

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2325

Wednesday, October 23, 2002, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Bayles	Carnes	Dunlap	Romig, Legal
Coutant	Dick	Fernandez	
Harmon		Huntsinger	
Hill		Matthews	
Horner		Stump	
Jackson			
Ledford			
Midget			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, October 21, 2002 at 9:40 a.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

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

Minutes:

Approval of the minutes of September 25, 2002, Meeting No. 2322

On **MOTION** of **HORNER** the TMAPC voted 6-0-2 (Bayles, Coutant, Harmon, Horner, Ledford, Westervelt "aye"; no "nays"; Hill, Jackson "abstaining"; Carnes, Dick, Midget "absent") to **APPROVE** the minutes of the meeting of September 25, 2002, Meeting No. 2322.

REPORTS:

Worksession Report:

Mr. Harmon reported on the worksession held prior to today's meeting.

Director's Report:

Mr. Stump reported that Mr. Dunlap would be attending the City Council meeting Thursday, October 24, 2002. TMAPC has one item on the City Council agenda, which was recommended for approval unanimously.

TMAPC Comments:

Mr. Harmon announced that the continued public hearing for the Brookside Infill Development Design Recommendations would be heard out of order and would be first.

CONTINUED ZONING HEARING OF THE BROOKSIDE INFILL DEVELOPMENT DESIGN RECOMMENDATIONS:

Proposed changes to the District 6 Plan to reflect possible incorporation of the Brookside Infill Development Design Recommendations, Area Map and Text as amendments to the Comprehensive Plan for the Tulsa Metropolitan Area.

Staff Recommendation:

Staff agrees with the Brookside Study 2002 staff's recommendations of August 13 regarding which sections to adopt as part of the District 6 Detail Plan with the following exceptions. Staff does not support the adoption of the Brookside Plan items 9(a) through 9(g), pages 6 and 7 of the Brookside Study 2002, and the Appendices, A through S. We recommend the Brookside Study 2002 be adopted with these modifications, and staff recommends that the following District 6 Plan amendments also be adopted as set forth below.

Page 9, Section 3. Specific Areas, paragraph 1, sentence 3: Delete this and the remainder of paragraph and add the following. "Special Districts 4 and 5 are the Northern and Southern Brookside Business Areas, respectively, and also are included in the Brookside Study 2002. The Northern Business Area extends along South Peoria Avenue from Crow Creek to East 41st Street South. The Southern Business Area extends along South Peoria Avenue from East 41st Street South to East 51st Street South. Policies for the future development and redevelopment in these Special Districts are contained in the Brookside Study 2002 and are incorporated as part of the District 6 Detail Plan."

Page 9, Section 3, Specific Areas, paragraph 3: Delete the existing paragraph and replace it with the following. "There are two Special Consideration Areas that are adjacent to Special Districts 4 and 5, the Northern and Southern Brookside Business Areas. (See Brookside Study 2002 map, included as part of this Plan). These are residential areas lying east and west of the commercial and institutional uses in the Business Areas. The Brookside Study 2002 contains specific guidelines for future development and redevelopment in these Consideration Areas and these are incorporated as part of the District 6 Detail Plan."

Page 14, Section 3.4.1. Brookside Special Districts and Special Consideration Areas, delete existing item and replace with the following.

3.4 Brookside Special Districts and Special Consideration Areas – Overview

The Brookside Infill Neighborhood Detailed Implementation Plan Study (Brookside Study 2002) recognizes four areas within the Brookside neighborhood – the Northern Brookside Residential Area (Special Consideration Area), the Southern Brookside Residential Area (Special Consideration Area), the Northern Brookside Business Area (Special District) and the Southern Brookside Business Area (Special District). The attached map depicts the locations of these four areas and the internal boundaries of the Special Consideration Areas and the Special Districts.

The recommended guidelines, policies and standards are organized according to subareas. For Comprehensive Plan purposes, these items are general. Further detail is contained in the document Brookside Infill Development Design Recommendations: A Component of the Brookside Infill Neighborhood Detailed Implementation Plan for South Peoria Avenue from Crow Creek to 51st Street South, a part of the adopted Comprehensive Plan for the Tulsa Metropolitan Area (Brookside Study 2002).

3.4.1 Overall Design Policies. The Brookside area is an urban village with its own special identity, sense of community, pattern of development and unique characteristics. The protection, preservation and enhancement of this urban village are of paramount importance. There are certain design policies and standards appropriate for improvements in the study area. These common standards are the following.

Page 15, Section 3.4.1.9, change to:

The development and redevelopment here should be in accord with the Design Guidelines, as set forth in the Brookside Study 2002.

Page 17, Section 3.4.1.20, delete existing recommendation regarding development of a Conservation District designation for this and other similar areas.

Page 17, Section 3.4.1.21, delete the existing policy 3.4.1.21 regarding possible creation of cul-de-sacs and replace with the following, renumbering to 3.4.1.20 to reflect deletion of existing 3.4.1.20 noted above.

3.4.1.20 General Guidelines

- A. Protect the pedestrian and enhance the pedestrian environment and scale.
- B. Minimize curb-cuts in heavy pedestrian traffic areas.
- C. Give clear indications of pedestrians activity zones in heavy pedestrian areas.
- D. Slow vehicular traffic in heavy pedestrian traffic areas.
- E. Reinforce safe and efficient movement of vehicular traffic.
- F. Continue the use of two-way traffic patterns.
- G. Avoid and reduce conflicts between utility poles, lines and equipment and pedestrians and vehicles.
- H. Encourage high quality residential, office and commercial infill development.
- I. Recommend policies and strategies to maintain and improve high quality development and property values which are to be accomplished through techniques that provide positive incentives for compliance and development.
- J. The City of Tulsa should adopt amendments to its Zoning Code and other appropriate codes and regulations that will assist and facilitate the implementation of the Brookside Study.

Pages 14 through 17, Sections 3.4.1.2 through 3.4.1.21, See changes as noted above.

Exhibit B, Replace with amended map of Brookside Business Areas and Brookside Residential Areas.

Pages 17 and 18, Section 3.4.2, Subsections 3.4.2.1 through 3.4.2.7, Delete Subsection 3.4.2.5, renumber the following subsections as appropriate and add the following.

Subsection 3.4.2.7 Residential Areas (Special Consideration Areas)

- A. Continue support for and continuation of the established Northern Brookside and Southern Brookside Residential Areas (Special Consideration Areas) as viable, attractive residential neighborhoods (as referenced elsewhere in the District 6 Plan). The Northern Brookside Residential Area (Northern Brookside Special Consideration Area) will herein be referred to as the

Northern Residential Area and the Southern Brookside Residential Area (Southern Brookside Special Consideration Area) will herein be referred to as the Southern Residential Area. Refer to Exhibit B.

- B. Existing established, sound residential development is encouraged to continue and high quality infill residential development and redevelopment are encouraged at appropriate densities. Residential development or redevelopment along the boundary of the Residential Areas and Business Areas may be developed at higher densities if (a) appropriate design elements and improvements are provided in conformance with area design guidelines to enhance the value, image and function of area properties and (b) if consistent with District 6 Plan goals, objectives, policies and guidelines.
- C. Continue to buffer and separate residential land uses and nonresidential land uses as identified in the District 6 Plan.
- D. Respect adjacent buildings through consideration of mass, rhythm, scale, setback, height, building materials, texture and related design elements when developing or redeveloping in the area. Refer to Exhibit 3 and Appendix P in the Brookside Study 2002. Appendix O depicts a conceptual residential infill project that meets development guidelines for Residential Areas.
- E. Discourage nonresidential traffic and parking in the Northern and Southern Residential Areas.
- F. Establish a strong sense of entry into and out from the Northern and Southern Residential Areas. Visual clues are to be provided which emphasize these "living areas", further establish their residential character and use, and discourage the entrance into or use of these areas by nonresidential pedestrian and vehicle traffic, parking and activity. These entry treatments are to be designated and provided in conjunction with screening, buffering and separation of residential and nonresidential land uses. Refer to Exhibits 22, 23 and 24 in the Brookside Study 2002.

Pages 18-20, Sections 3.4.3 and 3.4.4 and all related subsections, Delete Subsections 3.4.3.2 and 3.4.4.5 and renumber the following subsections as appropriate, and add the following Section 3.4.5.

3.4.5 Location of Key Design Elements – Brookside Residential Area

Key design elements are described verbally and graphically in the Brookside Study 2002 and generally include intersection and other street improvements, landscaping and streetscaping and entryways.

Brookside Study 2002, page 2, "Overview", insert modified form as noted in Section 3.4.1 (above), page 14.

Brookside Study, pages 3 and 4, maps, as mentioned previously, replacing the existing Exhibit B and incorporating the new boundaries onto the District 6 Plan Map.

Mr. Stump stated that INCOG has prepared a new map with all of the boundaries and parcels identified. He indicated that there were a few changes after staff members conducted a field check and the map is representative of those changes. He stated that staff would be preparing a resolution for the November 6, 2002 TMAPC meeting.

Mr. Stump informed the TMAPC that staff received three emails of support and they have been submitted for the record.

Mr. Midget in at 1:38 p.m.

Interested Parties:

Brad Gemeinhart, 1423 East 37th Place, Tulsa, Oklahoma 74105, President of the Brookside Business Association, stated that the association's goal is to build a better Brookside and raise the property values. This would ultimately bring better sales tax revenues that would help the entire city.

Mr. Gemeinhart read and submitted a letter of support (Exhibit A-1), petition of support (Exhibit A-2), and the Brookside Business Association Newsletter (Exhibit A-3). He explained that the business leaders of Brookside are small businesses and it is difficult to close their businesses to attend these meetings.

TMAPC Comments:

Mr. Harmon stated that the Planning Commission is considering continuing the public hearing for two weeks in order to give the public an opportunity to see the boundary map because there have been some slight changes from the original plan.

TMAPC Action; 9 members present:

On **MOTION** of **WESTERVELT**, TMAPC voted 9-0-0 (Bayles, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Dick "absent") to **CONTINUE** Brookside Infill Development Design Recommendations public hearing to November 6, 2002 at 1:30 p.m. and direct staff to prepare a resolution.

TMAPC Comments:

Mr. Westervelt recognized City Councilor Susan Neal.

Councilor Neal stated that she primarily attended today's meeting to show support for the plan.

Mr. Westervelt explained to Councilor Neal that the Planning Commission would like to continue this application because of the new map. It has the most detail he has ever seen. It seems wise to allow the public to view the map before approving this application. The momentum is still present and the resolution is being prepared.

Mr. Midget stated that this application would stay on track and the momentum would not be lost, but this does give everyone an opportunity to view the map.

* * * * *

SUBDIVISIONS:

MINOR SUBDIVISION PLAT:

Airport Quick Parking Facility – IL, CS (2603) (PD 16) (CD 3)

Location: South side of Gilcrease Expressway on east side of Sheridan Road

Staff Recommendation:

This plat consists of on lot, one block, on 4.7 acres.

This is the second new "Minor Subdivision Plat" per the amended Subdivision Regulations. The process calls for the applicant to submit a plat that is consistent with final plat standards and obtain release letters before the TAC meeting. All release letters for this plat have been received.

The following issues were discussed September 19, 2002 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned IL and CS (near Sheridan Road) and has Board of Adjustment approval per case 19419 for variances to setbacks, screening and landscaping. The site plan shown appears to have some of the required landscaping in the right-of-way (applicant will double check on this).
2. **Streets/access:** Show surrounding unplatted properties. Access will be 50 feet and have a median. Lot dimensions need to be shown.
3. **Sewer:** No comments.
4. **Water:** No comments.
5. **Storm Drainage:** Staff is unsure of where drainage plans are in process. This is a major concern, so the plat should be continued to the next TAC.
6. **Utilities:** No comment.
7. **Other:** N/A

Staff recommends **APPROVAL** of the Minor Subdivision Plat subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. None necessary.

Standard Conditions:

1. 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.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. 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).

4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. 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.
14. The method of sewage disposal and plans therefore shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefore shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.

18. The key or location map shall be complete.
19. 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.)
20. 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.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **HORNER**, TMAPC voted 9-0-0 (Bayles, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Dick "absent") to **APPROVE** the minor subdivision plat for Airport Quick Parking Facility, subject to conditions as recommended by staff.

PRELIMINARY PLAT:

Blackjack Cove Estates – RS (790) (PD 23) (County)

Location: North of West 15th Street, East of South 273rd West Avenue

Staff Recommendation:

This plat consists of 16 lots, one block, on 36 acres.

The following issues were discussed September 19, 2002 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned AG with RS zoning, pending County Commission action. The plat proposes 16 lots in one block on 36 acres. Sand Springs water will be used. Individual septic systems are proposed for each lot.

2. **Streets/access:** Access should be shown.
3. **Sewer:** Septic or aerobic systems will be used.
4. **Water:** Rural Water District # 1 will supply water.
5. **Storm Drainage:** N/A
6. **Utilities:** N/A
7. **Other:** N/A

Staff recommends **APPROVAL** of the preliminary plat subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. At the TAC meeting the applicant had requested a waiver of the setback to an existing oil well, but he has withdrawn the request.

Special Conditions:

1. N/A

Standard Conditions:

1. 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.
2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. 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).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.

7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. 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.
14. The method of sewage disposal and plans therefore shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]
15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefore shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. 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.)

20. 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.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **HORNER**, TMAPC voted 9-0-0 (Bayles, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Dick "absent") to **APPROVE** the preliminary plat for Blackjack Cove Estates, subject to conditions as recommended by staff.

Mr. Ledford announced that he would be abstaining from Country Club North and Osage North final plats.

FINAL PLAT:

Country Club North – RM-2 (3402/3502) (PD 11) (CD 1)

Location: West Latimer Street to West Newton Street, West of Country Club Drive

Staff Recommendation:

This plat consists of three lots in one block on 11 acres. The property will be used for residential uses.

All release letters have been received for this final plat. Staff recommends **APPROVAL** of the Final Plat.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-1 (Bayles, Coutant, Harmon, Hill, Horner, Jackson, Midget, Westervelt "aye"; no "nays"; Ledford "abstaining"; Carnes, Dick "absent") to **APPROVE** the final plat for Country Club North as recommended by staff.

Osage North – RM-2 (3402/3502) (PD 11) (CD 1)

Location: West Marshall Street to West Newton Street from Country Club Drive to L.L. Tisdale Expressway

Staff Recommendation:

This plat consists of two lots in one block on nine acres. The property will be used for residential uses.

All release letters have been received for this final plat. Staff recommends **APPROVAL** of the final plat.

The applicant indicated his agreement with staff’s recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-1 (Bayles, Coutant, Harmon, Hill, Horner, Jackson, , Midget, Westervelt "aye"; no "nays"; Ledford "abstaining"; Carnes, Dick "absent") to **APPROVE** the final plat for Osage North as recommended by staff.

PUBLIC HEARING TO CONSIDER AMENDING THE TULSA COUNTY ZONING CODE AND THE CITY OF TULSA ZONING CODE TEXT

Proposed amendments relating to the regulation of sexually-oriented business.

Staff Recommendation:

WORDS DELETED ARE SHOWN AS STRIKEOUT; WORDS ADDED OR SUBSTITUTED ARE UNDERLINED.

AMEND SECTION 750.B. AS FOLLOWS:

CITY OF TULSA ZONING CODE

SECTION 705. LOCATION OF SEXUALLY-ORIENTED BUSINESSES

B. Prohibition

No person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses as defined in Section 705.A, in an area zoned other than CS, CG, CH, and/or CBD. In addition, no person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses, as defined in Section 705.A, within:

1. **1,000 feet from any other sexually-oriented business.** The 1,000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted, to the nearest point of the wall of the portion of the building in which another sexually-oriented business is conducted.
2. **500 1000 feet from a church.** Church as used herein shall mean all contiguous property owned or leased by a church upon which is located the principal church building or structure, irrespective of any interior lot lines. The ~~500~~ 1000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point of the church. Provided, however, for a church use located in a building principally used for commercial or office purposes (as in a shopping center), the ~~500~~ 1000 feet shall be measured to the nearest building wall of the portion of the building used for church purposes.
3. **500 1000 feet from a school** of the type which offers a compulsory education curriculum. School as used herein shall mean all contiguous property owned or leased by a school upon which is located the principal school building(s) irrespective of any interior lot lines. The ~~500~~ 1000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point of the school.
4. **500 1000 feet from a public park or private park.** The ~~500~~ 1000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point on the property of the park.

5. 500 1000 feet from areas zoned residential or from a habitable dwelling zoned AG. The ~~500~~ 1000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted, to the nearest point on a Residential Zoning District boundary line (not including residentially zoned expressway right-of-way), or to the nearest point of a wall of a habitable dwelling zoned AG.

6. 1000 feet from Use Unit 2 - Area-Wide Special Exception Uses and 5 - Community Services and Similar Uses caring for or often frequented by persons under 18 years of age. These uses include, but are not limited to, children's preschools, children's nurseries, children's day camps, juvenile delinquency centers, children's camp grounds, children's group homes, children's day care centers, libraries, museums, planetariums, and aquariums. The 1000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point on the property containing the use primarily caring for or are frequented by persons under 18 years of age.

Provided further that the Board of Adjustment may permit by Special Exception sexually-oriented businesses, as defined in Section 705.A in an IL, IM or IH District, subject to the distance limitations set forth herein.

The establishment of a sexually-oriented business shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion of an existing business location to any of the uses described in Section 705.A.

If a new church, school, park or protected Use Unit 2 or 5 use is established less than 1000 feet from an existing lawful sexually oriented business, the spacing requirements of this section shall not apply a they related to the new church, school, park or protected Use Unit 2 or 5 uses.*

*Language was added as directed by the TMAPC.

DELETE SECTION 705.C:

SECTION - 705. LOCATION OF SEXUALLY-ORIENTED BUSINESSES

~~C. Nonconforming Uses~~

~~Any business lawfully existing as of the effective date of this Ordinance that is in violation hereof shall be deemed a nonconforming use. Such a nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason whatsoever or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. In the event that two or more sexually-oriented businesses are within 1,000 feet of one another and otherwise in a permissible zone, the first such sexually-oriented business licensed and continually operating at a particular location shall be the conforming use and the later established business(es) shall be nonconforming.~~

~~Nothing in this Ordinance is intended to make legal any business or activity that is expressly declared illegal under the provision of this Code or under any state or federal laws.~~

SECTION - 1408. - ADULT ENTERTAINMENT ESTABLISHMENTS

An Adult Entertainment Establishment, as listed in Use Unit 12a, lawfully existing at the effective date of this Code, or amendment thereto, but which does not comply with a parking, loading, spacing or screening requirement or requirements of this Code, shall be deemed nonconforming and may continue subject to the following provisions.

~~A. Sexually Oriented Businesses are regulated by Section 705.C Nonconforming Uses.~~

~~B. All other Adult Entertainment Establishments are subject to the following provisions:~~

~~1. A. No such use may be enlarged or extended;~~

~~2. B. No such use may be changed to another use which would not meet parking, loading, screening and spacing requirements, unless changed to a use within Use Units 11, 13 or 14; provided, however, the Board of Adjustment may permit by special exception other uses otherwise permitted by right or exception within the zoning district, even though such use may be nonconforming as to parking, loading, screening or spacing;~~

3. C. No such use which contains a public entrance door that is within 50 feet of an R District, as set forth in Section 1212a.C, shall continue more than one year from the date this provision first became effective; and
4. D. No such use that is less than 300 feet from an R District and is nonconforming as to off-street parking or loading requirements as set forth in Section 1212a.D shall continue for more than one year from the date this provision first became effective. The 300 feet shall be measured in a straight line from the nearest building wall of the Adult Entertainment Establishment to the nearest point on a residential zoning district boundary line (not including residentially zoned expressway right-of-way).

The Board of Adjustment may, as a special exception, reduce the number of required off-street parking spaces on a lot, or may allow the required off-street parking on a lot other than the lot which contains the business, so long as the off-site parking is within the owner's control, accessible, convenient and safe for patrons, and provided the Board finds that the use is not injurious to the neighborhood or otherwise detrimental to the public welfare.

- E. The change of a nonconforming adult entertainment establishment from a non-sexually oriented business to a sexually oriented business is considered a change of use and the new sexually oriented business shall comply with all the requirements of the Zoning Code.
- F. If the use of a nonconforming Sexually Oriented Business is discontinued for any reason whatsoever for a period of 180 days or more, such use shall not be reestablished unless it complies with all of the requirements of the Zoning Code.
- G. In the event that two or more Adult Entertainment Establishments are separated by a lesser distance than required by this Zoning Code, the first such Adult Entertainment Establishment licensed and continually operating at a particular location shall be to conforming use as to spacing and the later establishment(s) shall be nonconforming.

WORDS DELETED ARE SHOWN AS STRIKEOUT; WORDS ADDED OR SUBSTITUTED ARE UNDERLINED.

AMEND SECTION 750.B. AS FOLLOWS:

TULSA COUNTY ZONING CODE

SECTION - 750. LOCATION OF SEXUALLY-ORIENTED BUSINESSES

750.2 - Prohibition

No person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses as defined in Section 750.1, in an area zoned other than CS, CG, and/or CH. In addition, no person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the sexually-oriented businesses, as defined in Section 750.1, to be located closer than:

- A. **1,000 feet from any other sexually-oriented business.** The 1,000 feet shall be measured in a straight line from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point of the wall of a building or portion of a building in which another sexually-oriented business is conducted;
- B. **500 1000 feet from a church.** Church as used herein shall mean all contiguous property owned or leased by a church, excluding street right-of-way, upon which is located the principal church building or structure irrespective of any interior lot lines. The ~~500~~ 1000 feet shall be measured in a straight line from the nearest point of the wall of the building or portion of the building in which a sexually-oriented business is conducted to the nearest point on the property of the church. Provided, however, for a church use located in a building principally used for commercial or office purposes (as in a shopping center), the ~~500~~ 1000 feet shall be measured to the nearest building wall of the portion of the building used for church purposes;
- C. **500 1000 feet from a school** of the type which offers a compulsory education curriculum. School as used herein shall mean all contiguous property owned or leased by a school, excluding street right-of-way, upon which is located the principal school building(s) irrespective of any interior lot lines. The ~~500~~ 1000 feet shall be measured in a straight line from the nearest point of the wall of the building or portion of the building in which a sexually-oriented business is conducted to the nearest point on the property of the school;

- D. **500 1000 feet from a public park.** Public park as used herein shall mean a publicly owned property designated and used for recreational activities. The ~~500~~ 1000 feet shall be measured in a straight line from the nearest point of the wall of the building or portion of the building in which a sexually-oriented business is conducted to the nearest point on the property of the public park; and
- E. **500 1000 feet from areas zoned residential and from a habitable dwelling zoned AG or AGR.** The ~~500~~ 1000 feet shall be measured in a straight line from the nearest point of the wall of a building or portion of a building in which a sexually-oriented business is conducted, to the nearest point on a Residential Zoning District boundary line or ~~from~~ to the nearest point of a wall of a habitable dwelling zoned AG or AG-R; provided, however, the sexually-oriented business shall not be required to be located ~~500~~ 1000 feet from expressway right-of-way zoned in a residential classification.
- F. **1000 feet from Use Unit 2 – Area-Wide Special Exception Uses and 5 – Community Services and Similar Uses caring for or often frequented by persons under 18 years of age.** These uses include, but are not limited to, children’s preschools, children’s nurseries, children’s day camps, juvenile delinquency centers, children’s camp grounds, children’s group homes, children’s day care centers, libraries, museums, planetariums, and aquariums. The 1000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a sexually-oriented business is conducted to the nearest point on the property containing the use primarily caring for or are frequented by persons under 18 years of age.

Provided further that the Board of Adjustment may permit by special exception sexually-oriented businesses, as defined in Section 750.1 in an IL, IM or IH District, subject to the distance limitations set forth herein.

The establishment of a sexually-oriented business shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion of an existing business location to any of the uses described in Section 750.1.

If a new church, school, park or protected Use Unit 2 or 5 use is established less than 1000 feet from an existing lawful sexually oriented business, the spacing requirements of this section shall not apply a they related to the new church, school, park or protected Use Unit 2 or 5 uses.*

*Language was added as directed by the TMAPC.

750.3 – Nonconforming Uses

Any business existing as of the effective date of this Ordinance that is in violation hereof shall be deemed a nonconforming use. Such a nonconforming use will be permitted to continue ~~for a period not to exceed five years~~, unless sooner terminated for any reason whatsoever or voluntarily discontinued for a period of ~~30~~ 180 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. In the event that two or more sexually-oriented businesses are within 1,000 feet of one another and otherwise in a permissible zone, the first such sexually-oriented business licensed and continually operating at a particular location shall be the conforming use and the later established business(es) shall be nonconforming.

Nothing in this ~~Ordinance~~ resolution is intended to make legal any business or activity that is expressly declared illegal under the provision of this Code or under any state or federal laws.

SECTION 1420. NONCONFORMING USE OF BUILDINGS OR BUILDINGS AND LAND IN COMBINATION

- F. A nonconforming use of a building or of a building and land in combination when located within a residential district shall not be changed unless changed to a use permitted in the district in which located. A nonconforming use of a building or of a building and land in combination when located within a district other than a Residential District, may, as a Special Exception, be changed upon approval of the Board of Adjustment after a finding that the proposed use will not result in any increase of incompatibility with the present and future use of the proximate properties. The change of a use to another use contained within the same use unit shall not constitute a "change of use" within the meaning of this section, except the changing of a nonconforming Use Unit 19.a. use from a non-sexually oriented business to a sexually oriented business is prohibited.

Mr. Stump stated that this is a group of amendments that would increase the spacing between certain sensitive uses and sexually-oriented businesses from 500 feet to 1,000 feet. These amendments add a new category of sensitive uses that needs spacing where the caring for or being frequented by persons under 18 years of age is often occurring. Staff has prepared amendments to both the City and County Zoning Codes, and in addition, staff tried to consolidate some of the non-conforming passages where they were spread out in a couple of chapters into the same chapter. He explained the changes made for existing non-conforming uses.

Interested Parties:

Bob Floyd, 4721 North Walnut, Oklahoma City, Oklahoma, stated that he has four stores in the City of Tulsa, which are all separate corporations, but conduct business as Priscilla's. He commented that the proposal directly affects his four stores. He indicated that he did attend a worksession and received some constructive advice from Mr. Westervelt, then went out and did his homework. Mr. Floyd stated that he hopes that his homework would demonstrate that there is room for negotiation regarding the spacing.

Mr. Floyd asked for some clarification regarding "F. If the use of a nonconforming Sexually-Oriented Business is discontinued for any reason whatsoever for a period of 180 days or more, such use shall not be reestablished unless it complies with all of the requirements of the Zoning Code". He questioned if his store burned down and he couldn't rebuild within the 180 days, then would he be out.

In response, Mr. Harmon stated that the 180 days would be an absolute time limit for nonconforming use and if it is not reopened before that it would be out. Mr. Floyd stated that if he had a business that is hurt by an act of God, then he couldn't rebuild it. Mr. Harmon stated that he would have 180 days to rebuild.

Mr. Midget asked Mr. Romig if this scenario did happen and the owner started the process to rebuild (obtaining permits, cleaning up the area) would he not fall within the 180 days. Mr. Midget commented that he does not interpret that under that scenario that he would have to be totally constructed and occupied within the 180 days.

Mr. Romig stated that in this situation common sense would have to prevail, if there has been no delay and the owner is actively starting the process for rebuilding. If the owner waited five months before rebuilding, then that would be a problem. If the owner is getting the process started and is delayed due to no fault of his own, then probably he would be allowed to continue. Technically, he would be out of time and he could go to the Board of Adjustment for a variance on the time frame in this type of situation.

Mr. Floyd suggested that this type of thing be covered in the ordinance so that he wouldn't have to go to a Board who may not grant a variance.

Mr. Westervelt stated that the 180-day limit is for nonconforming uses and before the meeting, Legal looked at Mr. Floyd's locations and didn't believe any were non-conforming or would be after the ordinance is past. Mr. Floyd stated that all of his locations except one are nonconforming. Mr. Floyd suggested that something be done about the paragraph regarding the 180-day limitation.

Mr. Romig stated that if the owner could go to the Board of Adjustment for a variance, then it is taken care of.

Mr. Floyd stated that there are no magazines and video tapes sold to be viewed on the premises because they are shrink-wrapped. His stores are unlike peep shows and strip clubs and perhaps there is a cause to have different types of ordinances to split those businesses out. Mr. Floyd reported the amount of money his businesses contribute to the City of Tulsa's economy and the number of people employed.

Mr. Midget out at 2:00 p.m.

Mr. Floyd submitted maps indicating the locations of his stores (Exhibit C-1). He explained that INCOG produced maps with the zoning in every area where his stores are located and then made aerial maps to the same scale as the zoning map. He stated that he used his compass and drew a 1,000-foot circle around his building, which may not be completely accurate because the measurement is from the closest building wall and he drew from the middle of the building. He further stated that he drew a 500-foot circle in red to show how it is under current law. He indicated that under current law his businesses are conforming, but under the 1000-foot rule there is a possibility that only one would be conforming. He cited the various sites and the churches or residential areas that would be within the 1000 feet.

Mr. Floyd stated that the use units that are listed could move within the 1,000 feet spacing to his businesses but he couldn't move within 1,000 feet of them and he is confused on who is being protected. In response, Mr. Westervelt stated that the business owner is being protected. Mr. Westervelt explained that the business would still be a legal nonconforming use, which means the owner operates his/her business the exact same way every day whether or not that use unit has moved within the 1,000-foot spacing.

Mr. Romig stated that one of the things that would be in the ordinance is that if one of the listed Use Units moved within the 1,000 feet of an existing sexually-oriented business, it would not affect it except that the business owner would not be allowed to expand the business.

Mr. Floyd requested a continuance in order to further discuss these issues and figure out what the goal truly is.

TMAPC Comments:

Mr. Harmon stated that the amendments are not directed at one business and the TMAPC are not trying to affect the viability of any business, but trying to do what is good for the long-range planning needs for the City of Tulsa. This proposal seems appropriate and any existing business that is legal today would still be legal and grandfathered in. Staff has put a good proposal together and he can support it.

TMAPC Action; 8 members present:

On **MOTION** of **WESTERVELT**, TMAPC voted 8-0-0 (Bayles, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Dick, Midget "absent") to recommend **APPROVAL** of the proposed amendments for the Tulsa County Code and the City of Tulsa Zoning Code, as recommended by staff.

ZONING PUBLIC HEARING

Application No.: PUD-559-A-4

MINOR AMENDMENT

Applicant: Mark Capron/Sack & Associates (PD-18) (CD-8)

Location: 88th Street South and 101st East Avenue

Staff Recommendation:

The applicant is requesting a minor amendment to reduce the minimum building setback from the north development area boundary of Development Area A from 100 feet to 25 feet to construct a one-story office building.

PUD-559 encompasses 111.34 gross acres located north and east of the northeast corner of 91st Street South and Mingo Road. The PUD consists of three development areas. Development Area A, containing 59 acres, was approved for a hospital on May 29, 1997. Development Area B, containing 42 acres, was approved for multifamily dwellings and in the east 1, 364 feet college and university use was permitted on November 3, 1977. Development Area C, containing 7.8 acres, was approved for either office or multifamily uses on November 3, 1997. The east 1400 feet of Development Area B has been purchased by Tulsa Community College. The Tulsa Community College southeast campus abuts this portion of Development Area B on the north. Part of Development Area A has been developed for hospital uses.

The applicant is requesting that one-story buildings not exceeding 35 feet in height be permitted in the north 100 feet of that portion of Development Area A described as Lot 1, Block 1, Southcrest Medical Campus with a minimum building setback of 25 feet from the north boundary.

Staff finds that the request is minor in nature and that the approved PUD standards and the character of the development are not substantially altered. Therefore, staff recommends **APPROVAL** of the request to reduce the minimum building setback from the north development area boundary on that portion of Development Area A described as Lot 1, Block 1, Southcrest Medical Campus from 100 feet to 25 feet subject to the following condition:

Maximum Building Height:

One story not to exceed 35 feet

All other PUD standards remain as previously approved.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-0 (Bayles, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Dick, Midget "absent") to **APPROVE** the minor amendment for PUD-559-A-4 to reduce the minimum building setback from the north development area boundary on that portion of Development Area A described as Lot 1, Block 1, Southcrest Medical Campus from 100 feet to 25 feet subject to the following condition: maximum building height be one story not to exceed 35 feet and all other PUD standards remain as previously approved as recommended by staff.

* * * * *

OTHER BUSINESS:

Application No.: PUD-602

DETAIL SITE PLAN

Applicant: Sack and Associates, Inc.

(PD-18) (CD-8)

Location: North of the northwest corner of East 71st Street South and South Garnett Avenue

Staff Recommendation:

The applicant is requesting approval of a detail site plan for an addition to a retail center. The proposed use, a Michael's craft store, is in conformance with PUD-602 Development Standards.

The proposed building is an expansion to a previously-approved building footprint and related site plan. Total square feet of building area, including the proposed site revisions, is within the maximum building floor area permitted by development standards. Parking currently provided on site is sufficient to accommodate the proposed increase in floor area. No changes to landscaped area are provided or required.

According to PUD-602 Development Standard 3(A), "The rear of the building shall be architecturally compatible with the front of the building and siding materials shall be similar", and Development Standard 3(B) "Loading docks and loading or unloading shall be screened from the collector street to the north. The design of this screening shall be approved by TMAPC as part of the Detail Site Plan and/or Landscape Plan". Building elevations submitted show architectural

compatibility between the front and rear elevations. Screening of the loading dock is to be an eight foot wood screening fence and is subject to approval of TMAPC.

The trash compactor area is to be screened with a six-foot wood screening fence per development standards and the Zoning Code. Elevations are provided.

Staff recommends **APPROVAL** of PUD-602 Detail Site Plan, subject to TMAPC review and approval of proposed screening of the loading dock.

(Note: Detail site plan approval does not constitute sign or landscape plan approval.

Applicant's Comments:

Ted Sack, 111 South Elgin Avenue, Tulsa, Oklahoma 74120, submitted photographs (Exhibit B-1) and stated the subject dock is 175 feet from the north boundary line of the subject tract, which is north of the detention facility. He indicated that there is a six-foot screening fence along the road and there is an eight-foot screening fence adjacent to the dock. The street grade has been raised and vehicles are able to see over the six-foot screening fence.

Mr. Sack requested the Planning Commission to approve the proposed screening fence for the loading dock.

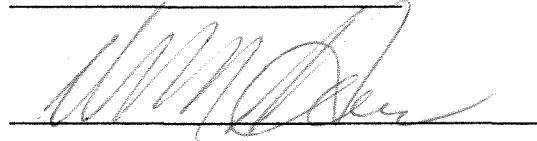
There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HORNER**, TMAPC voted 8-0-0 (Bayles, Coutant, Harmon, Hill, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Carnes, Dick, Midget "absent") to **APPROVE** the detail site plan for PUD-602, as recommended by staff.

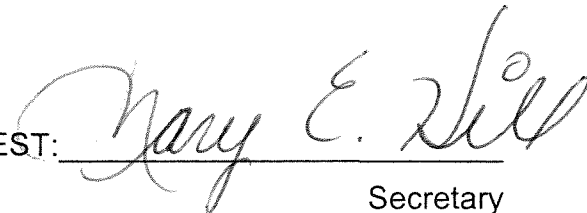
There being no further business, the Chairman declared the meeting adjourned at 2:20 p.m.

Date Approved:



Chairman

ATTEST:


Secretary