

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2549

Wednesday, May 27, 2009, 1:30 p.m.

City Council Chambers

One Technology Center – 175 E. 2<sup>nd</sup> Street, 2<sup>nd</sup> Floor

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Carnes	Cantrell	Alberty	Boulden, Legal
Dix		Feddis	Steele, Sr. Eng.
Keith		Huntsinger	Warlick, COT Plan.
Leighty		Matthews	Mitchell, Permitting
Marshall			Liotta, County
McArtor			
Midget			
Shivel			
Walker			
Wright			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Thursday, May 21, 2009 at 1:30 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, 1<sup>st</sup> Vice Chair Shivel called the meeting to order at 1:30 p.m.

### **REPORTS:**

#### **Chairman's Report:**

Mr. Shivel welcomed Mr. John Dix to the Planning Commission.

#### **Comprehensive Plan Report:**

Mr. Warlick reported on the PlaniTulsa progress.

Commissioner Keith commended Mr. Warlick and his Department for their work on this project.

#### **Director's Report:**

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

Mr. Alberty reported that the INCOG offices will be moving May 29<sup>th</sup> and the INCOG offices will be closed. June 1, 2009 the new offices will be opened for business at the new location, Williams Tower II, 2 West 2<sup>nd</sup> Street, Suite 800.

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## **CONSENT AGENDA**

1. **LS-20288** – Daniel Person (1302)/Lot-Split (County)  
South of 123<sup>rd</sup> Street North and west of North 75<sup>th</sup> Avenue East, 12184  
North 75<sup>th</sup> East Avenue

**The Planning Commission considered the consent agenda.**

**There were no interested parties wishing to speak.**

### **TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, TMAPC voted **9-0-0** (Carnes, Dix, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Wright "aye"; no "nays"; none "abstaining"; Cantrell, Walker "absent") to **APPROVE** the consent agenda Item 1 per staff recommendation.

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## **PUBLIC HEARING**

2. **Consider Amendments to the Zoning Code, City of Tulsa, Oklahoma to reflect changes in spacing requirements among various Use Unit 14 Uses, Chapter 12, Section 1214, Tulsa Zoning Code.** (Continued from 4/22/09)

### **STAFF RECOMMENDATION:**

#### **TITLE 42 TULSA REVISED ORDINANCES**

#### **SUBSECTION 1214.C.3 SHOPPING GOODS AND SERVICES, USE CONDITIONS**

##### **CURRENT:**

3. Blood banks, plasma centers, day labor hiring centers, liquor stores and bail bond offices (except when located within a CBD zoned district), and pawn shops, shall be spaced a minimum of 300 feet from each other. After July 1, 2001, the distance between these uses shall be measured in a straight line from the nearest perimeter wall of the portion of the building of one applicable

use to the nearest perimeter wall of the portion of the building of any other applicable use. However, for any such use which has been in operation of has been issued a building permit for such use on or before July 1, 2001, the distance between these uses shall be measured in a straight line from the nearest public entrance door of one applicable use to the nearest public entrance door of any other applicable use.

**MARKUP:**

3. ~~Blood banks, plasma centers, day labor hiring centers, liquor stores and b~~Bail bond offices (except when located within a CBD zoned district), ~~and pawn shops,~~ shall be ~~spaced~~ located a minimum of 300 feet from ~~each other any residentially zoned property.~~ After July 1, 2001, theThe 300 feet ~~distance between these uses~~ shall be measured in a straight line from the nearest perimeter wall of the portion of the building ~~of in which a bail bond office is located~~ one applicable use to the nearest ~~perimeter wall of the portion of the building of any other applicable use~~ point on a Residential Zoning District boundary line. ~~However, for any such use which has been in operation of has been issued a building permit for such use on or before July 1, 2001, the distance between these uses shall be measured in a straight line from the nearest public entrance door of one applicable use to the nearest public entrance door of any other applicable use.~~

**UNMARKED:**

3. Bail bond offices (except when located within a CBD zoned district) shall be located a minimum of 300 feet from any residentially zoned property. The 300 feet shall be measured in a straight line from the nearest perimeter wall of the portion of the building in which a bail bond office is located to the nearest point on a Residential Zoning District boundary line.

Mr. Boulden stated that the above recommendation memorializes the discussion regarding changes by the Planning Commission from the previous meeting. Mr. Boulden explained his recommendations, the current process and what the Zoning Code currently states. He indicated that he invited Mr. Mitchell to be present because he is the one that actually does most of the administrative reviews for zoning clearance permits at development services. Any decision or recommendation that is made at the Planning Commission will probably impact him.

Mr. Walker in at 1:44 p.m.

**TMAPC COMMENTS:**

Mr. Carnes stated that this has been a stickler for many years and does INCOG have someone on staff available to actually go out and take 300-foot measurements? In response, Mr. Albery answered negatively.

Mr. Boulden stated that in the past, Neighborhood Inspections or Code Enforcement have taken upon themselves to assist by going to measure, but it is not their responsibility.

Mr. Midget stated that people from Development Services have gone out to measure in the past too. The spacing notification process was a very serious issue in the past and nearby properties could be impacted by the proposal. He would be hesitant to remove any notification process that is in place.

Mr. Alberty stated that notices for sexually oriented businesses are sent out for whatever the distance is for the spacing is what is mailed. Since this sexually oriented business issue came up there hasn't been one application and that has been over five years. The notice is to let surrounding properties know that a use by right will be going in if it meets the spacing requirement and the hearing is for spacing verification only, not to fight the use that has the right to go in if it meets the spacing requirements. The Board has adopted a policy that wherever spacing is required, they are requiring a survey, which means additional cost. Uses like outdoor advertising signs can absorb that cost easier than a neighborhood daycare. Staff, by policy, has worked with individuals and use the GIS ability to strike a 300-foot radius map and give to the neighborhood daycares to verify that there are no other daycares within that 300-foot radius.

Mr. McArtor asked if the applicant doesn't meet the spacing requirement, then does that become their request for a variance. In response, Mr. Alberty stated that a variance request would be a separate action. The notice would also alert an existing use, which requires spacing that another use is coming in and that may nullify the verification of spacing.

Mr. McArtor asked if there is a problem with the system that is in use now. In response, Mr. Alberty stated that he believes it is isolated. One of the Councilors who precipitated this request had a particular use that was very opposed to the timeliness of the process. The existing business was a liquor store and wanted to expand within a shopping center and he felt since it was existing, he shouldn't have meet the requirement to verify space. Anytime the business is expanded, it is subject to the verification of spacing. There have been some complaints that this should be done administratively and cut out the notice time. If the Planning Commission holds that notices should be sent, then staff could deal with that, but it would still require someone making a decision that this spacing was or was not met.

Mr. McArtor stated that it concerns him that there is talk about changes because of one person complaining.

Mr. Leighty stated that there is not enough compelling reason to make the change and particularly after going through the Task Force studying communication and education. If the Planning Commission were to relax the

requirements here, then it would be perceived as taking away citizens' right to know about things. Mr. Leighty indicated that he would support keeping the requirements in place.

Mr. Marshall stated that this was put in the Zoning Code for a reason. He believes it should remain the same.

Mr. Boulden stated that proposed changes would eliminate circumstances of the one predicament that the liquor store fell into when he wanted to expand. Liquor stores would be removed from this particular spacing requirement and only really focus on bail bonds offices that are close to residential districts. This proposal would cure part of the problem in that situation.

Mr. Carnes moved to adopt the changes proposed by Legal and leave the other requirements the same.

Ms. Wright stated that the issues are getting confused and nothing has really been discussed about the draft changes. Perhaps we need to suspend the administrative overview and discuss the draft changes before the Planning Commission.

Mr. Boulden stated that this particular item was on the agenda about one month ago and it was discussed at that time and the proposed changes reflect that discussion.

Mr. Shivel asked Mr. Mitchell to speak on this issue.

Mr. Boulden stated that Mr. Mitchell does all of the hard work and this is the time to show our appreciation for his hard work.

**James Mitchell**, Zoning Official, City of Tulsa, stated that he does the zoning review for everyone that comes through the City of Tulsa. As far as expansions of liquor stores or bars, he has seen quite a few of those and they have been directed to the BOA for spacing verifications to make sure that their new expansion is not going into the spacing requirements in the Zoning Code. This obviously creates more work for him, but it is his job. He is concerned about the mail notices that have been discussed today. The notices need to remain in place if possible. Spacing needs to be verified by either an inspector or surveyor. Mr. Mitchell expressed concerns about the time issue when a business finds that they need to go to the BOA for a variance due to the spacing requirement not being met.

Mr. Shivel stated that if a variance is required, then it is upon the applicant who is asking for something out of normal compliance. From a standpoint of taking additional time, it doesn't necessarily seem unreasonable.

Mr. Leighty stated that he is not clear about Mr. Carnes's motion.

Mr. Boulden stated that the way the proposal is worded right now, these would have to be spaced 300 feet from each other in this particular provision and the Planning Commission would be taking out that requirement that a pawn shop would have to be 300 feet from a liquor store and a blood bank be 300 feet from a liquor store. There are other requirements in the Zoning Code as far as other types of spacing. If the Planning Commission adopts this proposal, then this is no longer necessary and we don't really have liquor stores that are even close to blood banks presently. This requirement was made back when liquor stores were near plasma centers and transients would sell their blood and then go into the liquor store.

Mr. McArtor stated that if there is no problem with that now, it is probably because of this provision. If this restriction were changed, then he could foresee reverting back to those days perhaps.

In response to Mr. McArtor, Mr. Mitchell stated that if these changes were made regarding the administrative review, it would add to his work load by forcing him to have to verify the spacing rather than the applicant having to verify it.

Mr. Boulden stated that he believes that the current ordinance was not worded well and was not the intention of the ordinance. If nothing else, the ordinance should be rewritten if the Planning Commission would like to fulfill the original intent so that plasma centers and day hiring centers would be 300 feet from a liquor store and not everything that is in that group should be 300 feet from everything else that is in that group.

Ms. Wright asked why bail bonds are exempted from this requirement. In response, Mr. Boulden stated that this would change it to where bail bonds couldn't be within 300 feet of a residential district.

Ms. Matthews explained that bail bond offices are usually opened 24/7 and this could negatively impact a neighborhood.

Mr. Alberty stated that today the only thing being discussed is Section 1214. Staff is not suggesting eliminating all other separations. Liquor stores based on 1212.A. still have to be separated 300 feet from each other, schools, churches, etc. Today's proposal is only addressing the relationship of these uses. If the Planning Commission accepts Mr. Carnes's motion, then it would only affect the relationship of those uses. Zoning Code has a section that determines spacing requirements for liquor stores and all of the adult businesses.

Mr. Alberty explained that today if a bar or tavern came in and applied for a zoning clearance, it would have to be 300 feet from another bar or tavern,

church, school, or park. This proposal would eliminate the liquor store separations.

Ms. Wright stated that she was wondering since the City is worried about sales tax revenue, it would be a wonderful opportunity for an entrepreneur to put a blood bank, plasma center, a liquor store and hiring centers all together under one center and catch them all. Ms. Wright asked if this could happen if the proposal were approved. In response, Mr. Alberty stated that it could happen if this proposal were approved. Ms. Wright stated that there would be no reason why all of these businesses couldn't operate under one roof if this proposal is approved. Ms. Wright gave an example that three different liquor stores could be next each other.

Ms. Wright moved to approve the amendment and open the door for future businesses in Tulsa.

Mr. Leighty stated that there is already a motion on the floor from Mr. Carnes.

Mr. McArtor requested that Mr. Carnes repeat his motion.

Mr. Carnes moved to approve the proposed amendment and keep the administrative process as it is today.

No second. Motion fails.

Mr. Marshall moved to deny the proposal because there is no compelling reason to change it.

**TMAPC Action; 10 members present:**

On **MOTION** of **MARSHALL**, TMAPC voted **9-0-1** (Carnes, Keith, Leighty, Marshall, McArtor, Midget, Shivel, Walker, Wright "aye"; no "nays"; Dix "abstaining"; Cantrell "absent") to recommend **DENIAL** of the amendment to the Zoning Code, City of Tulsa, Oklahoma to reflect changes in spacing requirements among various Use Unit 14 Uses, Chapter 12, Section 1214, Tulsa Zoning Code, finding that there is no compelling reason to amend Section 1214.C.3.

\* \* \* \* \*

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

Date Approved: 6-17-09

Michelle Cantrell  
Chairman

ATTEST: Judith A. Walsh  
Secretary