## TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 1920 Wednesday, March 17, 1993, 1:30 p.m. City Council Room, Plaza Level, Tulsa Civic Center

Members Present
Ballard
Buerge
2nd Vice
Chairman
Carnes
Dick
Doherty, Chairman
Horner
Midget, Mayor's
Designee
Parmele, 1st Vice
Chairman
Wilson

Members Absent Staff Present
Broussard Gardner
Neely Hester
Jones
Stump

Others Present Linker, Legal Counsel

The notice and agenda of said meeting were posted in the Office of the City Clerk on Tuesday, March 16, 1993 at 12:12 p.m., as well as in the Reception Area of the INCOG offices.

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

## Minutes:

Approval of the minutes of March 3, 1993, Meeting No. 1918:

On MOTION of CARNES, the TMAPC voted 8-0-1 (Ballard, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; Buerge "abstaining"; Broussard, Neely "absent") to APPROVE the minutes of the meeting of March 3, 1993 Meeting No. 1918.

#### REPORTS:

## Chairman's Report

Chairman Doherty reported receipt of the Procedures for Historic Preservation Supplemental Overlay Zoning and advised that he would review it and report on it at a later date.

## Committee Reports:

# Budget and Work Program Committee

Ms. Wilson announced that the Budget and Work Program Committee will meet at the conclusion of the TMAPC meeting to review the TMAPC workshop tentative agenda for May 8 and further planning of the TMAPC 40-year anniversary reception.

# Rules and Regulations Committee

Mr. Parmele announced that the Rules and Regulations Committee will also be meeting at the conclusion of the TMAPC meeting to review the parking and landscape requirements and for an update of the 1993 TMAPC Legislative Program.

# Director's Report

Mr. Gardner reminded the Planning Commission that the amendments to the Planned Unit Development (PUD) Ordinance will be on the City Council agenda. He reviewed other items which will also appear on the agenda.

#### SUBDIVISIONS:

# PRELIMINARY PLAT:

Hunters Glen II (2283) (PD-18) (CD-8) (CS) SE/c E. 91st Street & S. Yale Avenue

## Staff Comments

This small corner is to be used as a fast food establishment and will fill in the remaining unplatted tract at the southeast corner of the intersection. (It was zoned by District Court action some time ago. DC #C-71-728)

The Staff presented the plat with the applicant represented by Carl Canizzaro at the TAC meeting.

On MOTION of HILL, the Technical Advisory Committee voted unanimously to recommend **APPROVAL** of the PRELIMINARY plat of Hunters Glen II, subject to the following conditions:

- 1. Legal description of property being subdivided should agree with heavy lines as shown on plat. Since the legal starts 33' east & 33' south of the section corner, that evidently was dedicated by separate instrument. The remaining right-of-way may have been also dedicated by separate instrument. Show Book/Page references on plat. (Also see #3 below).
- Show a 50' building line on plat as per CS zoning. (Both streets) Show Book/Page reference on easements granted by separate instrument.
- 3. Covenants: Section I.A.: If any street right-of-way is being dedicated by this plat, include "Streets and Rights-of-way" in this paragraph.
  Covenants: Add a paragraph for Limited Access provisions.
  Final review and approval of covenants and written material subject to approval of City Legal Department.
- 4. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is

planned. Show additional easements if required. (Show 10' utility easement along the north side, P.S.O.) (Dimension 18' utility easement along Yale relative to property line.) (Include additional language in covenants regarding prohibitions of structures on easements.)

- 5. 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).
- 6. Provide fire hydrant as recommended by Fire Department. (Needs to be no farther than 400' from buildings.)
- 7. Paving and/or drainage plans shall be approved by the Department of Public Works (Stormwater and/or Engineering) including storm drainage, detention design, and Watershed Development Permit application, subject to criteria approved by City of Tulsa.
- 8. Limits of Access or (LNA) as applicable, shall be approved by the Department of Public Works (Traffic). (OK as shown)
- 9. 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.
- 10. 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.)
- 11. All (other) subdivision regulations shall be met prior to release of final plat.

# TMAPC Action; 9 members present:

On MOTION of PARMELE, the TMAPC voted 9-0-0 (Ballard, Buerge, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Neely "absent") to APPROVE the Preliminary Plat of Hunters Glen II as recommended by Staff.

# Staff Comments

This subdivision is TRACT II of the original PUD as described in the TMAPC minutes of 11/17/82 and 8/15/90 as PUD-298-8. That amendment did not address any changes in TRACT II so it still remains with the use as "Attached" residential dwellings. An amendment is pending (3/17/93) to change "Attached" to "Detached" single-family dwellings to be constructed under the RS-3 zoning standards. This TAC review is based upon approval of that amendment.

For the record, on the plats on the west side of 92nd E. Avenue, the Department of Public Works (Traffic) advised that S. 92nd E. Avenue does not have sidewalks and is a collector street. (The street was built and dedicated separately from any plats. The current plats do not contain any dedications or improvements on S. 92nd E. Avenue since it was dedicated by separate instrument and improved by a previous PFPI). The same applies to the current plat.

The Staff presented the plat with the applicant represented by Clayton Morris at the TAC meeting.

The Department of Public Works (Traffic Engineering) advised applicant to verify and assure the curve radii at intersection corners meet the City Design criteria. Some adjustment may be necessary.

A representative from Williams Pipeline Company was present and advised applicant to work with them to insure protection of their underground line(s). (See #5)

On MOTION of FRENCH, the Technical Advisory Committee voted unanimously to recommend **APPROVAL** of the PRELIMINARY plat of shadow Ridge Park Four, subject to the following conditions:

- On face of plat correct the name of the plat to the north as "Shadow Ridge Estates", both on the big drawing and on the location map.
- Although 92nd E. Ave. is not an arterial, consistent with other plats along that street, show "LNA" on those lots abutting that street.
- 3. All conditions of PUD-298-10 shall be met prior to release of final plat, including any applicable provisions in the covenants or on the face of the plat. Include PUD approval date and references to Section 1100-1107 of the Zoning Code in the covenants.

- 4. 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 lines and/or lot lines.
- 5. Provide protection and/or other conditions as required by the owners of the pipeline easements crossing this plat. Release letters are required prior to final approval of plat. The following requirements were received from Conoco regarding their pipeline:
  - (a) Minimum 3' cover where utilities or other lines cross under their line. The 3' is measured from the <u>bottom</u> of their line to the <u>top</u> of the line crossing under.
  - (b) For street crossings, contact: Right-of-way Division, Vance Wells, Ponca City, OK. (918) 767-4845.
- 6. Water plans shall be approved by the Department of Public Works (Water & Sewer) prior to release of final plat.
- 7. 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).
- 8. A request for creation of a Sewer Improvement District shall be submitted to the Department of Public Works (Water & Sewer) prior to release of final plat.
- 9. Paving and/or drainage plans shall be approved by the Department of Public Works (Stormwater and/or Engineering) including storm drainage, detention design, and Watershed Development Permit application subject to criteria approved by the City of Tulsa.
- 10. A request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Department of Public Works (Engineering), if required.
- 11. 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.
- 12. Street names shall be approved by the Department of Public Works.
- 13. All curve data, including corner radii, shall be shown on final plat as applicable.

- 14. It is recommended that the Developer coordinate with the Department of Public Works (Traffic) during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat approval.)
- 15. Minor corrections and/or changes required in the restrictive covenants. See Staff. Final draft of covenants subject to approval of City Legal Department as to format.
- 16. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Sub. Regulations.)
- 17. All (other) Subdivision Regulations shall be met prior to release of final plat.

# TMAPC Action: 9 members present:

On MOTION of PARMELE, the TMAPC voted 9-0-0 (Ballard, Buerge, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Neely "absent") to APPROVE the Preliminary Plat of Shadow Ridge Park Fourth as recommended by Staff.

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EXTENSION OF PRELIMINARY APPROVAL: (1st Request. 1 year extension
recommended)

<u>The Woodlands (PUD-179-I) (1283)</u> (PD-18) (CD-8) (RS-3, RM-1, RM-0) East 75th St. & S. 90th E. Ave.

# TMAPC Action; 9 members present:

On MOTION of WILSON, the TMAPC voted 9-0-0 (Ballard, Buerge, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Neely "absent") to APPROVE the Extension of Preliminary Approval for one (1) year for the Woodlands (PUD-179-I) as recommended by Staff.

## WAIVER REQUEST; Section 213:

# BOA-16278 Lorraine Heights (2293) (PD-5) (CD-6) 5723 E. 32nd Street

(CS)

## Staff Comments

This is a request to waive plat on Lot 12, Block 2 of the abovenamed subdivision. The Board of Adjustment has approved church use on the lot which abuts the existing church on 31st Street. Since the Board will provide all of the necessary controls in development and the property is already platted, it is recommended the waiver be **APPROVED**, noting that the existing plat will satisfy the provisions of Section 213 of the Code.

# TMAPC Action: 9 members present:

On MOTION of BUERGE, the TMAPC voted 9-0-0 (Ballard, Buerge, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Neely "absent") to APPROVE the Waiver Request for BOA-16278 as recommended by Staff.

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## ACCESS CHANGE ON RECORDED PLAT:

Oral Roberts University Heights (883) (PD-18) (CD-2) (RS-3) Southeast corner of E. 76th St. S. & S. Lewis Ave.

## Staff Comments

The purpose or reason for the change is to add an access point for a signalized intersection. Recommendation of the Department of Public Works (Traffic) is for APPROVAL; therefore, Staff also recommends APPROVAL.

There was discussion among the Planning Commissioners over the exact location of the access point.

# TMAPC Action; 9 members present:

On MOTION of CARNES, the TMAPC voted 8-0-1 (Ballard, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; Buerge "abstaining"; Broussard, Neely "absent") to APPROVE the Access Change on Recorded Plat for Oral Roberts University Heights as recommended by Staff.

17668 Barnett (1763) (PD-21) (County) 3140 E. 201st Street South AG

## Staff Comments

The applicant has a 2.5 acre lot containing a store, car wash, mobile home and house. He has purchased 2.5 acres to the south of his property. He now intends to split the total 5 acre tract in half. This will resolve the zoning problem of 2 dwellings on one lot and maintain the 2.5 acres the Health Department requires. Tract 2 contains two lagoon systems. Applicant has indicated arrangements have been made with the Health Department to continue using one of these lagoons for the house on Tract 1. All utilities are in place and no additional structures are planned.

County Board of Adjustment approval of a variance of the required 200' lot width is being requested. Also requested are variance of the front setbacks for the store and car wash. The property is zoned AG and the store and car wash are non-conforming uses.

Applicant is requesting waiver of right-of-way requirements on 201st Street South. Only the statutory easement exists for most of 201st Street South. According to applicant's plot plan no structure will be within the required 50' dedication.

Staff recommends approval subject to the following conditions:

- 1. County Board of Adjustment approval of variances of lot width from 200' to 176' and 188' and variance of the front setbacks from 85' to 73' and 80' for existing buildings.
- 2. Health Department verification of approval of lagoon usage. (OK received)
- 3. Dedication of the required 50' of right-of-way on E. 201st St. South.

The applicant was represented by Mr. Barnett and others at the TAC meeting.

Staff reminded applicant of the Board of Adjustment and Planning Commission meetings and times.

Health Department advised they had approved the split with the provision that the "Grant of right of sewer" be filed of record by applicant to permit usage of the lagoons as recommended by the Health Department.

On MOTION of RAINS, the Technical Advisory Committee voted unanimously to recommend **APPROVAL** of L-17668, subject to the conditions outlined by Staff and TAC, <u>including</u> the requirement that the split meet the Major Street Plan requirements.

Mr. Jones announced that on March 16, 1993 the County Board of Adjustment approved this item with the variances of the lot width.

Mr. Barnett advised that he is requesting the variance of right-of-way because it would be too close to existing buildings. The applicant noted there are gas pumps in front of his store which would bring the right-of-way past them. He acknowledged that this would not affect him until such time as the street is widened. Mr. Barnett is requesting the county purchase the right-of-way from him when they eventually widen the road rather than his giving it up now.

# TMAPC Discussion

There was much debate among the Planning Commissioners to determine whether the right-of-way would be necessary to meet the needs of the land use and if it is necessary to meet the commercial needs of the existing tract.

Mr. Parmele declared that this extraction is too much of a burden on the property owner.

Mr. Gardner explained that the County Board of Adjustment, in reviewing this tract, determined that land use is already established. The one waiver involved is that 200' of frontage is required. There is enough for 200' of frontage, but part of the commercial use would have to be placed on the residential lot to accomplish that, which the BOA did not feel was appropriate. The primary purpose of the lot split was to have the ability to sell off these two properties as separate properties or to finance them as separate properties.

Ms. Wilson made a motion to amend the primary motion to include the dedication of 50' of required right-of-way on E. 201st St. South. This was seconded by Dick

Mr. Parmele made a motion to approve this item subject to conditions #1 and #2, which excludes the right-of-way dedication. This was seconded by Midget.

Chairman Doherty suggested the cleanest way to handle this would be to entertain a motion to amend the motion. Ms. Wilson then made the motion that the dedication of 50' of right-of-way on E. 201st St. South be included in the original motion. This was seconded by Dick.

Mr. Parmele reaffirmed his position that the extraction of right-of-way during lot splits is improper unless it can be shown that right-of-way is necessary. In this case he does not believe additional right-of-way is necessary, and therefore believes it to be improper in conformance with the statutes.

Mr. Carnes asked Staff why the right-of-way is being requested.

Mr. Gardner explained the Major Street and Highway Plan calls for this amount of right-of-way for 201st Street.

Chairman Doherty advised that he will support the amendment, since the bulk of the lot is commercial. This degree of road infrastructure is customarily used to support commercial.

Mr. Horner asked why the additional right-of-way is required.

Chairman Doherty explained that when that street is improved, the commercial operation will require arterial-type streets, with the wider right-of-way. He noted that until such time as that improvement is made the applicant will have almost unrestricted use of that property. But the County will not have to buy commercial property from the applicant to improve the road in front of his business to support his operation.

Mr. Parmele noted that it is a legal nonconforming use. If the County were to acquire this right-of-way for the widening of 201st Street, they would have to pay him compensation and possible damages because that acquisition would be so close to his pumps and other improvements.

Ms. Wilson stated that part of planning is planning streets. The Major Street and Highway Plan is a part of the Comprehensive Plan and determines future public need. At present this is commercial use, and the applicant or subsequent owner will be benefited by this in the future with a wider road.

# TMAPC Action; 9 members present:

On MOTION of WILSON, the TMAPC voted 4-4-1 (Dick, Doherty, Midget, Wilson "aye"; Ballard, Carnes, Horner, Parmele "nays"; Buerge "abstaining"; Broussard, Neely "absent") to AMEND the main motion to include condition #3 which would require dedication of right-of-way.

## AMENDMENT FAILED.

Chairman Doherty indicated the main motion is to approve the lot split without the dedication.

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# TMAPC Action; 9 members present:

On MOTION of PARMELE, the TMAPC voted 4-4-1 (Ballard, Carnes, Horner, Parmele "aye"; Dick, Doherty, Midget, Wilson "nays"; Buerge "abstaining"; Broussard, Neely "absent") to APPROVE L-17668 Lot Split for Waiver subject to conditions #1 and #2 but excluding the right-of-way dedication.

#### MOTION FAILED.

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# TMAPC Action: 9 members present:

On **MOTION** of **CARNES**, the TMAPC voted **7-1-1** (Ballard, Carnes, Dick, Doherty, Horner, Midget, Wilson "aye"; Parmele "nays"; Buerge "abstaining"; Broussard, Neely "absent") to **APPROVE** L-17668 Lot Split for Waiver subject to all conditions recommended by Staff.

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## LOT SPLIT FOR DISCUSSION:

<u>L-17626 (Temple) (2683)</u> (PD-26) (CD-8) 10509 S. 71st E. Ave.

(RS-2)

Chairman Doherty announced that the applicant, has requested withdrawal of this item.

# Applicant's Comments

John Moody, attorney representing the interested parties, announced that the applicant agrees that this item is not a prior approval lot split and that it must be brought before the Planning Commission in the normal procedure.

# Staff Comments

Mr. Gardner reported that Mr. Moody had this item placed on the agenda because of the way the recommendation was written; it was referred to as a prior approval. He noted that the Planning Commission has a policy that affects this item stating that lots which have more than three sides cannot be prior approved and must come before the Planning Commission. Mr. Gardner advised that there is also a lawsuit involving this property. He revealed that the Board of Adjustment approved the variances necessary, but that decision has been appealed to the court. Mr. Gardner advised that it would not be proper to take action on this lot split at this time.

Chairman Doherty advised that when this item returns for action, it might behoove the Planning Commissioners to view the property.

Chairman Doherty declared this item stricken from the agenda.

# LOT SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-17676 Erwin (1292) (PD-4) (CD-4) 1624 S. Madison (RS-3)

L-17677 Hutchinson (3024) (PD-14) (County) (RMH) 10901 E. 136th St. N.

L-17678 TDA (192) (PD-1) (CD-4) 200 Block N. Detroit (CBD)

L-17679 Brunkhorst (1724) (PD-14) (County) 11524 E. 166th St. N. (AG)

L-17680 TDA (3602) (PD-2) (CD-1) 500 Block E. Latimer St. (RS-3) (CS)

## Staff Comments

Mr. Jones announced that Staff has found the above-listed lot splits to be in conformance with the lot split requirements.

# TMAPC Action; 9 members present:

On MOTION of HORNER, the TMAPC voted 9-0-0 (Ballard, Buerge, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Neely "absent") to RATIFY the above-listed lot splits having received prior approval.

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## OTHER BUSINESS:

PUD 298-10: North of the northeast corner of 91st Street South and 92nd East Avenue.

The applicant is proposing to change the uses permitted in this development area (Tract 2) from attached residential to single-family detached residential. The PUD currently allows 218 units on 18.18 acres with no building allowed to contain more than proposes to dwelling units. The applicant allow only single-family detached dwellings meeting the bulk and requirements of the RS-3 district. This is the last undeveloped portion of the PUD which is out of the flood plain. All the other development areas which allowed attached dwellings have already been converted to detached single-family developments. This minor amendment would complete the process.

Therefore staff recommends APPROVAL of PUD 298-10 subject to the following conditions:

Permitted Uses Use Unit 6 and customary accessory

uses

Bulk and Area Requirements Same as required in the RS-3

district

Access Limitation No lot shall obtain its primary

vehicular access from 92nd E.

Avenue.

# TMAPC Action; 9 members present:

On MOTION of CARNES, the TMAPC voted 9-0-0 (Ballard, Buerge, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Neely "absent") to APPROVE PUD 298-10 Minor Amendment as recommended by Staff.

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PUD 481 Detail Sign Plan for wall signs in Development Area D, - Western National Bank - northwest corner of 71st Street South and Mingo Valley Expressway.

Staff has reviewed the proposed wall signs for Western National Bank and finds them to comply with the PUD conditions. Therefore, Staff recommends APPROVAL.

# TMAPC Action; 9 members present:

On MOTION of MIDGET, the TMAPC voted 9-0-0 (Ballard, Buerge, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Neely "absent") to APPROVE PUD 481 Detail Sign Plan as recommended by Staff.

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PUD 360-A Detail Landscape Plan - McDonald's Restaurant - northwest corner of 91st Street South and Memorial Drive.

Staff has reviewed the landscape plan for McDonald's and finds it to be in compliance with the PUD conditions. Therefore, Staff recommends APPROVAL. Mr. Stump added a condition that these landscaped areas be sprinkled, which he has been assured that they are.

#### TMAPC Comments

Mr. Horner asked how to ensure that the landscape plan is actually being enforced.

Mr. Stump explained that before an occupancy permit can be obtained, the applicant must have a registered Oklahoma Landscape Architect certify that the plant materials were installed as per the plan. Secondly, if the plants die or are destroyed, it then becomes a code enforcement issue. As part of the PUD conditions, continued maintenance of those landscaped areas and plant materials is a requirement and condition of the occupancy permit.

# TMAPC Action; 8 members present:

On **MOTION** of **DICK**, the TMAPC voted **8-0-0** (Ballard, Buerge, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Carnes, Neely "absent") to **APPROVE** PUD 360A Detail Landscape Plan as recommended by Staff.

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PUD-468:

Detail Landscape Plan -- Development Area 5 -- McDonald's Restaurant --- west of the northwest corner of Mingo Road and 71st Street South.

## Staff Comments

Mr. Stump advised that this tract is adjacent to the Sam's parcel which had landscaping at the entrances. When Hardee's, at the west side of the entrance, was developed some of the landscaping was destroyed, and while the McDonald's was being constructed the utility companies damaged additional landscaping. It has since been learned that sprinkler system control wiring and piping has also been destroyed. In field checking, it was determined that a number of trees have died on the south end of the Sam's lot. Staff is in the midst of communicating with Sam's and the landscaper to determine what will be done to replace the trees.

There was discussion among the Planning Commission on how to enforce the requirement for replacement of destroyed landscaping. It was the consensus of the Planning Commission to continue this item until a determination is made.

Mr. Carnes stated that he would like to continue this item one week, while Mr. Johnsen, attorney for Wal-Mart, is contacted and in turn contacts corporate headquarters to make them aware of the Planning Commission's displeasure with the situation.

It was the consensus of the Planning Commission to review what sort of document might be able to be filed in the City Clerk's office indicating that Wal-Mart has not complied with all of the PUD conditions, so any future purchasers would be aware of a cloud on the title until the matter is resolved.

Chairman Parmele asked for more information to initiate revoking an occupancy permit, notify the proper authorities, etc.

# TMAPC Action; 9 members present:

On MOTION of CARNES, the TMAPC voted 9-0-0 (Ballard, Buerge, Carnes, Dick, Doherty, Horner, Midget, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Neely "absent") to CONTINUE PUD 468 to March 24, 1993.

There being no further business, the Chairman declared the meeting adjourned at 2:19 p.m.

Date Approved:

Chairman

Secretary

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