

CITY BOARD OF ADJUSTMENT
MINUTES OF Meeting No. 754
Tuesday, July 28, 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
Dunham Perkins Turnbo White	Cooper	Arnold Beach Matthews Stump	Ballentine, Code Enforcement Parnell, Code Enforcement Romig, Legal Department

The notice and agenda of said meeting was posted in the Office of the City Clerk on Thursday, July 23, 1998, at 10:45 a.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 1:04 p.m.

Case No. 18119

Action Requested:

Special Exception to permit cellular/telephone antennae and supporting structure to be affixed to an existing electrical utility monopole, resulting in a tower height of 80'. **SECTION 1204.C.5. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES – Use Unit 4;** Special Exception to modify the setback of an accessory building from the centerline of E. 36th St. from 55' to 52'. **SECTION 1204.C.3.f. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS;** Special Exception to modify landscaping and fencing requirements. **SECTION 1204.C.3. GENERAL REQUIREMENTS FOR ANTENNAS AND TOWERS and 1204.C.5. ANTENNAS AND TOWERS REQUIRING SPECIAL EXCEPTIONS,** located Northeast corner East 36th Street & South Lewis Avenue.

Presentation:

Mr. Beach stated that the notice has been amended and requests that this case be continued to August 11, 1998. Mr. Johnsen informed the Board that a letter was mailed to surrounding property owners of his intention to request a continuance.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18119 to August 11, 1998.

Case No. 18120

Action Requested:

Variance to allow an accessory building (1,500 SF) in an RS-1 zoned district and a Variance to allow an accessory building in the front yard (60' from centerline of street). **SECTION 402.B.1.b. ACCESSORY USES IN RESIDENTIAL DISTRICTS – Use Unit 6**, located 17507 East 14th Street.

Presentation:

Mr. Beach explained that additional relief is needed, and staff has re-advertised this case for August 11, 1998.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18120 to August 11, 1998.

Case No. 18122

Action Requested:

Special Exception to permit church and accessory uses (parking lot) in an RS-3 District. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5**, located 2317 North Quaker Avenue.

Presentation:

Mr. Beach advised the Board that insufficient notice was given due to problems with the submitted legal. This case has been re-advertised for August 11, 1998.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18120 to August 11, 1998.

Case Nos. 18125 - 18130

Action Requested:

Variance to permit promotional banners to be attached to existing light poles for a period to exceed the allowed maximum 40 days per year and allow the banners on a permanent basis. **SECTION 1221.C.8. USE UNIT 21. BUSINESS SIGNS AND OUTDOOR ADVERTISING, General Use Conditions for Business Signs** and a Variance of the definition of Promotional Business Sign. **SECTION 1800. DEFINITIONS.**

Presentation:

Mr. Beach informed the Board that Oklahoma Neon called to request a continuance, and staff has received a letter from Public Service Company also asking for a continuance for cases 18125, 18126, 18127, 18128, 18129, and 18130. Assuming that additional relief is not required, the cases could be heard on August 11, 1998.

Comments and Questions:

Mr. White asked the three interested parties if they had a problem with continuing these cases to August 11, 1998. The response was negative.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** the following Cases to August 11, 1998 at 1:00 p.m.: 18125, 18126, 18127, 18128, 18129 and 18130.

Case No. 18133

Action Requested:

Special Exception to permit Use Unit 23 and Use Unit 25 within a CG District. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS,** located Northwest corner East Admiral Place & Mingo Valley Expressway.

Presentation:

Mr. Beach stated that the property is in the process of being rezoned to CG, and Mr. Johnsen asked to continue this case until the zoning has been reclassified. Mr. Johnsen added that City Council approved the rezoning on July 23, 1998, but the ordinance has not been published due to a legal description revision.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18133 to August 11, 1998.

OTHER BUSINESS

Briefing on Recommendations of the TMAPC Special Residential Facilities Task Force:

Joe Westervelt, briefed the Board on the progress of the Tulsa Metropolitan Area Planning Commission (TMAPC) Special Residential Facilities Task Force. The Task Force met from January 22 through June 25, and developed a Mission Statement and a Draft Report, both which have been submitted to the Board and was presented at a TMAPC work session. The Task Force was basically able to draft a consensus report, with a vote taken when a consensus could not be reached. Uses that were to remain in Use Unit 2 and the actual uses by right are examples of issues resolved by a vote.

Mr. Westervelt reported that the next step is to present the draft report to TMAPC, incorporate what revisions they may have, and forward it to the City Council.

Mr. Westervelt stated that some of the items most affecting the Board would include Item #3 – moving the required spacing from 1/4 mile to 1/2 mile between facilities, and noted that there would be a facilities map reflecting those locations. The Task Force feels confident that the definitions, under Item #7, are adequate, but encourage legal to continue monitoring for statutory changes that may occur and new statements made by new case law. Item #5 contains a more detailed list of guidelines for the Board's use in making decisions regarding special residential facilities.

Mr. White asked what the timeframe was for the study. Mr. Westervelt responded that the report would be presented to TMAPC on August 5, 1998. Depending on the amount of debate and modifications, they anticipate forwarding the revised draft to City Council on August 21 to be placed on their next agenda.

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UNFINISHED BUSINESS

Case No. 17917

Action Requested:

Special Exception to allow a manufactured home in an RS-3 zoned district. **SECTION 301. PRINCIPAL USES PERMITTED IN AGRICULTURE DISTRICTS** and a Variance of the one-year time limitation to permanent. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS**, located 2525 East 54th Street North.

Comments and Questions:

Mr. Beach reminded the Board that they took action to approve this request in January 1998. In June, staff was informed that someone did not receive notice of this application. After investigating the situation, it was determined that the notice had

been sent out incorrectly. In order to hear this case properly, staff has placed it on today's agenda.

Presentation:

Doris Johnson, 2525 East 54th Street North, received approval to place their top-of-the-line, double-wide mobile home on their property in January. They met all the requirements imposed by the Board, installed a new septic tank, etc. There are other trailers and mobile homes in the surrounding area. She added that she couldn't understand why the neighbors are saying her property will lower their property value, when her property is nicer in appearance than some of theirs. The property that was formerly used as a pasture, is their home, and is not being used as a business or church. A floor plan of the mobile home with attached photocopied pictures were presented to the Board and recorded as Exhibit A-1.

Interested Parties:

Patty Martin, 2451 East 54th Street North, is opposed to mobile homes moving into the area. She thought the mobiles were put in on a temporary basis, but were never removed. Allowing this mobile home will allow others to move in as well.

Randy Haskins, 2536 East 54th Street North, stated that, while the mobile does look nice, it was placed on the property in front of a pre-existing dwelling that already had the septic tank, electric, etc. Shipping crates are being used for a sidewalk, and the lawn is mowed once a month. The notice reflects agriculture zoning, but his property, across the street, is RS-3. He stated that it's not right to move two or three dwellings on one property.

Jeannie Casey, 2536 East 54th Street North, adjacent to the trailer, recalled that the previous owner had applied to put a church on the property, but it was denied. They were not notified prior to the trailer being moved in. She questioned why the house was not torn down before the mobile was moved on. The other mobiles are located at the end of the street, but this one is located in the middle of the street.

Applicant's Rebuttal:

Ms. Johnson stated that the house is a three-room dwelling, and they had originally planned to rehabilitate the house into an efficiency for their daughter. However, the structure has been damaged, and they have since decided to tear it down. They are waiting on the contractor to demolish it. There is a brick storage unit that will be used as a garage for their automobiles once the concrete for the driveway is poured.

Comments and Questions:

Mr. White asked if the incorrect legal could account for no interested parties attending the January meeting. Mr. Beach responded affirmatively. He also noted that the zoning should be reflected as an RS-3 zoned district.

Mr. Beach pointed out that the site plan reflects a 28' X 80' trailer home, and explained that there is a distinct difference in the Zoning Code between a trailer and mobile

home. Ms. Johnson responded that it is a mobile home having 2,240 SF. The mobile currently has skirting, but will have brick placed around it next year. There are 28 tie downs on the front and back and six on each end.

Ms. Perkins noted that there appears to be a trailer on 54th Street North and one on Birmingham. Ms. Johnson stated that there is a single wide trailer home on 54th Street North and Lewis and another trailer home is located on Lewis. Her home is the only mobile home in the area.

Ms. Turnbo stated with the brick being placed around the mobile and with landscaping that it would be difficult to tell that it was a mobile home.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, “aye”; no “nays”; no “abstentions”; Cooper “absent”) to **APPROVE** a Special Exception to allow a manufactured home in an RS-3 zoned district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** and a Variance of the one-year time limitation to permanent. **SECTION 404.E.1. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** subject to the previous dwelling being removed within six months on the following described property:

E/2, S 231', SW, SE, NW, NW, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18052

Action Requested:

Approval of site plan on an approved Special Exception for church use, accessory parking. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS**, located 1607 Queen Street.

Comments and Questions:

Mr. White noted that the address should be reflected as 1607 North Evanston Place or on the southeast corner of Queen and Evanston.

Presentation:

Sharon Cosby Washington, 822 North Union Place, stated that the church received an approval for a Special Exception for their parking lot, conditioned upon an approved site plan. A site plan was presented to the Board and recorded as Exhibit B-1.

Comments and Questions:

In response to Mr. White’s question, Mr. Stump replied that staff reviewed the site plan and it does meet all the requirements.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, “aye”; no “nays”; no “abstentions”; Cooper “absent”) to **APPROVE** the site plan as submitted on the following described property:

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

Case No. 18105

Action Requested:

Special Exception for auto sales in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17**, located 9404 East 31st Street.

Presentation:

Mr. Glenn D. Casey, 7418 South Fulton Place, stated that the property has a history of automotive uses, it was a Phillips 66 station for a number of years and then it became an oil change facility. One of the four used car lots located within a ½ mile radius, is adjacent to this property. He added that he intends to run a clean car lot with no plans to sublease it. A site plan was submitted and recorded as Exhibit D-1.

Interested Parties:

John Roy, 9018 East 38th Street, representing the Fulton Neighborhood Association, stated that everyone he has talked with indicated that a used car lot is not acceptable for this location. Residents south of this lot mostly use 31st and 93rd East Avenue to access the neighborhood. He referred to the car lot across the street, noting that the eight-foot chain-linked fence is extremely unattractive and enforces their opposition to another one. The CS zoning was designated because that was compatible for the area and the neighborhood association sees no reason to change it. Mr. Roy submitted a petition containing 96 signatures in opposition of this request, Exhibit D-4, and asked the Board to deny the request. If the application is not denied, the association would suggest four requirements, explained in Exhibit D-2.

A letter from SC Management Company, Exhibit D-3, was received in opposition of this application.

Applicant’s Rebuttal:

Mr. Casey admitted that the car lot adjacent to his lot is an eyesore, and explained that sometimes used car lots need a fence due to the free access to the public. His property is in a highly-visible location and he does not plan to erect a chain-link fence around it.

Comments and Questions:

Mr. White asked if the applicant could agree to the four suggested conditions provided by the interested party. Mr. Casey responded affirmatively.

Mr. Dunham asked about lighting or light poles. Mr. Casey responded that there are a few light bases for light poles and signage existing; he may apply for permits for his signs at a later date.

In response to questions from the Board and Staff, Mr. Casey stated that the lot could accommodate 50 vehicles, with additional parking spaces for the customers. All vehicles will be for sale, there will no inoperable vehicles on the lot. Only light repairs will be performed on vehicles brought in to sell and the work will be performed inside the bays. There will not be any loud speakers placed outdoors. The canopy will remain but the air-conditioned area of the building will be remodeled.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 5-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a Special Exception for auto sales in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17** per plan, subject to all repairs being made inside the existing bays; there be no more than 50 vehicles on the lot; that all vehicles be operable; the perimeter barrier around the lot be no higher than three feet from the ground; that no chain-link fences be erected; that no banners, streamers or advertising be hung from the poles, light poles, building or canopies with one sign meeting the sign code be allowed; and that no parking be allowed on adjacent property, including customer vehicles on the following described property:

Lot 2, Block 1, Briar Village, Resub of all of Briarwood Center 2nd Amended, City of Tulsa, Tulsa County, Oklahoma.

Case No. 18113

Action Requested:

Special Exception to permit additional hangers to Harvey Young airport. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 2**, located East of northeast corner East 21st Street & 129th East Avenue.

Presentation:

Roy Johnsen, 201 West 5th Street, representing Terry McDonald Trust, stated that 3.5 acres were identified to build three new hangers, 40' X 350' and house eight airplanes each. The proposed hangers are located west of the taxi and run-ways of the Harvey Young Airport, and just south of the main offices. Mr. Johnsen submitted a site plan, Exhibit E-1, and a photograph, Exhibit E-2.

Comments and Questions:

Mr. White asked if the previous concerns had been satisfied. Mr. Johnsen responded that he had requested a continuance so that a single-family subdivision to the east could receive notices even though it was over 300' away.

Ms. Perkins asked if the hangers would house existing or additional planes. Mr. Johnsen responded that the manager indicated that approximately 14 of the 28 spaces would serve existing customers.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a Special Exception to permit additional hangers to Harvey Young airport. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 2** per plan submitted on the following described property:

Lots 5 and 6, Romoland, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma and the N 150' of the E 315' of the W 1000' of the E/2 of the SW/4 of Section 9, T-19-N, R-14-E, Tulsa County, State of Oklahoma.

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NEW APPLICATIONS

Case No. 18098

Action Requested:

Appeal from the determination of the Neighborhood Inspector (Code Enforcement) of an unspecified violation of the Zoning Clearance Permit and Certificate of Use and Occupancy No. 126335 and an Appeal from the determination of the Code Official (Building Inspections) ordering the Applicant to *"remove outdoor storage of material including paper, cardboard and similar products awaiting processing in any manner associated with recycling as per zoning clearance permit."* **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL**, located 10601 East Ute Street.

Presentation:

Stephen Schuller, 100 West 5th Street, Suite 500, briefed the Board on the history and purpose of the application's request. Continental Paper Recycling located at this location and became a recipient of paper, cardboard, and similar materials to be baled and bundled and shipped elsewhere to be recycled. The applicant received a zoning violation notice on May 19, 1998, from the Urban Development Department, Exhibit C-5, citing violations of the zoning clearance permit, requiring that the use conditions be followed as set out in zoning occupancy permit. A second notice was received on May

20, 1998, from the Building Inspections office, Exhibit C-4, requiring the client to remove outdoor storage of material awaiting processing connected with recycling. An application was made for Use Unit 28, Junk and Salvage Yards, and was denied. Mr. Schuller added that the shipping trucks unload the materials on the east side of the building, which is then placed on a conveyor belt, and it is sorted inside of the building. Materials that are located outside of the building are either waiting to be conveyed into the building for sorting and binding, or it is waiting to be loaded onto trucks to be shipped to recycling centers. He agreed that any materials that may be outside the rear of the building should be removed. Mr. Schuller stated that this use is ideal for the IM zoned district.

Comments and Questions:

Mr. Ballentine presented photocopies of pictures taken on July 25, 1998, of the site, Exhibit C-3. Mr. Schuller responded that he had not observed the amount of materials lying outside as reflected in the photographs, and that he would speak with his client regard the matter. When asked how many bales were allowed to accumulate before they were loaded and shipped out, Mr. Schuller responded that he had seen up to 30 bales. In response to Ms. Perkins' questions, Mr. Schuller stated that he believed the hours of operation were 6 a.m. to 8 p.m., Monday through Friday, and deliveries to the center are made all day, and at times during the night.

Mr. White interjected that the concern expressed at the previous hearing was in the storage of the materials because they were blowing onto their properties and not being retained on the property. Mr. Schuller stated that his client has an employee that does pick up any materials that have been blown away from the drop-off site. Mr. Dunham stated that he has a problem with a facility that receives a volume of papers and cannot keep the products on their site.

Mr. Romig interjected that the handling of materials outside of the building can come under the umbrella of a salvage yard.

Interested Parties:

Mike Love, 9723 South Richmond, representing his company, Love Envelop Company located at 10733 East Ute, using Exhibit C-6, pointed out his property that is located on the north and south of Ute Street. He explained that his company brings potential customers to their site to try to sell their services. The prospective customers are intentionally taken to the east side of the property so as not to pass by Continental's property. Mr. Love stated that his company also bundles and trucks paper products daily; however, their work is all done within the building, alleviating possible fires and for aesthetic reasons. He commended Continental's efforts to keeping the materials controlled.

Mr. White recalled a statement made at the previous hearing that it would be very difficult to have an enclosure to dump the paper in, and asked for Mr. Love's opinion. Mr. Love responded that a fence would not sufficient, because the container would need to have a top, back and sides. It would be very difficult to do completely indoors,

but he is opposed to the materials being kept outside. Mr. White recalled that a large cage be used, and asked if that would be practical. Mr. Love responded negatively, noting that there would be no way of controlling the small pieces of paper.

Brad Reinhart, 8804 South Joplin, representing Matrix located 10701 East Ute Street, submitted twelve photographs, recorded as Exhibit C-1. He pointed out that the dump truck is about 10 – 12' higher than the eight-foot barricade fence between the two properties. This property houses the Matrix home office and concurred that it is extremely embarrassing to bring clients and employees from other locations to this facility because of the site. Conferences and meetings have been stopped due to the noise of the trucks dumping materials throughout the day. Mr. Reinhart pointed out that there is no conveyor extending outside of the building, and stated that a front-end loader is used to take the materials inside of the building. He also stated that when a meeting is scheduled, the amount of products piled up outside is about one-fourth the normal pile. He objects to the mildew, pollution of trash blowing around and noise pollution.

Mr. Dunham asked, although it cannot be used in the Board's decision, if there were any restrictions for the industrial park. Mr. Reinhart responded that there are restrictions regarding outside storage.

Ron Henderson, 1643 East 15th Street, manager of the Wolfe Pointe Industrial Parkway Owners Association, referred to a letter from United Industries Corp. in opposition to Continental's request. There are protective covenants, which Continental is violating. The problem is not the operation itself, but with the small papers that get blown around the neighborhood.

Ms. Turnbo asked how the association would deal with the breaking of the covenants. Mr. Henderson stated that the membership would meet to discuss the problem and then turn it over to the legal staff. They have not yet had to go to court.

Letters received in opposition of this application were received from United Industries Corp. and Maxtrix Service Company, recorded as Exhibit C-2.

Applicant's Rebuttal:

Mr. Schuller sympathized with the neighboring businesses in regard to the appearance reflected in the presented photographs, and noted that neither he nor his client has been notified of any violations of the protective covenants. He had not thought of a cage-type structure as mentioned, and suggested a continuance to research the possibility and feasibility of something along that line.

Comments and Questions:

Mr. White stated that he would be in favor of continuing the application to allow the client to research a structure with the condition that the neighborhood association is consulted for input. Mr. Schuller stated that he was unaware of a neighborhood

association previous to today's meeting, and would most definitely desire to include them in trying to resolve this issue.

Ms. Perkins asked about the chain-link fence or reference to chicken wire. Mr. Schuller stated that he was looking at possibilities and would have to confer with his client on this matter.

Mr. Romig clarified that the zoning clearance permit was issued in April 1998 with the condition that there be no outside storage of paper. The appeal for consideration is Mr. Ballentine's notice that they are in violation of that condition. He suggested a continuance would be in order so that Continental could come into compliance with that condition of no outside storage.

In response to Mr. White's question on building violations, Mr. Stump stated that there are no building setbacks from property line requirements except from a street. If an enclosed structure were feasible, there should be no problem with the zoning code to building a structure to contain the materials that are dumped as well as the bundles awaiting shipment.

Mr. White asked the interested parties if they would be willing to work with the applicant to resolve this issue. Mr. Love responded that he felt the neighborhood would not oppose the company if a building were constructed. He would be willing to meet with the applicant.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18098 to August 25, 1998.

Case No. 18114

Action Requested:

Variance of setback from N. Garnett of 50' from property line to 45'. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 23** and a Variance of required landscaping along street yard from 5' to 2'. **SECTION 1002.A.1.-2. LANDSCAPE REQUIREMENTS, Frontage and Perimeter Requirements**, located Northwest corner East Independence & North Garnett.

Presentation:

Danny Mitchell, 4111 South Darlington, Suite 105, the architect for the applicant, explained that due to the overhead power lines, they are seeking a variance of the setback requirements for their landscaping. They are not seeking to reduce the amount of landscape. Also, by moving the building 4.5' east of the setback line, it

would allow them to keep the building as one large open space and they would install a sprinkler system. He submitted a site plan, recorded as Exhibit F-1.

Comments and Questions:

Mr. Beach asked why the sprinkler was not required for Phase II. Mr. Mitchell stated that Phase II is intended for a different type of use. By having the sprinkler system in the Phase I building, they would not have to install firewalls.

Mr. White asked if the power lines were located over the right-of-way. Mr. Mitchell responded that it appeared so, but with the planting of large trees they were concerned with the development of the trees. Mr. Stump interjected that the City of Tulsa Ordinance lists the types of trees that are allowed to be planted under power lines.

In response to Mr. White's question about the setback requirement hardship, Mr. Mitchell responded that there is an overlap of the zoning code setback and the fire code requirements. From the developer's standpoint, he is trying to meet the potential tenant's needs for a large opened building.

Responding to Mr. Dunham's question, Mr. Beach stated that he did not understand why the building couldn't be constructed five feet shorter, thus meeting the setback and fire code requirements. Mr. Mitchell responded that he was trying to meet the tenant's requirement for floor area.

Mr. Romig stated that there really is not a conflict of the building code and fire code requirement because both can be met. It's the client's desires and not the codes that are creating the problem.

Interested Parties:

None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **DENY** a Variance of setback from N. Garnett of 50' from property line to 45'. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS – Use Unit 23** and a Variance of required landscaping along street yard from 5' to 2'. **SECTION 1002.A.1.-2. LANDSCAPE REQUIREMENTS, Frontage and Perimeter Requirements** finding no hardship on the following described property:

Lot 5, Block 2, Interchange Business Park, City of Tulsa, Tulsa County, Oklahoma.

Case No. 18115

Action Requested:

Special Exception for auto sales (U.U. 17) in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17,** located 250 East Apache.

Presentation:

Lonnie Listenbee, 530 East Pine Place, stated that he did not understand why he had to come before the Board other than the fact that Mr. Ballentine informed him that there had been a complaint.

Comments and Questions:

Mr. Stump explained that auto sales are not allowed by right in the Commercial Shopping Zoning District, which he is located in. However, a Special Exception can be requested from the Board of Adjustment at a public hearing, and if the Board finds that the request is not injurious to the neighborhood, an auto sales lot can be allowed. The purpose of today's hearing is for the Board to determine if it is appropriate to allow an auto sales lot in a CS zoned district at this location.

Mr. Listenbee stated that he met all the state's requirements and he received his licenses, but there was never a mention of a hearing. Mr. Ballentine interjected that the state approved the license on a letter from INCOG stating that CS would allow auto sales after Board approval. The state took that letter as acceptance and issued Mr. Listenbee's license in error, and is awaiting this hearing to see if the license should be revoked. A site plan was recorded as Exhibit G-1, and the zoning violation notices were recorded as Exhibit -2.

Mr. Listenbee stated that the property sat vacant for three years, he purchased it and decided to make it an auto sales lot, and it has taken him over a year to meet all the requirements and obtain his license. He submitted two photographs of his property, recorded as Exhibit G-3. He stated that he has always been in compliance and that the City continuously made errors on his applications. When asked if he had obtained a zoning clearance permit for auto sales on the property, he responded that he had not, but he had submitted everything necessary to the city and state.

In response to Ms. Perkins question, Mr. Listenbee stated that he runs a bail-bond business out of the building. The law allows him to take automobiles as collateral and sell them. He also rents out a portion of the building for private parties on occasion, but there are no other businesses operating in the building.

Mr. Ballentine presented a copy of photographs of the premises, Exhibit G-4.

Interested Parties:

Dwain Midget, Mayor's Office, 200 Civic Center, City Hall, Room 1100, stated that he worked with Mr. Listenbee when he first applied to run his bail bonds business on the

property. He was told that the building would be used to store the autos taken for collateral, but nothing was mentioned of selling the autos. Mr. Listenbee responded that he understood that he could not store items outside of the building. Also, the City worked with the applicant on the buildings due to the property being located in a floodplain. Mr. Midget stated that he is opposed to this application because it is not compatible with the area. He commented that he believes it will be injurious to the neighborhood and he is concerned with the approval of the Special Exception, which runs with the property not the owner.

Billie Jo Henney, a resident for 38 years at 331 East Apache, stated that she is opposed to the car lot and night club. She stated that kids congregate there every weekend, playing their radios loud, helicopters fly over the neighborhood and she calls 911 often. The residents do not feel safe to walk in the neighborhood. She pointed out that the other businesses close at 6 p.m.

Applicant's Rebuttal:

Mr. Listenbee stated that there is no record of the complaints, and that his building stays rented and that he is on the premises during every event. The City knew and approved of his application to take cars as collateral, and the state approved it and gave him a license to do so.

Comments and Questions:

Mr. White asked if cars taken as collateral could be stored outside. Mr. Stump responded that auto sales are not allowed by right in a CS district, it would require Board of Adjustment approval. He added that the Board of Adjustment would also need to approve a Special Exception for an adult entertainment establishment due to being within 150' of a residential area.

Staff interjected that the Neighborhood Development Plan encourages the area to be, "... designed to accommodate convenience and neighborhood shopping centers providing a limited range of retail and personal services uses". Typical Use Unit 13 uses are listed including, but not limited to, drug store, florist, bakery, candy store, etc.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **DENY** a Special Exception for auto sales (U.U. 17) in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17** on the following described property:

S 115' of Lots 5 & 6, Block 1, Acre Gardens, City of Tulsa, Tulsa County, Oklahoma.

* * * * *

Case No. 18116

Action Requested:

Variance to allow a replacement awning 4' over property line and into street right-of-way. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 5**, located South of southwest corner East 11th Street & South Yale.

Presentation:

Johnny Bernard stated that six-foot awnings were removed while the building was being painted. He commented that he would like to install four-foot color-standing seam-metal sheets in place of the six-foot awnings. He referred to a site plan, Exhibit H-1, and a picture showing the front of the building, Exhibit H-2, along with a letter from Public Works stating they have no objections to the four-foot awning, Exhibit H-3.

Comments and Questions:

Mr. Dunham asked if the applicant was agreeable to remove the awnings should the street be widened. Mr. Bernard responded affirmatively.

Interested Parties:

None.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a Variance to allow a replacement awning 4' over property line and into street right-of-way. **SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS – Use Unit 5** per plan submitted, subject to a removal contract on the following described property:

N 15' Lot 2, Emmons Addition and S 41.78' of Lot 1 Emmons Addition & N 23.43' Lot 1 Emmons Addition S 26.57' Lot 1, McBride Addition and Lot 1, Block 1, McBride Addition, City of Tulsa, Tulsa County, Oklahoma.

* * * * *

Case No. 18117

Action Requested:

Variance to allow two dwelling units on one lot of record. **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6**, located 511 North 23rd West Avenue.

Presentation:

Wilma Williams, 511 North 23rd West Avenue, stated that she received a permit to build a garage on the back and side of their house. Since that time, they purchased other property to back their dump trucks, etc., and turned their garage into an apartment. They were unaware that approval for a garage apartment was necessary. She was informed that the garage apartment was in violation of the zoning code and she is before the Board to make it legal. She presented a copy of the site plan, Exhibit I-1, and the zoning violation, Exhibit I-2.

Comments and Questions:

Mr. White voiced staff's concerns regarding the hardship. Ms. Williams stated that the property is one and one-half lots combined, and it has woods behind it.

Mr. Ballentine presented a copy of two photographs of the property, Exhibit I-3.

Interested Parties:

None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a Variance to allow two dwelling units on one lot of record. **SECTION 207. ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD – Use Unit 6** finding that the lot is unusually large on the following described property:

Lot 11 & N/2 Lot 12, Block 4, Monticello Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 18118

Action Requested:

Special Exception to allow a single-family dwelling in a CH zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 6**, located 859 South Knoxville (Northeast corner East 11th Street & South Knoxville).

Presentation:

Charles Yuan, 2908 East 37th Street, referred to the site plan, Exhibit J-1, and stated that the structure was originally built as a house, but with the high intensity of 11th Street, has operated as a nightclub or bar for over 15 years. The last bar tenant caused various problems, so he decided not to lease the property as a bar to the next tenant, not wanting the same kinds of problems the previous caused. He rented the property to a man that has lived on the property for almost four years now, and was shocked when he received a letter from Code Enforcement that this was a violation of

the zoning code. He added that there are other people living across the street. Mr. Yuan presented a map reflecting other properties where people are residing and the properties of persons that signed the petition, attached to the map, Exhibit J-4. He canvassed the neighborhood to have a petition signed and stated he received two complaints about the building on the east being an eye-sore, so he tore the east building down. Regarding the cars, Code Enforcement stated that the cars were permissible. He presented seven photographs, recorded as Exhibit J-2.

Comments and Questions:

In response to the Board's questions, Mr. Yuan stated that the occupant does sell autos at a very low volume; there are 14 parking spaces on the lot; and there are five exits in the building. The house is approximately 1,200 SF, and the attached garage is 1,500 SF serves as the auto sales office.

Interested Parties:

Patricia Meyers, 840 South Knoxville, stated that there are more than two people in the area that are opposed to this application. She stated that Mr. Yuan told people he would have to put a bar or arcade on the premises if this application was not approved in order to get people to sign his petition. She presented 17 photographs, recorded as Exhibit J-6. She stated that she objects to this application because the property is trashy.

A letter was received in support of the application from Norman S. Cass, Exhibit J-3.

Applicant's Rebuttal:

Mr. Yuan stated that the single-family dwelling is the least intense use, which was the use of the property.

Comments and Questions:

Ms. Parnell stated that the property is a small rectangular lot with a building and no parking. "Ms. Vicki's" was an illegal bar that did cause problems for the neighborhood. The property cannot meet the parking requirements of a CH zoned district. Mr. Beach stated that the number of required parking spaces is based upon the amount of outdoor display area and floor area. From the information on the site plan, he would guess that there are seven spaces required for auto sales and two spaces required for the residence. He questioned if the site plan was accurate, and if the shown parking spaces were legal parking spaces. It appeared that autos were being parked in the right-of-way.

Mr. Stump interjected that the lowest intensity for the CH district would be a single-family dwelling, which does require two parking spaces, but those two autos could be one behind the other. He also pointed out that the single-family dwelling would not restrict the property from other permitted uses, as long as the code was met. Ms. Turnbo pointed out that the tenant would have to apply to the Board for a Variance of the off-street parking.

Mr. Ballentine presented a copy of two photographs of the property, Exhibit J-5.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a Special Exception to allow a single-family dwelling in a CH zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 6** conditioned upon two residential parking spaces being provided on the following described property:

Lot 15, Block 5, Braden Heights Addition, City of Tulsa, Tulsa County, State of Oklahoma.

* * * * *

Case No. 18121

Action Requested:

Special Exception for U.U. 5 in an RS-3 zoned district to allow a driveway from E. 36th St. to Boevers Elementary School. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS – Use Unit 5**, located 13329 East 36th Street South.

Presentation:

Kenneth Bradford, 1350 South Boulder, stated that currently Boevers Elementary School has only one entrance and exit on 133rd Street, pointing out that other schools try to have two entrances and exits to help improve the traffic flow. He stated that he would like to make a one-way drive through the school with left-turn and right-turn lanes onto 36th Street. He submitted a site plan, recorded as Exhibit K-1. The intent is to have the drive open only during school times and during the evening during special school events. Currently the children walk through the grass, and they proposed to add a sidewalk along the drive.

Comments and Questions:

In response to Mr. Dunham's question, Mr. Bradford stated that the entire lot would be purchased with the drive being located in the middle of the lot, the sidewalk to the east. The present house to the west has a high shrub that would be retained as a buffer.

Interested Parties:

Vernon Harmon, Union Public School Assistant Superintendent, stated that the K-5 school had 561 students, with approximately 20% of the students living to the south of the school. He stated that although the traffic congestion is short lived, it is very intense in the morning and afternoon, especially during inclement weather. There is one bus and five to six day care vehicles that provide transportation to and from the school. The intent is to lessen the traffic congestion, and to provide a safe, and orderly flow of traffic. In response to Mr. White's question about the bus route, Mr.

Harmon responded that the school bus and day care vehicles pick up their passengers on the back side of the school, and the drive would be constructed to allow the bus to pass through the 36th Street exit.

Lisa Ford, 3352 South 142nd East Avenue, Boevers' PTA Health and Safety chairman, reiterated that the kids are currently walking through a field of grass that is high at times, with a single gate. There are parents parked on both sides of 36th Street waiting to pick up their children there, due to the congestion. She pointed out that the crossing guard on 34th Street is part of the reason the congestion exists.

Ross Ford, 3352 South 142nd East Avenue, stated that the property is not really suitable for building without work done on it. He stated that 36th Street is dangerous right now trying to maneuver around the cars parked on both sides of the street waiting for their children, and with the children running across the street. This proposed drive would not be adding to the traffic because the traffic is already there. Responding to Mr. White's question, Mr. Ford stated that 34th Street is the main street running through the addition, running from 129th East Avenue to 145th East Avenue with one small jog at 136th East Avenue.

Sandra Schultz, 13328 East 36th Street, stated that 36th Street is a residential street and is not design to handle the amount of traffic designated for a collector street. The weeds on that lot have been five feet tall, and the shrub is as tall as the house. The 36' drive will be located between two homes and the entire 74' width of the front property line will be cemented. They also object to the five-foot chain-link fence proposed to be placed along the entire length of this lot with a gate. She expressed that the present in-bound and out-bound drives could be revamped to allow the traffic to flow better. She submitted photographs of the school property, Exhibit K-2; a petition with 65 signatures of persons in opposition to this request, Exhibit K-4; and a fax received from INCOG regarding street widths, Exhibit K-3. In response to Ms. Perkins' question, Ms. Schultz stated that they have neighborhood traffic as well as parking lot traffic on 36th Street. She stated that she will be trying to get 'no parking signs' placed in front of her house because through traffic cannot pass during the two times during the day.

Gail Nesmuth, 13336 East 36th Street, concurs with the comments made by Ms. Schultz, and added that there is a soccer field located at the end of their street which also causes a lot of traffic. She stated that the drive would not improve anything, it would just move the problem to another area. She objects to seeing a gate every time she looks across the street.

Amy Barrett, representing Art Justis, City Councilman, stated that the proposed driveway does appear to be the width of the street, which concerns Mr. Justis. She commented that Mr. Justis is also concerned about the increased traffic and more havoc it would create. She stated that Mr. Justis is requesting that the landscaping and shrubbery requirements be made in place of the five-foot chain link fence, if it is

approved. She indicated that Mr. Justis also suggested that the case be continued to allow the school and neighborhood to meet to discuss this matter.

Applicant's Rebuttal:

Mr. Bradford stated that 36th Street has acted as a collector street, even though it may not be designated as such. The purpose of the proposed fence and gate was to stop traffic from moving through the area other than for school purposes. The front fence would be placed on the setback property line, which would be consistent with the location of the current fencing. Landscaping was not reflected on 36th Street in order to allow the traffic a clear view. The 24' drive is a requirement by the city in order to have the left-turn and right-turn lanes. Regarding bus noise and pollution, he reiterated that there would be only one bus and a few vans using this drive.

Comments and Questions:

Mr. White asked if consideration had been given to installing 'no parking signs' for certain times opposite the driveway. Mr. Bradford stated that the school had not, they felt that traffic engineering would make that determination.

Mr. Stump stated that if the fence was placed at the 25' setback line, that would be 37' from the curb which would allow some landscaping that would not block the drivers' view. Also, should the bus use the other exit, the radius for curves could be reduced to 15', resulting in less asphalt.

Mr. White expressed his concern with the bus turning out onto 36th Street. Ms. Turnbo stated that she has a concern with the chain link fence, and the bus exiting onto 36th Street. Mr. Dunham supports having the applicant meet with the neighborhood residents and returning with a more detailed plan.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **CONTINUE** Case No. 18121 to August 25, 1998.

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Case No. 18123

Action Requested:

Special Exception to allow mobile home sales in a CS District. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17,** located 8281 East Admiral Place.

Presentation:

Wayne Williams, 6433 South Sandusky, stated that the property has been a car lot, and has been used to sell mobile homes previously. This use would not be infringing on anything, and would probably cause less traffic than a car lot.

Comments and Questions:

Mr. Beach stated that similar uses are common along Admiral and pointed out that he would have to satisfy all the Zoning Code requirements in order to get occupancy or building permits.

Interested Parties:

Jim Stevens, owner of the property, stated that five years ago this property received approval by the Board to operate car sales. The car lot was closed in June and Mr. Williams desired to use the lot for mobile home sales. He is in support of the application.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a Special Exception to allow mobile home sales in a CS District. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17** on the following described property:

Lots 12, 13 and 14, Block 7, Mingo Terrace, a subdivision in Tulsa County, State of Oklahoma, and that portion of the public way platted as Michigan Blvd., running along and lying adjacent to the Wly boundary lines of said Lots 12 and 13, Block 7, Mingo Terrace, and extending to the centerline of said Michigan Blvd.

Case No. 18124

Action Requested:

Special Exception to allow a rental car business in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17**, located 8040 South Memorial.

Presentation:

Andrew Iatreetis, 7759 South 80th East Avenue, representing Hertz Car Rental, stated that the basic use for the property is mostly office with customers coming and going during the operation hours. It will serve as a small local rental office and will have no more than 10 rental units on the property at any given time. The parking is adequate to accommodate this operation. Should the business grow large enough to require additional rentals, the company owns other property that would store the additional

vehicles until needed. The hours of operation will be 7 a.m. to 7 p.m. Monday through Friday, and 8 a.m. to 2 p.m. on Saturday. All servicing of the vehicles will be done off the premises. A copy of the site plan, Exhibit L-1, was provided to the Board.

Comments and Questions:

Mr. Beach explained that the site plan reflects ten parking spaces, with four of those spaces needed for employees. The use requires a minimum of five spaces, which would leave three spaces available for the empty tenant spaces in the shopping center.

Ms. Turnbo expressed her concern that the shopping center did not have adequate parking to support this proposal.

Responding to Mr. Dunham's question, Mr. Iatreetis stated that Hertz would be occupying two spaces.

Mr. Stump stated that the 2500 SF business would require eleven parking spaces; however, he pointed out that a restaurant/bar was allowed into the shopping center which limits the amount of space for retail businesses.

Interested Parties:

None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 3-1-0 (Perkins, Turnbo, White, "aye"; Dunham "nays"; no "abstentions"; Cooper "absent") to **DENY** a Special Exception to allow a rental car business in a CS zoned district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 17** on the following described property:

Lot 1, Block 1 of Famco Heights an Addition to the City of Tulsa, State of Oklahoma.

Case No. 18132

Action Requested:

Variance to exceed the maximum 35' height requirement in an RS-1 district. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6**, located 2811 South Columbia Place.

Presentation:

Allen Madwell stated that he is requesting a height variance at the peak of the house, that is located on a two plus acre tract. A copy of the site plan was submitted and recorded as Exhibit S-1.

Interested Parties:

None.

Board Action:

On **MOTION** of **PERKINS**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a Variance to exceed the maximum 35' height requirement in an RS-1 district. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6** per plan finding that house would not over power the large lot and that it would not be injurious to the neighborhood on the following described property:

Lot 5, Block 5, Woody-Crest Addition to the City of Tulsa, Tulsa County, State of Oklahoma, EXCEPT a certain parcel off of the N side, described as follows, to-wit: Beginning at the NW/c of Lot 5, thence S along the W line of said Lot, 127'; thence E to a point on the E line of said Lot, being 80' S of the NE/c of said Lot; thence N 80' to the NE/c of said lot; thence Wly along the N line of said Lot to the point of beginning.

Case No. 18131

Action Requested:

Variance of the lot width from 100' to 79' to allow a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS**, located South of southwest corner East 12th Street & South 83rd East Avenue.

Interested Parties:

None.

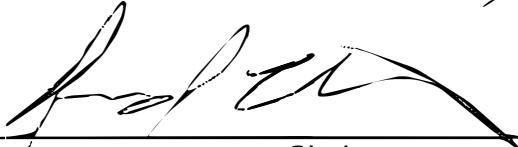
Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Dunham, Perkins, Turnbo, White, "aye"; no "nays"; no "abstentions"; Cooper "absent") to **APPROVE** a Variance of the lot width from 100' to 79' to allow a lot split. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** finding that it would not be injurious to the neighborhood on the following described property:

Lot 14, Block 3, Forest Acres, City of Tulsa, Tulsa County, Oklahoma.

There being no further business, the meeting was adjourned at 4:54 p.m.

Date approved: October 13, 1998



Chair