

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2441

Wednesday, March 22, 2006, 1:30 p.m.

Francis Campbell City Council Room

Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Bayles	Ard	Cuthbertson	Boulden, Legal
Cantees	Bernard	Fernandez	
Carnes	Horner	Huntsinger	
Collins		Matthews	
Harmon			
Hill			
Jackson			
Midget			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Tuesday, March 21, 2006 at 8:51 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, 2nd Vice Chair Carnes called the meeting to order at 1:32 p.m.

REPORTS:

Director's Report:

Ms. Matthews stated that there are two requests for continuances.

Application No.: Z-7019

RS-3 to PK

Applicant: Robert Johnson/Debra Bradene Bachtell (PD-4) (CD-4)

Location: North of the northwest corner of South Louisville Avenue and East 21st Street

STAFF RECOMMENDATION:

Ms. Matthews stated that the applicant is requesting a continuance for Item 4, case number Z-7019, in order to file a PUD. Ms. Matthews suggested that it be continued for two weeks.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Bayles, Cantees, Carnes, Collins, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bernard, Horner "absent") to **CONTINUE** Z-7019 to April 5, 2006.

Application No.: PUD-431-B-4

MINOR AMENDMENT

Applicant: Jeffrey G. Levinson/South Tulsa Baptist Church, Inc. (PD-26) (CD-8)

Location: West and south of southeast corner East 101st Street and South Sheridan Road

STAFF RECOMMENDATION:

Ms. Matthews stated that the applicant is requesting a two-week continuance.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted **8-0-0** (Bayles, Cantees, Carnes, Collins, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bernard, Horner "absent") to **CONTINUE** PUD-431-B-4 to April 5, 2006.

ZONING CODE PUBLIC HEARING

Consider proposed amendments to Title 42, Tulsa Revised Ordinances (Tulsa Zoning Code Text).

STAFF RECOMMENDATION:

Ms. Matthews stated that staff is requesting a continuance for this item. Based on a number of emails, voicemails and faxes that staff has received from various neighborhood groups and other people who are interested and who felt that they had not had adequate time to review these proposals. Ms. Matthews reminded the Planning Commission that these proposals have been at several worksessions and have been published on the INCOG website for over a month. Staff would like the opportunity to sort through the comments received and

recommends a continuance to June 28, 2006. This would give staff and the Planning Commission three months to meet with the neighborhoods if they would like to seek staff's help with these issues.

TMAPC COMMENTS:

Mr. Midget asked Ms. Matthews if staff anticipates the Planning Commission going back to a worksession on any of these issues. In response, Ms. Matthews stated that would be at the Planning Commission's direction. There have been five worksessions, but once comments are received, the Planning Commission may want to meet in a worksession again. Staff would be happy to arrange additional worksessions.

Mr. Midget thought more worksessions would be helpful.

Ms. Matthews stated that by delaying this till June, it would give the new City Council a chance to review these proposals and the current Zoning Code. Staff sees this as a multiple public hearing process and never envisioned this being done in one public hearing. Staff does not want to rush these proposals and welcomes input from the public.

Ms. Hill made a motion to continue this item to June 28, 2006.

Mr. Harmon stated that a continuance is appropriate.

Mr. Midget seconded the motion.

Ms. Bayles stated that this is what she is looking for in terms of rationale to be addressed with regard to the process and for the individuals whose input is necessary to weigh the consequences of these proposed zoning changes. Having worked on the Comprehensive Plan Task Force recommendation for several months, putting the cart before the horse is never a good idea, and this is one more statement that public input is a requirement for these Zoning Code amendments to be seen as a fair and transparent part of the process.

Mr. Carnes stated that there are several people signed up for the Zoning Code amendments and the only issue being discussed is the continuance of this item. This is a very short agenda and anyone who would like to stay after the meeting will hear an overview of the proposal from Duane Cuthbertson. Mr. Carnes asked if anyone would like to speak on the continuance only.

INTERESTED PARTIES:

Clayda Stead, 8925 East 15th Street, 74112, stated that she is a member of the Mingo Valley HOA and current member of the Board of Adjustment. She indicated that she is in favor of the continuance; however, she was disappointed that the public and Board members haven't had enough time to review the proposals and questioned if enough notice was given. Ms. Stead questioned if

the Zoning Code is available for the average citizen who is unable to pay the fee for a Zoning Code book.

Mr. Carnes reminded Ms. Stead that the issue is the continuance and he understood that she is in agreement with the continuance. In response, Ms. Stead answered affirmatively. She requested that the proposal be made more accessible to those who are interested.

Ms. Matthews stated that the Zoning Code and the proposed amendments are available on the INCOG/Tulsa Metropolitan Area Planning Commission website.

Ms. Stead stated that there are citizens who do not have access to the website.

Mr. Midget asked if the library has a copy of the Zoning Code. In response, Ms. Matthews answered affirmatively. Ms. Matthews stated that the libraries are not always good about keeping the Zoning Code books up-to-date.

INTERESTED PARTIES:

Kaye Price, 5815 South 31st West Avenue, 74107, stated that she agrees with Ms. Stead. Ms. Price indicated that she is in favor of the continuance and submitted her business card for contact information.

John Denny, 3130 East 70th Street, Tulsa, Oklahoma 74136, stated that he is the general counsel for Home Owners for Fair Zoning and he is in favor of the continuance. Mr. Denny submitted written comments regarding the proposal (Exhibit A-1).

Al Nichols, 8525 East 16th Street, 74112, stated that he is a member of the Mingo Valley HOA and is in favor of the continuance. He suggested that the proposals be broken down into thirds in order to digest them thoroughly.

Mr. Carnes stated that everyone who has signed up will receive communication about any future meetings regarding the Zoning Code amendments.

Leta Cosby, 8705 East 21st, 74129, stated that she is a member of the Mingo Valley HOA and that she submitted documents prior to the meeting. She is in favor of the continuance.

Herb Beattie, 3474 South Zunis Avenue, 74105, President of the Brookside Neighborhood Association, stated that he is in favor of the continuance. Mr. Beattie submitted comments from Mr. Steve Novick (Exhibit A-2). He explained that Mr. Novick couldn't attend due to his work and he commented that there are a lot of people who would like to be present, but are unable due to their jobs. He suggested these meetings be held at night and not on a Wednesday night so that the ordinary citizen could participate.

Jim Mautino, 14628 East 12th Street, 74108, stated that he appreciates a continuance. He requested that the Planning Commission provide an explanation of what brought the proposals about and why they should be changed.

TMAPC Action; 8 members present:

On **MOTION** of **HILL**, TMAPC voted **8-0-0** (Bayles, Cantees, Carnes, Collins, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bernard, Horner "absent") to **CONTINUE** the proposed amendments to Title 42, Tulsa Revised Ordinances (Tulsa Zoning Code Text) to June 28, 2006.

Mr. Carnes stated that everyone will be notified regarding upcoming meetings.

Ms. Matthews encouraged the interested parties to contact INCOG staff if they have questions. She commented that everyone present knows where the INCOG offices are located and knows the INCOG phone number.

Mr. Midget had Mr. Cuthbertson stand up and be recognized. He reminded everyone that Mr. Cuthbertson will be remaining after the meeting to give an overview of the proposal.

Mr. Harmon suggested that the proposal be divided in thirds or by Chapter for review. He further suggested that there be one evening meeting to share this information.

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SUBDIVISIONS:

PLAT WAIVERS:

Z-7010 – (9308)

(PD 4) (CD 4)

South of the southwest corner of East 11th and South Lewis Place

STAFF RECOMMENDATION:

The platting requirement was triggered by a rezoning to CS from PK for a new auto parts store.

Staff provides the following information from TAC at their March 15, 2006 meeting:

ZONING:

TMAPC Staff: The plat waiver is for a small piece of property recently rezoned to CS. The surrounding property is zoned CH and PK.

STREETS:

If whole property had been rezoned and triggered a plat then a minimum of 40 feet of right-of-way from the section line for an urban arterial intersection plus the standard 30-foot intersection radius per the subdivision regulations would need to be dedicated. Sidewalks would have been required and comply with the Route 66/11th Street walk standard on 11th Street.

SEWER:

A mainline extension is required and an easement will be required to accommodate the proposed relocation. Also, the existing easement must be closed prior to issue of a building permit over the existing main.

WATER:

No comment.

STORM DRAIN:

An Engineering Services permit should be considered the same as a PFPI, therefore 6) c) i) and iv) should be checked "yes". Where old plat restrictive covenants have little or no standard covenant language related to drainage, the answer to 2) should be "no".

FIRE:

No comment.

UTILITIES:

No comment.

The property that was rezoned is only a small part of the site to be used for the new auto parts store. To replat this small, newly-rezoned parcel would serve no useful purpose, but staff cannot recommend approval of the requested plat waiver because of the need for the sewer relocation, additional easements, and access changes required for the development of the entire new project which includes lots that were previously zoned CH and PK, and are in an existing plat. It would be better for the entire property to be replatted, but technically the platting requirement is triggered only for one small piece of the development.

A YES answer to the following 3 questions would generally be FAVORABLE to a plat waiver:

	Yes	NO
1. Has Property previously been platted?	X	
2. Are there restrictive covenants contained in a previously filed plat?		X
3. Is property adequately described by surrounding platted properties or street right-of-way?	X	

A YES answer to the remaining questions would generally NOT be favorable to a plat waiver:

	YES	NO
4. Is right-of-way dedication required to comply with Major Street and Highway Plan?		X*
5. Would restrictive covenants be required to be filed by separate instrument if the plat were waived?		X
6. Infrastructure requirements:		
a) Water		
i. Is a main line water extension required?		X
ii. Is an internal system or fire line required?		X
iii. Are additional easements required?		X
b) Sanitary Sewer		
i. Is a main line extension required?	X	
ii. Is an internal system required?		X
iii. Are additional easements required?	X	
c) Storm Sewer		
i. Is a P.F.P.I. required?	X	
ii. Is an Overland Drainage Easement required?		X
iii. Is on site detention required?		X
iv. Are additional easements required?	X	
7. Floodplain		X
a) Does the property contain a City of Tulsa (Regulatory) Floodplain?		X
b) Does the property contain a F.E.M.A. (Federal) Floodplain?		X
8. Change of Access		
a) Are revisions to existing access locations necessary?	X	
9. Is the property in a P.U.D.?		X
a) If yes, was plat recorded for the original P.U.D.		
10. Is this a Major Amendment to a P.U.D.?		X
a) If yes, does the amendment make changes to the proposed physical development of the P.U.D.?		
11. Are mutual access easements needed to assure adequate access to the site?		X
12. Are there existing or planned medians near the site which would necessitate additional right-of-way dedication or other special considerations?		X

* If entire site is considered, right-of-way is needed.

Mrs. Fernandez stated that staff doesn't recommend approval of a plat waiver because the easement, change of access, storm sewers and storm drainage are needed.

Applicant's Comments:

Roy D. Johnsen, 201 West 5th, Suite 501, Tulsa, Oklahoma 74103, stated that this is an unusual plat waiver case. Mr. Johnsen read the ordinance provisions that require plats. Rezoning triggers platting and the case map indicates the subject property that is being rezoned to PK zoning. All of the surrounding property is zoned CH. His client is proposing to construct an auto parts store, Advanced Auto Parts. There will be new construction for retail use only and there will not be any mechanic work or repairs made on the subject property. This is an outstanding example of infill by taking unutilized property and putting it to a good retail use with new development. He reminded the Planning Commission that the infill report recognized that in the older areas it may be difficult at times to meet the kind of standards that are in the outlying suburban areas. Dimensionally the lot is 140' east and west by 50' north and south. The only reason the rezoning application was filed was to build a new 7,000 SF building on the front of the property and one corner would be in the PK zoning, which does not permit buildings. Therefore, he applied to rezone the west 70' to accommodate the corner of the new building. Under the Zoning Code, the developer could plat the one lot that was under application, but TAC considered the entire property because it was being newly developed and requested rights-of-ways. He doesn't believe the ordinance provides for this. If the purpose of the plat would not accomplish anything, then under the Code is appropriate for waiver.

Mr. Johnsen explained that his client doesn't want to dedicate the right-of-way and he doesn't want to plat because it takes time and it is expensive. He commented that 11th Street may be improved in the future, but right now it is four lanes with a left-turn lane and signaled and the same is true with Lewis. There are existing sidewalks and the sewer relocation has already been resolved and the plans have been submitted and approved. Easements and limits of no access can be handled by separate instrument.

Mr. Johnsen stated that CH-zoned properties here are not very deep and they are difficult to redevelop. The landscaping chapter will be applicable to the subject property and there will be a five-foot strip of landscaping along 11th Street and Lewis. If ten feet were added it would impact the subject property for its usability. This is not what the Code provides and to require platting is not fair. He requested that the Planning Commission decide the purpose of that provision and how it reads and stay with the ordinance and agree that the plat waiver is in order.

Mr. Johnsen stated that ten feet doesn't sound like much, but if the development tract had ten feet off of 11th and Lewis, then that would be 9.8% of the property that would have to be dedicated to the City. There is no program funded or anything scheduled to do any widening for the subject area.

TMAPC COMMENTS:

Mr. Midget asked Mr. Johnsen if the existing building would be removed for a new building to be put in place. In response, Mr. Johnsen stated that a corner of the new building would be on the subject property. Mr. Midget asked Mr. Johnsen if everything on the surrounding property would remain the same. In response, Mr. Johnsen answered affirmatively.

Mr. Harmon stated that it is better if everything is under one document and not by separate instruments.

Mr. Johnsen stated that the City has a good process for easements and it is not difficult at all to keep track of the separate instruments.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Bayles, Carnes, Cantees, Collins, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bernard, Horner "absent") to **APPROVE** the plat waiver for Z-7010.

FINAL PLAT:

Crestwood at the River – (8334) (PD 26) (CD 8)

West of the northwest corner of East 121st Street South and South Sheridan Road (continued from 3/15/06)

STAFF RECOMMENDATION:

This plat consists of 23 lots in two blocks on approximately nine acres.

All of the release letters have been received and staff recommends **APPROVAL**.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **MIDGET**, TMAPC voted 8-0-0 (Bayles, Carnes, Cantees, Collins, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bernard, Horner "absent") to **APPROVE** the final plat for Crestwood at the River per staff recommendation.

OTHER BUSINESS:

Application No.: AC-079

Alternative Landscape Plan

Applicant: Tulsa Engineering & Planning

(PD-18) (CD-2)

Location: 6750 South Lewis Avenue

STAFF RECOMMENDATION:

The applicant is requesting approval of an alternative landscape plan for a car wash. The proposed landscape plan does not comply with Sections 1002.A.2 and 1002.A.1 of the Zoning Code, which require a minimum landscaped strip five feet in width along the entirety of the East 69th Street right-of-way (except at access points) and four trees in the streetyard adjacent to East 69th Street South. Instead, the plan proposes that a substantial portion of the site be landscaped and include a significant number of trees.

Staff finds that although the proposed landscaped plan does not meet the technical requirements of the Landscape Chapter of the Zoning Code, it is equivalent to or better than the requirements of the chapter. Therefore, staff recommends **APPROVAL** of AC-079 as proposed.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

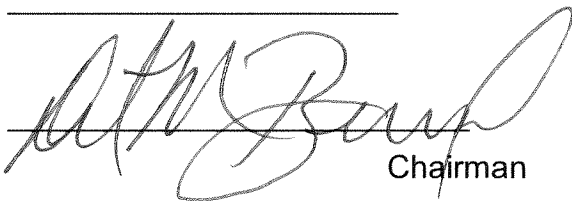
TMAPC Action; 8 members present:

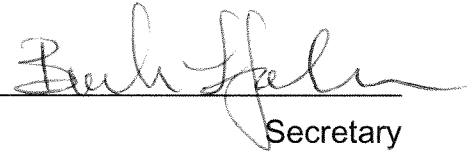
On **MOTION** of **HARMON**, TMAPC voted 8-0-0 (Bayles, Carnes, Cantees, Collins, Harmon, Hill, Jackson, Midget "aye"; no "nays"; none "abstaining"; Ard, Bernard, Horner "absent") to **APPROVE** the alternative landscape plan for AC-079 per staff recommendation.

Mr. Boulden, Legal, reminded the Planning Commission that if a quorum is present during the overview of the proposed amendments to the Zoning Code, then it would have to be conducted within the Open Meeting Law or the TMAPC would need to lose a quorum. Mr. Midget, Mr. Harmon, Commissioner Collins, Ms. Cantees and Mr. Jackson left the TMAPC meeting at 2:03.

There being no quorum and no further business, the Chair declared the meeting adjourned at 2:03 p.m.

Date Approved: 4/19/06


Chairman

ATTEST: 
Secretary

