

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 713
Tuesday, October 8, 1996, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Abbott, Chair Dunham Turnbo White	Bolzle	Beach Gardner Huntsinger	Ballentine, Code Enforcement Linker, Legal Department Parnell, Code Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Thursday, October 04, 1996, at 3:20 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chair Abbott called the meeting to order at 1:00 p.m.

MINUTES:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **CONTINUE** the approval of the minutes of September 24, 1996 (No. 712) to October 22, 1996 at 1:00 p.m.

UNFINISHED BUSINESS

Case No. 17507

Action Requested:

Special Exception to allow a nursing home/alzheimer clinic. **SECTION 401.**
PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 2, located West of the North West corner 36th Street North and Cincinnati Avenue.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th, Suite 440, representing Dr. Reed and Bobby Woodard, submitted a site plan (Exhibit A-1). Mr. Johnsen stated the property is located west of the northwest corner of 36th Street North and Cincinnati. He commented the Board may be familiar with the existing facility that is on the immediate corner of the intersection, which is the Westview Medical Clinic. Mr. Johnsen submitted a photograph (Exhibit A-2) and stated it is an excellent facility. Mr. Johnsen commented the facility has been located at the existing property for a good number of years and is highly thought of in the community. He stated that an expansion is proposed to the west of the facility, which is an existing drive that provides access to the west boundary of the Westview Clinic. He explained that the drive will be shared and to the west is the proposed expansion, which is the subject of this request. Mr. Johnsen stated the property is zoned in an agricultural classification, but within the complexes, the Board might note from the site plan submitted, it includes a residential care (a more proper term under the City of Tulsa ordinance would be a nursing home). He explained this is not a residential treatment center, but a nursing home. He further explained the expansion also includes office uses, primarily home health care and because the subject property is zoned AG there are two things that must be done. He stated that in order to authorize the office/home health care facility, it will be necessary to zone the subject property to commercial or office classification. He further stated the nursing home is a Use Unit 2 and it may be approved by this Board, upon the appropriate findings, in any district. He concluded his presentation by stating that the application before the Board today is to in effect authorize the nursing home facility and this will be a part of the adjoining complex already in existence. Mr. Johnsen stated there was an interested party at the previous hearing and he directed her to the planning team Co-chairman. He further stated the interested party has been fully advised of the nature of this facility and he is pleased to note that there are no protestants present.

Comments and Questions:

Ms. Turnbo asked the applicant if the zoning is AG or RS-3? He stated it may be RS-3.

Mr. Beach asked Mr. Johnsen if the zoning case for the subject property has been continued to October 23, 1996? He answered affirmatively.

Case No. 17507 (continued)

Mr. Beach asked if the continuance is to allow for a new case map to be prepared or expand the legal description? Mr. Johnsen stated the notice was defective because there was a gap between the two properties that was not included in the notice. He further stated that the notice has been corrected and re-advertised for October 23, 1996. He explained that since this is a Use Unit 2 before the Board, it can be approved without necessity of the underlying zoning being approved. He further explained that if the Board finds this to be an acceptable facility then the Board should approve it per plot plan, which includes the home health care/office, the shared drive with the Westview Clinic and then it will be necessary for him to complete the zoning successfully.

Ms. Abbott asked the applicant how many residents will be in the care facility? He stated the facility has 26 beds.

Ms. Abbott asked the applicant if the facility will be limited to alzheimer patients? Mr. Johnsen stated he was told alzheimer patients but he is reluctant to limit it to alzheimers patients and would rather use the term of nursing home, which is in the zoning Code.

In response to Mr. White, Mr. Johnsen stated the two main differences are that residential drug/alcohol treatment centers are different than a nursing home and are defined differently in the Code. He explained that the impact of a residential treatment center on the surrounding property is different than a nursing home. He further explained that the operations are different as well as a different use. He commented that this is a very small facility and it is a part of an existing complex. Mr. Johnsen stated that there is nothing around the subject property but open space and rough topography. He felt that for the reasons detailed above there are no protestants today.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Special Exception** to allow a nursing home/alzheimer clinic. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, per plan submitted; subject to a limitation of 26 beds; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Case No. 17507 (continued)

SE/4, Sec. 14, T-20-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma, being more particularly described as follows: Starting at the SE/c; said Sec. 14; thence S88°34'28"W for 500.00'; thence N01°10'27"W for 50.00' to the POB; thence S88°34'28"W for 325.00'; thence N01°10'27"W for 225.00'; thence N88°34'28"E for 60.00'; thence N01°10'27"W for 160.00'; thence N88°34'28"E for 265.00'; thence S01°10'27"E for 385.00' to POB.

Case No. 17520

Action Requested:

Variance of the minimum required frontage of 150' on an arterial street to allow 125' frontage on East 91st Street South. **SECTION 704.C.4. SPECIAL EXCEPTION USES IN COMMERCIAL DISTRICTS, REQUIREMENTS** - Use Unit 18, located Northeast corner of 91st Street and South Yale Avenue.

Presentation:

The applicant, **Sack & Associates/Ted Sack**, representing the Sonic Drive-In, 111 South Elgin, submitted a site plan (Exhibit B-1) and stated he is requesting a waiver of the frontage on a commercially zoned piece of property. Mr. Sack informed the Board that he does have 125' of frontage and he is east of the existing Quik-Trip site, which the Sonic Drive-In will share an existing driveway with. He explained that with the shared driveway and the existing frontage it will give the drive-in a total width of 142'. He stated that there is also a proposal to the east side of the tract to share another driveway, which actually will give the drive-in a total frontage usability of 160'. Mr. Sack pointed out that he is working on the grading plan on the east entrance and it may need to be moved a short distance to the east because of the topography. He explained the property is very steep to the east and the topography may cause the east entrance to be moved farther east. He stated that the drive-in does have a mutual access to Yale Avenue that will help with the overall circulation of all the future development in the area.

Comments and Questions:

Ms. Abbott asked the applicant if he moved the driveway to the east would he still need the variance? He stated he needs the variance because the frontage of the property is only 125' wide. He explained if he has both access drives he will have a usable frontage of 160'. He stated he will still have the use of a driveway to the east of the subject property, but it might not be centered right on the property line.

Mr. Dunham asked the applicant if this is the typical size for a Sonic Drive-In site? He stated it is the typical site and 125' is generally the width Sonic works with.

Mr. Gardner explained that the purpose of the 150' minimum width stated in the Code, is to control the number of access points that you might have along the major arterial street. He further explained that when you are sharing access points with adjoining properties, then in effect you are limiting the number of access points along the major street.

Mr. Beach stated that when the Board approved the drive-in at the subject property, the Board approved it per plan and if he moves the access points in the future it will be subject to a new site plan approval. He further stated the only question is the lot width.

Mr. White asked Mr. Beach about the ingress/egress points mentioned in the Staff comments? Mr. Beach stated that the applicant has to have approval of the ingress/egress points by the City Traffic Engineer.

In response to Mr. Beach's statement, Mr. Sack pointed out to the Board that the subject property is being platted and is subject to a sub-division plat, which the points of access will be approved and be a part of the sub-division plat.

In response to Mr. White, Mr. Sack stated that in the platting process there is no approval of a site plan and so the final decision of where the east driveway will be is not approved per plan, but the points of access will be approved by traffic engineering.

Mr. Beach stated that often the Board approves per plan, that is what the Board did in this case, and in the past the Board would require approval of an amended plan if anything changed.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** of the minimum required frontage of 150' on an arterial street to allow 125' frontage on East 91st Street South. **SECTION 704.C.4. SPECIAL EXCEPTION USES IN COMMERCIAL DISTRICTS, REQUIREMENTS** - Use Unit 18 and waive a re-hearing if the east access is changed on the site plan; finding that the applicant will share mutual access drives with the adjacent lot and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Case No. 17520 (continued)

SW/4, SW/4, Sec. 15, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma, being more particularly described as follows: SW/c, Sec. 15; thence S89°59'09"E for 285.50'; thence N00°03'45"W for 58.00' to the POB; SE/c, Lot 1, Block 1, Quiktrip No. 78R, an addition to the City of Tulsa, Tulsa County, Oklahoma; thence continuing N00°03'45"W for 221.00'; thence S89°59'09"E for 125.00'; thence S00°03'45"E for 229.00'; thence N89°59'09"W for 22.50'; thence N00°03'45"W for 8.00'; thence N89°59'09"W for 102.50' to the POB.

NEW BUSINESS

Case No. 17524

Action Requested:

Variance of required lot width from 200' to 143.50' in an AG district to permit an addition to an existing dwelling on an existing lot. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6, located 244 West 81st Street.

Presentation:

The applicant, **Ken Saltink**, representing the owner of subject property, submitted a plat of survey (Exhibit C-1) and stated the owner has a house that is on an agricultural zoned lot, which did not pass Code when it was originally built. He further stated that since he has started with the permits he has found out that according to the Code the lot could not be built on because of the size. He requested a variance to allow a 16' x 26' addition onto the home.

Comments and Questions:

Ms. Turnbo asked the applicant if he knew how long the house has been built? The owner, Larry Nichols, 244 West 81st Street, stated the home is approximately 25 years old.

Mr. Beach asked the Board if they were asking the age of the home because of the staff comments? Mr. Beach informed the Board that the question is whether this is a non-conforming lot and if the lot has existed at this width since prior to 1970. He further stated if the applicant can document that the lot has existed in this configuration before 1970, then applicant wouldn't need the relief requested if the lot is non-conforming.

In response to Mr. Beach's statement, the applicant stated he does not know if the lot was the same width before 1970. .

Case No. 17524 (continued)

Mr. Gardner stated the piece of property that abuts the subject property to the east may have been a part of this overall property and if the applicant doesn't know how long this lot has been split into this configuration then this Board has the authority to grant a variance. Mr. Gardner informed the Board that the applicant either has to prove the lot is a non-conforming lot or the Board has to grant the applicant a variance so that he can obtain his building permit from the building inspector.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** of required lot width from 200' to 143.50' in an AG district to permit an addition to an existing dwelling on an existing lot. **SECTION 303. BULK AND AREA REQUIREMENTS IN THE AGRICULTURE DISTRICTS** - Use Unit 6; per plan submitted; finding that there are other same size (width) lots in the area and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Commencing at the NE/c NW/4, NW/4, Sec 13, T-18-N, R-12-E, I.B.M., Tulsa County, Oklahoma; thence W along N line said Sec 13 for 430.5' to POB; thence S for 759'; thence W for 143.50'; thence N for 759' to a point on the N line said Sec 13; thence E along N line said Sec 13 for 143.50' to POB.

Case No. 17525

Action Requested:

Special Exception to permit a car wash in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located 8035 South Memorial Drive.

Presentation:

The applicant, **David Brown/Tanner Consulting**, represented by Dan Tanner, 2202 East 49th Street, submitted a site plan (Exhibit D-1) and elevation plan (Exhibit D-2). Mr. Tanner stated he is the Civil Engineer for the subject property and represent Crystal Clean Car Wash/Richard Kidwell. He further stated that this application is simply an exception for a car wash in a CS zoned district. He commented the surrounding development is compatible and is a pre-platted piece of property. Mr. Tanner informed the Board that the subject property was recently platted Anderson Addition. He stated the intersection is at 81st and Memorial where there is a Quik-Trip that should be opening in the next couple of days. He indicated the subject facility will be immediately north of the Quik-Trip and share a common access point.

Case No. 17525 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Special Exception** to permit a car wash in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17; per plan submitted; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Beginning at the NW/c Lot 2, Block 1, Anderson Addition, City of Tulsa, Tulsa County, Oklahoma; thence N89°59'59"E for 300.00'; thence S0°01'11"W for 185.10'; thence N89°58'49"W for 300.00'; thence N0°01'11"E for 185.00' to POB.

Case No. 17526

Action Requested:

Variance of the required setback from 40' to 25' to permit a projecting sign. **SECTION 1221.C.6. SIGN SETBACKS**, located 1202 South Boulder Avenue.

Presentation:

The applicant, **Terry Howard/Okla. Neon, Inc.**, 6550 East Independence, submitted a site plan (Exhibit E-1) and a sign display (Exhibit E-2). Mr. Howard stated the building on the subject property measures 32' from the centerline of the street and it makes it impossible to erect a sign at the 40' setback. He informed the Board that there was an existing sign on the subject property years ago that projected from the building and the owner's are wanting to replace the existing sign with another projecting sign. He explained that the sign will project approximately 7' from the building and that will still leave 4' from the edge of the sign, which will be overhead to the curb line.

Comments and Questions:

Mr. White stated the sign display submitted shows that the bottom of the sign will be 22' above the sidewalk. Mr. Howard agreed with Mr. White's statement.

Mr. White asked the applicant if the top of the sign will be even with the top of the building? Mr. Howard stated it will be below the top of the building approximately 2'.

Mr. Dunham asked the applicant if the sign will be projecting out from the building? He answered affirmatively. Mr. Howard explained that the street is narrow and a regular wall sign on the building would be difficult to see until you have already passed the property.

Case No. 17525 (continued)

Mr. Gardner stated the major street plan shows that all of the commercial collectors to be 80' wide, but everything south of 10th Street drops to 60', which means there is only 30' of right-of-way from the centerline. Mr. Gardner explained that the applicant would have to setback 40' to meet the major street plan, but there is not 40' of right-of-way existing south of 10th Street.

Mr. Dunham asked the Staff if the applicant wanted to erect this sign he would he have to have permission from the City of Tulsa to use the right-of-way?

Mr. Beach stated the sign will actually hang 5' into the right-of-way and so technically he also needs City Council's approval to use the right-of-way.

Mr. Linker stated that anytime you encroach into existing City right-of-way, you need City approval and this can be done by a license agreement.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** of the required setback from 40' to 25' to permit a projecting sign. **SECTION 1221.C.6. SIGN SETBACKS**; per plan submitted; subject to City Council's approval for use of the right-of-way; finding that the zoning Code imposes a setback regulation over and above the right-of-way that the City owns; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lots 1 through 4, Block 5, Friend and Gillette Addition.

Case No. 17527

Action Requested:

Variance of conditions imposed by the Board of Adjustment in approving Case #16064 wherein the auto sales business was limited to 10 cars. The applicant wishes to increase the limit to 50 cars and to allow auto repair on the cars offered for sale or commercial auto repair. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17, located 3612 South Sheridan Road.

Presentation:

The applicant, **Tim Harrison**, 3612 South Sheridan Road, submitted a site plan (Exhibit F-1) and stated he is the owner of Harrison Auto Center. He explained that when he started this business he leased the lot and was told that there were car lots on the subject property previously. He commented he was advised to call INCOG to make sure the lot was zoned properly and found that there was an approval on the lot that allows car sales. Mr. Harrison stated he built a fence, furnished his office, installed lights and obtained a dealers license. He informed the Board that when he went to INCOG to obtain a copy of the approval action, he found out that the approval only allows 10 cars. He commented he cannot make a living selling only 10 cars and INCOG advised him to apply for the variance of the condition limiting the use to 10 cars.

Comments and Questions:

Mr. Dunham asked the applicant where the auto repair would be done? He stated D.B. Wilkerson (previous owner) built a three bay garage in the back of the property and that is where the mechanical work would be done.

Mr. Dunham asked the applicant if the auto repair would be for the cars he sold only? He stated he has hired a mechanic for his cars, but the lot will be small and in order for the mechanic to make a living he has given him permission to do other mechanic work on his own.

Ms. Turnbo asked if all the repairs can be done inside the garage? Mr. Harrison stated there are three bays and all of the work can be done inside. He further stated there will not be any cars repaired outside.

Mr. Dunham stated that the area where the subject property is located has several car lots and it is an appropriate use.

Ms. Abbott asked the applicant what the capacity of this lot in terms of the number of cars on the lot? Mr. Harrison stated the most he could afford to have on the lot would be approximately 40 cars, but he is asking for 50 in case things change. He further stated the lot could hold 60 cars.

Case No. 17527 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** of conditions imposed by the Board of Adjustment in approving Case #16064 wherein the auto sales business was limited to 10 cars. The applicant wishes to increase the limit to 50 cars and to allow auto repair on the cars offered for sale or commercial auto repair. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 17; per plan submitted; subject to a maximum of 50 vehicles for sale; subject to all auto repairs done inside the three bay building; subject to no outside storage of auto parts or accessories; finding that there are several auto sales in the area and the lot can accommodate 50 cars and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

N 150' Lot 1, Block 1, Wilmot Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17528

Action Requested:

Special Exception to permit an outdoor produce stand in an IM zoned district.

SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS and a Variance of the 150 day time limit to 6 months per year from July 1 through December 31 for five years beginning with 1996. **SECTION 1202.C.1. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES;** Use Conditions, located 2494 North Lewis.

Presentation:

The applicant, **Fredrick K. Carter**, no address given, submitted a site plan (Exhibit G-1) and stated he has operated in the same location since 1980.

Comments and Questions:

Ms. Turnbo asked the applicant where he sets up his produce stand? He stated he sets it up on the Apache side of the street.

Mr. Dunham asked if there was a complaint filed? Mr. Ballentine stated there was a complaint filed through the Code Enforcement Department. He further stated he went to the location and issued a notice, left a copy of the Use Unit 2 requirements for outside sales, tents, pickups, etc. Mr. Ballentine indicated that Mr. Carter was set up at the location with a trailer connected to his vehicle and was selling produce on the SW/c of Apache. He stated there is a retail furniture sales located at this location.

Mr. Dunham asked the applicant if he had been operating at this location for many years? He stated he has been at this location since 1980.

Case No. 17528 (continued)

Mr. White asked Mr. Carter if he had a stand or trailer? Mr. Carter stated he works out of his trailer and station wagon.

Mr. White asked the applicant if he owns the furniture store or is he affiliated with the store in anyway? He stated he does not own the store.

Ms. Abbott asked Code Enforcement what the nature of the complaint was? Mr. Ballentine stated that the department has had various complaints with street corner vendors and there was a complaint on this location. He further stated he has written approximately six (6) notices at this location.

Mr. Gardner stated that Mr. Carter's business has nothing to do with the furniture store and so that makes Mr. Carter's business a principal use. He further stated that where there is open air sales or a tent, in his case selling out of the back of a truck, requires approval by this Board. Mr. Gardner indicated there is a five month time period, however the applicant has asked for six (6) months. He stated the location is zoned IL, not CS and that might make a difference with the Board.

Ms. Abbott asked Mr. Carter if he had some type of agreement with the owner of this property ? He stated he did not have an agreement in writing, but he does have a verbal agreement.

Mr. Ballentine stated he has written notices to three (3) different individuals on the same location. He further stated that there is actually no physical structure at this location that would be there from day to day. He explained the vendors are individuals who have come and gone from this location. Mr. Ballentine stated the leasee of the furniture store has been advised of the requirements to allow the open air sales on his property.

Mr. Dunham asked the Staff what would be needed to allow the open air sales? Mr. Gardner stated that in order for the applicant to continue his vending sales, he must have approval by the Board. He further stated that if the property owner states he does not care if the applicant uses his ground, he will still need approval by the Board of Adjustment. Mr. Gardner stated that if there are no interested parties present to speak about this application, then the Board has to evaluate the application on the basis of what is before them.

Ms. Abbott stated she was trying to determine why the complaint was filed, such as a disturbance.

Case No. 17528 (continued)

Ms. Parnell stated that Code Enforcement receives complaints on street corner vendors on a regular basis. She further stated that what makes this unique is that this gentlemen is coming before you and none of the other vendors given notice have. She commented that some vendors that have been given notice just move to another corner.

Ms. Turnbo asked Mr. Carter what his hours of operation are? He stated usually 10:30 a.m. to 3:30 p.m. or 4:00 p.m.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Special Exception** to permit an outdoor produce stand in an IM zoned district. **SECTION 901.**

PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS and a **Variance** of the 150 day time limit to 6 months per year from July 1 through December 31 for five years beginning with 1996. **SECTION 1202.C.1. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES;** Use Conditions; per plan submitted; finding that the property is zoned Industrial and the applicant has operated since 1980 at the subject location; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

N/2, NE, NE, NE, less E 40 Less N 40, and less W 205 of E 245 of S 125, Sec 30, T-20-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17529

Action Requested:

Special Exception to permit a 125' high cellular telephone tower in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 4, located Northwest corner West Brady and South 46th West Avenue.

Presentation:

—The applicant, **Lee Ann Fager/ SW Bell Svcs.**, 11529 East Pine.

Comments and Questions:

After discussion ensued with the applicant and Board, it was discovered that the applicant submitted an inaccurate legal description of the location for the tower. The Board advised the applicant and the protestant that the applicant will need to re-advertise with the correct legal description before this application can be heard by the Board.

Case No. 17529 (continued)

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **CONTINUE** Case No. 17529 to November 12, 1996, at 1:00 p.m. to enable the applicant to re-advertise with a correct legal description.

Case No. 17530

Action Requested:

Variance of the required setback from the centerline of East 51st Street from 200' to 100'. **SECTION 803. BULK AND AREA REQUIREMENTS IN THE CORRIDOR DISTRICT** and a Variance of the requirement that a corridor development's access be principally from internal collector streets to permit the access to be from East 51st Street. **SECTION 804. ACCESS REQUIREMENTS** - Use Units 11, 12, 13 & 14, located 3707 East 51st Street.

Presentation:

The applicant, **Charles E. Norman**, 2900 Mid-Continent Tower, submitted a site plan (Exhibit H-1) and referred the Board to the area zoning map to identify the subject property. Mr. Norman submitted a photograph (Exhibit H-2) and stated this application pertains to an existing two-story building that has been used for general office purposes for approximately 20 years. He explained the owner of the building would like to convert the building to retail uses. Mr. Norman stated the properties to the east, west and across the street to the south have all been approved for commercial uses. He further stated the subject property is between two (2) other properties that are zoned in the corridor district, which requires the property to be located between an arterial street and a parallel expressway. Mr. Norman indicated that in order to obtain approval for commercial uses, it is necessary to file an application to rezone the property to the Corridor district and a second application to approve a Corridor district site plan. He further indicated he would need to file another application with the Board of Adjustment for a variance of two requirements: 1) A Corridor district requires a building setback of 200' and this lot is only 190' deep with an existing building 100' from the centerline of 51st Street, which would be in accordance with the setback for both office district and commercial district if it were zoned CS. He commented the building lines up with other buildings that have been existing a number of years to the west. 2) Properties within the Corridor district have their access principally from an interior access collector and obviously with this property located between 51st Street & the expressway, there is no possibility or potential for an internal collector street.

Protestants:

Minnie Cunningham, 3805 East 51st Place, stated she lives across the street from the subject property. She further stated she has some pictures of the subject location as well as the surrounding area (Exhibit H-2). Ms. Cunningham discussed the photographs with the Board. She commented that she is not really protesting the variance, but is concerned about the area because of the parking and congestion. Ms. Cunningham is concerned about parking when the adjacent vacant lots are sold and the existing businesses continue to grow. She expressed concerns regarding people parking in the residential area when the parking is inadequate.

Comments and Questions:

Ms. Turnbo stated she personally does not know what will be going on with the vacant properties.

Ms. Cunningham stated that the restaurant "Jimmie's Eggs" is using the vacant lots for parking. She further stated that now Mr. Norman wants to convert the building to retail and she is not certain what to expect as far as the congestion and parking.

Ms. Turnbo informed Ms. Cunningham that the applicant will be required to have the correct amount of parking.

Ms. Cunningham stated that Jimmie's Egg does not have the required parking. She further stated that she has been told that according to the Code, the restaurant has to have one parking space per 100 SF. She indicated the restaurant has 40 spaces in their lot and yet there are cars parking in the vacant lots. Ms. Cunningham indicated that the subject property has 32 parking spaces and she is basically concerned about the parking situation.

Ms. Abbott asked the protestant if the vacant lot is paved? Ms. Cunningham stated the vacant lot is not paved.

Ms. Abbott informed Ms. Cunningham that she could file a complaint with Code Enforcement regarding parking in the vacant lots. She stated that it is against the City ordinance to park in the vacant lots.

In response to Ms. Abbott, Mr. Gardner stated that retail businesses have to meet the parking requirements. He further stated that the fact that the subject property is being filed for Corridor zoning will require a detailed plan. He explained that the use of the property and where the parking will be located will be reviewed during the Corridor zoning process. He further explained the existing building is zoned for office use presently and even if it was zoned for Corridor, the subject property must meet the parking requirement.

Applicant's Rebuttal:

Mr. Norman stated that because of the size of the lot and the size of the existing building, it will not be possible to convert this building into a restaurant or bar. He further stated it would not be physically possible to provide enough parking for those type of uses. Mr. Norman explained that conversion from office to general retail will require at least four more parking spaces to be located and that will be worked out with the Planning Commission in the Corridor district site plan application. He stated the lots to the east where the site of an apartment project that existed for many years was removed and the lots are not related in anyway with the subject property. Mr. Norman indicated that this is the only lot between the on ramp to the expressway, to the east and back over to Harvard that is not already approved for commercial uses.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** of the required setback from the centerline of East 51st Street from 200' to 100'. **SECTION 803. BULK AND AREA REQUIREMENTS IN THE CORRIDOR DISTRICT** and a **Variance** of the requirement that a corridor development's access be principally from internal collector streets to permit the access to be from East 51st Street. **SECTION 804. ACCESS REQUIREMENTS** - Use Units 11, 12, 13 & 14; per plan submitted; finding that the surrounding lots are zoned commercial and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

E 105.67' Lot 2, Morland Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17531

Action Requested:

Special Exception to amend a previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a Variance of the required parking for a church from 39 to 23 spaces. **SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES; Off Street Parking and Loading Requirements**, located 1204 South 75th East Avenue.

Presentation:

The applicant, **Fred J. Catlett**, 13216 North 105th East Avenue, Collinsville, representing the church, submitted a site plan (Exhibit I-1) and stated that he appeared before the Board several months ago and received approval per a site plan to build a fellowship hall adjacent to the existing building. He further stated that the church decided they would like to move the building approximately 40' to the south to allow the use of the existing driveway and to add some parking between the two buildings. Mr. Catlett requested a variance of the required parking because in the six (6) years of existence they have never had to park on the street. He commented the church has a population of 25 to 35 members, including children, and consequently the church does not need 39 parking spaces. He stated the church currently has 14 parking spaces and the amended site plan shows an additional nine (9) parking spaces, which will be 23 parking spaces for the church. He commented the church has the room for the additional parking spaces, but would rather keep the area a grassy area for a playground. He further commented that at such time the additional parking spaces are necessary, the church will turn the playground into a parking area.

Comments and Questions:

Ms. Abbott asked the applicant if his original site plan shows the 39 parking spaces? He stated the original site plan did not show any parking spaces. He further stated it does show where the parking is to be located, but does not show the number of spaces.

Mr. White asked the applicant if the future parking on the site plan is the area the church wants to keep as a playground? He answered affirmatively.

Mr. Catlett stated the auditorium will only seat 67 people and 23 parking spaces will be ample per the Code, but the building is large enough that the square footage makes the required parking 39 spaces.

Mr. Gardner stated that if the Board is concerned about not having enough parking spaces, and the Code requirement is one per three seats, the Board could limit the church to the 67 seats that are existing, then the 23 spaces is all that the church will need. Mr. Gardner informed the Board that if they want to tie the parking spaces to the size of the auditorium then it will correspond to the parking he is showing now.

Mr. Catlett stated that if the church ever grew any larger than the facilities, would not be sufficient and they would have to move.

Case No. 17531 (continued)

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Special Exception** to amend a previously approved site plan. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a **Variance** of the required parking for a church from 39 to 23 spaces. **SECTION 1202. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES; Off Street Parking and Loading Requirements;** subject to the church providing one parking space for every three seats and limiting the number of seats to the current 67 seats; finding that the church has limited seating and a small membership and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lots 1 through 4, Block 6, East Moore Park Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17532

Action Requested:

Variance of maximum height for a business sign from 50' to 80'. **SECTION 1221.D.1. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**, a Variance of required setback to allow proposed 80' sign to be 10' from freeway R.O.W. **SECTION 1221.D.1. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING** and a Variance of allowed display surface area from 424 SF to 556 SF to permit a business sign of 356 SF in addition to an outdoor advertising sign of 200 SF. **SECTION 1221.D.3. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES**, located Southeast Quadrant of I-44 and 31st Street Interchange.

Presentation:

The applicant, **Kevin Kerbo**, P.O. Box 787, Lebanon, TN, representing Cracker Barrel Old Country Store, submitted a target test (Exhibit J-1), sign graphics (Exhibit J-2) and an Engineering Letter (Exhibit J-3). Mr. Kerbo stated two months ago he conducted a sign test, called the target test. He expressed concerns regarding the east bound I-44 approach for visibility. He explained to the Board how the target test is performed. Mr. Kerbo stated that the 80' sign will be barely above the Broken Arrow overpass and that is their objective. He commented that one half of the Cracker Barrel customers are the transit interstate travelers and all he is trying to do is to allow the customers to know that there is a Cracker Barrel Store up ahead. He stated that there is about 1/3 of mile visibility, which would translate to 25 to 30 seconds of visibility so that the customer can exit into the right lane. He commented the site does set considerably lower below the last point for the motorist to see the site. He asked the Board to consider that there is a 27.5' difference in the height of ground on the site and where the overpass is located on East 31st Street.

Comments and Questions:

Ms. Abbott stated the maximum height is probably needed because of the 27' drop on the side, but she does not see a hardship for the right-of-way access and display surface area. Mr. Kerbo stated the area the logo utilizes is only 246 SF and the rest is an ivory background within a brown border. He further stated the entire sign is not a logo where as the McDonald's logo is an entire sign. He commented that with the distance where the sign would need to be seen it requires the requested size.

Ms. Turnbo asked Mr. Kerbo if he would have a problem if the 80' height was granted, that he move back to the required 75' from the freeway right-of-way and install the sign in the parking lot? Mr. Kerbo stated he would have to consult his survey to make sure there are no underground utility lines or easements that may effect the 75' placement. After reviewing his survey, Mr. Kerbo stated if the setback is for the interstate only, he can probably move the sign back 75'.

In response to Mr. Kerbo, Mr. Beach explained that the setback is from the interstate right-of-way line.

Mr. Kerbo stated the main blockage is the overpass and moving the 75' back will probably work out.

Mr. Kerbo asked if the 75' setback is the Code requirement? Ms. Abbott stated that 75' setback from the right-of-way is the Code requirement.

Mr. Beach stated that for every foot the applicant exceeds in height, he will have to setback 1' for every foot in height above 25'.

Ms. Abbott stated the Board should rule on the three variances separately. She further stated she has no problem with the height variance, because there is a hardship based upon the elevation of the land. She commented she does have a problem with the required setback variance and the display surface area variance. She further commented she can not find a hardship for these two variances. Ms. Abbott asked the applicant if he could explain his hardship for the additional two variances?

Mr. Kerbo asked if the Board does not allow the 356 SF display surface area then could he get a reading from the Board on what would be allowed on the SF display surface area?

Mr. Beach stated the maximum allowed, given that there will be another sign along the I-44 frontage, will be 424 SF combined. He further stated that the Studio Plus sign that is proposed for the I-44 frontage is 200 SF, so that will leave Cracker Barrel 224 SF of display surface area.

Case No. 17532 (continued)

Mr. Gardner stated the Studio Plus sign that is proposed on the subject property is for a building that is off of the expressway and closer to Memorial Drive. He further stated that Studio Plus cannot be seen from the expressway and their sign affects how much signage the subject property can have. Mr. Gardner explained that if the Studio Plus sign was not proposed for the same property, Mr. Kerbo would not need the variance for the size of the signs.

Ms. Abbott asked the applicant what the percentage of the display surface is actually display or logo? Mr. Kerbo stated the logo area is 242 SF with an ivory background.

Ms. Abbott asked Mr. Gardner if the Studio Plus sign had to be located on the subject property? Mr. Gardner stated the owner/developer made the decision to allow the sign on this lot so that people driving along the expressway could see that the facility was available and would know where to exit off the expressway.

Mr. Dunham asked Mr. Gardner if this could be considered a hardship, given the fact that the other sign is on the subject property and decreases the Cracker Barrel's display surface area? Mr. Gardner stated that there is no question that the Studio Plus sign affected the applicant's signage and that is why the applicant is asking for the relief.

Mr. Beach stated that if there was only one sign on the subject property they would be allowed 1 SF for every lineal foot frontage, which is 400 plus SF. Mr. Beach explained that the Studio Plus sign was actually before the Board approximately two meetings ago, but was withdrawn because it was determined that the Studio Plus sign could be permitted as an outdoor advertising sign by right and would not need the Board's approval to place the sign on the subject property. He further explained that presumably, Cracker Barrel knows that the sign is being placed on their property and approved that it be placed there with the understanding it will affect their signage.

Ms. Abbott asked Mr. Kerbo if Cracker Barrel approved the Studio Plus sign to be on the subject property? He stated that that would be a real estate issue and not a sign issue, which he has no knowledge about the contracts or agreements. He further stated the best he could answer is that from logic that the answer would have to be yes. He explained that for Studio Plus to have any kind of improvement on the Cracker Barrel property, then Cracker Barrel would have had to know about it and given permission to place the signage on the subject property.

Mr. Kerbo asked if the 75' required setback is from the base of the pole or the edge of the sign? Mr. Beach stated the setback will be to the edge of the sign.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** of maximum height for a business sign from 50' to 80'. **SECTION 1221.D.1. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**; subject to the sign being setback 75' from the expressway right-of-way; finding that the elevation of the land hinders the visibility; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code.

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **DENY** a **Variance** of required setback to allow proposed 80' sign to be 10' from freeway R.O.W. **SECTION 1221.D.1. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING**; finding that the applicant failed to present a hardship unique to the property that would warrant the granting of the variance request.

On **MOTION** of **TURNBO**, the Board voted 3-1-0 (Dunham, Turnbo, White, "aye"; Abbott "nay" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** of allowed display surface area from 424 SF to 556 SF to permit a business sign of 356 SF in addition to an outdoor advertising sign of 200 SF. **SECTION 1221.D.3. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES**; subject to limiting the graphic area of the sign to being no more than 242 SF as stated; finding because the height of the sign and setback of the sign from the expressway, the sign would appear smaller and the graphic portion is very close to the amount of signage permitted; and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

All that part of Lot 2 & 3, Interchange Center, An Addition to the City of Tulsa, Tulsa County, Oklahoma, according to the official recorded plat thereof, situated in the NE/4, Sec. 23, T-19-N, R-13-E, I.B.M., Tulsa County, Oklahoma, according to the U.S. Government Survey thereof, more particularly described as follows; to wit: Beginning at Nwly boundary Lot 2; thence S89°55'15"E for 164.38'; thence S00°04'45"W for 1.00'; thence S89°55'15"E for 46.00'; thence S00°01'30"E for 235.79'; thence N89°56'29"W for 10.00'; thence S00°01'30"E for 60.00'; thence N89°56'29"W for 328.27'; thence S48°55'30"W for 146.31' to a point in the Nly right-of-way of E 31st Ct. S.; thence N41°23'34"W for 124.74'; thence N03°45'58"E for 21.15' to a point in the Nwly boundary of said Lot 3; thence N48°55'30"E for 423.37' to POB.

Case No. 17533

Action Requested:

Variance of the setback from the centerline of Rockford Road and from the centerline of 4th Street from 25' to 3' to permit an addition to an existing building. **SECTION 903. BULK AND AREA REQUIREMENTS IN INDUSTRIAL DISTRICTS** - Use Unit 25, located Southeast corner East 4th Place and South Rockford.

Presentation:

The applicant, **Darryl Hawkins**, represented by Danny Mitchell, 6106 South Memorial Drive, submitted a site plan (Exhibit K-1) and photographs (Exhibit K-2).

Comments and Questions:

During presentation and discussion, it was determined that the applicant was not properly advertised to request relief for the required parking to be located on another lot.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **CONTINUE** Case No. 17533 to November 12, 1996 at 1:00 p.m. to allow the applicant to re-advertise.

Case No. 17534

Action Requested:

Special Exception to permit a telecommunications building in a RD district. **SECTION 401. PERMITTED USES IN RESIDENTIAL DISTRICTS** - Use Unit 4, located East 21st Street and South 120th East Avenue.

Presentation:

The applicant, **Joseph D. Buthod**, representing TCI Cable Vision, 6650 East 44th, submitted a site plan (Exhibit L-1), photographs (Exhibit L-2) and stated TCI would like to erect a building to house telecommunications equipment, which is part of the rebuild plan for Tulsa.

Comments and Questions:

Mr. White asked the applicant if the building would have any transmission towers? He answered negatively.

Ms. Abbott asked the applicant if there was any reason why the building cannot be setback 35'? He stated he could move the building back 35' if it is required.

Case No. 17534 (continued)

Mr. Beach informed the applicant that the required setback along 21st Street is 35' instead of 25'.

Mr. Buthod stated he can move the building back 35' to meet the required setback.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Special Exception** to permit a telecommunications building in a RD district. **SECTION 401. PERMITTED USES IN RESIDENTIAL DISTRICTS** - Use Unit 4; subject to the building meeting the required 35' setback; subject to the approval of the Department of Public Works relating to stormwater runoff; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

NE/4, NW/4, Sec. 17, T-19-N, R-14-E, I.B.M., Tulsa County, Oklahoma, Beginning at a point 190' W, 60' S0°05'41"E of the NE/c said NW/4; thence S0°05'41"E for 215.00'; thence W for 139.93'; thence N0°05'41"W for 215.00'; thence E for 139.93' to POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17535

Action Requested:

Special Exception to permit a temporary tent for Halloween Sales from October 15 through November 1, 1996, 1997 & 1998. **SECTION 701. PERMITTED USES IN COMMERCIAL DISTRICTS** - Use Unit 2, located West of Southwest corner of 41st Street & South Fulton Avenue.

Presentation:

The applicant, **O.K. American Corp.**, represented by Nathan Matsimoto, no address given, submitted a site plan (Exhibit M-1) and requested permission to set up a tent to sell Halloween merchandise.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Special Exception** to permit a temporary tent for Halloween Sales from October 15 through November 1, 1996, 1997 & 1998. **SECTION 701. PERMITTED USES IN COMMERCIAL DISTRICTS** - Use Unit 2, per plan submitted; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Case No. 17535 (continued)

Beginning 1686' E, 90' S, NW/c, Sec. 27, T-19-N, R-13-E, Tulsa County, Oklahoma; thence S for 249.91'; thence E for 470'; thence N for 249.53'; thence W for 470' to POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17536

Action Requested:

Special Exception to permit expansion of the existing auto wash facility. **SECTION 701. PERMITTED USES IN COMMERCIAL DISTRICTS**, a Special Exception to permit the construction of an automobile lubrication facility. **SECTION 701.**

PERMITTED USES IN COMMERCIAL DISTRICTS - Use Unit 17, and a Variance of the street frontage requirements to permit the westerly 150' of Lot 1, Block 1, Meadow Brook Village to be split from Lot 1, Block 1, Meadow Brook Village. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS**, located South & East of Intersection of South Mingo Road and East 81st Street.

Presentation:

The applicant, **Charles E. Norman**, 2900 Mid-Continent Tower, requested a continuance to October 22, 1996 at 1:00 p.m. to enable the applicant to re-advertise.

Protestants: None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **CONTINUE** Case No. 17536 to October 22, 1996 at 1:00 p.m. to enable the applicant to re-advertise.

Case No. 17537

Action Requested:

Variance of building setback from centerline of 21st Street from 100' to 78'. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS** - Use Unit 17 and a Special Exception to waive the screening requirement along a non-arterial street. **SECTION 212.C. SCREENING WALL OR FENCE**, located Southwest corner of 21st Street and Yorktown.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th, Suite 440, 201 West 5th Street, Suite 440, submitted a site plan (Exhibit O-1) and stated he is representing Valley National Bank. Mr. Johnsen informed the Board that the subject property is an extremely narrow lot with the north/south dimension being 85' and the east/west dimension being 154'. He proposed the removal of the existing service station and construct a new branch banking facility for Valley National Bank. Mr. Johnsen stated the site is quite narrow and difficult to build on. He remarked that 21st Street's development occurred and many of the lots created prior to the adoption of the current ordinance, which established today's setbacks. He stated if the ordinance was literally applied, it would require a setback of 100' from the centerline of 21st Street and he would like to propose a setback of 78' from the centerline of 21st Street. Mr. Johnsen informed the Board that the subject property has previously received a variance to permit the canopy of the service station to extend further north than the proposed building. He directed the Board's attention to the site plan and pointed out the faint dotted line, which is the existing canopy for the service station. He explained the heavy dotted line on the site plan indicates the northern most building line of the proposed building, which is the second level. He further explained the second level will extend further north than the ground level. He stated the ground level will have approximately 1500 SF and the second level will have approximately 2600 SF. Mr. Johnsen stated the setback that he must ask for applies to whether it is first or second story and that is the 78' from centerline that he is requesting. He indicated the bank will be a drive-in facility and he has met with the traffic engineer, who had concerns about auto stacking space. He stated the initial site plan had three drive-in lanes, but after meeting with the traffic engineer it was decided to have four drive-in lanes, which will give the drive-in more stack space. Mr. Johnsen indicated that there is no setback problems from the east, which is Yorktown. He further indicated that the drive-in can meet the parking requirements and landscaping requirements. Mr. Johnsen explained that there are a great number of buildings along 21st Street in the area of the subject property that do not meet the required setback. He further explained the buildings were built before the current setbacks were established. Mr. Johnsen informed the Board that the property immediately west of the subject property is zoned CH and the setback by right is 50' from the centerline of 21st Street. He stated the second part of the application concerns the screening requirement. He further stated that a screening requirement is imposed on commercial property if and I quote: "abutting residential properties". He indicated that the ordinance's definition of abutting is contiguous or separated only by a non-arterial street. He stated on the east side of Yorktown it is zoned residential, but it is a multi-story condominium project. He further stated that immediately south of the subject property it is zoned commercially and there are no screening fences along Yorktown or the Utica Square complex. He commented that if the Board imposed the screening requirement on the subject property, it would be a very short 6' section of fence, which would look out of place. He further commented the screening fence would also cut off the subject properties access and render it unsuited for use.

Case No. 17537 (continued)

Protestants: None.

Comments and Questions:

Mr. Gardner informed the Board that they have a provision that would allow the special exception to modify the screening.

Ms. Turnbo stated a screening fence would be ridiculous when you have a high rise across the street.

Mr. White stated the condominiums have a fence around their property which separates it from the residential.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** a **Variance** of building setback from centerline of 21st Street from 100' to 78'. **SECTION 703. BULK AND AREA REQUIREMENTS IN COMMERCIAL DISTRICTS** - Use Unit 17 and a **Special Exception** to waive the screening requirement along a non-arterial street. **SECTION 212.C. SCREENING WALL OR FENCE**; per plan submitted; finding that there are several buildings that do not meet the required setback along 21st Street and finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

N 85', Lots 1, 2 & 3, Block 1, Brentwood Heights, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17538

Action Requested:

Special Exception to allow an Adult Entertainment Establishment in an IL zoned district. **SECTION 901. PERMITTED USES IN INDUSTRIAL DISTRICTS** - Use Unit 12a and a Variance of the required 300' separation from another Adult Entertainment Establishment. **SECTION 1212a.C.3.c. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS**, located 4020 South Memorial Drive.

Presentation:

The applicant, **Douglas E. Craig**, timely requested a continuance for additional advertising.

Case No. 17538 (continued)

Comments and Questions:

Ms. Abbott stated this request was presented in a timely manner and the applicant will need a continuance in order for the Board to hear the case. She further stated the case will need to be continued to October 22, 1996 at 1:00 p.m.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **CONTINUE** Case No. 17538 to October 22, 1996 at 1:00 p.m. in order to allow for additional advertising.

Comments and Questions:

Ms. Turnbo advised the audience that the applicant needed to do more advertising on the property and the case could not be heard today because it would be incomplete.

OTHER BUSINESS

Case No. 17457

Action Requested:

Refund requested for the application of a Special Exception to allow a "Project Headstart Program" classified U.U.11 Children's Nursery in an AG zoned District.

SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT -
Use Unit 11, located NW/c 54th Street North & North Cincinnati Avenue.

Comments and Questions:

Mr. Beach informed the Board that the application was filed and by the time the applicant appeared before the Board the Staff had discovered that the relief was not needed. He stated the Staff recommends full refund of the fees, which is \$235.00.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Bolzle "absent") to **APPROVE** the **Refund Request** of the application for a Special Exception to allow a "Project Headstart Program" classified U.U.11 Children's Nursery in an AG zoned District. **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT -** Use Unit 11; finding that the Staff had discovered that the relief was not needed prior to the Board hearing.

Case No. 17264

Action Requested:

Approval of a site plan for the **Special Exception** to permit multifamily buildings and accessory uses in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 8 and a **Special Exception** to amend a previously approved site plan - **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 8, located north and east of East 61st Street and South Memorial Drive.

Comments and Questions:

Mr. Beach stated the building permit has been issued on the subject property and it was discovered that one of the conditions of the approval of the Board was that the applicant return with a detailed site plan depicting all of the requirements of the development standards. He further stated that Mr. Dan Tanner has submitted the detailed site plan to INCOG and the site plan was found to be in compliance.

Mr. Gardner stated the applicant submitted the development standards and the Board approved the standards per the applicant's development standards. Mr. Gardner stated that Mr. Tanner had one development standard that stated the site plan would be approved by this Board, which would show that the site plan is in compliance. Mr. Gardner commented that this is very unusual and it is normally not done because once the Board approves a site plan they usually do not have the applicant return. He explained that the Building Inspector did not catch the final development standard and neither did INCOG. Mr. Gardner stated an individual caught the final development standard and called the Building Inspector. Mr. Gardner explained that that is why Mr. Tanner is before the Board today.

Mr. Beach stated that there were about three or four items on the list of developmental standards that he could not verify based on the site plan, but the applicant has submitted a letter which states what will be done to meet the standards.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-1 (Abbott, Dunham, , White, "aye"; no "nays" Turnbo "abstention"; Bolzle "absent") to **APPROVE** the site plan as submitted on the following described property:

Case No. 17264 (continued)

Beginning at the SE/c Lot 1, Block 1, Memorial South Center, City of Tulsa, Tulsa County, Oklahoma; thence N89°59'55"W for 374.71'; thence N00°00'05"E for 90.00' to a point of curve; thence northerly and northwesterly along a curve to the left w/ a central angle of 45°00'00" and a radius of 250.00' for 196.35'; thence N44°59'55"W for 120.45' to a point of curve; thence northwesterly and northerly along a curve to the right with a central angle of 32°29'47" and a radius of 500.00' for 283.58'; thence N12°30'08"W for 64.86' to a point of curve; thence northerly and northwesterly along a curve to the left with a central angle of 21°23'19" and a radius of 250.00' for 93.32'; thence N26°00'00"E for 243.22'; thence N73°00'00"E for 195.00'; thence N00°00'08"W for 250.00' to a point on the northerly line of said Block 1; thence N89°59'52"E for 421.94' to the NE/c said Block 1; thence S00°08'45"E for 1271.51' to the P.O.B., City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 3:00 p.m.

Date approved: 10-22-96


Chair

