

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2255
Wednesday, October 25, 2000 1:30 p.m.
Francis Campbell City Council Room
Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Boyle		Bruce	Boulden, Legal
Carnes		Dunlap	Counsel
Harmon		Huntsinger	
Hill		Matthews	
Collins		Stump	
Horner			
Jackson			
Ledford			
Midget			
Pace			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Tuesday, October 24, 2000 at 1:45 p.m., posted in the Office of the City Clerk on Monday, October 23, 2000 at 9:08 a.m., as well as in the office of the County Clerk at 9:01 a.m.

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

Minutes:

Approval of the minutes of October 4, 2000 Meeting No. 2253

On **MOTION** of **HORNER** the TMAPC voted **9-0-0** (Boyle, Carnes, Harmon, Hill, Horner, Ledford, Midget Pace, Westervelt "aye"; no "nays"; none "abstaining"; Collins, Jackson "absent") to **APPROVE** the minutes of the meeting of October 4, 2000 Meeting No. 2253.

Commissioner Collins in at 1:33 p.m.

REPORTS:

Director's Report:

Mr. Stump reported that there are three items on the City Council agenda for October 26th.

Commissioner Jackson in at 1:35 p.m.

Committee Reports:

Budget and Work Committee

Mr. Horner reported that there would be a committee meeting immediately following the TMAPC meeting in Room 1102.

Community Participation Committee

Mr. Harmon reported that he would be attending the Brookside Neighborhood Association meeting on October 26, 2000 at 5:00 p.m. He stated that the association is providing substantial information that he can share with other Commissioners.

Comprehensive Plan Committee

Mr. Ledford reported that there will be a committee meeting immediately following the TMAPC meeting in Room 1102 to discuss housekeeping amendments for the different planning districts.

SUBDIVISIONS

PRELIMINARY PLAT:

R and J Property 2 (2392)

(PD-9) (CD-2)

Southwest corner of West 37th Place South and South Elwood Avenue

Staff Recommendation:

The following background information was provided at the September 7, 2000 TAC meeting.

GENERAL

The site is located on South Elwood Avenue approximately one-quarter mile north of 41st Street. It is in a largely undeveloped area, bounded on the east by Elwood with vacant land across from it; on the west by vacant land; on the south by industrial use and on the north by a large lot single-family residence. The area to the west has been platted as the Garden City Addition.

ZONING

The site is zoned IM with IM to the north, south and east. RS-3 zoning bounds the parcel on the west. IH zoning is present on the east side of Elwood to the south.

STREETS

The site is bounded by Elwood Avenue on the east and West 37th Place South on the north. The plat limits access onto Elwood to one point of entry; access is not limited along 37th Place. The plat dedicates 30' of right-of-way along Elwood. Elwood is not shown on the Major Street and Highway Plan at this location.

SANITARY SEWER

Sewer is present running north/south in the eastern portion of the lot.

WATER

Water is present on the south side of 37th Place.

STORM DRAIN

The plat indicates 100-year floodplain and an overland drainage easement in the southwest.

UTILITIES

The plat does not show utility easements along the north, west or south boundaries.

Staff provides the following comments from the TAC meeting.

1. Streets/access:

- Somderceff, PW/Streets: No comment.
- French, PW/Traffic: No comment.

2. Sewer:

- Bolding, PW/Engineering: No comment.

3. Water:

- Holdman, PW/Water: No comment

4. Storm Drainage:

- McCormick, PW/Stormwater: indicated that an easement over the floodway area with standard language would be required.

5. Utilities:

- No comment.

Staff recommends approval of the preliminary plat subject to the following:

Waivers of Subdivision Regulations:

1. None needed.

2. Special Conditions:

1. Provisions of an overland drainage easement and accompanying language to the satisfaction of Stormwater Management.

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 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 topo 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 Public Works Department.
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 therefor 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. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
17. The key or location map shall be complete.
18. 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.)
19. 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.)
20. Applicant is advised to of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
21. If the owner is a Limited Liability Corporation (L.L.C.), a letter from an attorney stating that the L.L.C. is properly organized to do business in Oklahoma is required.
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; 11 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **11-0-0** (Boyle, Carnes, Collins, Harmon, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the preliminary plat for R and J Property 2 subject to special conditions and standard conditions as recommended by staff.

CONTINUED ZONING PUBLIC HEARING

APPLICATION NO.: CZ-271

AG TO RS

Applicant: Pat Garner

(PD-23) (County)

Location: West of West 61st Street and South 170th West Avenue

Staff Recommendation:

RELEVANT ZONING HISTORY:

CZ-254 August 1999: A request to rezone a 28.3-acre tract located west of the northwest corner of West 61st Street and South 161st West Avenue and east of the subject property from AG to RS. All concurred in approval of RS zoning for residential development.

CZ-232 April 1997: All concurred in approval of a request to rezone a 48.5-acre tract abutting the subject property on the east from AG to RS.

CZ-215 December 1994: All concurred in approval of a request to rezone an 11-acre tract abutting the subject tract on the north from AG to RS for residential development.

CZ-207 February 1994: The request to rezone a 13-acre tract also in the general location and north of West 58th Street and at South 170th West Avenue was approved for RS zoning from AG zoning.

CBOA-1019 May 1991: All concurred in approval of a variance to allow two dwelling units on one lot of record on property located north of the northwest corner of West 56th Place South and South 161st West Avenue.

CZ-98 November 1983: A request to rezone four acres located north and west of West 56th Place South and South 168th West Avenue from AG to RMH for manufactured homes was denied.

AREA DESCRIPTION:

SITE ANALYSIS: The subject property is approximately 37 acres in size and is located west of the intersection of West 61st Street South and South 170th West Avenue. The property is gently sloping, wooded, vacant, and zoned AG.

STREETS:

<u>Existing Access</u>	<u>MSHP Design.</u>	<u>Exist. No. Lanes</u>	<u>Surface</u>	<u>Curbs</u>
West 61 st Street South	100'	2 lanes	Paved	No

The Major Street Plan designates West 61st Street South as a secondary arterial street; however, it is only developed as far west as South 161st West Avenue.

UTILITIES: Water is available to the property and sewer is by septic systems.

SURROUNDING AREA: The subject tract is abutted on the north by vacant property, zoned RS; to the west by vacant land, zoned AG; to the east by single-family dwellings, zoned RS; and to the south by vacant property within Creek County.

RELATIONSHIP TO THE COMPREHENSIVE PLAN:

The District 23 Plan, a part of the Sand Springs Comprehensive Plan, designates the subject property as Low Intensity - Residential.

According to the Zoning Matrix the requested RS is in accordance with the Plan Map.

STAFF RECOMMENDATION:

Based on the Comprehensive Plan and the adjacent RS-zoned property to the east, staff can support the requested RS zoning and recommends **APPROVAL** of CZ-271 for RS.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **HORNER**, the TMAPC voted **11-0-0** (Boyle, Carnes, Collins, Harmon, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; none "absent") to recommend **APPROVAL** the RS zoning for CZ-271 as recommended by staff.

Legal Description for CZ-271:

The Southwest Quarter of the Southwest Quarter (SW/4, SW/4) of Section 31, T-19-N, R-11-E of the IBM, also described as Government Lot 4, Tulsa County, State of Oklahoma, **From AG (Agriculture District) To RS (Residential Single-family District).**

PUBLIC HEARING FOR COMPREHENSIVE PLAN AMENDMENTS

Consider Amending the District Plan Maps and/or Texts for the following Planning Districts: 2, 4, 5, 6, 9, 16, 17, 18 and 26, all parts of the Comprehensive Plan for the Tulsa Metropolitan Area.

TMAPC Comments:

Mr. Westervelt stated that due to the fact that the Comprehensive Plan Committee could not meet before the TMAPC meeting this item would be continued to November 1, 2000 at 1:30 p.m.

TMAPC Action; 11 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **11-0-0** (Boyle, Carnes, Collins, Harmon, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** consideration of amendment to District Plans to November 1, 2000 at 1:30 p.m.

ZONING PUBLIC HEARING

APPLICATION NO.: PUD-128-A-24

MINOR AMENDMENT

Applicant: Ray Fisher

(PD-18) (CD-2)

Location: Southwest corner of East 74th Street and South St. Louis

Staff Recommendation:

The applicant is requesting a minor amendment to allow the split of a duplex for separate ownership with allowing 17 feet of frontage on one lot, allowing a 0 foot side yard, allowing a change of lot width from a required 80 feet to 41.8 feet and to 54.2 feet, and allowing a change in lot area from the 9,000 square feet required in the Planned Unit Development to 4,898 square feet and to 8,395 square feet.

Staff has reviewed the proposal for a minor amendment and finds it to be in keeping with past practice and the intent of the PUD standards. Staff can recommend **APPROVAL** of the minor amendment with the condition that the alignment for the split be realigned to create lot lines that do not intersect existing driveways and thereby give more equal frontage to each new lot.

TMAPC Comments:

Mr. Boyle questioned the practice of splitting duplex units. In response, Mr. Stump stated that it has been permitted in several PUDs. Mr. Boyle asked if the splitting would cause problems regarding one side being sold and demolished or several other issues that could come up. In response, Mr. Stump stated that this practice has the potential to raise several questions.

Mr. Westervelt asked staff to review this issue and come back with some recommendations for the future.

Applicant's Comments:

Ray Fisher, 1520 East 74th Street, Tulsa, Oklahoma 74136, stated that he currently owns the duplexes and would like to sell one side to a neighbor across the street. He explained that he and his wife will remain in their half of the duplex until they retire, at which time he will sell to the neighbor.

Interested Parties Comments:

Rod Grubaugh, 1519 East 74th Street, Tulsa, Oklahoma 74136, stated that he lives and owns the duplex to the north of the subject property. He explained the history of the neighborhood and the improvements made in the neighborhood. He stated that he owns several duplexes and some have been split.

Mr. Grubaugh pointed out problems that can and do occur when there is more than one owner of the duplex unit. He submitted photographs of one-ownership duplexes and split duplexes (Exhibit A-1) and demonstrated the differences in the upkeep when the duplexes are split and when there is only one owner.

Mr. Grubaugh requested the Planning Commission to deny this application.

TMAPC Comments:

Mr. Midget asked Mr. Grubaugh if any of the pictures were of the duplexes he owns. In response, Mr. Grubaugh stated that he did not bring pictures of his duplexes that are split because they are located in another area of town.

Mr. Jackson asked Mr. Grubaugh if there was a homeowners association for the duplexes. In response, Mr. Grubaugh answered negatively.

Applicant's Rebuttal:

Mr. Fisher stated that he appreciates the interested parties' concerns. He indicated that he, too, owns rental property across the city. He stated that he could show single-family homes side-by-side that have the same issues regarding upkeep.

Mr. Fisher explained that the neighbor he is proposing to sell to is a business owner in the subject area. He assured that there should be no problem with the proposed owner keeping the duplex in good shape.

TMAPC Comments:

Mr. Westervelt asked Mr. Grubaugh if he considered selling the entire property and leasing a portion at a fair market value. In response, Mr. Grubaugh stated that he would prefer to retain ownership while he is still living in the duplex.

Mr. Boyle stated that the split is a bad idea and he sees no reason why the Planning Commission should allow this. He indicated that there are many other ways the applicant could accomplish what he wants to accomplish without causing the problems this proposal could cause.

Mr. Ledford questioned if there was a State Statute that prohibited this practice. If this is creating another lot, then it is considered a resubdivision and this requires 60% of the remaining lot owners to agree to the resubdivision plat. Mr. Ledford questioned if this application would fall under this category. In response, Mr. Stump stated that he has discussed this issue with several real estate

attorneys and their opinion is that the requirement is only in effect if the property is being replatted. Mr. Ledford asked if a lot-split is considered a replat. In response, Mr. Stump stated that a lot-split is considered a minor subdivision and does not come under the platting requirements that are in the State law.

Mr. Boulden stated that he would have to review the State Statutes before giving an opinion.

Mr. Harmon stated that duplexes are not intended for multiple owners and this is bad planning.

Mr. Stump stated that most of the lot-splits for duplexes have been done within a PUD; however, some have gone before the Board of Adjustment. In response, Mr. Midget asked if the Planning Commission has ever approved a lot-split for a duplex outside of a PUD. In response, Mr. Stump answered negatively.

Mr. Boyle recognized Mr. Fisher.

Mr. Fisher informed the Planning Commission that the property next door to the subject property is a subdivided duplex.

Mr. Jackson stated that in the areas of 61st and 81st there are several duplexes that are split. He explained that he has done some FHA/HUD remodeling on one of the duplexes that have been split.

Mr. Boyle stated that he does not doubt that splitting duplexes has happened, but it is not a good idea and should not continue just because it has been done before.

Mr. Midget asked Mr. Boyle if he suggesting that the TMAPC should not allow the lot-split and cut it off for the future today rather than approving this request and then reviewing this issue for alternatives. In response, Mr. Boyle stated that he doesn't think that the Planning Commission should approve any future lot-splits for duplexes, and if the Planning Commission has done it in the past, it was wrong and should not continue.

Mr. Stump pointed out all of the duplexes in the subject area that has been split. He commented that a precedent has been set by past actions. In response, Mr. Boyle asked why the Planning Commission should approve this action. In response, Mr. Stump stated that he has never approved of this type of lot-splitting; however, a precedent has been set and nothing changes on the ground.

Mr. Boyle asked if the lot-splits have occurred by staff review because they met the requirements. In response, Mr. Stump stated that staff has not approved these by staff review because they have to come before the Planning

Commission as a minor amendment due to not having adequate lot width and area.

Mr. Carnes asked if FHA/HUD repossessed the duplexes and then split them to sell them. In response, Mr. Jackson stated that the majority he has worked on have been FHA/HUD repossessions and they split the duplexes in order to sell them in today's market. Mr. Jackson stated that the duplexes are affordable by allowing half of the duplex be purchased as opposed to selling the whole duplex.

Mr. Ledford stated that obviously this practice has been done in the subject area. He commented that this is a problem and it should be reviewed in Rules and Regulations Committee, and the Planning commission should implement some PUD requirements or restrictive covenants. He expressed concerns regarding party walls, access, mutual plumbing, etc. Mr. Ledford stated that duplexes are usually plumbed as one unit, and that would mean that one of the owners' plumbing would be under someone else's unit. He explained that duplexes are not plumbed individually to the public sewer line.

TMAPC Action; 11 members present:

On **MOTION** of **MIDGET**, the TMAPC voted **9-2-0** (Carnes, Collins, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; Boyle, Harmon "nays"; none "abstaining"; none "absent") to **APPROVE** the minor amendment for PUD-128-A-24 subject to conditions as recommended by staff.

APPLICATION NO.: PUD-460-4
Applicant: Tracy Gibson
Location: 9118 East 77th Street South

MINOR AMENDMENT
(PD-18) (CD-8)

Staff Recommendation:

Mr. Dunlap stated that the applicant has determined that he needs additional relief for a side yard. The applicant would like to continue this application and readvertise for the additional relief.

TMAPC Action; 11 members present:

On **MOTION** of **BOYLE**, the TMAPC voted **11-0-0** (Boyle, Carnes, Collins, Harmon, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; none "absent") to **CONTINUE** the minor amendment for PUD-460-4 to November 29, 2000 at 1:30 p.m.

APPLICATION NO.: PUD-634-1

MINOR AMENDMENT

Applicant: Thomas W. Williamson

(PD-17) (CD-6)

Location: North of the northwest corner of East 11th Street and South 117th East Avenue

Staff Recommendation:

The applicant is requesting a reduction in the building setback from the centerline of 177th East Avenue from 120 feet to 110 feet in order to allow more room for truck maneuvering on the west side of the building.

If the reduction is approved, the PUD setback standards will still be greater than the underlying zoning would require; therefore, staff recommends **APPROVAL** of PUD-634-1 as requested.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **HORNER** TMAPC voted **11-0-0** (Boyle, Carnes, Collins, Harmon, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the minor amendment for PUD-634-1 as recommended by staff.

APPLICATION NO.: PUD-567-4

MINOR AMENDMENT

Applicant: Eric G. Sack

(PD-18) (CD-8)

Location: South of southeast corner of East 71st Street and Mingo Valley Expressway

Staff Recommendation:

The applicant is requesting a transfer of 26,159 square feet of land area from Development Area B, where a Cinemark theatre currently exists, to Development Area A, where Cheddars' restaurant currently exists. A second restaurant is planned to be built in Development Area A. The transfer will be used for an overflow parking area for the restaurants.

If approved, the parking in Development Area B would be reduced by 36 spaces and landscaped area would also be reduced. These reductions, however, would not make Development Area B deficient in required off-street parking or landscape area. Staff can recommend **APPROVAL** of the request subject to the following conditions, which are required to retain proper functioning and appearance of this portion of the PUD:

- 1) Retain the current layout of the landscaped areas, parking and mutual access drives, unless approved by TMAPC through a detail site plan.
- 2) Provide, through restrictive covenants to which the City is a party, mutual access between Development Areas A and B in all existing parking aisles and access drives. This must be recorded prior to approval of any lot-split.
- 3) A maintenance agreement be executed by the owners of the restaurant tract and Development Areas A and B providing for the maintenance of all parking areas and landscaped areas in the subject tract prior to lot-split approval.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 11 members present:

On **MOTION** of **HORNER** TMAPC voted **11-0-0** (Boyle, Carnes, Collins, Harmon, Hill, Horner, Jackson, Ledford, Midget, Pace, Westervelt "aye"; no "nays"; none "abstaining"; none "absent") to **APPROVE** the minor amendment for PUD-567-4 subject to conditions as recommended by staff.

OTHER BUSINESS:

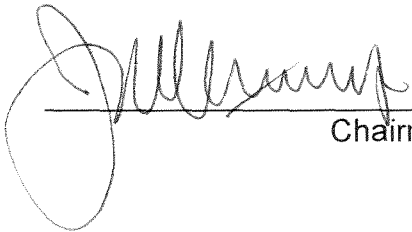
Commissioners' Comments:

Commissioner Carnes stated that the issues that arose while discussing the duplexes and lot-splits should be taken to the Rules and Regulations Committee. He further stated that the Planning Commission could state that a lot-split for a duplex would not be considered unless there were two plumbing systems, party wall, etc.

Mr. Carnes requested that a date be set for Rules and Regulations Committee to discuss this matter.

There being no further business, the Chairman declared the meeting adjourned at 2:11 p.m.

Date approved: 11/15/08



Chairman

ATTEST: 

Secretary