

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2537

Wednesday, January 28, 2009, 1:30 p.m.

City Council Chambers

One Technology Center – 175 E. 2nd Street, 2nd Floor

Members Present	Members Absent	Staff Present	Others Present
Cantrell	Sparks	Alberty	Boulden, Legal
Carnes	Wright	Cuthbertson	
Keith		Fernandez	
Marshall		Huntsinger	
McArtor		Sansone	
Midget			
Shivel			
Walker			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, January 22, 2009 at 3:35 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 Cantrell called the meeting to order at 1:35 p.m.

REPORTS:

Chairman's Report:

Ms. Cantrell reported that the APA Conference is coming up and routinely the Planning Commission has sent two to three people and those who have not been should be thinking about it. This should be pinned down by February to decide who is going.

Ms. Cantrell reported that a training session was held today and if the Planning Commissioners have any ideas for future sessions, please email them to her.

Ms. Cantrell reported that Mr. Carnes will be stepping down from the Transportation Policy Committee and John Shivel will take his place. Elizabeth Wright will now serve on the Preservation Commission.

Worksession Report:

Ms. Cantrell reported that a worksession will be immediately following today's regular meeting.

Comprehensive Plan Report:

Ms. Cantrell reported that there are two cancellations for the Planitalsa workshops due to the weather.

Director's Report:

Mr. Alberty reported on the BOCC and City Council agendas.

Mr. Alberty reported on the receipts for the month of December 2008 and indicated that they are ahead of the year previously.

Ms. Cantrell read the opening statement and rules of conduct for the TMAPC meeting.

CONSENT AGENDA

- 1. **The Enclave at Brookside –** (8418) Final Plat (PD 6) (CD 9)
Southwest corner of East 39th Street South and Rockford Avenue

STAFF RECOMMENDATION:

Mrs. Fernandez stated that there is a noticing problem and requested that this application be continued to February 4, 2009.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, TMAPC voted **8-0-0** (Cantrell, Carnes, Keith, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none "abstaining"; Sparks, Wright "absent") to **CONTINUE** the final plat for The Enclave at Brookside to February 4, 2009.

PUBLIC HEARING

2. **Riverwest –** (8202) Preliminary Plat (PD 8) (CD 2)

East of Northeast corner of West 71st Street South and Okmulgee Expressway/Highway 75

STAFF RECOMMENDATION:

Mrs. Fernandez stated that the applicant has requested a continuance to February 4, 2009.

Applicant’s Comments:

Roy Johnsen, 201 West 5th Street, Suite 501, 74103, stated that he represents the applicant and there is some ongoing discussion regarding the contract and one of the sellers. This may result in some reconfiguration.

TMAPC Action; 8 members present:

On **MOTION** of **MIDGET**, TMAPC voted **8-0-0** (Cantrell, Carnes, Keith, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none “abstaining”; Sparks, Wright "absent") to **CONTINUE** the preliminary plat for Riverwest to February 4, 2009.

* * * * *

3. **WestRidge Plaza –** (8214) Preliminary Plat (PD 8) CD 2)

Southeast corner of West 81st Street South and South Union Avenue

STAFF RECOMMENDATION:

Mrs. Fernandez stated that this application is being requested for a continuance until February 4, 2009. The Council has not finalized the PUD zoning and it will be discussed again tomorrow evening.

There were no interested parties wishing to speak.

TMAPC Action; 8 members present:

On **MOTION** of **MIDGET**, TMAPC voted **8-0-0** (Cantrell, Carnes, Keith, Marshall, McArtor, Midget, Shivel, Walker "aye"; no "nays"; none “abstaining”; Sparks, Wright "absent") to **CONTINUE** the preliminary plat for WestRidge Plaza to February 4, 2009.

* * * * *

ZONING CODE AMENDMENT PUBLIC HEARINGS

4. Proposed amendment of the Zoning Code, City of Tulsa, governing the use or construction of property located in a residentially zoned area for the purpose of providing a home for independent living that provides room and board, personal care and/or habilitation service in a family environment as a single-housekeeping unit. Section 1800, Definitions; Section 1205, Use Conditions; and Section 1208, Use Conditions.

STAFF RECOMMENDATION:

BE IT ORDAINED BY THE CITY OF TULSA:

Section 1. That Title 42, Chapter 4, Section 401, Tulsa Revised Ordinances, be and the same is hereby amended to read as follows:

"SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS

The principal uses permitted in the Residential Districts are designated by use unit. The use units are groupings of individual uses and are fully described, including their respective off-street parking, loading and screening requirements and other use conditions in Chapter 12. The use of an RE, RS, RD or RT District for access to any RM, O, C, or I District, or the use of an RM District for access to any O, C, or I District is prohibited unless permitted through an approved Planned Unit Development. The use units permitted in Residential Districts are set forth below in Table 1.

Table 1

Use Units Permitted in Residential Districts*

Use Units		Districts					
No.	Name	RE	RS	RD	RT	RM	RMH
1.	Area-Wide Uses by Right	X	X	X	X	X	X
2.	Area-Wide Special Exception Uses #	E	E	E	E	E	E
4.	Public Protection & Utility Facilities	E	E	E	E	E	E
5.	Community Services & Similar Uses	E	E	E	E	E	E
6.	Single-Family Dwelling	X	X	X	X	X	E
7.	Duplex Dwelling		E**	X	X	X	

Use Units		Districts					
No.	Name	RE	RS	RD	RT	RM	RMH
7a.	Townhouse Dwelling				X	X	
8.	Multifamily Dwelling & Similar Uses	E*****	E*****	E*****		X	
9.	Manufactured Home Dwelling	E	E	E		E	X
10.	Off-Street Parking					E***	
11.	Offices, Studios & Support Services					E****	
16.	Mini-Storage					E*****	

*X = Use by Right

E = Special Exception

* = Duplexes permitted only in RS-3 and RS-4 Districts.

** = In RM-2 and RM-3 Districts only.

*** = In RM-1, RM-2, and RM-3 Districts only.

**** = Assisted living facility, community group home, [neighborhood group home](#), convent, life/care retirement center, monastery and novitiate are the only uses within Use Unit 8 permitted by special exception in the RE, RS and RD districts.

***** = Mini-storage is permitted only in the RM-1, RM-2 and RM-3 Districts.

= Detention/Correctional Facilities, Emergency and Protective Shelters, Homeless Centers, Transitional Living and Residential Treatment Centers are not allowed RE and RS Districts."

Ord. Nos. 17515, 18225, 18605, 19217, 19500

Section 2. That Title 42, Chapter 12, Section 1202, Tulsa Revised Ordinances, be and the same is hereby amended to read as follows:

"SECTION 1202.

**USE UNIT 2. AREA-WIDE
EXCEPTION USES**

SPECIAL

A. **Description.** Uses which in some instances may be suitable for location in any district, but because of their potentially adverse influence on adjacent properties require site review and are therefore permitted in all districts as a special exception requiring Board of Adjustment approval.

B. Included Uses.

Adult Detention Center
Airport, Heliport
Bed and Breakfast Inn
Bus Station
Cemetery (see Section 1202.C.9)
Children's Home
City/County Health Department
Construction Facilities (off site)
Convict Pre-release Center
Correctional Community Treatment Center
Crematory
Day Camp
Emergency and Protective Shelter
Governmental Services, NEC
Homeless Center
Hydroelectric Generation Plant
Jail
Juvenile Delinquency Center
Marina
Mausoleum
Nursing Home
Post Office
Power Plant
Prison
Private Club or Lodge*
Residential Treatment Center
Rifle and Skeet Range, Gun Club
Sanatorium
Sanitary Landfill
Sewage Disposal Facility
Transitional Living Center
Uses which utilize tents, canopies or open air activities** such as***:
 Carnival
 Christmas tree sales
 Circus
 Fruit and vegetable sales
 Other sales of merchandise
 Plant sales
 Tent Revival
Water Treatment Plant

*Chief activity is a service not carried on as a business.

**Open air activities shall include sales from trucks, trailers, pickups and other vehicles.

***Tents for such uses for special events are allowed by right on properties zoned CBD and not in the right-of-way.

C. **Use Conditions.**

1. Uses which utilize tents, canopies or open air activities may be approved for a maximum of 179 days per calendar year. The Board of Adjustment may, by special exception, permit alternative off-street parking materials.

2. Required parking spaces shall not be used for the tent, canopy or open air activity.

3. Tents, canopies, and open air activities shall meet the building setback requirements set forth in the applicable zoning districts.

4. **Construction Facilities:**

a. The use may continue for a period not to exceed two years in the same location.

b. Ingress and egress must be from arterial or collector streets, provided that the Board of Adjustment may approve a location with access to a minor street upon finding that such location would result in less traffic on streets in residential areas.

c. The use shall not be located nearer than 100 feet to any lot containing an occupied dwelling, without the consent of the owner thereof.

5. **Nursing Home:** The nursing home shall meet applicable licensing requirements of the state of Oklahoma. The maximum floor area ratio is .5.

6. **Day camp and private club or lodge,** when located within an AG, RE or RS District, shall have a minimum lot area of one acre.

7. **Spacing Requirement:** To avoid clustering, a community group home, neighborhood group home, detention/correctional, emergency and protective shelter, homeless center, residential treatment center and transitional living center shall not be located on a lot within one-half (1/2) mile (2,640 ft.) from any other lot containing any such facilities. ~~The Board of Adjustment, however use, provided that reductions in this spacing may as a be allowed by special exception, permit the clustering of such uses if determined that the location of such uses will not be injurious to the neighborhood or otherwise detrimental to~~

~~the public welfare.~~ The spacing between these uses shall be measured in a straight line from the nearest point on a lot line of the property containing a use to the nearest point on a lot line of the other property containing a use.

8. Bed and Breakfast Inn:

a. The owner/operator shall maintain a register of bed and breakfast guests and special events for each calendar year and shall make such register available to City Code Enforcement upon request. The maximum length of stay for any guest shall be limited to thirty (30) days per calendar year.

b. The Board of Adjustment shall establish the number of guest rooms permitted (per lot of record); provided, however, the Board shall not approve more than twelve (12) guest rooms.

c. Cooking facilities shall not be permitted in any of the guest rooms.

d. A public restaurant is not permitted. Meals may only be served to overnight guests and for special events as permitted by the Board of Adjustment.

e. The Board of Adjustment shall approve the size, type and location of the sign; provided, however, in no instance shall the sign exceed thirty-two (32) sq. ft. in display surface area or twenty (20) feet in height and illumination, if any, shall be by constant light. Provided further, that in no instance shall the sign exceed two (2) sq. ft. in display surface area when located in an RS or an RE zoning district.

f. The Board of Adjustment may permit the Bed and Breakfast structure(s) to be rented for special events, such as weddings, receptions, anniversaries, private dinner parties, business seminars, etc. The Board shall establish the maximum number of special events per year and shall establish the maximum number of guests per any single event based on the availability of off-street parking and the compatibility with the surrounding land use. Provided, however, that the rental or use of said structure(s) for special events, when located in an RS or RE zoning district, is prohibited.

9. Funeral homes are permitted within a cemetery which is ten (10) acres or more in size and has been approved by the Board of Adjustment, provided the parking requirements set forth in Use Unit 11 and the building

setback requirements of an office district as set forth in Section 603 of this code are met.

D. Off-Street Parking and Loading Requirements.

Uses	Parking Spaces	Loading Berths
Airport	1 per each 500 sq. ft. of enclosed passenger terminal area.	1 per 2,000 to 40,000 sq. ft. of floor area plus 1 per 40,000 to 100,000 sq. ft., plus 1 per each additional 100,000 sq. ft.
Bed & Breakfast Inn	2 plus 1 per guest room plus 1 for every 40 sq. ft. of reception area for special events	1 per 10,000 to 100,000 sq. ft. plus 1 per each additional 100,000 sq. ft. of floor area
Emergency & Protective Shelter	1 per 1,000 sq. ft. of floor area	
1 per 10,000 to 100,000 sq. ft. plus 1 per each additional 100,000 sq. ft. of floor area Juvenile Delinquency Center	1 per 1,000 sq. ft. of floor area	1 per 10,000 to 100,000 sq. ft. plus 1 per each additional 100,000 sq. ft. of floor area
Nursing Home	.35 per nursing home bed	1 per 10,000 to 100,000 sq. ft. plus 1 per each additional 100,000 sq. ft. of floor area
Private Club or Lodge	1 per 40 sq. ft. of assembly room floor area or 1 per 300 sq. ft. of total floor area whichever is greater	1 per 10,000 to 100,000 sq. ft. plus 1 per each additional 100,000 sq. ft. of floor area
Residential Treatment Center, and Transitional Living Center and other such residential facilities, NEC	1 per 1,000 sq. ft. of floor area plus 1 per each additional 100,000 sq. ft. of floor area	1 per 10,000 to 100,000 sq. ft.
All other uses	As may be required by the Board of Adjustment	

E. **Factors to be Considered in Granting a Special Exception.** In addition to any other requirements of this section, the following factors shall be considered in the determination to grant or deny a special exception for a special residential facility:

1. Size of the facility;
2. Number of staff and staff-to-client ratio;
3. Levels of treatment;
4. Location of site in relation to needed services;
5. City infrastructure in the area;
6. Compliance with state licensure and certification requirements;
7. Proximity to similar uses;
8. Distance from sensitive uses (single-family residential districts, schools, parks, child day care centers)."
Ord. Nos. 17907, 18225, 18428, 18750, 19217, 19500, 19822, 21637

Section 3. That Title 42, Chapter 12, Section 1208, Tulsa Revised Ordinances, be and the same is hereby amended to read as follows:

"SECTION 1208.

**USE UNIT 8. MULTIFAMILY
DWELLING AND SIMILAR USES**

- A. **Description.** Multifamily dwellings and similar uses.
- B. **Included Uses.**
 - Apartment
 - Assisted Living Facility
 - Community Group Home
 - Convent, Monastery, Novitiate
 - Elderly/Retirement Housing
 - Fraternity or Sorority House
 - Life Care Retirement Center
 - [Neighborhood Group Home](#)
 - Multifamily Dwelling
 - Rooming/Boarding House

C. **Use Conditions.**

1. **Intensity of Use:**

- a. Fraternity, sorority, rooming/boarding house:

In the determination of the applicable bulk and area requirements, a fraternity, sorority, or rooming/boarding house, shall be considered a multifamily dwelling, with each 600 square feet of floor area constituting a one-bedroom dwelling unit.

- b. Assisted living facility and life care retirement center:

The maximum floor area ratio ~~is~~ shall be .5.

2. **Life Care Retirement Center.** The nursing facility or medical facility shall meet applicable licensing requirements of the state of Oklahoma, Oklahoma State Health Department as an intermediate care facility or as a skilled nursing home.

3. **Elderly/Retirement Housing.** Design requirements for elderly/retirement housing include as a minimum:

- a. Elevators for multifamily structures over one story in height;
- b. Emergency alarm systems in every dwelling unit; and
- c. Safety "grab bars" in bathrooms.

4. **Community Group Home, Convent, Monastery and Novitiate:**

The maximum floor area ratio ~~is~~ shall be .5.

5. **Community Group Home and Neighborhood Group Home:**

a. Must have all licenses required by the State of Oklahoma, or its agencies. A special exception granted for such use shall be automatically void upon a final revocation of any required State license.

b. No building shall be occupied on or after [INSERT DATE] until a Zoning Clearance Permit for such occupancy has been issued.

c. Signs advertising a community or neighborhood group home shall be prohibited.

d. Exterior alterations of a dwelling or any accessory structure which are not of a customary residential character shall be prohibited, unless such alterations are necessary to provide access in relation to the disability of the residents. Fire escapes, if required, shall be located on the rear of the structure, if feasible, or on the side of the structure, with screening.

e. To avoid clustering, a community group home, neighborhood group home, detention/correctional, emergency and protective shelter, homeless center, residential treatment center and transitional living center shall not be located on a lot within one-half (1/2) mile (2,640 ft.) from any other lot containing any such use, provided that reductions in this spacing may be allowed by special exception. The spacing between these uses shall be measured in a straight line from the nearest point on a lot line of the property containing a use to the nearest point on a lot line of the other property containing a use.

f. A community group home, which does not otherwise meet the definition of a "family" as defined by this code, may be allowed by special exception in a RE, RS, or RD district, provided the number of residents shall not exceed fifteen (15). The special exception shall be based upon a showing that, (1) the dwelling would have otherwise been available to the applicant(s), and (2) the requested increase in the number of persons is reasonably calculated to offset the increased economic costs associated with the disability. No special exception shall exceed five (5) years in length, provided an applicant may apply for subsequent extensions not to exceed five (5) years in length, each.

g. A neighborhood group home, which does not otherwise meet the definition of a "family" as defined by this code, may be allowed by special exception in a RE, RS, or RD district, provided the number of residents shall not exceed eight (8), plus at least one (1), but not more than two (2) resident staff persons. The special exception shall be based upon a showing that, (1) but for the increased economic costs associated with housing the elderly or the applicable disability, the dwelling would have been otherwise available to the applicant(s); and (2) the requested increase in the number of persons is reasonably calculated to offset the increased economic costs. No special exception shall exceed five (5) years in length, provided an applicant may apply for subsequent extensions not to exceed five (5) years in length, each.

56. The uses included in Use Unit 8 when located on a lot which is abutting an RE or RS district shall be screened by the erection and

maintenance of a screening wall or fence along the lot lines in common with the RE or RS district.

D. Off-Street Parking and Loading Requirements.

Uses	Parking Spaces	Loading Berths
Community Group Home & Neighborhood Group Home	1 per 1,000 sq. ft. of floor area	None
Convent, Monastery & Novitiate	1 per 1,000 sq. ft. of floor area	1 per 10,000 to 200,000 sq. ft., plus 1 per each additional 200,000 sq. ft. of floor area
Elderly/Retirement Housing	.75 per dwelling unit	None
Fraternity or Sorority House	1 per 2 beds	1 per 10,000 to 200,000 sq. ft. plus 1 per each additional 200,000 sq. ft. of floor area
Life Care Retirement Center	.75 per dwelling unit and .35 per nursing center bed	1 per 10,000 to 200,000 sq. ft. plus 1 per each additional 200,000 sq. ft. of floor area
Multifamily Dwelling	1.5 per efficiency or 1 bedroom dwelling unit. 2 per 2 or more bedroom dwelling units	None
Rooming/Boarding House	1 per 2 beds	1 per 10,000 to 200,000 sq. ft. plus 1 per each additional 200,000 sq. ft. of floor area
Assisted Living Facility	.50 per dwelling unit	1 per 10,000 to 200,000 sq. ft. plus 1 per each additional 200,000 sq. ft. of floor area"

Ord. Nos. 17515, 18225, 18942, 19217

Section 4. That Title 42, Chapter 18, Section 1800, Tulsa Revised Ordinances, be and the same is hereby amended by amending the definitions of "Community Group Home" and "Family" to read as follows:

"Community Group Home: A community-based residential facility for persons with disabilities, allowing independent living that provides room and board, personal care, and habilitation services in a family environment as a single-housekeeping unit ~~for 7 or more resident elderly or disabled persons (mentally and/or physically impaired) with at least one resident staff person,~~ provided such use does not otherwise meet the definition of a "family" as defined in this code. Personal care and habilitation services excludes on-site institutional type educational training, medical or nursing care."

"Family: One (1) or more persons occupying a single dwelling unit, as a single housekeeping unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over six ~~four~~ persons, including any roomers, boarders and/or domestic servants. ~~A home for independent living with support personnel that provides room and board, personal care and habilitation services in a family environment as a single-housekeeping unit for not more than six resident elderly or disabled persons (mentally and/or physically impaired) with at least one, but not more than two resident staff persons shall be considered a family.~~ Individuals not related by blood, marriage, or adoption occupying a single dwelling unit for on-site institutional education, training, supervision, medical care or nursing care shall not be considered a family as defined herein."

Section 5. That Title 42, Chapter 18, Section 1800, Tulsa Revised Ordinances, be and the same is hereby amended by adding a definition for "Neighborhood Group Home" to read as follows:

"Neighborhood Group Home: A home for independent living with support personnel that provides room and board, personal care and habilitation services in a family environment as a single-housekeeping unit, provided that such use does not otherwise meet the definition of a "family" as defined in this code. Personal care and habilitation services excludes on site institutional type educational training, medical or nursing care."

Section 6. That Title 42, Tulsa Revised Ordinances, Appendix B, entitled "Index of Land Uses" be and the same is hereby amended by adding, within the codified alphabetical listing of land uses and related use units, the following reference, to read as follows:

- Section 7. SEVERABILITY CLAUSE. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.*
- Section 8. REPEAL OF CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.*
- Section 9. OPERATIVE CLAUSE. Following passage of this ordinance by the City Council, approval by the Mayor; and publication, this ordinance shall be expressly operative on and after ~~March~~ July 1, 2009.*
- Section 10. EMERGENCY CLAUSE. That an emergency is now declared to exist for the preservation of the public peace, health and safety, by reason whereof this ordinance shall take effect immediately from and after its passage, approval and publication.*

Mr. Boulden thanked the Tulsa World who did what he thought was an accurate article on the amendments and what they will provide for. This helps to get the word out and he feels that since there is no one present today that at least the word has been out there.

Mr. Boulden reviewed the changes that Legal has proposed and opened the floor for questions and recommendations.

TMAPC COMMENTS:

Ms. Cantrell asked if the lawfully existing group homes would have to go back and get a zoning clearance permit once this ordinance takes place. In response, Mr. Boulden answered affirmatively.

Mr. Carnes stated that one of the issues is parking and it will be difficult because these uses tend to be in established neighborhoods. Mr. Carnes asked if anyone knows where the 15 people come from. In response, Mr. Boulden stated that he is not sure where that comes from, but it is certainly a higher degree of latitude to community group homes in giving them as much leeway so that we are not any way discriminatory. Mr. Carnes stated that the Board of Adjustment should determine the parking issue, because the parking is not there.

Mr. Midget agreed with Mr. Carnes regarding the parking issues. The Board of Adjustment would be in a better position to determine the parking at this point.

Mr. Boulden stated that he would be comfortable taking the parking requirement out and leaving it to the BOA.

Mr. Alberty stated that it would better to leave the parking issue to the BOA because one can't anticipate that all of the members of the non-family would be driving an automobile. There may be minor children and if a specific number is placed on parking requirements that would be required, but the BOA could look at this on a case-by-case basis to determine what would be appropriate based on that application.

Ms. Cantrell stated that she agrees that allowing the BOA determine the parking with the special exception would be the best solution. There may be situations where the disability itself doesn't allow one to drive a car.

Mr. McArtor asked what the primary difference is between a community group home and neighborhood group home. In response, Mr. Boulden stated that the primary difference goes back to the language that is in neighborhood group homes "...home for independent living with support personnel." One has a support personnel and one does not. Community group homes do not have support personnel and it is more described as a communal situation where they do not necessarily have support staff.

Mr. McArtor stated that the committee is recommending four residents and the State Statutes allows six. He asked Legal if this would be problem that the City is being more restrictive. In response, Mr. Boulden stated that there is language that states that the State overrides municipalities in this area, but there is a ruling in the Courts that zoning is a matter of purely municipal concern and as a Chartered City, the ability to vary from what the State requires is that the State is powerless to interfere with the City. Mr. McArtor stated that he believes the State Statute 860 would be a guideline and it is the law for the vast majority of communities that have not dealt with this in their ordinances or whatever. He asked if there was some reason for the change from six to four residents. In response, Mr. Boulden stated that there is no magic in the numbers; it was something he and Mr. Rees put in the draft. Mr. McArtor stated that if it is possible to escape a challenge by keeping the number at six, then he believes it should remain six. Ms. Cantrell stated that this did come up before and the concern was the parking for six people with cars. Ms. Cantrell stated that she thought previously the draft had the definition of family at four, but they could have one to two caregivers with a total of six. In response, Mr. Boulden stated that it was specifically taken out of family, and if it was in an earlier draft, it was in error.

Mr. Carnes suggested keeping the number of residents at four because by exception one can always ask for more, but the Board can't take it away.

Mr. Midget indicated that he was in agreement with Mr. Carnes regarding the number of residents remaining at four.

Mr. McArtor stated that he hears the parking issue and he understands Mr. Carnes's point, but the State Statute has been around since 1987 and he wonders why one would want to keep it lower. As a general rule these are great places and are needed in our communities. He doesn't want to have to force people to file an application with the Board of Adjustment and hire an attorney. Mr. McArtor concluded that it should remain at six residents.

Ms. Cantrell stated that the zoning clearance permit date should be decided. She doesn't want to create an undue burden for people who are currently meeting the definition and are not creating a problem.

Mr. Boulden stated that the moratorium ends in March and the question is how much time after March 1st the Planning Commission would want to give these groups to obtain a zoning clearance permit. He suggested two or three months and that would give them some latitude since this is a new ordinance.

After a lengthy discussion the Planning Commission decided on July 1, 2009 as the starting date.

Mr. McArtor moved to approve the proposed amendments with the following modifications: 1) striking the language regarding off-street parking requirements and inserting the BOA language regarding parking; 2) requiring zoning clearance permit requirement effective July 1, 2009, 3) allow six people in a family home.

Seconded by Commissioner Keith.

Ms. Cantrell stated that she would like to make a friendly amendment to change the people allowed from six to four. This proposal has come to the Planning Commission after a lot of input from City Council, staff, Legal and the citizens. This was very well thought through and she appreciates Mr. McArtor's thought about this being the State level, but she feels that this is a good starting point and if it is found to be excluding too many people it can always be amended to a higher number. Without some real clear evidence that this is a problem, she would like to stick with what the committee recommended.

Mr. McArtor stated that he would like to applaud the committee because they did good work. He indicated that he is in agreement with their proposals except for that one provision. Mr. McArtor stated that he doesn't accept the friendly amendment since there is already six in the State Statute and six in the City Ordinance, then it should remain at six since he hasn't heard any convincing

evidence of why it should be changed to four. His intuition is that four will be too restrictive.

Mr. Carnes asked Mr. McArtor and Ms. Cantrell if they would agree on five and split the difference. Mr. McArtor stated that he would prefer six and he doesn't know why it would change.

Ms. Cantrell withdrew her amendment to the motion.

TMAPC Action; 8 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **5-3-0** (Carnes, Keith, Marshall, McArtor, Midget "aye"; Cantrell, Shivel, Walker "nays"; none "abstaining"; Sparks, Wright "absent") to recommend **APPROVAL** of the proposed amendment of the Zoning Code, City of Tulsa, governing the use or construction of property located in a residentially zoned area for the purpose of providing a home for independent living that provides room and board, personal care and/or habilitation service in a family environment as a single-housekeeping unit. Section 1800, Definitions; Section 1205, Use Conditions; and Section 1208, Use Conditions per staff recommendation with the following modifications: 1) striking the language regarding off-street parking requirements and insert the BOA language regarding parking; 2) require zoning clearance permits requirement effective July 1, 2009, 3) allow six people in a family home.

* * * * *

OTHER BUSINESS:

5. **Proposed amendment of the Zoning Code, City of Tulsa, to permit community garden as a use by right. Section 1201, Area-Wide Uses by Right and Section 1800, Definitions.**

Mr. Walker out at 2:45 p.m.

STAFF RECOMMENDATION:

AN ORDINANCE AMENDING TITLE 42, TULSA REVISED ORDINANCES, ENTITLED "THE TULSA ZONING CODE", RELATED TO RESTRICTIONS ON LAND USES WITHIN THE CITY OF TULSA; AMENDING SECTION 1201, ENTITLED "USE UNIT 1. AREA-WIDE USES BY RIGHT", TO PROVIDE FOR AND REGULATE COMMUNITY GARDENS; AMENDING SECTION 1800, ENTITLED "DEFINITIONS", BY ADDING A NEW DEFINITION FOR THE TERM "COMMUNITY GARDEN"; AMENDING APPENDIX "B", ENTITLED "INDEX OF LAND USES", TO ADD "COMMUNITY GARDEN" TO THE ALPHABETICAL LISTING OF LAND USES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY OF TULSA:

Section 1. That Title 42, Chapter 12, Section 1201, Tulsa Revised Ordinances, be and the same is hereby amended to read as follows:

"SECTION 1201. USE UNIT 1. AREA-WIDE USES BY RIGHT

A. **Description.** Certain public uses, agricultural uses, open land uses, and similar uses which are either subject to other public controls or which do not have adverse effects on other land uses.

B. **Included Uses.**

1. **Passive Agricultural Uses** such as:

Cultivation
[Community Garden](#)
Forestry
Grazing
Planting

2. **Open Land Uses** such as:

Arboretum
Flood Management Project
Reservoir
Wildlife Preserve

3. **Public Uses** such as:

Bus Shelter*
Existing Schools**
Fire Alarm

Historical Marker
Political Campaign Sign
Sidewalk
Street Sign
Thoroughfare
Utility Line

*Commercial advertising permitted only on shelters located in a "C" or "I" District.

**Schools legally operating on January 1, 1998, which offer a compulsory education curriculum but excluding the following accessory uses; outdoor stadiums, lighted athletic fields, unlighted athletic fields which have bleachers for non-student spectators and all buildings and structures (such as scoreboards) accessory to such stadium or field.

C. Use Conditions.

1. Political Campaign Signs - No political campaign sign shall be erected more than forty-five (45) days prior to any election, nor shall any sign be permitted to remain on any property more than seven (7) days following an election; no political campaign signs shall be permitted on public property and they shall be permitted on private property only with the consent of the property owner; the display surface area of each political campaign sign located in R or O Zoning Districts shall not exceed sixteen (16) square feet in surface area; only one side of a double-faced sign shall be computed in the computation of display surface area.

2. Existing Schools:
 - a. Buildings and grounds may also be used for a children's nursery, preschool, community center or day camp.

 - b. Maximum floor area ratio of 0.5.

 - c. Minimum building setback of 25 feet from abutting properties in an R District, plus one (1) foot of setback for each one (1) foot of building height exceeding 15 feet, if the abutting property is within an RE or RS District and is not a freeway or expressway.

 - d. Minimum setback for parking lots and their access drives from an RE or RS District which is not a freeway or expressway is 25 feet.

3. Community Garden

- a. Unless permitted by the underlying zoning district or the grant of a special exception, on-site sale of community garden products shall be prohibited.

b. Mechanical equipment, other than the type customarily identified as lawn and garden equipment, creating offensive noise, dust, odor or electrical disturbance shall be prohibited.

c. The site shall be designed and maintained to prevent any chemical pesticide, fertilizer or other garden waste from draining on to adjacent properties.

d. An on-site trash storage container shall be provided and located as close as practicable to the rear lot line. Compost bins or piles shall also be located as close as practicable to the rear lot line. Trash shall be removed from the site at least once a week.

e. Accessory structures including buildings or signs shall comply with requirements of the underlying zoning district.

f. Only individuals, or organizations authorized by the property owner shall participate in the community garden.

g. Cultivated areas shall be prevented from encroaching onto adjacent properties.

h. The property shall be maintained free of high grass, weeds or other debris.

i. Within a residential-zoned district, operating hours for community garden activities shall be restricted to between 5:00 a.m and 11:00 p.m. daily.

j. Any use condition for a Community Garden may be modified by Special Exception.

D. Off-Street Parking and Loading Requirements.

Uses	Parking Spaces	Loading Berths
Existing Schools Elementary and Junior High	1 per 1,200 sq. ft. of floor area	1 per 10,000 to 200,000 sq. ft. plus 1 per each additional 200,000 sq. ft. of floor area
Senior High	1 per 800 sq. ft. of floor area plus 1 per 4 stadium seats	1 per 10,000 to 200,000 sq. ft. plus 1 per each additional 200,000 sq. ft. of floor area
All other uses <i>Ord. Nos. 19217, 19220</i>	None	None"

Section 2. That Title 42, Chapter 18, Section 1800, Tulsa Revised Ordinances, be and the same is hereby amended by adding a definition for "Community Garden", to read as follows:

"Community Garden: One or more lots or parcels of land used to produce vegetables, fruits, flowers, or other plant material for personal use by the property owner or individuals authorized by the property owner."

Section 3. That Title 42, Tulsa Revised Ordinances, Appendix B, entitled "Index of Land Uses" be and the same is hereby amended by adding, within the codified alphabetical listing of land uses and related use units, the following reference, to read as follows:

"Community Garden 1"

Section 4. SEVERABILITY CLAUSE. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

Section 5. *REPEAL OF CONFLICTING ORDINANCES.* That all ordinances or parts of ordinances in conflict herewith be and the same are now expressly repealed.

Section 6. *EMERGENCY CLAUSE.* That an emergency is now declared to exist for the preservation of the public peace, health and safety, by reason whereof this ordinance shall take effect immediately from and after its passage, approval and publication.

TMAPC Action; 7 members present:

On **MOTION** of **MCARTOR**, TMAPC voted **7-0-0** (Cantrell, Carnes, Keith, Marshall, McArtor, Midget, Shivel "aye"; no "nays"; none "abstaining"; Sparks, Walker, Wright, "absent") to recommend **APPROVAL** of the Proposed amendment of the Zoning Code, City of Tulsa, to permit community garden as a use by right, Section 1201, Area-Wide Uses by Right and Section 1800, Definitions, per staff recommendation.

There being no further business, the Chair declared the meeting adjourned at 2:47 p.m.

Date Approved: 2-18-09

Michelle Cantrell

Chairman

ATTEST: Joshua L. Wells
Secretary