

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2099

Wednesday, February 5, 1997, 1:30 p.m.

City Council Room, Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Ballard	Carnes	Almy	Linker, Legal
Boyle	Ledford	Jones	Counsel
Dick		Stump	
Doherty, 1st Vice Chairman			
Gray			
Horner			
Midget, Mayor's Designee			
Pace			
Westervelt, Secretary			

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, January 31, 1997 at 11:42 a.m., in the office of the County Clerk at 11:36 a.m., as well as in the Reception Area of the INCOG offices at 11:50 a.m.

A revised notice and agenda of said meeting were posted in the Office of the City Clerk on Tuesday, February 4, 1997 at 8:41 a.m., in the office of the County Clerk at 8:36 a.m., as well as in the Reception Area of the INCOG offices at 9:00 a.m.

After declaring a quorum present, Chairman Carnes called the meeting to order at 1:30 p.m.

Minutes:

Approval of the minutes of January 22, 1997, Meeting No. 2097:

On **MOTION** of **HORNER**, the TMAPC voted **7-0-1** (Ballard, Boyle, Dick, Doherty, Gray, Horner, Pace "aye"; no "nays"; Westervelt "abstaining"; Carnes, Ledford, Midget "absent") to **APPROVE** the minutes of the meeting of January 22, 1997 Meeting No. 2097.

REPORTS:

Chairman's Report:

1st Vice Chairman Doherty reminded the Commission of the cut-off date for the APA Conference.

Committee Reports:

Rules and Regulations Committee

1st Vice Chairman Doherty noted the City Council agenda for February 13, 1997 includes a discussion of cellular tower regulations and possible amendments to those regulations.

Community Participation Committee

Ms. Gray stated a committee meeting was held today to discuss topics for the Neighborhood Representative Workshop scheduled for March 4, 1997 at 6:30 in the City Council meeting room.

Director's Report:

Mr. Stump informed the Commission that Mr. Doherty and he met with the Urban Development Committee of the City Council to present the proposal on amending the multifamily regulations of the Zoning Code. He stated there were few questions and feels it will be on the February 13 City Council agenda.

Commissioner Dick informed the Commission the Public Hearing on the street closing in the jail site area is scheduled for the February 7 City Council meeting. Mr. Doherty stated the Commission has already reviewed and approved of the street closing.

Mr. Stump stated there are no zoning cases on the February 7 City Council agenda.

SUBDIVISIONS:

Final Approval:

Ridge Pointe II (PUD-411-C) (2483)

(PD-26) (CD-8)

East 96th Street South at South 85th East Avenue

Staff Comments:

Mr. Jones stated Ridge Pointe II is a 95-lot residential, single-family subdivision containing 28.9 acres. Ridge Point is located north and east of the northeast corner of 101st Street.

Mr. Jones stated all release letters have been received. However, Legal Department has not reviewed the final language of the Deed of Dedication of Restrictive Covenants.

Staff recommends approval subject to Legal's approval of the final language.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Ballard, Boyle, Dick, Doherty, Gray, Horner, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Ledford, Midget "absent ") to **APPROVE** the final plat of Ridge Pointe II (PUD-411-C), subject to Legal's approval of the final language of the Deed of Dedication of Restrictive Covenants.

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Change of Access on Recorded Plat:

Tulsa Southeast Industrial District (3194) (PD-18) (CD-5)
East of the southeast corner of East 51st Street South and South Mingo Road

Staff Comments:

Mr. Jones stated the applicant is proposing to add a 20' access point on 51st Street next to an existing 20' access point. He stated INCOG staff, Planning Commission staff and Traffic Engineering have reviewed and signed off on the application. Therefore, staff recommends approval subject to the diagram provided.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Ballard, Boyle, Dick, Doherty, Gray, Horner, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Ledford, Midget "absent ") to **APPROVE** the change of access on recorded plat for Tulsa Southeast Industrial District, subject to the diagram provided.

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Lot-Splits for Ratification of Prior Approval:

<u>L-18264 Robert David</u> (2283) 9505 South Canton Avenue	(PD-18B) (CD-8)
<u>L-18400 1995 Land Co.</u> (3294) 6000 South 118th East Avenue	(PD-19) (CD-5)
<u>L-18404 Southern Oaks Est.</u> (2183) 9924 South Vandalia	(PD-18B) (CD-8)
<u>L-18405 George Garrett Est.</u> (914) 11421 North 129th, Owasso	(PD-15) (County)
<u>L-18408 City of Tulsa</u> (2894) 13005 East 51st	(PD-17) (CD-6)

Staff Comments:

Mr. Jones stated these lot-splits are in order and meet the Subdivision Regulations; therefore, staff recommends approval.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, the TMAPC voted **8-0-0** (Ballard, Boyle, Dick, Doherty, Gray, Horner, Pace, Westervelt “aye”; no “nays”; none “abstaining”; Carnes, Ledford, Midget “absent”) to **RATIFY** these Lot-splits given Prior Approval, finding them in accordance with Subdivision Regulations.

Lot-Split for Waiver of Subdivision Regulations:

<u>L-18408 Robert David</u> (2283) 9505 South Canton Avenue	(PD-18B) (CD-8)
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Staff Comments:

This is a request to split an approximately 3.45-acre parcel into two tracts. Tract A will have approximately 150 feet of frontage along South Canton Avenue and Tract B will have 237 feet. Staff has determined that each new lot will have the minimum bulk and area requirements for the RS-1 zoning district. However, due to the configuration of the lots, Tract B will have more than three side lot lines.

Both of these lots are divorced from water and sewer lines, which are on 93rd Street. They have been approved for septic by the Health Department and the applicant has stated he is extending the water main down Canton Avenue to provide water for each new lot.

The applicant requests the following:

1. Waiver of the subdivision regulation requiring Technical Advisory Committee review.
2. Approval for a lot containing more than three side lot lines.

Applicant was not present.

Interested Parties Comments:

Ruby J. Winkler, 5202 East 93rd Street, stated she objects to Tract A being split from the property due to an easement that is currently in effect for her lateral lines.

Ms. Winkler stated it is her understanding that the property has already been sold and the closing will be held on Monday.

TMAPC Comments:

1st Vice Chairman Doherty feels there are some problems with the request in regards to the easement mentioned by Ms. Winkler and feels TAC should review the plat.

Mr. Jones stated this is the type of input TAC provides. He stated the Health Department will report to TAC the location of the lateral lines. In regards to the sale of the property, the sales transaction can take place; however, until the deed is stamped and filed of record, the lot-split is not approved.

1st Vice Chairman Doherty recommended the TAC review and comment on the plat.

Mr. Westervelt feels the closing will not take place prior to the approval of the lot-split. Mr. Jones confirmed the lot-split will have to be approved prior to the closing.

TMAPC Action; 8 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-0-0** (Ballard, Boyle, Dick, Doherty, Gray, Horner, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Ledford, Midget "absent ") to **DENY** the waiver of the subdivision regulation requiring Technical Advisory Committee review and **DENY** approval for a lot containing more than three side lot lines until review of the subdivision by Technical Advisory Committee for L-18409 as recommended by staff.

ZONING PUBLIC HEARING:

Application No.: Z-6584

Applicant: Jack L. McNulty

Location: East of northeast corner 10th Street and South Sheridan Road

Presented to TMAPC: Jack L. McNulty

CS/RM-1 to CG

(PD-5) (CD-3)

Staff Recommendation:

Relationship to the Comprehensive Plan:

The District 5 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 CG zoning **is not** in accordance with the Plan Map.

Staff Comments:

Site Analysis: The subject property is located east of the southeast corner of East 10th Street and South Sheridan Road and is approximately 100' x 132.12' in size. It is gently sloping, non-wooded, contains a vacant single-family dwelling and non-conforming parking and storage facility, and is zoned CS and RM-1.

Surrounding Area Analysis: The subject tract is abutted on the northwest by a parking lot, zoned CS; to the northeast by single-family homes, zoned RS-3; to the east by a mini-storage facility, zoned CS; to the south by a parking lot and restaurant, zoned CS; and to the west by a truck repair business, zoned CS.

Zoning and BOA Historical Summary: The property abutting the subject tract has been zoned CS since 1975. No other zoning action has occurred in this area.

Conclusion: The Comprehensive Plan designates the property as Low-Intensity - Residential, but based on the surrounding zoning and existing development, staff recommends **DENIAL** of the requested CG zoning and recommends **APPROVAL** of CS zoning for Z-6584.

Applicant's Comments:

Jack McNulty stated he is the attorney for the applicant. He stated the reason for the application was due to his client being notified that the storing of automobiles on this property was not permitted. Mr. McNulty stated his client is intending to continue the storing of automobiles if permitted.

Mr. McNulty stated most of the surrounding property is zoned CS, with some CG-zoned property across the street from the subject property.

Charles Uland, 2908 East 37th Street, stated he is the brother of the applicant. Mr. Uland presented a series of photographs surrounding the subject property to show how industrial the properties are in the area. He feels this area is not a residentially-zoned area. The subject property is abutted on three sides by commercially-zoned property. The residentially-zoned property that abuts the subject property at the rear has two homes, but Mr. Uland noted on the other side of the homes, the property is zoned commercial with mini-storage.

Mr. Uland stated the subject property is a continuous strip of land from the corner of 10th and South Sheridan Road, then in an easterly direction on the north side, abutting the mini storage facility. He indicated on the map all the commercially-zoned property in the area of the subject property.

Interested Parties Comments:

David W. Schreiner, 6526 East 9th Street, stated he is opposed to the zoning change. He presented photographs taken from his backyard, which abuts the subject property. He agrees the area consists of a large quantity of commercially-zoned property.

Mr. Schreiner indicated the location of Snow's Furniture Store and the furniture store parking lot. He feels the parking lot is never filled with cars. He pointed out other various businesses in the area. He noted the two residential homes on the corner.

Mr. Schreiner stated the mini-storage was allowed and supported by the neighborhood to prevent the development of multi-storied apartment buildings. He stated the owner of the mini-storage facilities owns and occupies a residence on the same street.

Mr. Schreiner feels the subject property is currently being used as a junk yard. He stated he has contacted Code Enforcement due to the junk cars and rodent problems.

James Barnett, 6530 East 9th Street, stated he is opposed the requested zoning. He presented photographs of the subject property. He presented a petition and a letter from area neighbors opposing the request.

Mr. Barnett feels the current use of the property is inappropriate and illegal.

Ivan L. Schwartz, 905 South 67th East Avenue, feel if the applicant desires to conduct a junk/salvage yard he should be required to make the facility neat. He feels if there is gasoline in the vehicles, then it is a hazard and cause of concern by the area neighbors.

Mr. Schwartz stated the junk/salvage yard is an eyesore to the neighborhood as indicated in the photographs. He feels there are other industrial areas to operate a junk/salvage yard instead of in a neighborhood.

Betty Bishop, 6741 East 10th Street, signed up as an interested party, but did not wish to speak.

Applicant's Rebuttal:

Mr. Uland stated in regards to the status of the cars, the tenant purchases the vehicles from towing services and then rebuilds them either on or off this particular site. After rebuilding, the tenant wholesales the vehicles. Mr. Uland feels there is always some progress being made on the vehicles.

Mr. Uland feels the Snow's Furniture Store parking lot is normally full of vehicles and stated he has pictures to that effect.

Mr. Uland reminded the Commission the subject property is surrounded on three sides by commercially-zoned property. He feels the zoning request is appropriate with the surrounding properties and will not change the use of the property. He stated the current operations has been in effect for at least 15 years.

Mr. Uland stated the entire back portion of the property is fenced and closed off from the public driving in front of the property. However, the back side, abutting the residential, is not currently screened.

TMAPC Comments:

Mr. Horner verified the location and the surrounding businesses of the subject property.

Mr. Doherty gave a brief explanation of zoning codes and use units.

Mr. Doherty reminded Mr. Barnett the Commission is to consider the zoning of the property and not the use, whether legal or illegal.

Ms. Gray asked whether the vehicles are operable. Mr. Uland replied some are operable, but the majority are not driveable.

Ms. Gray asked whether the current use would conform to CG even with BOA variance or exception. Mr. Stump replied storage of junk/salvage would not be allowed in CG or IL. The BOA could approve storage of vehicles that are being repaired in CS or by right in CG, but not for salvage.

Ms. Pace asked whether there is a percentage base for the number of vehicles that are operable or does the Zoning Enforcement Officer make the determination as to the use. Mr. Stump stated the zoning officer will have to make the determination as to whether the vehicles are being repaired or are salvage. Mr. Doherty stated automotive is a Use Unit 17 which is a use by right in CG, and dismantling or salvaging the vehicle falls into Use Unit 28, which is not allowed under CG.

Ms. Pace stated she is not comfortable with the current use of the property and feels the fence is inappropriate.

Mr. Doherty reminded the Commissioners the question before the Commission today is the appropriate zoning for the subject property not whether or not the use falls within the zoning.

Ms. Pace stated she does not want to mislead Mr. Uland in that he could go before the BOA and easily obtain a variance and realize he will have to prove it is a Use Unit 17.

Mr. Midget clarified that the applicant or his tenant is currently storing vehicles illegally and he indicated there will not be any change in the use. Mr. Stump stated no automotive or salvage use is allowed in a RM-1 district. Commissioner Dick feels the applicant indicated he does not plan on doing anything differently from what he has done in the past several years. Mr. Midget stated he understands, but the current use is illegal.

Again, Mr. Doherty reminded the Commissioners the question before the Commission today is the appropriate zoning for the subject property not whether or not the use falls within the zoning.

Mr. Boyle stated he is concerned with people who do not comply with the zoning of the property, but because there is CS zoning surrounding and in the area of the subject property, he feels it would be inappropriate to deny CS zoning.

Mr. Westervelt stated he concurs with Mr. Boyle, but stressed the applicant will have to go before the BOA to request a variance. He feels the BOA is the appropriate venue to decide what use unit it is and whether it is allowed.

Ms. Pace stated a delineation has to be established between commercial and residential. She stated she was not on the Commission when the mini-storage facility was approved and feels the approval was a bad zoning change. However, now mini-storage facilities are approved with some aesthetic protection in residential areas. She expressed opposition to approval of the zoning change.

Mr. Doherty noted the subject property is surrounded on three sides by CS-zoned property.

Ms. Gray stated she is a strong neighborhood advocate; however, in this particular case she feels the Commission will have to go with the consistency of the zoning map. She expressed opposition to parking lots that store cars for their own purposes.

Ms. Gray strongly advised the interested parties to go to the BOA meeting with pictures indicating the condition of the property because she feels there is a borderline between CG and IL zoning, based on the operation of the business.

Mr. Westervelt reinforced the suggestion by Ms. Gray in that the interested parties should go to the BOA meeting with pictures indicating the condition of the property.

Mr. Doherty suggested that the motion include a statement indicating the Planning Commission does not condone the automotive use of the subject tract.

Commissioner Dick feels CS zoning is appropriate, but noted the approval of CS zoning does not place the applicant in a stronger position than he is today to justify what he is doing. He feels the motion should include a statement indicating the how the Planning Commission feels in regards to the current usage of the property.

Commissioner Dick asked Mr. Midget to contact Code Enforcement in regards to the usage and request action be taken while awaiting the BOA hearing.

Mr. Doherty explained the procedures of the zoning application to the interested parties.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **3-6-0** (Gray, Midget, Pace "aye"; Ballard, Boyle, Dick, Doherty, Horner, Westervelt "nays"; none "abstaining"; none "absent ") to recommend **DENIAL** of the CG zoning and **DENIAL** of CS zoning for Z-6584.

TMAPC Action; 9 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **8-1-0** (Ballard, Boyle, Dick, Doherty, Gray, Horner, Midget, Westervelt "aye"; Pace "nay"; none "abstaining"; Carnes, Ledford "absent ") to recommend **DENIAL** of CG zoning and recommend **APPROVAL** of CS zoning for Z-6584 with communication to the Board of Adjustment stating it is the consensus of the Planning Commission that automotive use is not appropriate for this property.

Legal Description for Z-6584:

Lots 14 and 15, Block 28, Sheridan Hills Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof, and located east of the northeast of East 10th Street and South Sheridan Road, Tulsa, Oklahoma.

OTHER BUSINESS:

AC-11 Lloyd Anderson

Southwest corner of 38th West Avenue and the Skelly Drive
(*Alternative Landscape Compliance.*)

Staff Comments:

The applicant is requesting that he be given approval of his landscape plan without it being certified as being in compliance with the Landscape Chapter by a registered engineer or licensed architect or landscape architect. Also he is not proposing an irrigation system on the plans that have been submitted.

Due to the limited nature of the construction involved, a 40' x 100' storage building, staff can support not requiring a professional's certification. The landscaped areas proposed contain enough trees to comply with the ordinance but the size and type are not specified.

Also the landscaped areas proposed are of such a shape that they could effectively be watered using hose attachments on the north and south side of the buildings. Therefore staff recommends **APPROVAL** of AC-11 subject to the following conditions:

- 1) The size and type of tree is in compliance with the Landscape Chapter.
- 2) Hose attachments are placed on the exterior of the north and south sides of the buildings.

Applicant's Comments:

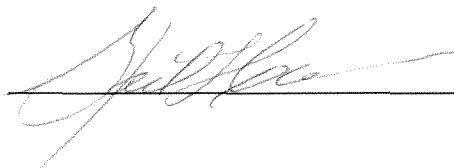
Lloyd Anderson stated he is in agreement with staff recommendation.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **9-0-0** (Ballard, Boyle, Dick, Doherty, Gray, Horner, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Ledford "absent ") to **APPROVE** the Alternative Landscape Compliance AC-11 as recommended by staff.

There being no further business, the Chairman declared the meeting adjourned at 2:30 p.m.

Date Approved: Feb 19, 1997



Chairman

ATTEST: 

Secretary