

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 2404

Wednesday, February 23, 2005, 1:30 p.m.

Francis Campbell City Council Room
Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Bayles	Dick	Alberty	Boulden, Legal
Carnes		Fernandez	
Harmon		Huntsinger	
Hill		Matthews	
Horner			
Jackson			
Ledford			
Midget			
Miller			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, February 17, 2005 at 3:00 p.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 Westervelt called the meeting to order at 1:35 p.m.

Minutes:

Approval of the minutes of January 5, 2005, Meeting No. 2399

On **MOTION** of **CARNES** the TMAPC voted 7-0-0 (Carnes, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Bayles, Dick, Harmon "absent") to **APPROVE** the minutes of the meeting of January 5, 2005, Meeting No. 2399.

Ms. Bayles in at 1:36 p.m.

Mr. Harmon in at 1:36 p.m.

REPORTS:

Chairman's Report:

Mr. Westervelt asked staff to add the election of officers to the next agenda.

Worksession Report:

Mr. Westervelt reported that there will be a worksession immediately following today's meeting.

Director's Report:

Mr. Alberty reported that the City Council will be considering the appointment of Owen Ard to the TMAPC to replace Dell Anna Coutant.

Mr. Alberty reported that there are no zoning items on the City Council agenda. There are two final plats on the City Council agenda.

Mr. Alberty informed the Planning Commission that there would be Zoning Analyst training conducted this Friday in the INCOG office and all of staff will be going through the training. This is a computerized program that will replace manual application-taking. Staff will be available for the public, but there have been signs posted to let the public know there will be training going on.

CONTINUED PUBLIC HEARING ZONING CODE AMENDMENTS

Consider amending the Zoning Code to eliminate flashing and running light or twinkle signs from Use Unit 21, Business Signs and Outdoor Advertising.

Mr. Westervelt stated that there has been a request for a continuance from the Sign Advisory Board.

STAFF RECOMMENDATION:

Mr. Alberty stated that staff received a call from Mike Morris, Chairman of the Sign Advisory Board, requesting a continuance. Staff informed him to send a letter requesting a continuance and he stated that he would prefer to come before the Planning Commission and discuss the item. It doesn't appear that Mr. Morris is here yet and this item could be passed until he comes in.

SUBDIVISIONS:

FINAL PLAT:

The Tudors II Addition – (9213)

(PD 7) (CD 9)

Southwest corner of West 21st Street and Main Street

STAFF RECOMMENDATION:

This plat consists of ten lots in two blocks on 2.75 acres.

All of the release letters have been received and 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 **HILL**, TMAPC voted 9-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Ledford, Jackson, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the final plat for The Tudors II Addition per staff recommendation.

Wind River Addition – (8333)

(PD-26) (CD-8)

West of the northwest corner of East 121st Street and Yale Avenue

STAFF RECOMMENDATION:

This plat consists of 262 lots in 15 blocks on 80.6 acres.

Staff tried to facilitate this final plat, believing that the release letters would come in. At this time there are some concerns about this plat. One of the concerns is that the Trails Plan be submitted and reviewed by staff with everyone in agreement. The second concern is with the two interested parties who spoke about the access and waterlines for the plat. To staff's knowledge, the interested parties have not been notified and staff would like the opportunity to notify these two parties. Staff would like to request a continuance for one more week.

Applicant's Comments:

Ricky Jones, Tanner Consulting, 5323 South Lewis Avenue, Tulsa, Oklahoma 74105, stated that he would like to thank Mrs. Fernandez for accommodating him and placing this final plat on the agenda. There was a mix-up on the release letters; however, he has recently learned that not all of the release letters have been submitted. He indicated that he obtained the last of the release letters this morning and they have been delivered to Mrs. Fernandez. He cited that the received release letters from Public Works, Cox Cable, telephone, gas and electric.

Mr. Jones read the minutes from the preliminary plat regarding the pedestrian access. He further stated that he would like to separate the issues and discuss the plat today. The detail site plan will have the pedestrian access on it and should be reviewed at that time according to the minutes.

Mr. Jones commented that in regard to the adjoining property owners, Public Works has released the plat and he can't speak for Mr. Biery or Mr. Latimer, but they have had several conversations regarding the plat. To his understanding, all of the access is worked out and there are some rights-of-way that are not going to be closed that were originally going to be closed. Mr. Jones indicated that this issue has been resolved months ago.

Mr. Jones reiterated that all of the release letters have been received and he will submit the pedestrian plan during the detail site plan. This will not be tied with the plat because he would like to get the plat filed and move on.

TMAPC COMMENTS:

Mr. Harmon asked Mr. Jones if he would have a problem with this being continued in one week to allow the staff to review the release letters. In response, Mrs. Fernandez stated that all of the release letters have been received at this time; however, the surrounding property owners have not been noticed about this plat who may have been concerned about access. She indicated that she does not know if they are in agreement with the plat. If the Planning Commission would like the pedestrian access plan submitted during detail site plan, that is fine, but staff has to make sure that when this plan is submitted, it meets all of the requirements that the Planning Commission imposed, because it was requested to be submitted during the platting phase.

Mrs. Fernandez stated that she would prefer a continuance in order to notify the adjacent property owners.

Mr. Westervelt asked if there is any particular reason why the interested parties were not notified. In response, Mrs. Fernandez stated that typically extra notice is not given unless interested parties voice concern during the PUD stage of development. The two interested parties mentioned voiced concern at the preliminary plat phase.

Mr. Jones stated that it is out of the ordinary that the interested parties come back at the final plat process. He agrees that there were discussions about access, and the condition is that the Planning Commission wanted to assure that there was proper access to the abutting property owners. He commented that this was looked at during the traffic and transportation release and he asked what happens if the interested parties come back and claim that they don't like their access all of a sudden. He reiterated that he meets all of the Subdivision Regulations or the release letters wouldn't have been given. He stated that he doesn't know why notice wasn't given and had he known that he was to go out and contact the interested parties, he would have done so. This is out of the ordinary and he didn't know it was a requirement. None of the interested parties' existing access has been changed. He fails to see the need to have these two parties back in front of the Planning Commission. He suggested that the final plat should be heard today and approved.

Mr. Midget asked Mr. Jones if a continuance would impose a tremendous hardship on the project. In response, Mr. Jones stated that he tries to accommodate the Planning Commission and he has been accommodating. He indicated that he talked with his client this morning and it is his desire to get the plat filed. All of the utilities are in and the lots have been spoken for and his client is ready to start closing. In order to meet take-down schedules and bank financing, he had hoped that the final plat would be approved today.

TMAPC COMMENTS:

Mr. Westervelt stated that he spoke with Ray Biery this morning on something totally unrelated to today's agenda. There was no mention about today's item during their conference, but that doesn't mean he was aware that it was on the agenda.

Mr. Carnes stated that since the Planning Commission has been informed that no notice was given and should have been given he feels that the Planning Commission has to postpone this final plat another week.

Mrs. Fernandez stated that Mr. Carnes stated that notice should have been given and it would be atypical on this item. The only reason she brought this to the Planning Commission's attention is because of the way the preliminary plat was approved, that the Public Works Department and surrounding property owners work out the access. To her knowledge, they have not been notified through the staff. The agendas have been posted and it is not like the Planning Commission's policy on PUDs, where the interested parties would be notified. However, this has been brought to the Planning Commission's attention because the two interested parties did speak at the preliminary plat and it was in the motion. Technically there is no problem with no notice being given.

Mr. Westervelt recognized Mr. Jones.

Mr. Westervelt asked Mr. Jones if he has had any dialogue with the interested parties regarding access since the preliminary plat. In response, Mr. Jones stated that he has had several meetings with the two interested parties. There were concessions made that his client would extend a water line to Mr. Latimer's property because he wasn't served by public water. He reminded the Planning Commission that originally he proposed to close some old county dedication rights-of-way and at that time there were some concern about their access that was located on half-street rights-of-way that would be blocked or taken away from them. He indicated that he has withdrawn these applications and refiled applications so that their same driveways remain in place. He reiterated that he has had several meetings with the interested parties and this was not discussed because after he amended his closing dedication, that issue went away. Mr. Jones concluded that he would hate to be penalized a week for a notice that should have been given, but wasn't given. He indicated that if he had known that the interested parties were to be notified he would have called them. He believes that Public Works, who oversees the rest of the citizens of Tulsa, assured that there is access and he relies on their release letter.

Mr. Harmon stated that he agrees with Mr. Carnes, that even though the letter of the law didn't require a notice, he believes, in the sense of fairness, that it would be appropriate to continue this for one week and give these people an opportunity to respond. Since the Planning Commission has been made aware of previous potential problems, even though they may have been resolved, he believes it would be in the Planning Commission's best interest and the in the best interest of the community to postpone this for one week.

Mr. Midget asked if this final plat could be approved with a contingency that a letter has to be submitted from the interested parties that the access issues are resolved. Perhaps this would allow the applicant to move forward with his building permits.

Mr. Ledford stated that he has difficulty with this, primarily because he wasn't here during the preliminary plat, so in this particular situation, those who were present and voted on the preliminary plat would have to make the decision.

Mr. Boulden stated that if Mr. Midget is asking if there is a qualified approval for the final plat, it is problematic because he isn't sure how the qualification would be satisfied. The better practice would be for a clear approval or to postpone it until the Planning Commission can, as a body, approve it without any qualifications.

Mrs. Fernandez stated that it might be best if staff contacts the surrounding owners and if there are any problems with the conditions that are placed upon the final plat, she would bring the plat back the next week and if not, move forward.

Mr. Westervelt stated that he called Mr. Biery and he indicated that he believes that they worked out access to their satisfaction. However, the caveat was that he was concerned about the fact that there was not a requirement for an extra 25 feet and that later on, they may be held to a more rigorous standard.

Mrs. Fernandez stated that staff could make sure that those conditions were met per the Planning Commission approval of the preliminary plat and if there is any problem the final plat could be brought back next week.

Mr. Alberty stated that he does remember the debate. Biery is correct, and he is not sure that will ever be agreed to by the current developers of Wind River. He stated at the hearing all along that he has half a street dedication and asked why there is being an exception being made on this plat. This issue was not agreed to in his favor and he will hold to that line. The part that mitigated this issue was that Public Works did not require it. If this developer isn't willing to do it and Public Works has waived it, then we are at an impasse.

Mr. Carnes stated that he would move for a continuance because on the preliminary plat, it was indicated that people would be notified and they were not.

Ms. Bayles stated that she would support the motion with the consideration to Mr. Jones that he has done an admirable job with regards to this development and she apologized for the fact that he is being delayed for this error on our behalf.

Mr. Westervelt reminded the Planning Commission that they were at an impasse with Mr. Biery the last time on the same issue and the preliminary plat was moved forward without resolving that issue and Public Works has also approved this preliminary plat.

Mr. Midget stated that he will be voting against the motion, simply because of the fact that this has been debated and the issue was access, which has been resolved. As to the other issue regarding the additional 25 feet, which Public Works didn't require, he doesn't see why the plat is being delayed.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted 5-4-0 (Bayles, Carnes, Harmon, Horner, Ledford "aye"; Hill, Jackson, Midget, Westervelt "nays"; none "abstaining"; Dick "absent") to **CONTINUE** the final plat for Wind River Addition to March 2, 2004.

CONTINUED PUBLIC HEARING ZONING CODE AMENDMENTS

Consider amending the Zoning Code to eliminate flashing and running light or twinkle signs from Use Unit 21, Business Signs and Outdoor Advertising.

STAFF RECOMMENDATION:

Section 1800. Definitions

- **Animated and Flashing Signs** – Any sign, portion of a sign or permanent structure, either inside or outside a building, visible from a public right-of-way which uses movement, appears to flash, undulate, pulse, portray explosions, fireworks, contains blinking or chasing lights, appears to move toward or away from the viewer, appears to expand or contract, appears to bounce, rotate, spin, twist, scroll, travel or otherwise portrays movement or animations. This definition does not include wind-activated movement such as in flags, banners or pennants.
- **Changeable Copy Signs** – Any sign containing letters or numbers that can be changed *manually* at will to display different messages. A sign on which the message changes *electronically* shall be considered to be a *Reader Board* for purposes of this chapter.
- **Reader Boards** – Any sign with any copy, graphics, or display that changes by electronic or mechanical means, when the copy, graphics or display remains fixed, motionless and non-flashing for a period of thirty (30) seconds or more. Any *Reader Board* that changes the display more frequently than ever 30 seconds shall be considered an *Animated Sign*.
- Remove the definition "**Sign, Revolving or Rotating**: a sign or sign part which rotates or revolves."

Section 1221.C. General Use Conditions for Business Signs

2. *Changeable Copy Signs* and *Reader Boards* shall be subject to the following limitations.
 - e. The electronically activated message section of a *ground sign* reader board shall be located on the lower one-third of the sign.
 - f. The electronically activated message section of the *ground sign* or *wall sign* reader board shall not exceed 30 percent of the *permitted* sign area.
 - g. The electronically activated message of a reader board shall not change more frequently than every thirty (30) seconds.
16. Unless otherwise specified by this chapter, all signs may be illuminated. However, all signs shall be designed, located, shielded and directed so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding property. In no instance shall a sign be permitted to exceed an illumination of 70 foot candles measured at a 2 foot distance.
17. Animated signs are prohibited within all zoning districts.

approximately five units per acre). As is typical practice when reviewing and approving PUDs, densities and intensities of use are for the maximums and any development at lesser levels is generally found to be compatible.

Staff can support this application, finding that it is compatible with existing and potential development in the area and should have no negative impact on adjacent uses. Therefore, staff recommends **APPROVAL** of PUD-636-2.

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 **MIDGET**, TMAPC voted 9-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the minor amendment for PUD-636-2, subject to pending FAA study results, per staff recommendation.

Application No.: PUD-432-D-6

MINOR AMENDMENT

Applicant: Charles Norman

(PD-4) (CD-4)

Location: East side of South Utica, between 12th Street and 13th Street

STAFF RECOMMENDATION:

This application is to reallocate permitted signage to accommodate two wall signs that are currently in place, having been installed after the sale of the Hillcrest property to the new owner. The request is to increase the allowed wall signage from 100 square feet to 180 square feet of total display surface area and decrease the two permitted ground signs from 96 square feet each to a maximum of 56 square feet each.

Staff can support this application, finding that the increase in the wall signage will be offset by the decrease in the ground signage. Staff would caution, however, that the wall signage lighting must comply with the illumination standards of the Zoning Code, Chapter 12, Section 1221.C.16 (no more than 70-foot-candles measured at a distance of two feet). Staff therefore recommends **APPROVAL** of PUD-432-D-6.

Applicant's Comments:

Charles Norman, 2900 Mid-Continent Tower, Tulsa, Oklahoma 74103, representing Hillcrest Health Care System, stated that he would like to apologize for this having happened. He believes it is the first time ever in his representing Hillcrest that this has happened. During the transfer of ownership from the Hillcrest nonprofit group to the Ardent Group, these signs were erected. In fact, two others were on the building that have been removed by his recommendation. This application is to allow the two existing signs to remain. His client was allowed 100 square feet of wall signs and these two signs total 180 square feet. He indicated that his client was also allowed two ground signs and are reducing by the same amount the two allowed ground signs.

Mr. Norman indicated that the existing signs are located on the west wall of the building, which is called Bell 3. His client is prohibited from having wall signs on the south-facing wall or the east-facing wall. Mr. Norman indicated that he met with Mr. Don Barnum, neighborhood representative and he may want to speak on this issue.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted 9-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Dick "absent") to **APPROVE** the minor amendment for PUD-432-D-6 per staff recommendation.

Application No.: PUD-495-A-1

MINOR AMENDMENT

Applicant: Jody Ebert

(PD-18) (CD-2)

Location: 2019 East 81st Street South

STAFF RECOMMENDATION:

This application requests the ability to increase the allowed total floor area up to 15% at the Wal-Mart Super Center at 81st and Lewis. This will mean an increase from 253,500 square feet to as much as 291,525 square feet. Under the terms of Section 1107.H.4, Tulsa Zoning Code, this cannot meet the definition of minor amendment because the underlying zoning allowable area will not permit it (the underlying commercial zoning would only permit 255,000 square feet). Therefore staff recommends **DENIAL** of PUD-495-A-1.

The applicant was not present.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **MIDGET**, TMAPC voted 9-0-0 (Bayles, Carnes, Harmon, Hill, Horner, Jackson, Ledford, Midget, Westervelt "aye"; no "nays"; none "abstaining"; Dick "absent") to **DENY** the minor amendment for PUD-495-A-1 per staff recommendation.

Mr. Ledford stated that he would be abstaining from the following item.

OTHER BUSINESS:

Application No.: Z-6958-SP-1

REQUEST FOR REFUND

Applicant: Jerry Ledford, Jr.

(PD-17) (CD-6)

Location: North of northwest corner of East 11th Street and South 123rd East Avenue

STAFF RECOMMENDATION:

Mr. Alberty stated that the request has come in and the work has been done on the application and had been reviewed. Staff recommends **DENIAL** for the refund.

Applicant was not present.

There were no interested parties wishing to speak.

TMAPC COMMENTS:

Mr. Midget stated that he would really like to refund the applicant because he understands the problem with this particular development. Unfortunately, the Lowrance Electronic Company was put in a position where they can't move to expand their building.

Mr. Midget asked staff if there was any way that the money could be held until the new floodplain maps are done.

Mr. Alberty stated that the money could be held until the problem is rectified, and if it is the same application that has already been reviewed, then staff could waive the fees.

Mr. Westervelt asked what the amount of the fees would be. In response, Mr. Alberty stated that he doesn't have the exact amount in front of him, but it was a substantial amount.

Mr. Alberty explained that this application would have proceeded if the FEMA map had been amended.

Mr. Midget stated that this item has been discussed in the Mayor's office, and asked if this could wait one week in order to find out exactly where this issue is.

The Planning Commission passed the request for continuance for Z-6958-SP-1 to March 2, 2005.

There being no further business, the Chair declared the meeting adjourned at 2:15 p.m.

Date Approved:

4/6/05

James M. Bayler

Chairman

ATTEST:

Mary E. Hill
1st Vice Chair Secretary

