment with the Commission and if denied, file with the City Council and then District Court, if necessary. Or the applicant could file for abandonment of that particular PUD development standard and again appeal to the City Council if the Commission denied it. Then the applicant would have administrative relief. Mr. Spinks contended that this does not comply, in terms of the current standards. Additionally, if it went to court, the applicant would have to show two critical sets of circumstances. One is that he is ignorant and absolutely unknowing of the information upon which he relied. The second is that the applicant has no way of constructively finding that information out. Mr. Spinks feels that the applicant could have found out this information.

Mr. Spinks stated that the plan carries a 20-foot setback line along College and 95th Street. The standard requirement is 25 feet on a non-arterial street, and if the PUD requirement is not specifically addressed, that is what it should be. In PUD-306-9, which established this project, the setback line was never addressed nor requested to be 20 feet. Mr. Spinks said that the 20-foot building setback line was established by PUD 306-1, which also established the original parking covenant. It was also filed in the plat at the same time the parking covenant was. The applicant knew about the setback line and chose to accept and utilize it. Mr. Spinks questioned how the applicant did not read two lines below, see the parking covenants and utilize them. This is not a situation in which the applicant can pick one item and not the other. Mr. Spinks is asking for uniform, consistent application of the law in terms of what has been put forth. Mr. Spinks stated the neighborhood and

himself have had considerable problems with the trash. Mr. Spinks presented an overhead showing an old washing machine placed in front of Crown Chase Apartment's compactor. Mr. Spinks has been told this is a state-of-the-art dumpster. However, Mr. Spinks feels it sends a message to the whole that this neighborhood is to be dumped upon.

Interested Parties Comments:

Roy Johnsen, 201 West 5th Street, Suite 440, stated he is the attorney for the Crown Chase Apartments. Mr. Johnsen stated that the issues in regard to the compactor and other issues has been fully debated. Mr. Johnsen stated the only item before the Commission is if the site plan and minor amendments that were approved are appropriate in view of the last site plan that was approved by this Commission. The applicant has started with an approved site plan and the Staff has recommended approval of minor changes in the parking arrangements and swimming pool. The changes are minor and fully within the authority of the Staff. These are changes that Mr. Johnsen feels the Commission will support in improving the parking situation and the total project. Mr. Johnsen stated that the other matters that Mr. Spinks had mentioned are irrelevant.

Appellant's Rebuttal:

Mr. Spinks stated that he finds the ordinances and codes in the provisions of the Zoning Code relevant. Mr. Spinks feels making a decision on this plan is wrong. Mr. Spinks feels that the plan that appeared before the Commission in 1994 should have never been approved because there was insufficient, incomplete and inaccurate information. Ordinance 1107-C, specifically says from approval of a minor change, it must be in compliance with all provisions of the PUD and the Zoning Ordinance and Mr. Spinks feels this plan does not meet that standard. It should not have been approved. This plan does not meet the provisions of the Zoning Ordinance or the PUD and therefore, should be turned down.

TMAPC Comments:

Mr. Doherty asked Mr. Linker, Legal Counsel, if in his opinion Staff did act within its legal authority and within the authority delegated by the Commission in this matter. Mr. Linker stated he has heard nothing about this particular set of facts that would indicate that Staff had done anything improper or illegal. Mr. Linker stated that Mr. Spinks is trying to bring the entire matter back before the Commission and the issues are the changes that were approved by the Staff and whether that violates the standards of the PUD. Mr. Linker stated he has heard nothing that indicates that the Staff acted improper. Mr. Doherty stated that the decision before the Commission today is whether Staff's judgment and action correct in light of the PUD conditions. Mr. Linker replied affirmatively. Mr. Doherty stated that he would have made the same decision.

Ms. Pace asked if the detailed site plan that is reconfiguring the parking lot for the residence is the item before the Commission.

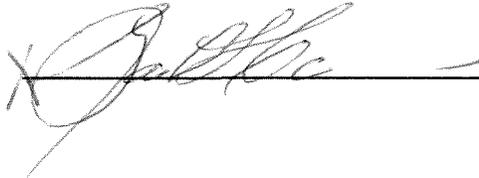
Commissioner Dick stated that he feels the issue is to approve or deny the appeal. It has nothing to do with upholding or not upholding the Staff's action.

TMAPC Action; 9 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Boyle, Edwards "absent ") to **DENY** the Appeal of Staff approval of a minor revision to previously approved Detail Site Plan for Crown Chase Apartments.

There being no further business, the Chairman declared the meeting adjourned at 2:25 p.m.

Date Approved: 3-3-96



Chairman

ATTEST: Frances Pace
Secretary