

**CITY BOARD OF ADJUSTMENT**  
MINUTES of Meeting No. 751  
Tuesday, June 9, 1998, 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**

Cooper  
Dunham  
Perkins  
Turnbo  
White, Chair

Beach  
Stump  
Arnold

Parnell, Code  
Enforcement  
Ballentine, Code  
Enforcement  
Lesli Myers, Legal  
Department

The notice and agenda of said meeting was posted in the Office of the City Clerk on Friday June 5, 1998, at 1:46 p.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:**

On **MOTION** of **DUNHAM**, the Board voted 3-1-1 (Dunham, Perkins, White, "aye"; no "nays", Turnbo "abstentions"; Cooper "absent") to **APPROVE** the Minutes of April 28, 1998 (No. 748).

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays" no "abstentions"; Cooper "absent") to **APPROVE** the Minutes of May 12, 1998 (No. 749).

**UNFINISHED BUSINESS**

**Case No. 18025**

**Action Requested:**

Variance of required frontage of 150' to 125' in a CS District to permit a lot split.  
**SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 14**, located 101<sup>st</sup> & Delaware Ave.

**Comments and Questions:**

Mr. White asked Mr. Beach if the Planning Commission has reviewed this. Mr. Beach answered yes, the Planning Commission has reviewed a site plan (Exhibit A-1) for the entire property which includes this tract. Mr. Stump stated that the Planning Commission approved the site plan but it was contingent upon a Variance from the Board to allow this narrow a lot, with 120' of frontage. The access would be limited to a single access for both lots so they did not have additional access points created by the narrower lot.

Mr. White asked Mr. Dodson if the conditions that Mr. Stump mentioned are in accordance with what he had in mind. Mr. Dodson replied that they were acceptable and they are basically providing mutual access easements between the two properties and that the site plan does provide for those access points.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-0-1 (Dunham, Turnbo, Perkins, White, "aye"; no "nays", Cooper "abstentions"; no "absent") to **APPROVE** Variance of required frontage of 150' to 125' in a CS District to permit a lot split. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 14**, per plan submitted on the following described property:

Lot 2, Block 1, River Creek Village, City of Tulsa, Tulsa County, State of Oklahoma.

**Case No. 18029**

**Action Requested:**

Variance of the 20' required setback for a garage from a non-arterial street to 7' for a new garage. **SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS – Use Unit 6**, located 2347 S. Columbia Pl.

**Presentation:**

The applicant, **Scott Heller**, 2347 S. Columbia Pl., submitted a site plan (Exhibit B-1) and stated that the reason for having to do the garage in this manner is that the way the drainage flows with the house it would cause him to make it higher than the house. The west and east view has trees blocking any views from oncoming traffic. There will be a drive on the left side of the garage so a third car could be parked there. Mr. Heller stated that there are several houses within the neighborhood with similar garages.

**Comments and Questions:**

Mr. White asked Mr. Heller if he is enclosing the existing garage. Mr. Heller answered that they are turning it into a master bed and bath.

Mr. Cooper asked the applicant to explain the drainage issue. Mr. Heller stated that if he turned the garage around it slopes down on the west side. He would have to raise it up 4' off the ground so the water would not flow into the garage.

Ms. Turnbo asked if the other driveway would be a turn around so one does not have to back into the street. Mr. Heller said possibly, but right now there is no plan to. Mr. Heller does plan to set mirrors on the drive to make it easier for someone in the road and someone in the drive to see each other. Ms. Turnbo asked if there were any sidewalks in the neighborhood. Mr. Heller said no.

Mr. White pointed out the Staff comments pertaining to the 20' required setback, which would be 32' from the curb so cars parked in the drive will not extend into the right-of-way.

Mr. Beach pointed out that there is only 7' from the face of the garage to the property line. Only 7' of his car could be parked on his property. His site plan does show a sidewalk, Mr. Beach does not know for a fact if there is one there. Ms. Turnbo stated that when she drove by there was not one there. Mr. Beach mentioned that there is a City Ordinance against blocking sidewalks.

Mr. Beach mentioned that the new addition looked pretty deep, he asked the applicant how deep it actually is. Mr. Heller answered that he is planning to add 30' from north to south onto the existing area. Mr. Stump stated that it is 10' longer than a minimal garage. A double garage would normally be 20'x20' at a minimum size. Mr. Beach is concerned about allowing this and only providing 7' to park a car off the City right-of-way. Mr. Heller stated that is his reason for the side parking on the west side of the garage for a third car.

Ms. Perkins asked Mr. Heller if there was a particular reason why the garage had to be 30' deep. Mr. Heller answered that he was wanting to put storage inside the garage area and the closets for the master bed would come into the area. The current garage is 20'x20', when you add a master bed and bath, it shrinks the space, actually 5' of it will be used for the master bedroom. So it will actually be a 25' x 20' garage with 5' used for storage.

Mr. White asked Mr. Heller what the distance is from the south side of the house to the south property line. Mr. Heller answered 47'. Mr. Dunham asked how far in front of the existing property line along 25<sup>th</sup> St. is the addition to the garage. Mr. Heller said it is extending 7' further.

Mr. Cooper suggested requiring the applicant to have a third parking space and mirrors.

**Interested Parties:**

None.

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of the 20' required setback for a garage from a non-arterial street to 7' for a new garage.

**SECTION 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS**

– **Use Unit 6** subject to there remain three off-street parking spaces, which will be two in the garage and one beside the garage and that the applicant put mirrors up to aid in the viewing of cars pulling out of the driveway, per plan submitted, on the following described property:

Lot 9, Block 1, Quinlin III Addition in the City of Tulsa, Tulsa County, State of Oklahoma.

**Case No. 18031**

**Action Requested:**

Variance of required side yard from 5' to 0' and a Variance of the required land area per dwelling unit. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 7**, located 1332 E. 35<sup>th</sup> St.

**Interested Parties:**

None.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of required side yard from 5' to 0' and a Variance of the required land area per dwelling unit. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 7**, per plan submitted on the following described property:

Lot 7, Block 3, Olivers Addition, City of Tulsa, Tulsa County, State of Oklahoma.

**Case No. 18046**

**Action Requested:**

Special Exception to permit a church in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS – Use Unit 5**, located W of 177<sup>th</sup> E. Ave., S of Admiral.

**Comments & Questions:**

Mr. Beach stated that he had a revised site plan (Exhibit C-1) that was submitted by the applicant yesterday. They had some discussion about the land area that he had under application. What he is proposing is, if the Board approves this today, that it is limited to an area defined on the site plan so that the platting requirement would apply only to this portion of the property and not the entire property. He has other plans that do not involve the church on the rest of the property.

**Presentation:**

The applicant, **Charles Chief Boyd**, 4998 E. 26<sup>th</sup> St., stated that this application is for Calvary United Pentecostal Church. The site plan shows the church being located back off of Lynn Lane Road, behind the pond. The total depth of the property related to the church is 925' deep and 265' wide. The rest of the tract is planned to be residential like the adjacent residential areas. There is not sewer available to that. That development cannot happen until sewer reaches that area.

**Comments & Questions:**

Mr. White asked about the phasing of the project. Mr. Beach stated that he and Mr. Boyd spoke about that and they are very vague right now and he is prepared to come back to the Board if he needs to in the future.

**Interested Parties:**

None.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to permit a church in an AG district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS – Use Unit 5**, per revised site plan submitted today on the following described property:

N 1/3 of the E 1/2 of the SW 1/4 of the NE 1/4 and the N 1/3 of the S 1/4 of the NE 1/4, less the tract beginning at the NE/c thereof; then S 225', W 140', N 100', W 50' N 125', E 190' to the point of beginning, all in Section 2, T-19-N, R-14-E, Tulsa County, Oklahoma

## Case No. 18050

### Action Requested:

Special Exception to permit auto tune up (more than 3 bays) and emission shop in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17**, located 3015 S. Yale Ave.

### Presentation:

The applicant, **James E. Webster**, was not present.

### Comments & Questions:

Mr. Beach stated that the application was continued to June 9, 1998 to allow the applicant to get a site plan ready. The applicant agreed to the date.

### Interested Parties:

**Phillip Smith**, stated that he represents the Church of Christ which is the neighbor to the north of the property. The church objects to the application. They have spoken to the applicant and he mentioned that he was going to withdraw his application. Mr. Beach stated that there is nothing in the file indicating the withdrawal. Mr. Beach suggested that the Board could continue the application to the next meeting or strike the item. The only objection Mr. Smith had to the continuance was the expense to the church to have another representative at the meeting.

### Board Action:

On **MOTION** of **COOPER**, the Board voted 4-0-1 (Cooper, Dunham, Turnbo, Perkins, "aye"; no "nays", White "abstentions"; no "absent") to **CONTINUE** Case No. 18050 to the meeting of June 23, 1998.

## Case No.18052

### Action Requested:

Special Exception for church use, accessory parking. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, located 1607 Queen Street.

### Presentation:

The applicant, **Harold W. Jones**, was represented by **Sharyn Cosby Washington**, who stated that she is representing Full Gospel Family Outreach Ministries. Ms. Washington submitted handouts to the Board members telling about the church (Exhibit D-1). The church has made application to build a parking lot on a lot that they have owned for the past 3 years. The church held a parking lot drive for a year to raise money to build the parking lot. After that, the church hired a contractor by the name of Empire Construction to build the parking lot for them. The church later found out that a building permit was not applied for so they had to back track and apply for that permit. The church has been using that lot for parking for three years, it has not been paved, and they feel that it is now time to pave it. The church learned of some

opposition to the paving of the lot and held a meeting with the neighbors. In that meeting, some of the neighbors indicated some issues that they had problems with. Ms. Washington felt that it all boiled down to the church starting over and doing the parking lot right from the beginning by obtaining proper permits, they would have no problem with it. That is what the church is now trying to do. Ms. Washington mentioned that the church is a good neighbor in the community and the church has provided many services to several of the people who live in the community. Ms. Washington stated that the church is growing and eventually they will move to a new location, which has already been purchased. The new lot is located at 56<sup>th</sup> St. N. and Cincinnati. Even if the church moves to the new property, they will still maintain ownership of the property at 1607 Queen Street. Ms. Washington pointed out the map in the packets and mentioned that the properties highlighted are properties owned by the church. The other map shows the proposed parking and how it will be arranged. The person who drew up the parking plans stated that he cannot get 250 parking spaces on the lot. There are two entrances into the parking lot which will be gated.

**Comments and Questions:**

Mr. Dunham asked Staff about their Staff Comments in connection with the building on the property. Mr. Beach answered that it shows up on the aerial photo. Ms. Washington mentioned that the storage building in the back of the parking lot will not remain.

Ms. Turnbo asked Ms. Washington how many parking spaces the church has near the existing church and the parking lot combined. Ms. Washington answered that the new lot will have 80 and she will be sure they draw the lines on the plan. At the church, she estimates about 60 parking spaces.

Mr. Cooper asked the applicant how large the existing sanctuary is. Ms. Washington answered that the seating capacity is about 450. There is a children's church which totals about 150 children. Mr. Cooper asked what the square footage of the sanctuary is and Ms. Washington responded that she did not know.

Mr. Beach asked the applicant if 450 people could sit in the pews in the sanctuary during a church service. Ms. Washington answered yes.

Mr. Beach stated that he counted 61 spaces on the existing church property. Mr. Stump stated that the Code requires that if the church seats 450 people they would need 150 parking spaces.

Mr. Beach mentioned that he came up with 61 spaces on the existing church property and 80 on the new parking which would total 141 spaces. The church would only need 9 more spaces. Mr. Stump stated that there are major violations in the parking lot layout. Mr. Stump mentioned that there are 50' setbacks for parking from the centerline of Evanston and Queen and there is a 5' landscape requirement along the

boundaries of that lot. The 50' from centerline setback for off-street parking in an R District is the one that could eliminate a lot of spaces.

Ms. Washington mentioned that she understood the requirements and understands that they may eliminate some parking spaces, but she added that across the street is a lot that the church has been using. The lot is not paved. One of the gentlemen across the street has allowed them to use his lot, provided that the church maintains it. The church also owns another lot across the street which is not paved.

Mr. Cooper asked the applicant if the church owns the remainder of the lot that is vacant. Ms. Washington stated that they own everything that is highlighted in yellow on the map she provided. Mr. Cooper stated that the church could provide additional parking and meet the setbacks. Ms. Washington answered yes. The church owns six lots on the existing property, each of which are 65'x140'.

Mr. White asked that when the permission for the church to be located on its property was granted in 1957, what would the requirements have been? Mr. Stump answered that there were no off-street parking requirements. Mr. Stump stated that it appears that the church is not putting in required parking because the church was built prior to an off-street parking requirement of the City so they would be grandfathered in. The church is just putting in additional parking for their own use, it is not required. Mr. Cooper stated that by adding just one parking space, it would be a benefit because the existing parking is grandfathered.

**Interested Parties:**

**Councilor David Patrick**, City Council, District 3, stated that he has spoken with many of the residents in the area and encouraged them to meet with the church and iron out their differences. Mr. Patrick stated that his concern is the sanctity of the neighborhood. If the Board approves this parking lot, Mr. Patrick stated that he would like to have protection for the neighborhood and protection for the people whose homes abut the parking lot with the appropriate screening and landscaping.

Mr. Dunham stated to Councilor Patrick that it looked like the paving would improve a situation that is already there. Mr. Patrick answered that it looked like it would improve the off-street parking situation, but the neighbors will address that issue. The church has been parking on this property for a long time, even though it has not been paved and it looks like they are trying to comply by paving the lot. Mr. Patrick closed by stating he supports the neighborhood.

Mr. White stated that he is in possession of a petition in opposition with approximately 30 names of people living in the immediate neighborhood supplied by Mrs. Candrea (Exhibit D-4).



**Gary Bryant**, 1614 N. Evanston Pl., stated that he lives across the street from the church. He bought his house in 1993, a short time before the church came into occupancy of the building. The neighborhood has always been peaceful, tranquil and a quiet place to live. Since the church has moved in they have repeatedly demonstrated their disregard for the neighborhood by failing to control noise, parking and trespassing on others' property. Mr. Bryant does not know if 450 people attending the church services is accurate. The neighborhood has made an inquiry with the Fire Marshal to determine the occupancy and they haven't gotten back with the neighborhood. They have had to put seats in the aisles to seat all of the members and it is seriously overcrowded. If the parking is commensurate with the size of the building and with the occupancy code, they don't need this parking. They could easily, by dividing their services, use the existing parking and get along well.

Mr. Cooper commented about the list of grievances that was provided to the Board (Exhibit D-2) and asked Mr. Bryant to address the concern about the unattended parking lot after the church moves. Mr. Bryant replied that he was aware of that concern but was not the author of it and is not really prepared to speak on it. Mr. Bryant stated that the church and the parking lot are deeply embedded into the neighborhood and this parking lot, it is feared, will become a center of activity for persons around the neighborhood, such as loitering after hours, etc. Mr. Bryant mentioned that the neighborhood feels that either after hours or after the church moves, the very presence of the parking lot lends itself to various kinds of undesirable activities. The parking lot is mostly remote and surrounded by fields on most sides except the side that is adjacent to the church. A person could easily go unobserved in the fields surrounding the parking lot. Mr. Cooper asked given that concern and if the Board is inclined to approve this application, do you believe that fencing the parking lot would eliminate undesirable or illegal activities? Mr. Bryant replied that if they had to accept the parking lot as a reality, then yes, some kind of fencing and gate would be necessary.

**Mrs. Norma Wilder**, 1610 N. Evanston Pl., stated that she lives directly in front of the church. Ms. Wilder said that she has been at odds with the church over their parking ever since they moved in. They park in the lot next to her house, owned by Mr. Scott and they pull in her yard and park. Ms. Wilder mentioned that the music is very loud. Sometimes the music goes on into the night. Ms. Wilder believes that the church is very disrespectful to the neighborhood.

Mr. White asked Ms. Wilder if Wednesday, Friday and Sunday were the only days that the music is loud. Ms. Wilder answered no, there is someone there every night. Mr. White asked Ms. Wilder if the noise was coming from the church or the parking lot. Ms. Wilder responded that it was from the church, but you could hear the church members congregating in the parking lot after services.

Mr. Cooper stated that it seems to him that the parking lot is a step to improving the parking situation, Mr. Cooper asked Mr. Wilder to explain how the parking lot would make the situation worse than it is today. Ms. Wilder stated that Mr. Jones was the person who was going to speak on that issue.

**Walt Scott**, 3735 S. Canton, stated that he owns the lot west of the church and north of Queen. Approximately a year ago neighbors mentioned to him that his lot was being used and was very messy and had several abandoned vehicles on the lot. Mr. Scott drove by his property and discovered that the church had put a culvert into his property without his permission or knowledge. About a month ago Mr. Scott was informed of a neighborhood meeting at the church and he attended. At that time there were two abandoned vans on his property that belonged to the church, he spoke with the assistant pastor about the vans and was told that Rev. Jones and the church owned the lot, when in fact, Mr. Scott has owned the lot for over 20 years. At the meeting, he explained that he owned the lot and was receiving complaints from the neighborhood. Mr. Scott has no objection to the church occasionally parking vehicles on the lot but not permanently. Mr. Scott stated that at the meeting the church acknowledged the fact that they did not have any permits for any of the paving. Mr. Scott suggested to them that they hire an attorney or real estate person to help them with their problems.

**Altas Spruzzola**, 1620 N. College, stated that she owns the property surrounding the parking lot (15 lots). Ms. Spruzzola is worried about what the acre of asphalt is going to do to the value of the property. Ms. Spruzzola stated that many of the church members park on her property and the church does some dumping on another one of her lots. Ms. Spruzzola does not approve of the parking lot. Ms. Spruzzola submitted photos of her property (Exhibit D-5).

**Tommy Jones, Jr.**, 1529 N. College, stated that he is speaking on behalf of the homeowners' association. Mr. Jones stated that before the church took out the grass, they were advised that they did not have a permit. Mr. Jones' father went to the church and tried to talk to them and he was told to mind his own business. Mr. Jones' father called the appropriate offices, verified that no permits were secured and there was a stop order made. Mr. Jones submitted a packet with all of this information in it (Exhibit D-3). A deacon of the church, who is also a City Inspector with the Street and Highway Department said that they did not need a permit. The church told them that the construction company had a permit and the construction company told them the church had the permit. The church does not know their boundaries on the land, they have overspread gravel on the south of the property. They use Mr. Scott's property west of the church. There is damage to the property on the east and west sides of the proposed parking lot from the construction that has already happened. There has been disregard for the neighborhood and the proper procedures. The church held one meeting with the homeowners' association. No one representing the church at the meeting could produce a survey, site plans, etc. Mr. Jones stated that the Board of

Adjustment made a recommendation to Rev. Jones that the church hold another meeting with the association to try to discuss the parking lot. No meeting was ever held. Mr. Jones mentioned that the noise from the church can be heard all over the neighborhood. The main problem with the parking lot is that it will attract undesirables. Mr. Jones stated that the homes in the neighborhood have had expansions and additions done to them. The neighborhood does not want the parking lot. Mr. Jones stated that at the meeting the church informed the neighborhood that they have a membership of 1,000 individuals, on Sundays they have close to 500 present. The church admitted to the neighborhood that they put chairs in the aisles, which is a fire code violation. A larger parking lot is not going to change the sanctuary size. Mr. Jones believes that the church is too large for its present location and they need to move to their new location or go to two services on Sunday morning. Two services on Sunday morning would eliminate the need for chairs in the aisle and the parking problem. Mr. Jones stated that this is a temporary situation for the church and a permanent situation for the neighborhood.

Mr. White asked Code Enforcement if they have dealt with any issues on this property. Ms. Parnell answered that she was out there on the initial complaint when they graded the lot. Ms. Parnell spoke with someone at the church and they indicated that they had permits, Ms. Parnell called INCOG and discovered that the church had not applied for anything and she knew that there was some confusion over the permits. Ms. Parnell notified Jack McGee, with the Building Inspector's office and Mr. McGee issued the stop work order.

Ms. Turnbo clarified with Mr. Jones that he believes that the parking lot is a temporary use for the church and he feels that after the church moves the use of the building would be suited to the existing parking. Mr. Jones agreed. Ms. Turnbo asked Mr. Jones, if the church does not go to two services, does he feel that this parking lot will eliminate the problem with parking across driveways and on other property. Mr. Jones believes the parking will still be a problem.

Mr. Cooper asked Mr. Jones what the hours are that the noise is a problem. Mr. Jones answered that the church services are held throughout the day. Mr. Jones stated that sometimes the services go late into the night.

Mr. Cooper asked Staff if the Board does nothing, or denies the application, how many people are allowed to occupy the sanctuary per the grandfathered aspect of the Code. Mr. Stump answered that it is his understanding that the church was built before there were any off-street parking requirements, so they could continue to use that structure as a church without providing additional off-street parking requirements. If they choose to expand then certain requirements would accrue.

**Applicant's Rebuttal:**

**Rev. Harold W. Jones**, 5029 N. Osage Drive, stated that he is the pastor of Full Gospel Church. Rev. Jones thought that the neighborhood would be accepting of the parking lot because it would be a solution to the parking problem. Most of the people have told them privately that they do not have a problem with the parking lot. Rev. Jones believes that the neighborhood would be happy if they just left the area. The church does not know how to work things out with them because they believe the parking lot will be a solution to the problem.

Ms. Turnbo asked Rev. Jones if the church does plan to move and when; she also asked how Rev. Jones felt about the church having two services. Rev. Jones answered that they are going to move the church but it may be 4 or 5 years from now, but they are not sure. Even if the congregation moves to another location, the church building is still going to be used. If the church holds two services, the church will still be full.

Mr. Cooper asked Rev. Jones to address the noise issue. Rev. Jones answered that they do not have services past 10:30 or 11:00 in the evenings. Mr. Cooper asked how late the services last during the week. Rev. Jones answered 11:00 at the latest. Mr. Cooper asked if the Board was inclined to approve this application, would the Rev. be agreeable to limit the hours of the church services. Rev. Jones said that would be fine.

**Ms. Washington**, stated that Rev. Jones has hired an off duty Tulsa County Sheriff's officer to monitor parking. The church has done a lot to try to get the problems solved. Ms. Washington said that there is a group of women who faithfully come to the church every morning at 5 am to pray.

Mr. Cooper asked Ms. Washington how early in the morning could the Board limit the use of the church, would 8 am be acceptable? Ms. Washington said that there is a group of women who faithfully come to the church every morning at 5 am to pray. Ms. Washington said that she has never heard of the City limiting the hours of a church. Mr. White stated that this is a moot point because the application is for a lot that is not occupied by church itself, but for parking purposes. Mr. Cooper stated that they could tie the restrictions on the use of the lot to anything. Mr. White agreed to the use of the lot but not the use of church.

Lesli Meyers, City Legal Department, stated that the Board is going to be limited in telling them how to use the church. The noise ordinance will cover the noise activities.

Ms. Turnbo asked Ms. Washington if the women coming in at 5 am are playing music. Ms. Washington answered no, they are at the altar praying.

**Comments and Questions:**

Mr. Dunham stated that the neighborhood is unhappy because the church is there and the fact is, this Board cannot do anything about that. The church is there and they have the right to be there. It appears that the addition of this parking lot would not solve all of the problems, but it will help and is a step in the right direction. Mr. Dunham does not see how the Board could impose hours on the church, they do not have them now. Ms. Turnbo agreed with Mr. Dunham. Mr. Dunham said if there are Code violations, and it appears that there are, that is not this Board's responsibility and he suggested that the neighborhood call Code Enforcement. Mr. Dunham believes that the parking lot with landscaping is an improvement.

Ms. Turnbo mentioned that it would be better to have landscaping all the way around instead of fencing. Mr. Stump said that there is a screening requirement when it abuts a single-family residential district or is within 50' so that is all sides except the southern boundary. A normal screening fence is 6' but the limit is a 4' on the front yard. Mr. Cooper mentioned his concern about the fencing and how to be least injurious to the neighbors. Ms. Turnbo mentioned that several years ago there was a neighborhood that did not want a screening fence, they wanted a chain link so they could watch the activity and report it. Ms. Turnbo believes that the church does need to meet the landscape and setback requirements.

Mr. Beach stated that a screening fence is required and they have not asked for relief from that requirement.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception for church use, accessory parking. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, subject to site plan approval on the following described property:

Lots 1-5, Block 2, Striblings Acres Addition, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 18060**

**Action Requested:**

Special Exception to permit a public bus transit and transfer station and children's nursery and day care facility in an IL district pursuant to a site plan approved by the Board. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** and a Variance to reduce the required 75' setback from an RS-2 district to 35' for an office and administrative building. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**, located S side of E. 33<sup>rd</sup> St. W. of S. Memorial Dr.

**Presentation:**

The applicant, **Charles E. Norman**, 2900 Mid-Continent Bldg., stated that he represents the Metropolitan Tulsa Transit Authority which brings this application for a Special Exception for the approval of the midtown transfer station for local bus service. The Metropolitan Tulsa Transit Authority ("MTTA") was organized about 30 years ago for the purpose of continuing bus service throughout the City of Tulsa as a necessary public service for residents who choose or are not able to afford to drive a car. The property that is under application is at the west side of South Memorial Drive on the south side of E. 33<sup>rd</sup> St. The tract is about four acres in size and is zoned Industrial Light. The property on both sides of E. 33<sup>rd</sup> St. from Memorial over to 79<sup>th</sup> E. Ave. are within the same IL district except for the shopping center on the NW/c of 33<sup>rd</sup> and South Memorial. The MTTA is a public agency managed by a Board of volunteer trustees appointed by the Mayor and confirmed by the City Council. There are seven of those trustees who broadly represent the City. This group, in the past two years, have been working with the Staff to implement a new concept, new to Tulsa but not new to the United States, of creating more than one hub for the provision of bus service. Tulsa is still being served by a single hub that was implemented 50 or 60 years ago and was based upon the downtown area being the center of the metropolitan area. Consequently, all busses originated within or ended within the central business district and all bus routes would pass through the central business district. In Tulsa, the metropolitan area has become elongated to the southeast. The single hub bus service concept has become less and less efficient and results in longer bus routes and travel time and does not serve the needs as well as what is now proposed. Mr. Norman stated that they are asking for approval of a transfer center to establish a second hub of service and there are presently 15 bus routes in the City of Tulsa, all of which travel through the new transit center on Denver. The proposal would divide those bus routes into seven that would travel through the downtown area and seven that would travel through the new midtown transfer center, with three bus routes connecting the seven. Mr. Norman has submitted to the Board written material (Exhibit N-3) that describes the proposed routes and the timing of the operation of the center. Mr. Norman also submitted a photo packet (Exhibit N-1). This concept calls for all of the bus routes to arrive at the transfer center within five minutes of each other and to allow passengers to transfer from one bus to another and all depart at the same time. During the rush hour in the morning, ten busses would arrive and depart every thirty minutes and in the mid part of the day, there would be nine busses arriving and departing every 45 minutes. They have submitted to the Board much information about the scheduling of the busses and a description of a typical patron of the public transit system. Mr. Norman stated that 60% of bus users are employed and are using the system to get to and from work. More than 50% are women. The MTTA is proud of its safety record, not only for the protection of its passengers from accidents involving busses but incidents that happen on the busses themselves. During the past year, the MTTA had over three million passengers and only seven incidents on busses that required any kind of outside assistance. Busses are a safe way to travel from a traffic standpoint. Mr. Norman stated that there are a number of areas of concern and

the first is why does a transit center need Board approval if it is located in an Industrial district. The bus station has been classified for a number of years as a Use Unit 2, Public Service function similar to water and sewer systems, airports, post offices, etc. Public service facilities of that kind are found to be appropriate by the Zoning Code in any neighborhood subject to determination by the Board of Adjustment that the activity would not be contrary to the spirit and purposes of the Zoning Code or have an adverse affect on the neighborhood. A site plan has been submitted indicating the detail the architects have gone to provide a u-shaped entrance and exit with stalls for 12 buses covered by canopies. This is not an enclosed facility like the downtown facility, it provides only covered shelters for people waiting for busses or who are transferring. The benches are designed for sitting only, they can't be used to lie down on. There are no restroom facilities within the facility, if any are to be provided in phase 2, they will be for the bus operators only. There will be surveillance cameras, not for the purpose of recording incidents but as a reminder to those users of the facility that they are under surveillance. The landscaping exceeds that which is found in the neighborhood. The site plan and the landscaping proposal is presented in detail and is in two phases. The buildings on the left side would be proposed uses in the future, if economically feasible, one of which is a day care facility. In the meetings and public hearings that have been held with the neighborhood groups, Mr. Norman has not heard any serious complaint or criticism on the double hub concept of providing transportation. Mr. Norman has not heard anyone seriously debate the fact that this is a more efficient way to provide bus service. There has been no criticism about the design or landscaping of the facility itself. Mr. Norman stated that the real issue is about the use of the property and its effect on the adjacent neighborhood. The nearest single family residence is located 585' to the east of this property. The nearest neighbors are the Quinn dealership on the east side and across the street to the northeast is a shopping center, to the south is Tulsa Technology Center Campus. To the west and to the north are seven hotels and motels already existing and one under construction. Mr. Norman has submitted copies of Use Unit 25 and Use Unit 15 which lists trades and services in light industrial uses that are permitted on this site without any approval by the Board because it is already zoned in the IL District. Many people have been concerned with this project and have mentioned placing it within an Industrial District. That is what the MTTA has now done. There is a letter from the Marriott Hotel (Exhibit N-4) stating the benefit of the transit service to the employees who work in the hotel industry in this area. John Eshelman, City of Tulsa Traffic Engineer has analyzed this use and proposed service and has prepared a report, which is part of the file. His conclusions are that with the installation of an on-demand stop light at 33<sup>rd</sup> & Memorial, that this intersection will operate without detriment to Memorial. He also concludes that if this use were not there, the existing growth of hotels and other development in the immediate area justifies the signal at this location. Mr. Eshelman describes in his report the timing of this signal with the one located 800' to the south at 35<sup>th</sup> St. would be so that traffic on Memorial would be interrupted at only one place at the same time. Outbound movement of the busses would probably require two cycles and otherwise, the signal would remain green for Memorial unless a

demand was generated by the busses or other traffic. The bus transit station would add 210 to 250 bus trips per day on South Memorial Drive. There are currently 68 bus trips along Memorial now. There are presently 34,000 vehicles using Memorial Drive each day with about 2,700 on the peak afternoon hour. Mr. Norman stated that they had INCOG's Transportation Department give them information about what the existing load of diesel traffic is in that neighborhood. Under the INCOG analysis, there are presently estimated to be between 1,100 and 1,200 diesel trucks on South Memorial and within the triangle of I-44, the Broken Arrow Expressway and Memorial Drive, about 11,000 using the expressways. There is no real concern about the diesel emissions. This tract is located apart from any uses other than commercial, office and hotel uses with respect to the prevailing south winds. Within the packet submitted, there is a letter from Police Chief Ron Palmer stating that the Police Department does not believe that traffic or crime rates will be adversely affected simply by adding this transfer station in this particular part of Tulsa. The MTTA has also requested the Center for Urban Transportation Research to analyze similar transit facilities in other communities. The review was conducted of 31 cities that were comparable to Tulsa, 13 of those communities had similar transfer facilities and they report that at none of them has there been any unlawful or undesirable activity or problems. They also discuss the problem of perception. There is an unfortunate perception about people who ride, need to ride or have to ride public transportation that they are different in some undesirable way from the rest of us. Mr. Norman submitted a report by Curtis Killman who went to Houston and reported on that community, which has no zoning laws, and found that they have nine neighborhood suburban transit facilities and his report indicates that there have been no problems in the neighborhoods where these facilities have been installed. The MTTA has attempted, and continues to do so, to support this kind of concept of more efficient service to the patrons. The overall goal of the MTTA is to reduce the number of vehicles on the streets, reduce fuel consumption, reduce pollution and to provide a speedy and efficient transportation service for those who choose to use it. This is a worthy service to be provided by a public agency.

**Comments and Questions:**

Mr. Cooper asked Mr. Norman about the security patrol provided by the MTTA. Mr. Norman answered that there is no evidence that a full time patrol is necessary. This location in the East part of the City is not adjacent to any other source or reason to come to unless they are a rider of the facility. The bus drivers themselves are the first source of patrol and the MTTA maintains the patrol service to monitor the facilities and be on call and that service will be provided a deemed necessary by the trustees of the authority. Bus service is not provided after 8 p.m. in the evening and not before 5:45 a.m. The facility is in full view of anyone driving by. If there is any circumstance that warrants that kind of patrol, MTTA will provide it.



Mr. Cooper asked Mr. Norman if the facility downtown has restroom facilities. Mr. Norman said yes, the restrooms are available for everyone at the downtown location. There are no restroom facilities planned for the public either in phase one or phase two of this project. If they are built in phase two, it will be for transit workers only. Mr. Cooper asked Mr. Norman to explain the reason for no restroom at this facility. Mr. Norman stated that the theory is the patrons do not wait for the busses here. The busses arrive and stay a maximum of five minutes and people transfer from one to another. There are no restroom facilities at other transfer facilities in the City, some which take up to two hours to go from one point to another. That is a decision that has been made by the trustees. It is intended that nothing about this facility be attractive to any person other than a rider of the system and that is reflective in the lack of indoor shelters, lack of benches to lie down upon and lack of restroom facilities. The east part of the City is not a focal point for transients and there is no reason for anyone to expect for them to come to this location to hang out.

**Interested Parties in Support of Case No. 18060:**

**Gary Watts**, stated that he is representing Tulsans for Better Transit, which is an advocacy group in support of improving public transportation in the City of Tulsa. Mr. Watts stated that there are many thousands of people who depend on the transit service daily. They believe that there are many thousands more, who, if they were improved, would use the service also. Several people would like to see a grid system used for the bus system but the several million dollars that it would require are not in the budgets for the City or the MTTA. For the last two budget cycles, the Mayor and the City Council have designated additional funding to make this a possibility and make this a reality. It is the best judgment with the resources available. A second transfer station is the most economical way to improve transit service in the City. Mr. Watts urged the Board to look at the zoning patterns and other land use comparisons as to the appropriateness of this facility in this industrially zoned area. This is a very appropriate site and Mr. Watts urges the Board to approve this location.

**Pam McKinney**, 531 N. Evanston, stated that she is a public transportation advocate. Ms. McKinney stated that mass transportation is a reality that will help save fuel and the atmosphere. Mass transit is something that the City must continue to work on and continue to improve for the good of the City. Ms. McKinney stated that there have been some concerns about crime and the type of people the station will attract. Someone will not steal a TV and jump on a public bus to take it home. The bus system has also been called a social service agency – this is not true. Already one-third of Tulsans cannot drive for one reason or another. As baby boomers age, this number will continue to rise. The government is implementing a Welfare to Work program and the mass transit will need to be highly involved to help this out. On Ozone Alert days, patrons riding the bus system almost doubles. Mass transit also helps to protect the air, provide access to jobs and provide safe and convenient travel options. The new day care center would help working parents with accessible and convenient day care, which is needed in the City very much. Through the Project

Action Program, some disabled people will be put on fixed routes. The second station will help them get to their destinations faster and easier and will also give them more independence in their life styles. Ms. McKinney stated that she has spent many hours at the new Denver station and the variety of people that she saw at the station tells her that Tulsans have begun to recognize the benefits of mass transportation. Ms. McKinney submitted a petition of support (Exhibit N-6) signed by citizens of the City of Tulsa.

**Penny Painter**, Vice Chair of the Mayor's Commission on the Status of Women, stated that she is here as a representative of that commission to express concern and support of the MTTA since over 50% of riders are women and women who have families. Ms. Painter encourages the community to look at this as a community problem and figure out what everyone can do to alleviate the problems. Ms. Painter stated that she is also the executive director of a non-profit agency in town and has several employees and clients who use the public bus transit system. They have formed a partnership with about ten or twelve other agencies in towns and have been given a large grant to assess the needs of people coming off of public assistance. Ms. McKinney is concerned about the mass transit system being able to help these people and she is very pleased to see MTTA attempting to help these people.

**Herb Beaty**, 7005 S. Louisville, stated that he is a member of the Urban Ecology Institute and a Volunteer at Jackson Elementary School and Apache Manor Public Housing Authority. Mr. Beaty stated that he strongly supports this proposal. For the last 50 years the City has tried to accomplish the goals of having cheap and convenient public transportation. The City has succeeded on the cheap part but failed miserably on the convenient part. It has been demonstrated in several cities across the nation that if you build more roads for cars, you get more congestion. There will never be enough money to solve the problems of congestion and ozone pollution if we keep going the way we are. Mr. Beaty suggested that the City invest more money into public transportation. The single biggest impediment to getting the residents of Apache Manor off of welfare and into work is the lack of a public transportation system that works. Drivers pay less than 1% of the cost of roads and streets in the City of Tulsa. The cost of the system is paid for by the third penny sales tax from which automobiles and gasoline are exempt. We are hugely subsidizing the car system. In this town we have the American Association of Petroleum Geologists, those people who are exploring and finding petroleum are all telling us that within twenty years we are not going to be able to afford petroleum to drive our cars the way we are now. We need to work on bringing our public transit system up to standards.

**Barbara Maxwell**, 3212 E. Haskell St., stated that she is a bus user and has been a bus user in every city that she has lived in. Ms. Maxwell mentioned that she has never seen a city the size of Tulsa that has not financed their public transportation and encouraged it. It means less air pollution and gives people an opportunity to get to where they need to go. Ms. Maxwell stated that not everyone wants to or can afford to

drive a car but they do want to get from here to there conveniently. The gird system would be wonderful to have, but Tulsa can't afford it. The proposal of satellite systems would work just as well and be a good transportation system. This is the time to start thinking about the future of the City.

**Gail Click**, 1428 E. 39<sup>th</sup> St., stated that she has lived in Tulsa for 1½ years. Ms. Click is from Louisiana and in New Orleans there are two major bus stations – one for the Jefferson-Parish district and one for the Orleans-Parish area. With these two different systems you can get from one end of the city to another any hour of the day or night. After talking to many people in Tulsa, it is her understanding that Tulsa did have busses that ran late in the evenings and covered the whole City. Ms. Click stated that it is her understanding that as the City grew, the bus system did not. The system that Tulsa has is good, the additional hub would make it better. Ms. Click works at 41<sup>st</sup> & Mingo and takes the bus to work everyday. There are at least 12-14 people per bus that get off at her place of employment. On cold and rainy days, there are double the amount of riders on the bus system. Ms. Click is not on welfare or public assistance and just chooses to take advantage of the bus system.

**Interested Parties in Opposition to Case No. 18060:**

**Kevin Coutant**, 320 S. Boston, stated that he represents the Fulton Neighborhood Association and Terry Quinn in connection with this application. Mr. Coutant submitted to the Board a notebook with exhibits in it (Exhibit N-2). The petition located in the packet is signed by about 800 or 900 people who are either members of the neighborhood association or people who work in the area indicating that they have serious concerns about this application. Mr. Coutant believes that it is important to understand what they are not doing today. They are not here to object to mass transit or to question the wisdom of public funding of mass transit. They are not here to question whether or not this particular type of system is a good idea. They are not here to address the socio-economic issues. They are here today to discuss what the Board exists for which is the consideration of land planning issues. Specifically, is this application a good idea for this location? Mr. Coutant stated that it is important for this Board to consider the facts of this application and beyond that the Board is not to be persuaded by emotion. Mr. Coutant mentioned that this is a Use Unit 2 application, it is a bus station. Use Unit 2 is a series of public service uses which are not available anywhere as a use by right and the reason for that is their potential adverse affect on adjacent properties. With regard to traffic, this is a traffic use. It is their understanding that in the consideration of this location, for this use, there was not a traffic analysis done by the MTTA until about a week before the previous hearing. There was a 24-hour traffic count done on Memorial and there was a consideration as to how to get the busses in and out. Mr. Coutant understands, from Mr. Eshelman's report, that he concludes that the use at this site is "acceptable". Acceptable means something other than good and certainly does not mean great. 33<sup>rd</sup> St. is designed as a residential collector street which is only 36' wide. This street empties out onto South Memorial, which is one of the most heavily traveled streets in the City. In order to get the busses

in and out of this location will require a well-engineered light. It is a light that will be sensitive to traffic at that location as well as on 35<sup>th</sup> St. so they will mutually trigger one another. Mr. Coutant said that lights stop the flow of traffic, they help traffic merge but they will not move the traffic faster up and down Memorial. Mr. Coutant understands the plan is to mark two outbound lanes, 10' in width each, so one can turn south and one can turn north. That would leave 15' for the inbound lane headed west. That leaves about a foot on either side of those 10' lanes considering the size of the busses. They are squeezing the lanes down in size to make them accessible. These busses require a 40' turning radius and a car requires about a 20' or less turning radius. Mr. Eshelman made a mistake on his memo by stating that the busses will be making about 150 trips per day, they will actually be making 280. The number could possibly grow. Environmental issues involve a hospital directly across the north west corner of this proposed facility. The environmental issues result from the fact that these busses are not just driving by, they are coming and staying at five-minute intervals. Diesel fuel is a problematic combustible. Mr. Coutant read an article from the California EPA, stating that one of the characteristics of diesel exhaust is the release of particles at a relative rate of about 20 times greater than gasoline fueled vehicles on an equivalent fuel basis. Diesel exhaust includes 40 substances that are listed by the EPA as hazardous air pollutants. There is a use right across the street which is a hospital that would be affected by the diesel fumes. Mr. Coutant spoke as to the compatibility of the bus station with surrounding uses. Mr. Coutant agreed that this area is an industrially zoned district, but not used by industry. The neighborhood is characterized by very upscale hotels, offices, hospitals, etc. This is not being developed as an industrial area. Mr. Coutant restated what Mr. Norman stated earlier about a bus maintenance station going in on the same property. Mr. Coutant does not believe the neighbors would have a problem with that because there would not be as much traffic. Mr. Coutant believes that the facts related to this use do not support the granting of this special exception. The facts, unemotionally approached, suggest that this is not an appropriate location. There are several other locations in this part of the City that are suitable, some even more so, than the location that is in question today.

**Terry Quinn**, 5607 S. Gary, stated that his auto dealership is near the proposed location. Mr. Quinn is concerned about emergency vehicles being able to get down Memorial Drive in rush hour traffic. Mr. Quinn stated his concern is about adding 250 busses and this installation of the traffic light at 33<sup>rd</sup> St. The traffic light at 35<sup>th</sup> and Memorial does not do much. The students from Tulsa Technology Center would rather drive through the neighborhood than sit and wait for the lights. The neighborhood has been successful in getting several stop signs put up in the area and there is a police officer who monitors the intersection. Mr. Quinn mentioned that if this traffic light at 33<sup>rd</sup> St. is put in, there will be six signal lights in one mile. Mr. Quinn stated that he has 60 to 80 cars a day that go into the service department and now they will be facing the busses. Mr. Quinn believes that this will put him out of business.

**Roland Knight**, stated that he is the CEO of Health South Rehabilitation Hospital of Tulsa, which is a 60 bed rehabilitation facility. The facility employs 120-150 employees. They have an average daily census of about 40 ADC, those inpatients have various diagnosis of stroke, brain injury, CVA, amputation, spinal cord injury, and most significantly respiratory disease. They also have an outpatient program that sees between 30-40 people a day and one of the programs is a respiratory rehabilitation program. It is a program where people who have been dependent on oxygen are very sensitive to the environment. Mr. Knight stated that they are his biggest concern in this situation. Mr. Knight stated that there are two issues that concern him, the first is air quality. His patients are very sensitive to outdoor air. This emission from these busses will literally throw these patients for a loop. Mr. Knight stated that the building is smoke free and typically someone wants to stand outside the doors and smoke. Mr. Knight has had to move his smoking area away from the outpatient area because it bothered so many patients. Mr. Knight is worried about the busses emitting pollutants. The busses are going to sit and idle and produce much smoke. The busses produce Carbon and Nitrous Oxide and these chemicals are really hard on their respiratory problems. This smoke is sometimes referred to as ground level ozone. It settles down close to the ground and stays on the ground. The hospital encourages the patients to get outside with their families. The back side of the facility has been blocked off and has benches. Mr. Knight understands the goal of the MTTA to reduce pollution, but what they are doing is increasing pollution. The second issue that concerns him is restrooms. Mr. Knight believes that without restrooms, the bus riders will be going into the surrounding businesses to use their restrooms. Mr. Knight thinks noise is going to be another issue with the busses idling. That does not create the type of environment that the hospital is trying to give off.

**Charles Crawford**, 3361 S. Memorial, stated that he is a member of the Fulton Homeowners Association. The association represents an area of about a square mile that is bounded by Memorial on the west, Mingo on the East, between 31<sup>st</sup> & 41<sup>st</sup>. A lot of the homeowners in this area are close to the proposed location. Mr. Crawford stated that currently the traffic in front of his house, on Memorial, becomes bumper to bumper during rush hour. They only move a few cars at a time, several people become impatient and attempt to avoid the heavy traffic by cutting through the neighborhood. Mr. Crawford believes that the busses will add to the congestion on Memorial, causing more drivers to bail out into their neighborhood to escape the congestion. The neighbors think it is reasonable to request that a study be made of the impact on the neighborhood before the site is approved. Mr. Crawford stated that an earlier proposed site, located in the Southland Shopping Area, was for some reason abandoned. Mr. Crawford and the neighbors would like an explanation as to why that site was abandoned.

**John Roy**, stated that he is President of the Fulton Homeowners' Association which is made up of 1,560 members. Most of the people in the area are on a moderate income and there are a lot of older people in the neighborhood. The area has a low crime rate and a low code enforcement problem. In an effort to improve communications between the applicants and neighborhood association, they asked the MTTA to speak to the group and they did. The MTTA presented the plan and the neighborhood has no problem with the transfer station plan. The appropriate use of the property is what concerns the neighborhood. After their presentation, neither party sold their ideas. Mr. Crawford went to the MTTA Board meeting and presented their position again and at that time he offered to the MTTA six to eight alternate locations. They have been ignored. They were told that the sale of this property was to be closed June 1. They did not have the first hearing on this matter until June 9 and Mr. Roy believes that the MTTA was a bit presumptuous in getting approval for this location. On May, 19<sup>th</sup> there was a meeting of the homeowners' association and it was obvious that the MTTA was going to proceed with their proposal. At that point the homeowners' association hired an attorney and circulated petitions. On May 26, Mr. Roy sent a letter to the Board asking them to suspend their plans temporarily until they considered the alternate sites, which was ignored. How are the busses going to get from downtown to the 33<sup>rd</sup> St. transfer station? MTTA says that they will use the Broken Arrow Expressway, which will cause back up in time schedule at rush hour.

**Bill Gamble**, 3137 S. 85<sup>th</sup> E. Ave, stated that he has lived in the neighborhood for 38 years. Mr. Gamble is concerned about the young people driving through the neighborhood. When the 38<sup>th</sup> St. expansion went through the neighborhood had an increase of traffic through the area.

**Mary Ann Stockwell**, 3212 S. 85<sup>th</sup> E. Ave., stated that they are not against any progress in the mass transit system. They do not feel that proposing this transfer station at 33<sup>rd</sup> & Memorial is a logical solution for anyone. Ms. Stockwell stated that her family has lived in the neighborhood for over 31 years and she has never opposed anything except this. They live with the traffic situation every day. There are three entrances and exits from the Broken Arrow Expressway and two entrances and exits from I-44 which adds a lot of traffic to their neighborhood. Emergency vehicles cannot get through all the traffic. Ms. Stockwell stated that Memorial is a four lane street with no shoulders to pull onto. They are concerned that they have not seen a lot of surveys for people switching from cars to busses in that area or surveys around town as to where the bus riders really are. Mr. Killman did an article on the Tulsa bus facilities, the numbers he cited were very low as far as number of people riding the busses. Most of the neighborhood people have one to three cars in their driveways. Ms. Stockwell mentioned that there is a bus stop across from the Tulsa Technology Center and she has never seen more than two or three people waiting for the bus. Ms. Stockwell feels that the traffic situation in this area is not adequate to support the busses.

**Mel Cruz**, 8551 E. 33<sup>rd</sup> Place, stated that he is a homeowner and member of the Fulton Homeowners' Association. Mr. Cruz is opposed to the construction of a bus transfer facility at 33<sup>rd</sup> & S. Memorial. Mr. Cruz stated that elementary students walk home or ride their bikes home from the elementary school nearby. The students use the streets because there are not any sidewalks in the neighborhood. The concern is about the number of cars traveling through the neighborhood at high rates of speed.

**William Landsdale**, 8232 E. 32<sup>nd</sup> Pl., stated that he is a Shriner and he sees handicapped kids go to Shreveport all the time. This proposal to put the transfer center in the area will increase the amount of traffic through the neighborhood.

**E.O. Sumner**, 8173 E. 31<sup>st</sup> Pl., stated that he moved there in 1964. Mr. Sumner stated that the location was very poorly picked. Mr. Sumner stated that he attended the MTTA meeting and the first thing he noticed was that there was a station and next to it was a large parking lot. Mr. Sumner believes that there are other locations that would be better for the transfer facility. Mr. Sumner asked the MTTA for the legal description for the site and he plotted it up as the legal read. Tract A is fine, he is objecting to Tract B. Mr. Sumner is objecting to his tax dollars being used to build a day care center.

**Dwight Williamson**, 8605 E. 31<sup>st</sup>, stated that he sent a letter to the Board about this hearing. Mr. Williamson is concerned about the traffic issue. No one has given them the figures of where the bus riders come from.

**Kathy Wilson**, 3331 S. 82<sup>nd</sup> E. Ave., stated that she lives one block east of Memorial. Ms. Wilson bought her home 20 years ago and it was in the country, now they are in the middle of the city. The Jefferson Line bus station is located on 46<sup>th</sup> St. that also goes up and down Memorial. The public school busses also go through their neighborhood.

**Kathy Watson**, stated that she is with the Tulsa City Council, representing Councilor Sam Roop. Mr. Roop could not attend because of prior business obligations. Mr. Roop asked Ms. Watson to read a statement prepared by him. Mr. Roop stated that he spoke to the MTTA several months ago and told them that any site near Memorial between 31<sup>st</sup> & 41<sup>st</sup> would not be good because of traffic and the objections of those in the area. Mr. Roop stated that it appears that he was ignored. The MTTA has not been totally honest with residents, telling them that they have talked to businesses in the area and received no objections. It turns out that many businesses were not contacted including the hospital across the street from the proposed site. Mr. Roop urged the Board to take into consideration the hospital and the environmental problems created by the busses and the traffic problems.

Parties in opposition to Case No. 18060, but not wanting to speak:

**Ralph Ekhoﬀ**, 3629 S. 85<sup>th</sup> E. Ave.; **Ed & Rita Lenferty**, 9209 E. 40<sup>th</sup> St.; **Mildred R. Boyd**, 8546 E. 31<sup>st</sup> Pl.; **Millie Unseel**, 8552 E. 31<sup>st</sup> Pl.; **Margaret VanHorn**, 3126 S. 89<sup>th</sup> E. Ave.; **James & Gladys Kyzar**, 3221 S. 88<sup>th</sup> E. Ave.; **Margaret L. & Sid Caldwell**, 8530 E. 32<sup>nd</sup> St.; **Regina Griffin**, 8274 E. 32<sup>nd</sup> Pl.; **Mr. & Mrs. Phelps**, 3220 S. 85<sup>th</sup> E. Ave.; **Robert M. Boyd**, 8546 E. 35<sup>th</sup> Pl.; **John Bennefil**, 8611 E. 38<sup>th</sup> Pl.; **John Gart**, 8633 E. 38<sup>th</sup> Pl.; **Dwight Williamson**, 8605 E. 31<sup>st</sup>; **John Brandenburg**, 8254 E. 33<sup>rd</sup> Pl.; **Robert & Eva Stow**, 8231 E. 32<sup>nd</sup> St.; **Bill Gamble**, 3137 S. 85<sup>th</sup> E. Ave.; **Mel Cruz**, 8551 E. 33<sup>rd</sup> Pl.; **Lou Stockly**, 6735 E. 25<sup>th</sup> Pl.; **Joyce Crawford**, 3361 S. Memorial; **Berta Goodman**, 8813 E. 37<sup>th</sup> St.; **Jim Homb**, 3241 S. 93<sup>rd</sup> E. Ave.; **Dilla Swan**, 8231 E. 32<sup>nd</sup> Pl.; **Rene & Connie Castro**, 8637 E. 36<sup>th</sup> Pl.; **A. & Barbara Montelbano**, 8215 E. 35<sup>th</sup> St.; **Katherine Wakins**, 3331 S. 82<sup>nd</sup> E. Ave.; **A.C. & Ervalene Baird**, 3335 S. 82<sup>nd</sup> E. Ave.; **LaVerne & George Foster**, 8260 E. 37<sup>th</sup> Pl.; **E.O. Sumner**, 8173 E. 31<sup>st</sup> Pl.; **Sandra Isacson**, 8539 E. 31<sup>st</sup> Pl.; **Carolyn & John Miller**, 9024 E. 32<sup>nd</sup> St.; **June Cocker**, 9043 E. 40<sup>th</sup> St.; **Phil Tomlinson**, 1927 N. Main; **Jacquelyn & David Adamski**, 8201 E. 32<sup>nd</sup> St.; **Ken Cordu**, 8262 E. 33<sup>rd</sup> St.; **Joe Stall**, 3815 S. 92<sup>nd</sup> E. Ave.; **George & Barbara Jamerson**, 3831 S. 82<sup>nd</sup> E. Ave.; **Stella Boehxe**, 8249 E. 33<sup>rd</sup> Pl.; **Martha David**, 8232 E. 33<sup>rd</sup> St.; **Perrilyn Fanfulk**, 8254 E. 33<sup>rd</sup> Pl.; **Virginia Barksdale**, 3773 S. 90<sup>th</sup> E. Ave.; **Wayne & Elizabeth Downe**, 3733 S. 90<sup>th</sup> E. Ave.; **Mary Ann Stockwell**, 3212 S. 85<sup>th</sup> E. Ave.; **W.R. & Suzanne Shelton**, 3211 S. 85<sup>th</sup> E. Ave.; **Larry Bonner**, 8187 E. 31<sup>st</sup> Ct.; **Brock D. Sarber**, 3111 S. Ordison; **Mike Kier**, 2747 E. 14<sup>th</sup> Pl.; **Norma Hogg**, 3843 S. 88<sup>th</sup> E. Ave.; **Connie & James Bryan**, 8531 E. 33<sup>rd</sup> Pl.; **David L. Lomax**, 9202 E. 37<sup>th</sup> Pl.; **Wendell E. & Betty F. Robb**, 3204 S. 85<sup>th</sup> E. Ave.; **Otto Smith**, 3858 S. 90<sup>th</sup> E. Ave.; **Jerry D. Triggs**, 3805 S. 88<sup>th</sup> E. Ave.; **C. Hehmeier**, 8258 e. 34<sup>th</sup>; **Doris McKinzie**, 8265 e. 37<sup>th</sup> Pl.; **Walter Diroat**, 8846 e. 40<sup>th</sup> Pl.; **Betty Meehan**, 8233 E. 37<sup>th</sup> Pl.; **Joanne Iriggs**, 3805 S. 88<sup>th</sup> E. Ave.; **S. Goodman**, 8813 E. 37<sup>th</sup> St.; **Jim Fretsco**, 8644 E. 38<sup>th</sup> Pl.; **Gail Roop**, 1869 S. 106<sup>th</sup> E. Ave.

**Applicant's Rebuttal:**

**Mr. Charles Norman**, stated that he appreciates Kevin Coutant narrowing the issues to the three that he addressed. In regard to traffic, Mr. Coutant was giving his opinions as an attorney as opposed to those of Jon Eshelman, Traffic Engineer of the City of Tulsa. There was no evidence or studies presented to challenge the conclusions that Mr. Eshelman has given. Mr. Norman stated that no one is going to notice 300 trips a day on Memorial; there is not going to be gridlock on Memorial. 300 trips added to 34,000 represents less than eight-tenths of one percent to the traffic load. Mr. Norman suggested that the Board consider the other uses that could be on that land and the traffic that they would generate. A motel, whether it is employees or employees and guests, will generate more trips per day than the transit facility. Memorial is classified and constructed as a primary arterial. 21<sup>st</sup>, 71<sup>st</sup>, 91<sup>st</sup> are all primary arterial streets and



are designed to carry the heaviest traffic. Traffic is a part of everyday life in the City of Tulsa and affects everyone. The traffic engineer has stated in his report that even if this proposal is not approved, a traffic signal is still needed at that intersection to serve the hotels and businesses that are already there. Traffic conditions are not something this Board can regulate or elevate when making land use decisions. Those are things that occur because of urban development according to the Comprehensive Plan and zoning patterns in the neighborhood. The environmental arguments were very weak. Mr. Norman mentioned that the gentleman who operates the rehabilitation hospital apparently sends his people outside to smoke realizing that the ventilation system of the hospital and the closed windows and air conditioning systems will prevent the smoke from coming in and being a threat to the patients. Those same systems that are installed in the hospital do that for the existing pollution that is in the air. He should have realized when he located the hospital there that there are 11,000 diesel powered vehicles that traverse the streets and major expressways within 1,000 feet of that site everyday. Mr. Norman stated 220 trips per day will not cause to occur all the things that he mentioned happening to his patients. If there are pollution problems, they are problems of the nation and the City and they are being addressed by the EPA and other governmental agencies. Currently, all of the busses of the MTTA comply with the current requirements of the EPA. All of the busses have installed at every overhaul a new emission control kit. By the year 2000, 60% of the current fleet will be replaced with a more up-to-date diesel engines. The entire fleet will be replaced by the year 2003. Mr. Norman stated that this facility will begin operation in late 1999. Air quality will not be affected by 220 bus trips per day. Mr. Norman stated that the report submitted by Kevin Coutant referencing the carcinogenic and other effects of particulate emissions from diesel emissions was in respect to projected research into any causation between diesel emissions and those kind of conditions. There is no evidence available that diesel fumes by and of themselves cause those diseases except in extremely high concentrations and enclosed containers. The MTTA will abide by the latest requirements of the government and the EPA. Mr. Norman stated that this system is 20% funded by the federal government and they require compliance by the bus system a higher standard of emission control than other forms of transportation. Mr. Norman stated that compatibility was also addressed. Mr. Norman stated that the Fulton neighborhood is detached from the Memorial triangle and Memorial is the physical barrier. Mr. Norman stated that none of the properties on the east side of Memorial are considered adjacent to the neighborhood, they are two blocks away. Mr. Norman asked if this facility would be incompatible with the back side of Terry Quinn's auto dealership and his repair and demonstration of vehicles on that side? Mr. Norman asked if this facility would be incompatible with the rear of the town tavern or the shopping center? Mr. Norman stated that it would not be incompatible with Tulsa Technology Center, in fact the Board is in possession of a letter of support from the school Superintendent. Mr. Norman stated that this neighborhood is impacted with traffic and so are all of the other neighborhoods that are adjacent to arterial streets. Mr. Norman said that the MTTA has tried very hard to protect the interest of the neighborhoods that are nearby the facilities and the interest

of all the citizens of the community and particularly those that depend on the transit system for their transportation. Those citizens have spent the last two years attempting to develop a more efficient operating system and to find, design and develop a site that would accomplish the goals that they have been describing. This site meets all of the criteria and Mr. Norman asked the Board to approve it.

**Comments and Questions:**

Mr. White asked Mr. Norman why this site was chosen. Mr. Norman answered that the first criteria was for this kind of midtown transfer facility to be located between 31<sup>st</sup> & 41<sup>st</sup> and Memorial and Yale. In that six square mile area, the staff and managers and trustees of the authority have analyzed all the sites that are available and this one fits the needs the best, in their opinion. This is the one they are submitting to the Board for its approval. It is not the responsibility of the MTTA to exclude every possible site within the east part of the City but to present to the Board a site that meets the requirements for good land use approval. There are virtually no other sites that meet the requirements and standards as this one does.

Mr. White asked Mr. Norman if any of the eight or nine alternate sites were considered and Mr. Norman answered yes. Mr. Norman stated that the site at 41<sup>st</sup> & Darlington was zoned heavy commercial but across the street to the south was a single family neighborhood that faces north and the MTTA Trustees decided not to present that site because of its proximity to that neighborhood.

Mr. Dunham stated that this is a difficult decision because there are a lot of issues at stake. Mr. Dunham said that considering all of the factors, he is supportive of the application.

Mr. White stated that he likes the separation that exists between the proposed site and the existing neighborhood as compared to the 41<sup>st</sup> & Darlington site. Mr. White does not like the traffic on Memorial. The percentage of increase is nominal but it is going to be 35' busses that are going to be increasing it.

Mr. Stump stated that in the not too distant future Memorial should be widened to its ultimate plan width of six to seven lanes, seven lanes being with a turn lane. That would relieve some of the congestion. Mr. Stump stated that it is probably being held up by the widening of the Broken Arrow Expressway. In the longer haul, this will be a better situation as far as traffic handling capability.

Mr. White stated that for the record there are two petitions and there are approximately 1,000 names on each one, for and against, which is very impressive. Mr. White stated that he is inclined to go with it; He is going on the good faith that the other sites were explored. There were also 77 letters of opposition to Case No. 18060 submitted (Exhibit N-5)

Mr. Cooper stated that the citizens and neighbors of any sites like this would prefer to have it put in the country somewhere where it is not near anybody but it all actually needs to be in an area with dense use. Mr. Cooper agrees with Mr. Norman in the fact that all of the proposed sites have a problem and no matter where the MTTA puts the facility, it is going to affect somebody. Mr. Cooper stated that he is inclined to approve this proposed site but he has some other concerns. He is concerned about there not being a restroom in this facility. Mr. White agreed. Mr. Cooper mentioned that the busses will probably not run on time all the time and so what are the people going to do? Mr. Cooper said that if this Board is considering approval, he would like to know what the sentiment is of Mr. Coutant's constituency and maybe to put as a stipulation that there be a restroom facility provided on the site. Mr. White agrees that the facility needs restrooms but he would also like to see some security on site. Mr. White believes that there should be a security person on site the hours that the facility is open. Mr. White stated that it is common sense that the presence of a uniformed officer of some sort can do wonders to control things. Even though the bus drivers monitor this, they have other jobs to do. Ms. Perkins agrees with everything that has been said.

Mr. Norman stated that his client has advised him that there is no objection to putting restroom facilities there provided that they be allowed to lock them during the times the busses are not there. Mr. Norman stated that there is a 25 minute period in which the busses are not there. Mr. White stated that his concern is for people who have missed a connection and will be sitting there for some time and if there was a full time security officer there, it would avoid the need to lock the restrooms. Mr. Norman asked the Board to reconsider the need for a full time security officer until there is some demonstrated need. Mr. Norman thinks that you can rely upon the Trustees, the Mayor, etc. to properly secure the facility. What they are trying to do is avoid attracting people to the facility to hang out. They only want people there who are riding the bus.

Mr. Coutant stated that security is better than no security. Mr. Coutant believes that restrooms would be a good idea because of the neighborhood influence.

Mr. Cooper stated that he understood what Mr. Norman was saying about security. If the transit facility does have security problems, it will affect ridership and he senses that there will be some self monitoring. Mr. Cooper stated that if you have open restrooms there is more of a likelihood of a problem, but if there is a full time security officer it will help alleviate the concern.

Mr. Norman stated that he has no objection to a condition of TV surveillance cameras on at all hours connected to the headquarters of MTTA. Mr. Cooper stated that he could live with some security monitoring, he does not believe it has to be an onsite security officer.

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 4-0-1 (Cooper, Dunham, Perkins, White, "aye"; no "nays", Turnbo "abstentions"; no "absent") to **APPROVE** Special Exception to permit a public bus transit and transfer station and children's nursery and day care facility in an IL district pursuant to a site plan approved by the Board. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** and a Variance to reduce the required 75' setback from an RS-2 district to 35' for an office and administrative building. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** subject to there being public restrooms facilities being provided at the transfer station and that security monitoring be provided to the site while it is in use; finding the hardship being that there is no residential development in the RS-2 district and that the spirit of the Code was to protect residential areas, on the following described property:

All that part of N/2, SE/4, NE/4 of Sec. 23, T-19-N, R-13-E of the IBM, Tulsa County, Oklahoma, more particularly described as follows, to-wit: Beginning at a point in the S boundary of said N/2, SE/4, NE/4 549.95' from the SW/c thereof; thence N. 00°01'30" W a distance of 297.12' to a point in the S right-of-way line of E. 33<sup>rd</sup> St. S; thence N 83°14'30" E a distance of 0.00'; thence along the right-of-way line on a curve to the right having a radius of 120.00' a distance of 14.10'; thence N 89°58'30" E along the right-of-way line a distance of 275.93'; thence S 00°01'30" E a distance of 298.14' to a point in the S boundary of said N/2, SE/4, NE/4, 486.57' from the SE/c thereof; thence N 89°59'11" W along the S boundary of said N/2, SE/4 NE/4, a distance of 290.00' to the point of beginning, containing 86,429 SF or 1.98413 acres, more or less AND Part of the N/2, SE/4, NE/4 of Sec. 23, T-19-N, R-13-E of the IBM, Tulsa County, State of Oklahoma, more particularly described as follows, to-wit: Starting at the NW/c of said N/2 of the SE/4 of the NE/4 of Sec. 23, said point also being the NE/c of Lot 2 in Block 1 of "Interchange Place", an addition to the City of Tulsa, Tulsa County, Oklahoma, thence S 00°02'08" E along the Wly line of the SE/4 of the NE/4 and the Ely line of said Lot 2 a distance of 458.67'; thence N 89°57'52" E a distance of 60.00' to the point of beginning; thence continuing N 89°57'52" E a distance of 254.66' thence on a curve to the left having a radius of 230.00' a distance of 140.46'; thence N 54°58'30" E a distance of 59.43'; thence on a curve to the right having a radius of 120.00' a distance of 59.20'; thence S 00°01'30" E a distance of 297.12' to a point in the S boundary of said N/2, SE/4, NE/4; thence N 89°59'11" W along the S boundary a distance of 489.95'; to a point 60.00' from the SW/c thereof; thence N 00°02'08" W a distance of 200.18' to the point of beginning containing 107,652 SF or 2.47135 acres, more or less

## NEW APPLICATIONS

### Case No. 18065

#### Action Requested:

Special exception to permit a manufactured home in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9** and a Variance to permit manufactured home on a permanent basis. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS,** located 10 W. 50<sup>th</sup> Ct. N.

#### Presentation:

The applicant, **Joseph Gentry**, 21 East 50<sup>th</sup> Court North, stated that he has a manufactured home that he wants to move onto the property at 10 W. 50<sup>th</sup> Ct. N.

#### Comments and Questions:

Mr. Dunham asked the applicant if the manufactured home was new. Mr. Gentry said yes.

Mr. White asked if the manufactured home would be on both lots. Mr. Gentry answered yes, it is 72'x24'.

Mr. Beach stated that the site plan (Exhibit E-2) shows that it is about a 27'x72' structure running east and west and would straddle the property line.

#### Interested Parties:

**Chester Smith**, Talala, stated that he owns some houses in the area. Mr. Smith has owned the homes for over 30 years. Mr. Smith stated that the area has had its ups and downs and it is trying to go up again. Mr. Smith does not believe a manufactured home would benefit the neighborhood right now. Mrs. Smith believes that the neighborhood would go down if a manufactured home or a mobile home was allowed in the area.

Ms. Turnbo asked if the Smiths had seen the plan. Ms. Turnbo mentioned that the manufactured home looks like a "stick built" home. They answered that they had not looked at the plans. Mrs. Smith looked at the plans and stated that this is still a double wide and it is still a manufactured home. A manufactured home is not built near to the quality as a house built from the ground up.

**Norman Gates**, 2260 N. Main St., stated that he owns two properties in the area. Mr. Gates opposes the moving of a manufactured home into the area because of two reasons (1) the impact to the existing homes in the area and (2) the impact to the revitalization of the area in the future when the area will be going up again. If there are manufactured homes in the area it may deter other people from coming in and building

homes. Mr. Gates stated that he feels it is not in the best interest of the community to have the manufactured housing in the area.

**Harry DePew**, 4727 S. Wheeling, stated that he protests the moving of a manufactured home into a residential area. Mr. DePew stated that when Valley View Acres was dedicated and platted it was not designed for mobile homes or manufactured homes. It was dedicated for the purpose of two and three bedroom homes. Mr. DePew stated that they are on the brink of setting a precedent to allow manufactured/mobile homes into a residential area. It will not be good for the neighborhood. If he wanted to sell his property which is directly across the street, an appraiser would devalue the property. Mr. DePew is concerned about a tornado tearing the structure down. Mr. DePew stated that the neighborhood does not want the mobile home in the area, it would not beautify the neighborhood.

**Raymond Brooks**, 4726 N. Frankfurt, stated that he agrees with the other people in opposition. Mr. Brooks believes the manufactured home would devalue the property in the neighborhood. Mr. Brooks does not believe that there has been an adequate amount of time for the people in the surrounding area to be notified. Mr. Brooks stated that Planning District 25 is trying to be revitalized and the addition of the mobile home would not help the revitalization.

**Applicant's Rebuttal:**

Mr. Gentry stated that there are a lot of empty lots in the area and he does not see how this manufactured home would hurt anything.

**Comments and Questions:**

Mr. Dunham asked the applicant if the manufactured home will be on a permanent foundation. Mr. Gentry answered yes.

Mr. White asked Mr. Gentry how long the lot has been vacant and Mr. Gentry replied for six years. The applicant stated that anything he put on the lot would be better than having an empty lot in the area.

Mr. Stump asked the applicant if the plan that was given to Staff is the precise house or is it a generalized idea of what the home would look like. Mr. Gentry answered that the plan submitted is the exact plan he would like to build.

Mr. Beach stated that the applicant would have to have a building permit to build this and the review of a building permit would also include review of the structural drawings related to the foundation. Mr. Beach stated that according to the picture, this is a four bedroom unit that does not look much different than a house built from the ground up. The one concern is that the foundation should not be exposed. Mr. Beach stated that the architectural siding should extend all the way to the ground.

Case No. 18065 (continued)

Mr. White stated that he can find no evidence of manufactured homes of any sort in the area and he does not want to introduce them into the area. There are several vacant lots in the area and as vacant lots they are not a potential problem. Mr. White said that they have been rejecting these in the past.

Mr. Cooper agreed with Mr. White even though he believes that this is the best looking manufactured home. Mr. Cooper believes that this is a sort of Pandora's box and once they allow one manufactured/mobile home in the area they will start to see more.

**Board Action:**

On **MOTION** of **COOPER**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **DENY** Special exception to permit a manufactured home in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9** and a Variance to permit manufactured home on a permanent basis. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, on the following described property:

Valley View Acres Addition, Lot 11-12, Block 3, City of Tulsa, Tulsa County, State of Oklahoma.

**Case No. 18066**

**Action Requested:**

Variance of the required setback from an abutting R district from 35.8' to 11'. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 11**; a Variance of the required setback from the centerline of E. 61<sup>st</sup> St. from 100' to 94' **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS**; a Variance of required number of parking spaces from 19 to 17. **SECTION 1211.D. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES; Off-Street Parking and Loading Requirements**; a Variance of the minimum width for a drive-aisle from 24' to 12' along S 100<sup>th</sup> E. Ave. and from 24' to 20' along 61<sup>st</sup> St. **SECTION 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS**; a Variance from required landscaping to permit no landscaping. **SECTION 1002. LANDSCAPE REQUIREMENTS**, located 9933 E. 61<sup>st</sup> St.

**Presentation:**

The applicant, **Joe E. Donelson**, 17440 S. 89<sup>TH</sup> E. Ave., Bixby, stated that he represents Mr. Carol Culp. The property is zoned as IL. The property is 90'x170'. Any improvements to the property need an exception because of the Industrial zoning. Mr. Donelson stated that they would like to add 4,195 SF to the existing office building. They are constructing a building that is essentially the same as what is existing on the

property to the west of Roy and Candy's. Mr. Donelson submitted photos of the Roy and Candy's building (Exhibit F-1). They would like to situate their building on the property approximately the same location as the existing Roy and Candy's building which would required approval of these variances.

**Interested Parties:**

**Dan Kidd**, 10416 S. 66<sup>th</sup> E. Ave., stated that he owns the property next door to this application. Mr. Kidd mentioned that the variances that were allowed on the property next door (Roy and Candy's) have caused him and others in the neighborhood considerable problems. Mr. Kidd stated that the request for the variances indicate that the building to be built is too large for the size of the lot. Mr. Kidd does not have a problem with something being built on that property but he objects to the particular building they are wishing to construct. Mr. Kidd submitted a list of homeowners (Exhibit F-2 ) and where they live in reference to the facility. Mr. Kidd believes that the variances are unreasonable because of the encroachments they will cause on the neighbors and the neighborhood. The variances will cause serious problems in the future such as water problems. Mr. Kidd had to dig a drainage ditch next to his house because all of the water from the two lots runs onto his property and goes under his house. If they build their building according to their plans, they will only be eleven feet from their fence. If Mr. Donelson builds this large building on the property, they will have an even larger drainage problem with the water running off of the building. The other problem is the parking. Mr. Kidd does not think the 19 parking spaces will be sufficient, which means there will be parking on 100<sup>th</sup> E. Ave. 100<sup>th</sup> E. Ave. is a very narrow street and cannot handle cars parking on the shoulder. Mr. Kidd stated that by allowing the drive-aisle variance from 24' to 12' it would force the cars to back out onto 100<sup>th</sup> E. Ave. Mr. Kidd does not have a problem with the actual development of the property but does not think these plans will work on the property.

**Winston Rourke**, 5933 S. 99<sup>th</sup> E. Ave., stated that he is not here to contest Mr. Culp's rights to develop the property. Mr. Rourke believes that it is everyone right to have the freedom to pursue any opportunity that presents itself to us as long as we do not infringe upon the rights of others. Mr. Rourke's major concern is his right to enjoy his property and prevent damage to that property. Mr. Culp is asking for a number of variances from the Board to develop his property and utilize more of his lot for commercial purposes. Mr. Rourke's greatest concern is stormwater drainage. It appears that the entire lot will either be built upon or paved and this will cause a tremendous amount of runoff onto the neighboring properties. They already experience excessive runoff now from his other property which is on septic and is basically gravel all over and from the commercial lot west of Mr. Culp. Mr. Rourke stated that there is a ten foot drop-off from 61<sup>st</sup> to 59<sup>th</sup>, so all the runoff comes back into the neighborhood. Even though there are storm drains on 61<sup>st</sup> St. most of the property is below grade with 61<sup>st</sup> St., therefore the water runoff will still come back onto their property. Mr. Rourke believes that Mr. Culp needs to landscape his property to enhance the entrance to their neighborhood. Mr. Rourke asks the Board to (1)



determine if the scope of Mr. Culp's request exceeds the physical capacity of his property (2) ensure that sewage and waste water are properly managed and not just allowed to run into the property and (3) deny the variance regarding landscape requirements.

**Evelyn Browning**, 5933 S. 100<sup>th</sup> E. Ave., stated that she has lived in the neighborhood for the past 40 years. Ms. Browning stated that 100<sup>th</sup> St. is only 20' wide, asphalt, no curbs, no sidewalks just bar ditches. She is opposed to granting the variances for several reasons, Union Schools is on the south side of 61<sup>st</sup> St. and school children must walk in the street since there are no sidewalks. Several years ago a manufacturing plant was built on 50<sup>th</sup> St. Large delivery trucks and eighteen wheelers bringing supplies caused 100<sup>th</sup> and 99<sup>th</sup> to have many traffic problems. The residents met with the Tulsa City Commissioners to have the traffic blocked. The City installed barricades at the north end of 100<sup>th</sup> & 99<sup>th</sup>. A fire station and ballpark are planned to be constructed in the immediate area. This would cause major traffic on the streets. Ms. Browning requested that the Board deny the proposed application.

**Karen Hicks**, 5945 S. 99<sup>th</sup> E. Ave., stated that she has lived in the area for 38 years. Mrs. Hicks stated that she is protesting the variances requested by Mr. Donelson. Mrs. Hicks stated that their property abuts the subject property to the southeast. They are worried about the water runoff. Their property is L-shaped and creates a natural dam for water to collect during heavy rains. 100<sup>th</sup> St. residents are all still on septic tanks and lateral lines. Mrs. Hicks stated that they have experienced water problems caused by the business to the south (Roy and Candy's). Mrs. Hicks submitted photos (Exhibit F-3). Mrs. Hicks stated that the water flows downhill and under their house. A new building and heavy paving with no trees or grounds to absorb additional water would add additional water runoff to the neighborhood. Allowing a building to be built eleven feet from an RS-3 district and covering the entire property with parking would only create additional problems. Mrs. Hicks stated that when six variances are requested to be able to build a business, the property is not suited for that building. That is requesting too many Code changes and is very inappropriate. This property should be on a sewer system instead of septic and lateral lines. Mr. Culp is requesting to build closer to RS-3 than the existing Roy and Candy's. A variance of 35' to 11' is asking for too much. 100<sup>th</sup> St. is only 18' to 20' wide and the parking on the east side of the building will require vehicles to back onto 100<sup>th</sup> St. to turn around, which is a traffic hazard. Code requirements were set up for the protection of all property owners and should not be abused. Mrs. Hicks asked the Board to deny the application.

**Applicant's Rebuttal:**

Mr. Donelson stated that some of the variance were required because the property is presently zoned as Light Industrial. In order to build on Light Industrial some of the requirements are different. Mr. Donelson stated that they have spoken with the water and sewer department with respect to constructing sanitary sewer to get it to their property and they have, subject to this being approved, worked it out with the City to

get sanitary sewer to the property. If this application is approved, a site plan would have to be approved by the City with regards to drainage, etc. Mr. Donelson stated that there could be some additional modifications made to the site plan in order to get some landscaping, it depends on the parking space need.

**Comments and Questions:**

Mr. Stump stated that the parking on the northeast portion of the site plan is contrary to the Code, there is a fifty foot setback from the centerline of 101<sup>st</sup> for the north fifty feet of that lot because it is abutting a residential district, so he would lose an additional four spaces.

Mr. Cooper asked the applicant if the Board were inclined to approve only the variance for the setback off of 61<sup>st</sup> St. from 100' to 94' would that do him any good. Mr. Donelson answered no.

Mr. Dunham and Ms. Turnbo both agree that Mr. Donelson is wanting to put too much building on a small lot and he needs to go through the PUD process or build a smaller building.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **DENY** Variance of the required setback from an abutting R district from 35.8' to 11'. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 11;** a Variance of the required setback from the centerline of E. 61<sup>st</sup> St. from 100' to 94' **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS;** a Variance of required number of parking spaces from 19 to 17. **SECTION 1211.D. USE UNIT 11. OFFICES, STUDIOS, AND SUPPORT SERVICES; Off-Street Parking and Loading Requirements;** a Variance of the minimum width for a drive-aisle from 24' to 12' along S 100<sup>th</sup> E. Ave. and from 24' to 20' along 61<sup>st</sup> St. **SECTION 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS;** a Variance from required landscaping to permit no landscaping. **SECTION 1002. LANDSCAPE REQUIREMENTS** on the following described property:

Lot 8, Block 2, Guy Cook Addition

## Case No. 18067

### Action Requested:

Variance to allow parking on lot other than lot with primary use. **SECTION 1301.D. GENERAL REQUIREMENTS – Use Unit 17** and a Variance to allow gravel parking instead of all weather surface. **SECTION 222. MOTORIZED VEHICLES**, located 4108 S. Peoria.

### Comments and Questions:

Mr. Beach stated that the continuance request was not made in a timely manner. The applicant was not present and there were no interested parties.

Mr. Beach pointed out that Staff comments reflected that there was a letter written to Staff from someone who indicated that they are the owners of the property and have not given permission for this application. Mr. Bolks wrote Mr. Beach a letter and expressed some confusion about the ownership and which property is the subject of the application and that is the purpose of the request, for them to work out the details.

Ms. Turnbo asked when Mr. Bolks wished to have the application continued to. Mr. Beach stated that he was not specific. He believes that they should leave the date open and continue it and let the applicant decide when to hear it. The applicant will have to pay additional notice fees and give new notice.

### Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18067 to a date that is convenient to the applicant.

## Case No. 18068

### Action Requested:

Special Exception to permit a mobile home in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9** and a Variance of time limit to permanent. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, located 834 E. 46<sup>th</sup> St. N.

### Presentation:

The applicant, **Bishop Gibbs**, 4627 N. Hartford, submitted photos (G-1) and stated that he would like to put a mobile home on his property. Mr. Gibbs stated that it would eliminate a lot of problems for he and his wife if they could put the mobile home on their property.

### Comments and Questions:

Mr. White asked if there was a church presently on the property. Mr. Gibbs answered yes, there is a small church.

Mr. Dunham asked if the mobile home is to be used as a home or as part of the church. Mr. Gibbs replied that it would be used as a residence.

Mr. Cooper asked if the residence is intended to be a part of the church. Mr. Gibbs answered yes.

Mr. Beach asked the applicant how long the church has been on the property. Mr. Gibbs answered that he bought the property in 1983 and it was a church before he bought the property. Mr. Beach asked if the applicant knows how long the church was there before he bought the property. Mr. Gibbs replied that he does not know.

Mr. White stated to Staff that the aerial and site plan do not jive. Mr. Beach stated that he was aware of that and the site plan depicted in the packets does not remotely resemble the legal description that is accurately depicted on the case map. Mr. Beach stated that the aerial shows a building in the approximate location where the site plan shows the mobile home. The site plan shows a church on the west side of the property. The boundaries shown on the aerial photo and the case map are completely different from what is shown on the site plan.

Mr. Gibbs stated that the lot he wants to put the mobile home on has nothing else on it. The church is on another lot.

**Interested Parties:**

**Algerita Brooks**, 4726 N. Frankfurt Ave., stated that she represents Planning District 25. Ms. Brooks stated that this proposal is totally out of accord with the Comprehensive Plan as well as the fact that the location of the church is within the given projection within the Comprehensive Plan for future planning. They would like to see this area developed in a different mode and asks the Board to deny the application.

**Applicant's Rebuttal:**

Mr. Gibbs stated that there is a mobile home on Peoria a few blocks from his property. Mr. Gibbs stated that he does not believe that his mobile home would cause any problems in the neighborhood.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **DENY** Special Exception to permit a mobile home in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 9** and a Variance of time limit to permanent. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, on the following described property:

Case No. 18068 (continued)

Suburban Acres Amended, Lots 1 and 2, less Beginning NW/c Lot 2, Thence E 23' SEly to a point on EL Lot 1, S 106' NWly to SW/c Lot 2, N 115' to the point of beginning of Block 1.

**Case No. 18069**

**Action Requested:**

Variance of the required side yard from 5' to 3.3'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6;** a Variance of the required side yard on a corner lot from 15' to 8'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** and a Variance to expand a nonconforming structure in a manner which increases its nonconformity. **SECTION 1405. STRUCTURAL NONCONFORMITIES**, located NW/c E. 26<sup>th</sup> St. & S. Boston Pl.

**Presentation:**

The applicant, **Patricia Ann Southmayd**, 2251 E. 38<sup>th</sup> St., submitted a site plan (Exhibit H-1) and stated that she is an architect representing her client, Kathy Loughride. Ms. Southmayd stated that the house was built in the 1930's and the two car garage is falling down and they are proposing to rebuild the garage and extend it's length. The existing setback on the west side is 3.3' and the new west side of the garage will be placed on the same line. The setback on the east side of the lot, the 8' is preexisting. The lot is zoned RS-2 and they have a nonconforming lot. They are asking for a variance because the lot is very small.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Variance of the required side yard from 5' to 3.3'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6;** a Variance of the required side yard on a corner lot from 15' to 8'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** and a Variance to expand a nonconforming structure in a manner which increases its nonconformity. **SECTION 1405. STRUCTURAL NONCONFORMITIES** finding that the age of the house and the shape of the lot presents a hardship, per plan submitted, on the following described properties:

Lot 2, Block 3, Riverside View

**Case No. 18070**

**Action Requested:**

Special Exception to allow outdoor sales in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2**, located 4601 N. Peoria.

**Presentation:**

The applicant, **Chance Johnson**, stated that he is the Manager of Food World Discount Foods in north Tulsa. They are asking the Board to approve the special exception so they can have activities outside of their store and have vendor type people set up on their parking lot. Mr. Johnson stated that at this time they have 141 parking spaces. Allowing nine people to set up on their parking lot will not take up parking spaces.

**Comments and Questions:**

Mr. White asked the applicant what the time frame is that they are requesting this for. Mr. Johnson answered that they would like to set up for the first seven to fourteen days each month.

Mr. Dunham stated that they could limit it to 179 days a year. Mr. Johnson was agreeable to that.

Mr. Johnson asked if there was a certain time frame such as September to September or could they just do it the first seven days of every month. Mr. White stated that the only limit was 179 days per year max.

Mr. Stump mentioned to the applicant that if he is going to have tents on the property they have to meet the required building setbacks.

Mr. Beach stated that he called the applicant when the application came in and mentioned that same point and he indicated that all of the tents or tables shown are one hundred feet from the centerline of the street.

Mr. Dunham mentioned that the Staff comments should specify the dates and the year. Mr. Beach stated that Code Enforcement would have an easier time patrolling if they know that the first fourteen days of the month they are allowed to be there and the rest of the month they aren't. Mr. Johnson stated that the vendors will have to obtain a permit.

Mr. Ballentine asked if they are circumventing the Vendor Ordinance requirement that was passed with regard to these individuals being on the lot without going through the process? To obtain a vendor's license they have to show sales permits, the approval of the property owner, a background check. Mr. Beach stated that if the Board were to approve this as a Use Unit 2 use, they still have to meet all the other requirements that are imposed.

Mr. Ballentine asked the applicant if he is going to request a seller's permit from them before he leases to them. Mr. Johnson answered yes. Mr. Ballentine is afraid that they are going to see that this creates the illusion for other people to do this. Mr. Ballentine believes that it might create a problem on the rest of the street. Ms. Parnell stated they way it happens now is they have three or four groups who come before the Board every year for approval for the same location. They start in the summer with the plants and move into fall and Christmas. Ms. Parnell does not have a problem with what Mr. Johnson wants to do but in reality they are going to have to work something out on permits. Ms. Parnell does not know if they are required to get a permit other than a sales tax permit. Ms. Parnell stated that if the Board approves it, Code Enforcement will find a way to monitor it.

Mr. White asked if there are any conditions that the Board could put on the motion to make it easier to monitor. Ms. Parnell answered no.

Mr. Johnson stated that he wanted to bring it before the Board because they want to be able to monitor their lot and they know the people.

Mr. Cooper asked Code Enforcement to give them a reason to deny the application. Ms. Parnell stated that she could not give them a reason to deny it, they will just have to find a way to enforce it.

Mr. Dunham asked if the first 14 days of each month is acceptable and what about the five year time period? Ms. Tumbo stated that she would feel three years would be acceptable.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Tumbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to allow outdoor sales in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 2** subject to all sales occurring within the first fourteen days of each month and for a time period not to exceed three years on the following described property:

Beginning at a point that is 50' E and 50' N of the SW/c of the SW/4 of the SW/4 of the SW/4 of Sec. 7, T-20-N, R-13-E, of the IBM, Tulsa County, Oklahoma; thence N 0°40'19" E parallel with the W boundary of said Section, a distance of 305.00' thence due E a distance of 204.96'; thence S 0°29'32" W; a distance of 55.33'; thence due E a distance of 167.00'; thence N 0°29'32" E a distance of 55.33'; thence due E a distance of 65.00' to the E line of said SW/4 SW/4 SW/4; thence S 0°29'32" W along said E line a distance of 305.00' to a point 50.00' N of the S line of said SW/4 SW/4 SW/4; thence due W a distance of 437.91' to the point of beginning.

**Case No. 18071**

**Action Requested:**

Variance of side yard from 10' to 5'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** and a Variance to expand a nonconforming structure in a manner which increases its nonconformity. **SECTION 1405. A. STRUCTURAL NONCONFORMITIES**, located 2221 S. Troost Ave.

**Presentation:**

The applicant, **Bill Powers**, is represented by **Julie Fulton**, 9401 S. 68<sup>th</sup> E. Ave. Ms. Fulton stated that the property owned by Mrs. Harper was built prior to zoning ordinances that are now in effect. According to the zoning for that area, the side yard setback is insufficient by 4.8' to comply with RS-2 zoning. The planned expansion is for an enlarged master area. The planned expansion does not change the footprint of the house or the lot. It is on a second story addition. The hardship is that Mrs. Harper is a cancer patient and will be spending more and more time and home and there is no other economically feasible way to enhance her living accommodations in the home.

**Comments and Questions:**

Mr. Beach asked if the house currently exists at this distance from the side lot line. Ms. Fulton stated that they are only adding a second story.

Mr. Stump stated that the lot is smaller than most RS-3 lots which have a 5' side yard requirement.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-1 (Cooper, Dunham, Turnbo, Perkins, "aye"; no "nays", White "abstentions"; no "absent") **APPROVE** Variance of side yard from 10' to 5'. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** and a Variance to expand a nonconforming structure in a manner which increases its nonconformity. **SECTION 1405. A. STRUCTURAL NONCONFORMITIES** finding the hardship to be the size of the lot and the age of the house on the following described properties:

Lot 5, Block 7, Terwilliger Heights



**Case No. 18072**

**Action Requested:**

Special Exception to operate a beauty salon in an OL district. **SECTION 602.A. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS, Accessory Uses Permitted – Use Unit 13**, located 2120 N. Cincinnati.

**Presentation:**

The applicant, **Alene Young**, 1720 E. Young Place, submitted a support letter (Exhibit I-1) and photos (Exhibit I-2) and stated that they have been owners of a beauty salon for fifty years. Ms. Young mentioned that there are few black owned businesses in North Tulsa. Ms. Young asked the Board for the approval of their beauty salon located at 2120 N. Cincinnati.

**Comments and Questions:**

Mr. Dunham asked Ms. Young if they could meet the parking requirement of four spaces or the landscaping requirement. Mr. Young stated that it was no problem for them to meet either one of those.

Ms. Turnbo asked the applicant if the entire 900 SF of the house going to be used for the salon. Ms. Young answered yes.

Mr. Ballentine asked the applicant if the four parking spaces are located on the property. Ms. Young replied that there used to be a garage back there and when they bought the property, they tore the garage down. They park where the garage was and also on the street. Mr. Ballentine stated that they cannot park on the street and there are not enough parking spaces on the property. Ms. Young said that there are four parking spaces in the back of the house. Mr. Beach stated that it has to be a paved surface, either concrete or asphalt. Ms. Young stated that the parking is just in the yard. The driveway will accommodate two cars and you can park more than two cars in the back of the salon.

Mr. Beach stated that he believed that the only thing they had left to do would be to satisfy the building permit department.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Perkins, White, "aye"; Turnbo "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to operate a beauty salon in an OL district. **SECTION 602.A. ACCESSORY USES PERMITTED IN OFFICE DISTRICTS, Accessory Uses Permitted – Use Unit 13**, subject to the applicant meeting the parking, screening and landscaping requirements on the following described property:

Lot 1, Block 13, Oak Cliff Addition.

## Case No. 18073

### Action Requested:

Special Exception to modify setback of 100' cellular telephone monopole from residential lot line (RM-2) from 110' to 80'. **SECTION 1204.C.g.1. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions – Use Unit 4,** located NW/c I-44 & Quaker.

### Comments and Questions:

Lesli Myers, City Legal Department, stated that she has copied the section of the Zoning Ordinance with regard to antennas and monopoles, the eleven requirements. Ms. Meyers reminded the Board that as they consider the monopole, they will need a written record in the minutes of their decision and their decision will have to be supported with substantial evidence on each of the eleven points. Because of the federal law, they have to be very specific in looking at these.

### Presentation:

The applicant, **Roy D. Johnsen**, 201 West 5<sup>th</sup> Street, Ste. 440, submitted a site plan (Exhibit J-1) and stated that he represents AT&T Wireless Services. Mr. Johnsen stated that he has spoken with Mike Romig, City Legal Department, and Mr. Johnsen stated that from a City aspect, the Telecommunications Act was designed to make certain that there weren't arbitrary turn downs of cellular telephone facilities. Those findings pertain more to a turn down than to an approval. Mr. Johnsen stated that the only reason he mentions this is he can go through the findings and present requisite proof and that is very lengthy. Mr. Johnsen stated that the property is zoned CH and under the Code a cellular telephone tower is a use permitted by right in a CH district. Mr. Johnsen stated that they are before the Board for the question of setback. Mr. Johnsen asked the Board to look at their maps and what was not depicted is a building on the subject property. The proposed tower is to the south of that building. The multifamily RM-2 district is what triggers the request. AT&T Wireless Services is proposing a 100' monopole with a setback of 110% if it is not modified. Mr. Johnsen stated that they are within 80' of the multifamily which is separated from their site by two commercial buildings. The RS-3 to the east and on the east side of Quaker, they meet the required setbacks as to the single family area. To the south is a Waffle House, they have a site that is truly within a commercial area and is screened from any impact on surrounding properties by existing buildings.

### Board Action:

On **MOTION** of **COOPER**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE**, Special Exception to modify setback of 100' cellular telephone monopole from residential lot line (RM-2) from 110' to 80'. **SECTION 1204.C.g.1. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions – Use Unit 4,** per plan submitted on the following described property:

Case No. 18073 (continued)

S 45' of the N 95' of the E 125' of Lot 11, Block 19, Bellaire Acres Second Extension, an addition to the City of Tulsa, Tulsa County, State of Oklahoma.

**Case No. 18074**

**Action Requested:**

Special Exception to permit an open-air special event August 21, 1998, 11 a.m. through August 22, 1998, 5 p.m. and September 18, 1998, 12 noon through September 19, 1998 7 p.m. in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2**, located 2210 S. Main St.

**Presentation:**

The applicant, **Diane T. Boss**, was represented by **Wendy Thomas**, who is the Executive Director of the Arts and Humanities Council of Tulsa. Ms. Thomas stated that Harwelden mansion is their headquarters. The Council has relied on income generated by the Kanchi auction for more than 30 years. This is a fundraising project for nonprofit but in recent years, increase competition and decreasing revenues of this event have indicated that it is time for them to have a new event. Ms. Thomas mentioned that during 1998 they are having a test year for as many as eight new events. They hope to have two of the events on the grounds of Harwelden, which has necessitated them coming before the Board for a Special Exception. Prior to finalizing any details brought before the Board today, they sent a letter to the Presidents of the Residence Associations in the 2300 Building, the Woodward Terrace Apartments. They had two people come and discuss the concerns the neighborhoods might have. Harwelden has prepared an event information sheet (Exhibit K-1), which was delivered to the residents of both complexes. Ms. Thomas received about a dozen phone calls most of which were encouraging and the primary concerns regarded parking in the private residential areas. One event will be held on August 21, 22, which will be a Barbecue cook-off. They are asking for the Special Exception for the two days of the event, however, they only expect public guests from noon to 8:30 p.m. on Friday and from 10:00 a.m. to 4:00 p.m. on Saturday. Ms. Thomas stated that they are not sure how many people will attend but they have contacted the Jaycees's, the Shriners and MAPCO in an effort to obtain their parking to help accommodate the guests. They will also provide parking passes to the residents of the two neighborhood complexes. This is not an effort to monitor their parking but to simply give Harwelden a way to regulate non tenant parking during the event weekend. In addition, there will be three security guards for the August 21, 22 event that will be stationed along Woodward Blvd. and Main St. Their specific duty will be to monitor parking and traffic. The second event will be held September 18, 19. They will only be holding the event on the 19<sup>th</sup> from 9:00 a.m. to 5:00 p.m. They do not expect this event to be as large or as much of a nuisance to the neighborhood. However, they will be providing the same parking passes to the neighbors.

**Comments and Questions:**

Mr. White stated that he imagines that the biggest concern would be the parking. Mr. White asked the applicant if Harwelden will be providing any shuttle service. Ms. Thomas replied that they have talked about it, and if it was made a condition they would do it. Ms. Thomas said that they would provide signage for the two complexes stating that it is private parking.

Mr. Dunham stated that the tents must meet the setback requirements. Ms. Thomas stated that the tent is going to be at the bottom of the hill on the property and will be facing away from the neighbors.

**Interested Parties:**

**Ruby Collins**, 2202 S. Boston, #132, Woodward Terrace, stated that she has an objection to the two day event because of the traffic and parking. Ms. Collins stated that they have experienced it every year during the Fourth of July celebration and it is not good. Ms. Collins stated that in her complex there is covered parking for all units but there is parking next to the building (on the side) for visitors and it does not matter how much protection is given from security, they still have people parking in their lot.

Ms. Turnbo asked if the parking on the side of the building is on the property. Ms. Collins answered yes. Ms. Turnbo asked Ms. Collins if they have ever gone into the other parking places. Ms. Collins answered yes. Ms. Turnbo asked Ms. Collins if the signage provided would help. Ms. Collins replied that she didn't think anyone would pay any attention to the signs. Ms. Turnbo asked if parking passes were given to all the residents and the security persons would only allow in the people with the parking passes, would that help the situation? Ms. Collins answered that would be good. She stated that the complex has six entrances and you can't have an officer at each one.

Ms. Perkins asked if the only time the residents have had a problem is on the Fourth of July. Ms. Collins answered yes. Ms. Perkins mentioned that she does not believe that there will be near as many people at Harwelden for a fund raiser as there would be for a free Fourth of July celebration.

**Applicant's Rebuttal:**

Ms. Thomas stated they are not the sponsor of the Fourth of July event. Ms. Thomas stated that Harwelden is trying to be a good neighbor and they do not expect the tens of thousands of people who do come to the river for the Fourth of July event. They would be happy to work with the City and residents of the complexes on whatever street closings or signage that needs to be dealt with. Right now, they are talking about closing Woodward at Riverside, they have not talked about closing other streets but they are willing to consider any other streets as recommended.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White, "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to permit an open-air special event August 21, 1998, 11 a.m. through August 22, 1998, 5 p.m. and September 18, 1998, 12 noon through September 19, 1998 7 p.m. in an RS-3 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 2**, subject to the applicant addressing the parking problems and meeting the setback requirement, per plan submitted on the following described property:

Harwelden, Block 1, a resubdivision of Block 4, Riverside Addition to the City of Tulsa, Tulsa County, Oklahoma.

**Case No. 18076**

**Action Requested:**

Variance of 150' of frontage in a CS district to 100' to allow a lot split. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 14**, located 9202 E. 41<sup>st</sup> St.

**Presentation:**

The applicant, **Ronald G. Tracy**, 1301 S. Quaker, stated that he is representing the architect of record whose offices are in Oklahoma City. Mr. Tracy stated that he is the engineer on the property. This project is for an Econo Lube and Tune. There is not a lot of square footage for the building and has a drive-thru type service. The client has been trying to get some locations in Tulsa for the past 18 months. The owner of the property only wanted to sell Econo Lube 100' of frontage instead of the 150' required.

**Comments and Questions:**

Mr. White asked about Staff comments regarding a plan for the development of the remainder of the property. Mr. Beach stated that this is similar to another recent case, except the other one was a PUD. Mr. Beach mentioned that it appears that there is quite a bit of property and the lot width requirement could be met. By putting the property line less than what the Code requires, they are creating their own hardship.

Mr. Stump stated that you have many more lots and many more curb cuts onto an arterial street and those are some of the reasons for the minimum lot width. Mr. Stump stated that Staff does not see anything unusual about this site that would prevent them from creating a 150' lot.

Mr. Dunham asked the applicant if the owner of the property could come back with a plan showing how the rest of the property is going to be developed. Mr. Tracey stated that he understands the Board's concern, however, the property further to the east is

## Case No. 18076 (continued)

not being acquired and a portion of that property is in the flood plain and there is not a large quantity of property available to the east.

Mr. Dunham asked where the flood plain line is on the property. Mr. Beach asked if it was an improved channel.

Mr. Cooper asked if it is the applicant's case that there is not enough room for another building next door. Mr. Tracy stated that the flood plain is the channel. Mr. Dunham asked how much property does the owner own? Mr. Tracy stated that he owns one large lot that goes across the channel.

Mr. Dunham stated that he agreed with Staff, he would like to see a plan for the development for the rest of the property.

### **Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White "aye"; no "nays", no "abstentions"; no "absent") to **CONTINUE** Case No. 18076 to the June 23, 1998 meeting to give the applicant time to bring in a plan for the development for the rest of the property.

## **Case No. 18077**

### **Action Requested:**

Special Exception to permit a TV transmission tower of a three legged, lattice design in an RM-1/PUD zoned district. **SECTION 1204. C.3.b.2. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions**, located 8835 S. Memorial.

### **Presentation:**

The applicant, **Gary Murphy**, was represented by Everette Strong, who is the general manager of KWHB-TV. The applicant submitted a letter from the engineer (Exhibit L-1) and a site plan (Exhibit L-2). They are asking the Board to allow them to construct a three legged tower to mount microwave dishes to send their signal back to their transmitter in Coweta. Mr. Murphy stated that the tower meets all of the setback requirements.

### **Comments and Questions:**

Mr. Dunham asked the applicant what the height of the tower is. Mr. Murphy stated that he does not think it has been determined but he thinks it is somewhere in the neighborhood of 135' to 160'. Mr. White stated that the plan shows 135'.

Mr. Murphy stated that they have determined from their initial filing that the location that they were planning to put the tower was not in the proper location and that is the reason for the new map and it shows that everything remains the same except they are moving the tower back to a more suitable location to allow for future build out for their building.

Mr. Stump stated that this is a planned unit development and it has a flood plain and is heavily wooded. The only building on the tract is to the west of the tower, between it and Memorial Drive. There is a Wal-Mart shopping center to the south and a planned unit development that will eventually have apartments. Mr. Stump stated that this is an accessory tower and it will be their TV studios, it used to be Carman Ministries.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Cooper, Dunham, Turnbo, Perkins, White "aye"; no "nays", no "abstentions"; no "absent") to **APPROVE** Special Exception to permit a TV transmission tower of a three legged, lattice design in an RM-1/PUD zoned district. **SECTION 1204. C.3.b.2. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions** per plan submitted today, on the following described property:

A tract of land which is part of Lot 1, Block 1, of "Carman Ministries, Inc. Headquarters", a subdivision in the W/2 of the SW/4 of Section 13, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma, being more particularly described as follows, to-wit: Beginning at a point which is the NWly/c of said Lot 1, Block 1, of "Carman Ministries, Inc. Headquarters"; thence N 89°59'55" E along the Nly line of Lot 1, Block 1 for 672.00' to a point on the Ely line of said Lot 1, Block 1, and the Wly line of Reserve Area "A" of "Carman Ministries, Inc. Headquarters"; thence along said Ely/Wly line as follows: S 00°00'05" E for 22.03'; thence S 57°58'00" E for 334.31'; thence S 27°07'27" E for 190.00' and S 08°34'00" E for 128.00' to a point on the Sly line of said Lot 1, Block 1; thence S 89°59'54" W along said Sly line for 658.57'; thence N 00°17'09" E parallel with the Wly line of said Lot 1, Block 1 for 402.35' to a point on the Sly line of a restrictive drainage easement; thence along said southerly line as follows: S 75°12'00" W for 279.43' and N 89°53'02" W for 135.19' to a point on the Wly line of said Lot 1, Block 1; thence N 00°17'09" E along said Wly line for 163.79' to the point of beginning.

**Action Requested:**

Variance of setback requirement from 100' to 78' from centerline of E. 21<sup>st</sup> St. and from 100' to 80' from centerline of S. Lewis Ave. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** and a Variance to permit use of Lots 16 and 17 for required off-street parking for commercial use on Lots 18, 19 and 20. **SECTION 1301. GENERAL REQUIREMENTS** and Appeal a decision of Kurt Ackerman, Zoning Official, regarding current zoning classification of Lot 18 and request interpretation of Zoning Map. **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL, SECTION 1606. INTERPRETATION and SECTION 1607. VARIANCES**, located NW/c of E. 21<sup>st</sup> St. & S. Lewis Ave.

**Presentation:**

The applicant, **Kevin C. Coutant**, stated that this is the property located at the NW/c of 21<sup>st</sup> & Lewis. The project is relatively easy to describe, this is where the Mazzio's is located. The project involves taking the three lots that Mazzio's is currently located on, taking down the Mazzio's building and adding to it the two lots west of there where there is a low ranch style office building, taking that down also and replacing everything with a new retail building. The new retail building will be located on Lots 18 and 19 primarily. Mr. Coutant proceeded to describe the packet which was handed to the Board (Exhibit M-1). Mr. Coutant stated that the primary issue before the Board is an issue of map interpretation. Mr. Coutant said that Mazzio's sits on Lots 18, 19 and 20, less and except the westerly 10' of Lot 18. Those lots were originally platted at 50' widths about 136' north to south. There was a taking of about 5' off of the easterly side, Lewis side, when it was widened. The westerly 10' of Lot 18 has historically been severed from the rest of Lot 18 and was part of the office building and not part of the retail center. Mr. Coutant stated that the history of this property is easy to explain, it has always been used for commercial, that is Lots 18, 19 and 20. Mr. Coutant discussed the aerial photos in the packet with the Board. Mr. Coutant stated that the problem arises out of the mapping of this property. The question is whether or not it is just 19 and 20 that is CS or whether it is 18, 19 and 20 that is CS. Mr. Coutant stated that the size is roughly 136' north and south and 135' east and west. Mr. Coutant mentioned that he was asked to check the Comprehensive Zoning Atlas and determine what the property is zoned (Lots 18, 19 and 20). Mr. Coutant looked and determined that it was CS. Mr. Coutant pointed out page 18 in the packet showing the Comprehensive Zoning Map that was adopted in the '70's that originally designated this CS. This map continues to display a generally square parcel within the curb line. Mr. Coutant stated that he has discussed this with Staff and Staff will observe that if you try to line up the Comprehensive Map on page 16 that you could line it up with the lot lines to the north, it is not exact. On page 26, it shows distances, this is when the PUD for the YMCA, which is directly to the north was considered.



**Comments and Questions:**

Mr. Stump stated that zoning is established by an official zoning map that is adopted as a part of the Zoning Ordinance. Most of the graphics on a typical case map are done by a draftsman in rather quick form to represent the approximate zoning patterns around a particular case. They are not the official zoning map. Mr. Stump stated that Staff researched the official zoning map that was adopted in 1970, there haven't been any subsequent amendments to that. The boundary at that point lines up with the boundary between Lots 18 and 19 as the dividing line between OL and CS. Mr. Stump stated that they also went back to the previous zoning map before the 1970 comprehensive change in zoning, which adopted the zoning format that they have today, and that appeared to show that only Lots 19 and 20 were zoned CS and Lot 18 was the beginning of the light office district. The Mazzio's building is in Lots 19 and 20, Mr. Stump does not believe that it goes into Lot 18 at all. There may have been, under the old Code, the ability to allow parking on an adjacent lot. Also, there may not have been any off-street parking requirement at that time. Mr. Stump stated that their research of the official zoning maps show that their best representation of what was intended there is Lots 19 and 20 as CS and Lot 18 as OL.

Mr. Coutant stated that his understanding of the zoning process in Tulsa is that when they initiated comprehensive zoning in the City of Tulsa, as a general matter, they honored the existing uses as they were at that time.

Mr. Stump stated that if you look at this map and take a straight edge and go back two lots, you can draw a line that extends directly down and lines up with the east side of the heavy zoning line. Mr. Stump stated that he does not know if draftsmen drew them so that the property line or the actual zoning boundary was in the middle of the black line or the left side of the black line, but it appears to them that was what was intended. It does not come close to a third lot over. As far as previous uses, Mr. Stump's understanding of what happened in 1970, when they adopted the maps, was that they took the existing zoning that was in place on lots and unless specifically changed by some action, they adopted a zoning that was similar to the old zoning and that is why they examined the older zoning maps as well and those appeared to line up with just the two lots west of Lewis.

Mr. Coutant mentioned that the older maps look just like the one he has with a big, thick line and it looks like it is lined up and you could argue it either way. Mr. Coutant stated that he knows the structure is not an official part of the map, but to say a draftsman didn't know and maybe it wasn't as precise as it could have been and yet the structure is shown. Mr. Stump stated that structures were shown on the maps primarily to show that there was a structure on the lot. There was no attempt at all to put them in their precise location nor to make the perimeter of that polygon to be the same as the perimeter of the building. Mr. Coutant said that may be the case but if you look at the other structures shown to the west on 21<sup>st</sup> St. they show some

attention to detail as to setback and location. Mr. Coutant believes that the entire Mazzio's property is intended to be commercial.

**Comments and Questions:**

Mr. White asked Mr. Stump if the Zoning Ordinance was stipulated by a legal description as to what the zoning applied to. Mr. Stump answered that if the applicant has evidence that this was rezoned to that, he could supply that information, we don't have any evidence.

Mr. Dunham stated that they have a disagreement over what the map shows and what the ordinance shows. Mr. Stump said no, the map is part of the ordinance that was adopted in 1970, there's the text (the blue book) and then the map that defines the areas. There is not a legal description for every one of those areas. For instance, in the old Code, prior to 1970, someone had requested commercial zoning on this corner from what it was originally zoned, there should be an ordinance with that legal description, they have not provided that information. Mr. Stump stated that he had no way of finding it either, they do not have that sort of reference. Mr. Stump said that they go by what was adopted into law and what was published in the newspaper and that line, from their judgment, is the first two lots that are CS.

Mr. Dunham asked if the Board finds that Lots 19 and 20 were CS and this applicant wanted to have the building located where he has them on his plot plan, could that not be done by the PUD process. Mr. Stump answered yes, he could or rezone the property to CS. Mr. Dunham stated that this was going to be a tough decision. Mr. Dunham does not have a problem with the use proposed, but it is hard to ignore Staff's interpretation of what the zoning is. Mr. Stump stated that they have a 1" to 100' scale, which is the largest unofficial map, and it only shows the first two lots being zoned CS. Mr. Dunham has no problem with what he is proposing to do but he does have a problem with not accepting Staff's interpretation of what the zoning line is.

Ms. Turnbo agreed with Mr. Dunham. Ms. Turnbo stated that she thinks that it should be rezoned. Mr. Coutant stated that the interpretation issue is the jurisdiction of the Board, Mr. Coutant stated that he has never done this before, and has never had a mapping problem. Mr. Coutant said that this is not in the domain of Staff as far as a need to defer. He encourages the Board to look at the maps they rely upon everyday and people can't run to Staff with every little question. These maps are law.

Mr. Dunham agreed with Mr. Coutant, but on the other hand, Mr. Dunham stated that he would probably go to Staff and ask what their interpretation of where the line is.

Mr. White thinks that they are in the same situation here that they were in an earlier meeting where they had to defer to the City Legal Department and since they are a City Board, they had to follow their advice. Mr. White feels that they have to defer to

INCOG Staff since they are a Board under INCOG for interpretations on matters such as this. Mr. White has no problem with the development.

Mr. White stated that when he looks at page 18, he sees two lots, if that is considered the official interpretation, then he has to go along with it.

Mr. Coutant stated that not only has this line been the dividing line between retail/commercial and office, it is separated physically by a retaining wall.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-1 ( Dunham, Turnbo, Perkins, White "aye"; no "nays", Cooper "abstentions"; no "absent") to **UPHOLD** the decision of Kurt Ackerman, Zoning Official, regarding current zoning classification of Lot 18 and request interpretation of Zoning Map. **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL, SECTION 1606. INTERPRETATION and SECTION 1607. VARIANCES.**

Lots 16, 17, 18, 19 and 20, Block 11, Woodward Park, City of Tulsa, Tulsa County, State of Oklahoma.

**Comments and Questions:**

Mr. White asked what they do with the Variances now. Mr. Coutant stated that the Variance of the setback on Lot 18 is not advertised.

Mr. Stump stated that if you are going to have to rezone you might want to include all of the property, Lots 16, 17 and 18 as part of that rezoning. That would do away with an issue on off-street parking and what use that parking is.

Mr. White asked if they should just let the other two variances slide? Mr. Coutant asked the Board to consider the last one, on the parking issue. This is an issue that is timely in the sense that it is new to Mr. Coutant. These are four platted lots, the required parking would in part be on the OL lots. OL is now 16, 17, and 18.

Mr. Dunham asked the applicant if he is asking to allow parking on Lots 16, 17 and 18 for parking for Lots 19 and 20. Mr. Coutant answered yes.

Mr. Stump stated that the problem Staff has with that is that the required parking for a use has the same designation as the use, it is accessory to it. Mr. Stump referred to the church parking lot that was heard earlier today, the only reason that parking is allowed in that residential district is it is not a Use Unit 10, Off-Street Parking, it is a Use Unit 5, Church because it is an accessory use to the principal use so it takes on the same category use as the principal use. Mr. Stump thinks that the same thing applies here. If this is required parking for a commercial use or a restaurant, it takes

on the same category of use as the principal use that it serves, therefore it has to be zoned for that wherever it exists.

Mr. Coutant stated that our Zoning Code allows these OL lots to be used for parking as a matter of right as a principal use, that is a given. There could be a parking lot there of any stripe, assuming that it meets the setbacks, etc. for those three lots.

Mr. Dunham asked Mr. Coutant if he has to go for rezoning on Lot 18 or a PUD, why not clean it up and do a PUD or rezone...Mr. Dunham does not believe that anyone on the Board has a problem with what they want to do, it is just how they are proposing to do it. Mr. Coutant answered that it is clean issue. Mr. Coutant stated that this is not an uncommon circumstance at all, other projects that are having to work in other areas that have commonly, closely aligned office and commercial lots, where the required parking is right next door. There are examples of this all over. They think that this kind of an application is appropriate. Parking is available by right, the use of OL for parking on commercial property.

Mr. Stump stated that this is a major issue and we are at the end of a very long meeting, we might make a better decision if we continue this discussion until the next meeting when everyone is fresher and give us some time to think about the implications. Mr. Stump isn't saying that there isn't a good reason to allow this sort of thing but they haven't thought of a good vehicle that the Board could use to get there and still make it consistent throughout in how they administer the Code.

Mr. White stated that the Board feels that they have to defer to City Legal and to INCOG Staff and that they are the "experts". They are merely citizens making decision based on facts given to them.

**Interested Parties:**

**Roy D. Johnsen**, 201 W. 5<sup>th</sup> St., Ste. 440, stated that he subscribed to what Jay just addressed that perhaps it needs to be continued for discussion. This interpretation is to the use of Office or PK Districts for required parking for businesses nearby or even across the street from commercial properties. This is extremely important. Mrs. Turnbo could easily address some of the issues in the Brookside area, where they have encouraged people to go out and create new parking areas, because parking is so critical and all of those are off-site. To say that can't satisfy required parking, assuming this Board authorizes you to locate it off-site in a PK District or OL District, frustrates the very thing they have been trying to achieve. It is relevant on 15<sup>th</sup> St. and in the Brookside area, 11<sup>th</sup> St and the TU area, where we have imposed zoning patterns. You can look at a map of these areas and the little strips of OL and PK, they are not intended to be office buildings, they are intended to be parking to satisfy the requirements of adjoining and nearby commercial properties and the City has been doing it for years. Mr. Johnsen believes that the interpretation is very important and he believes that Mr. Stump has taken a very conservative and tough review of what the

ordinance says. Mr. Johnsen does not believe it says anywhere, "thou shall not put required parking on an office tract", that is an interpretation he has made. Mr. Johnsen stated that if it has to come to issue today, he supports Mr. Coutant in saying that you can use properties that are zoned OL to meet the parking requirements of a commercial use in another zoning district. In most instances, it is going to be on different lots, so you have to come to the Board to have that approved to have it on another lot. But by Mr. Stump's interpretation, by reason of it being the required parking for a Use 14 or some other retail use, then the Board has no jurisdiction. Then it would be a use variance and we could never come before the Board and have the required parking because under Mr. Stump's interpretation, it is no longer parking, it has somehow changed to a Use Unit 14, the Board has no authority to grant a use variance. This frustrates everything that they are trying to achieve. Mr. Johnsen believes that two things need to happen, more study and confer with legal and the Board needs to carefully consider what is the purpose of this ordinance. Mr. Johnsen stated that he believes the legal department will agree that there is a general rule of law when it comes to interpretation, that if a Zoning Code, because it is a restriction on your constitutionally protected private property rights, is ambiguous it is to be construed in favor of the rights of the property owner and that is the case law. It is the Board's responsibility to make interpretations under this Code, legal departments and planning staff people are advisors.

**Comments and Questions:**

Mr. White asked Mr. Coutant if he would like to continue or make the determination tonight. Mr. Coutant stated that they do not want a bad result.


Ms. Turnbo asked if this was properly before the Board because Mr. Coutant is asking for parking on Lots 16, 17 and 18 and they are only advertised for Lots 16 and 17. Mr. White stated that the interpretation had to precede the two variances. Ms. Meyers said that if Lot 18 wasn't advertised then the Board is doing something different than what is advertised. Ms. Meyers stated that she thought it would be best to have a continuance so that she and Mr. Romig could look over everything.

**Board Action:**

On **MOTION** of **DUNHAM**, the Board voted 4-0-1 ( Dunham, Turnbo, Perkins, White "aye"; no "nays", Cooper "abstentions"; no "absent") to **CONTINUE** Variance of setback requirement from 100' to 78' from centerline of E. 21<sup>st</sup> St. and from 100' to 80' from centerline of S. Lewis Ave. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS** and a Variance to permit use of Lots 16 and 17 for required off-street parking for commercial use on Lots 18, 19 and 20 to the meeting of June 23, 1998.

There being no further business, the meeting was adjourned at 7:50 p.m.

Date approved: AUGUST 11, 1998

  
Chair