

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 801
Tuesday, August 8, 2000, 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, Vice Chair
Cooper
Turnbo
White, Chair
Perkins

Beach
Butler

Prather, Legal

The notice and agenda of said meeting was posted in the Office of the City Clerk on Friday, August 4, 2000, at 9:56 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.

MINUTES:

On **MOTION** of **Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** the Minutes of July 11, 2000 (No. 799), with revision of the time for meeting to begin to 2:20 as posted.

UNFINISHED BUSINESS

Case No. 18790

Action Requested:

Request to reconsider a Variance of Section 1217.C.2 to allow open-air storage or display of automobiles offered for sale within 300' of an R zoned district to 0'. SECTION 1217.C. USE UNIT 17. AUTOMOTIVE AND ALLIED ACTIVITIES, Use Conditions – Use Unit 17, located S of SW/c E. 11th St. & S. 145th E. Ave.

Presentation:

No Tower Heights Neighborhood Association member was present. Mr. White asked if the association received a copy of the minutes. Ms. Butler, Board of Adjustment recording secretary replied that they received a recorded copy of the case.

Case No. 18790 (continued)

Board Action:

On **Motion of Dunham**, the Board voted 4-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** request to reconsider Case No. 18790, finding no extraordinary cause to reconsider.

Case No. 18784

Action Requested:

Variance to allow gravel parking to be open Thursday through Saturday nights for 12 months as overflow parking for bar on Lot 3. SECTION 1303. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS – Use Unit 10, located 1237 S. Memorial.

Presentation:

Mike Smith, 1239 S. Memorial, stated he is the owner of the club at this address. He stated it is for karaoke only, and not an adult entertainment club. He informed the Board that he provides certified security guards, seven nights per week. Mr. Smith added that he has a lease on the gravel parking lot next door until July next year. It is his desire to purchase the lot and plans to landscape, pave, fence and provide for proper stormwater drainage on that property.

Protestants:

Hank Brannan, 8937 E. 13th, made the complaint that the gravel lot was used for parking until Neighborhood Inspections gave a citation. He stated that chains were put up to block the drives, but then were taken down at night and the lot was used for parking. Neighborhood Inspections did a night inspection, found it was being used for parking and cited them again. He requested that the Board deny even a six-month period to pave.

David Martin, 1302 S. 13th E. Ave., stated that a drunk came over his four-foot fence and tried to break into his home. He added that security did not help in this incident.

Comments and Questions:

Mr. White informed Mr. Martin that the zoning allows for parking on that lot, and the Board has no control over that.

Applicant's Rebuttal:

Mr. Smith stated that he did not know about the attempted break-in, and that the screening fence would help to prevent such incidents.

Board Action:

On **MOTION of Turnbo**, the Board voted 4-0-1 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; Cooper "abstained"; no "absences") to **APPROVE** a **Variance** to

Case No. 18784 (continued)

allow gravel parking to be open Thursday through Saturday nights for 12 months as overflow parking for bar on Lot 3, on condition that an 8' screening fence be constructed on the east and south immediately, finding the applicant is negotiating to purchase and comply with the ordinance, on the following described property:

Lot 4, less W 10', Block 3, Forrest Acres, City of Tulsa, Tulsa County, State of Oklahoma.

NEW APPLICATIONS

Case No. 18822

Action Requested:

Variance for identification with bulletin board which exceeds 32 square feet display area, illumination requirement and 20' height limitation. SECTION 302.B.2.a.-b. ACCESSORY USES PERMITTED IN THE AGRICULTURAL DISTRICT – Use Unit 5, located 6636 S. Mingo Rd.

Presentation:

Dave Huey, stated he was standing in for **Greg Markert**, and they desire to replace the existing sign with a message board at the Union High School.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** for identification with bulletin board which exceeds 32 square feet display area, illumination requirement and 20' height limitation, per plan submitted to replace the existing sign, finding the size of the tract of land for the permitted sign would not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

NE/4 SE/4 and the N 400' of the SE/4 SE/4, Section 1, T-18-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18823

Action Requested:

Special Exception to permit a dwelling in a CS district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 6, located 9140 E. 11th St.

Case No. 18823 (continued)

Presentation:

The applicant, **Arthur Crabb**, 2749 S. 94th E. Ave. stated that at 1982 he purchased the property, where the previous owner lived and operated a used car lot and auto repair shop on the premises. He further stated that about eight months later the tenant was served with a notice of a violation. He explained to the Board that neither of them knew that no occupancy was allowed there. This has resulted in setting a precedent and established tenure at this address. He has raised his children in this house and they are enrolled in the neighborhood school at the present time.

Protestants:

Hank Brant, 8937 E. 15th St., stated that the Board should not approve just because the violations have been going on over a long period of time. He listed complaints of parking on gravel and grass, multiple cars, travel trailers and such parked on the property. He submitted photographs (Exhibits B-1, B-2) of the property.

Applicant's Rebuttal:

The applicant asked when the photographs were taken. He was informed they were taken two days ago. He stated that he has addressed all the violations and corrected the problems.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to permit a dwelling in a CS district, finding that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

S 145' N 210' W 140' E/2 NE NE NW NE, Section 12, T-19-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 18824

Action Requested:

Variance of side yard requirement in an RS-3 district from 5' down to 3' for an addition to the residence. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 1020 E. 36th St.

Presentation:

Richard Paul, 1020 E. 36th St., stated his request for a variance.

Case No. 18824 (continued)

Comments and Questions:

Ms. Turnbo asked the applicant when the house was built. Mr. White stated it was built in 1938. Ms. Turnbo stated that she was on the infill study, and the applicant does not require further relief for this.

Protestants:

Mr. White stated that he had received a letter of protest (Exhibit C-2) from some of the concerned neighborhood residents, stating that they felt there was no hardship, the lot was sub-standard, and that minimum livability space requirements space requirements have been violated by virtue of existing structures

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of side yard requirement in an RS-3 district from 5' down to 3' for an addition to the residence, per plan, finding the hardship to be the existing dwelling is already setting in this location, and the size of the lot is small, on the following described property:

Lot 8, Block 1, Peoria Park Addition, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 18825

Action Requested:

Variance to allow a reduction of minimum frontage requirement from 150' to 90' wide. SECTION 703. BULK AND AREA REQUIREMENTS IN THE COMMERCIAL DISTRICTS, located 11218 E. 61st St.

Presentation:

The applicant, **Bill Wilson**, 11320 E. 32nd St. came representing Taco Bueno Restaurants. He submitted a site plan, landscape plan, and other documents (Exhibit D-1). He stated 1999 Taco Bueno bought an adjoining lot because it abuts an existing restaurant they own at the southwest corner of 61st Street and Garnett. They have been negotiating with neighboring business in order to do a lot split to expand the parking lot and a stack-up lane on the drive-through and landscaping. He stated they were not able to do that, and bought the entire lot.

Protestants:

None.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to allow a reduction of minimum frontage requirement from 150' to 90'

Case No. 18825 (continued)

wide, per plan submitted, on condition that a Change of Access instrument, setting limits of no access along the entire east 60' and creating one access location on the remaining west 90' piece be submitted, approved by the TMAPC, and filed of record prior to approval of the lot split, finding it will not cause substantial detriment to the public good or impair the purposes, spirit, and intent of the Code, or the Comprehensive Plan, on the following described property:

A part of Lot 1, Block 1, Neal Plaza, City of Tulsa, Tulsa County, State of Oklahoma, being more particularly described as follows, to-wit: Commencing at the NW/c of said Lot 1; thence, S 89°51'14" E, along the N line of said Lot 1, a distance of 122.00'; thence, S 00°00'00" E a distance of 8.00'; thence, S 89°51'14" E, along the N line of said Lot 1, a distance of 28.00' to the POB; thence, S 89°51'14" E, along the N line of said Lot 1, a distance of 90.00'; thence, S 00°00'00" E a distance of 152.00'; thence, N 89°51'14" W and parallel with said N line a distance of 90.00'; thence, N 00°00'00" E a distance of 152.00' to said N line and the POB.

Case No. 18826

Action Requested:

Special Exception to allow a 190' monopole tower (Use Unit 4) in an OL zoned district. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS – Use Unit 4; and a Special Exception of the required 110% setback from R district from 209' to 125' and OL district from 209' to 20'. SECTION 1204.C. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions, located S & E of SE/c E. 11th St. & 77th E. Ave.

Presentation:

John W. Moody, 7146 S. Canton Ave., stated the applicant wants to amend the application to reduce the size of the monopole tower from 190' down to 130' in height. Mr. Moody called attention to the survey that reveals the west 25' of the subject property is zoned RS-3, and the nearest abutting residential property not owned by his client is 145' from the center of the pole. The pole is more than 210' from the RS-3 on the south. He submitted photographs (Exhibit E-2) of the subject property, showing the natural screening provided by a number of mature trees.

Comments and Questions:

Mr. Dunham commented that the reduction in height would make the requested setback 143'. Mr. Cooper asked Mr. Moody if the site would allow for collocation. Mr. Moody replied that it is designed specifically for collocation. Mr. Cooper asked if the need for the tower is well documented. Mr. Moody stated that there are two potential users who have requested his client to locate a tower in this vicinity.

Protestants:

None.

Case No. 18826 (continued)

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a 130' monopole tower (Use Unit 4) in an OL zoned district; and a **Special Exception** of the required 110% setback from R district from 143' to 125' and OL district from 143' to 20', per plan submitted, finding the criteria for monopoles have been met as follows: the height of the proposed tower is 130'; proximity of the tower to residential structures, residential district boundaries and existing towers is 125' from RS-3 to the west; the nature of uses on adjacent and nearby properties is residential nearby, separated by commercial adjacent; surrounding topography is mostly flat to gently rolling with sparse urban tree cover; the design of the tower is standard monopole design; there are two potential tenants and five antennas proposed; no architectural design of utility buildings and accessory structures to blend with the surrounding environment; ingress and egress by 20' access easement from 11th Street; the need for a communications tower within the immediate geographic area to provide an acceptable level of communications service to the area per the proprietary grid; on 2 ½ acres, and the Comprehensive Plan calls for medium intensity commercial development, on the following described property:

E/2, W/2, NW/4, NE/4, NE/4, NE/4, Section 11, T-19-N, R-13-E, City of Tulsa, Tulsa County, State of Oklahoma.

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Case No. 18827

Action Requested:

Special Exception to permit an adult entertainment establishment within 150' of an R district. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS – Use Unit 12a; and a Variance of 300' spacing from another adult entertainment establishment to 270', from a church to 290', and from a school to 200'. SECTION 1212a.C.3.c. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS, Use Conditions, located at 5035 N. Peoria.

Presentation:

Rasha Kevin McKnight, 5035 N. Peoria, stated that he would open a supper club that would be comparable to the Green Onion, Outback Steakhouse and Bennigan's. He submitted a site plan, lease agreement, photos (Exhibits F-4,5,6). Mr. McKnight stated he obtained a lease before the church moved into the shopping center. He would only be open in evening hours, not during normal school hours.

Comments and Questions:

Mr. White asked where the other adult entertainment business is located. Mr. McKnight replied that it is located in the same shopping center. Ms. Perkins

Case No. 18827 (continued)

asked about the distance between his establishment and the other adult entertainment business. He replied there are 270' between the two. Ms. Perkins asked if the entertainment would be sexually oriented. He replied that there would be no dancers or sexually oriented entertainment, just a variety of jazz bands, theatre plays, concerts and other entertainment in good taste. Mr. Cooper stated he was not clear on the hardships for the variances for distance from the school and other adult entertainment establishment. Mr. McKnight stated he would be providing security, and that there were several clubs in the area a number of years ago. Mr. Cooper asked if there was anything peculiar about the property that would cause a spacing problem. Mr. McKnight stated that the shopping center was about to be renovated by the new owner, and the property behind is undeveloped, wooded residential land.

Protestants:

None.

Board Action:

On **MOTION** of **Cooper**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **DENY** a **Special Exception** to permit an adult entertainment establishment within 150' of an R district; and a **Variance** of 300' spacing from another adult entertainment establishment to 270', from a church to 290', and from a school to 200', finding a lack of hardship for the Variance.

Case No. 18831

Ray Veery, 10051 S. Yale, Suite 200, stated he is in the partnership that owns the property. He stated that the applicant would like to withdraw the application.

Mr. Beach stated they would strike Case No. 18831.

Case No. 18828

Action Requested:

Special Exception to allow tent sales for produce in a CS zoned district for 5 years, April - December to include fruits, vegetables, plants and Christmas trees. SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS and SECTION 1103. USES PERMITTED IN A PLANNED UNIT DEVELOPMENT – Use Unit 2; and a Special Exception of the required all-weather surface to allow gravel parking. SECTION 1202.C.1. USE UNIT 2. AREA-WIDE SPECIAL EXCEPTION USES, Use Conditions, located NE/c E. 81st St. & S. Yale Ave.

Presentation:

Ray Veery, 10051 S. Yale, Suite 200, the property has been zoned commercial for about 15 years, and platted for about 5-6 years. He stated that the property was leased in 1999 for a three-month period. The lessee obtained all permits for a

Case No. 18828 (continued)

flower stand, met all of the City of Tulsa requirements, and operated the flower sales stand for three months. It seemed to be accepted well within the neighborhood. He stated that in April 2000, the same lessee contacted him again, and the same arrangement was made for another three-month period. The lessee received a zoning violation citation and closed down the stand. In June 2000 Mr. Ogilvie contacted him about putting up a produce stand. Mr. Ogilvie went through the process of permits and met City requirements to lease the property. He opened his produce stand on June 30, 2000 and was cited that day and given ten days to comply. When Mr. Ogilvie informed the official that when he went to the City of Tulsa for a permit, he advised them that the previous user had received a violation notice and Mr. Ogilvie was advised at that time that he was cleared to open his stand. At 4:30 in the afternoon of June 30 he was told by Neighborhood Inspections to cease and desist immediately. He informed the official that he had a permit, and earlier in the day was given ten days to comply, that it was a holiday weekend and too late to contact the city offices and he would like to remain open over the weekend. The inspector called the police to have it shut down, which was done. He appealed the next week and after going through the Board of Adjustment he reopened the stand. Since he reopened two other inspectors have come by to inform his employees that they were in violation because he had geese decoys on the corner. He stated that his concern is that it is a competitor making the complaint because he knows many of the neighbors and if they ever have complaints they call him and not the city.

Comments and Questions:

Mr. White informed Mr. Veery that all the Board can deal with is the application. Mr. Beach stated that he has talked with Mr. Ogilvie. He suspected that in error Mr. Ogilvie might have been issued a tent permit without the Special Exception. Mr. Dunham brought up that the request is for the Special Exception and he is willing to stay within the 179 days per calendar year.

Board discussion ensued.

Protestants:

None.

Board Action:

On **MOTION** of **Dunham**, the Board voted 4-0-1 (White, Dunham, Turnbo, Perkins "aye"; no "nays"; Cooper "abstained"; no "absences") to **APPROVE** a **Special Exception** to allow tent sales for produce in a CS zoned district for 5 years, April - December to include fruits, vegetables, plants and Christmas trees; and a **Special Exception** of the required all-weather surface to allow gravel parking, with the conditions that they not exceed the 179 day limit, and the 179 days fall within the months of April 1 through September 1, and October 1 through October 31, on the following described property:

Case No. 18828 (continued)

Lot 3, Block 1, Holland Center, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18829

Action Requested:

Variance of side yard requirement of 5' down to 2' for an addition. SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS – Use Unit 6, located 2939 S. Cincinnati.

Presentation:

The applicant, **Tim Blake**, 2939 S. Cincinnati, stated his request and mentioned they have no garage because a previous owner closed it in. He explained with this variance for 3 ½' they could build a 2-car carport. He submitted a site plan and packet of information (Exhibit G-1) and photos (Exhibit G-2).

Comments and Questions:

Mr. Beach asked if there would be room enough for two cars. Mr. Blake stated that they can get two cars in the space now, but they are not covered. Ms. Turnbo asked when the house was built. He stated it was built in 1939. He added that he did not want to build a metal carport but would like to attach it to the house and use materials to match the house.

Protestants:

None.

Board Action:

On **MOTION** of **Turnbo**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** of side yard requirement of 5' down to 2' for an addition, per plan submitted, finding the hardship that the house was built before the zoning code was enacted, and that it will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare, on the following described property:

N 15' of Lot 18, all of Lot 19, Block 4, Travis Park Addition, City of Tulsa, Tulsa County, State of Oklahoma.

Case No. 18830

Action Requested:

Variance to exceed the allowable 20% coverage of required rear yard for accessory building. SECTION 210.B.5. YARDS, Permitted Obstructions in Required Yards – Use Unit 6; and a Variance to allow the existing non-conforming

Case No. 18830 (continued)

accessory building as 2-story. SECTION 210.B.5. YARDS, Permitted Obstructions in Required Yards, located 2132 S. Norfolk Ave.

Presentation:

The applicant, **Nathan Koch**, stated he represented Dr. and Mrs. Richard Schaffer submitted a site plan (Exhibit H-1). He stated there is an existing three-car garage. The plan is to remove the one-story portion and add on to the garage. It would exceed the allowable 20% coverage of rear yard for an accessory building. They want to allow an existing non-conforming two story to remain as it is.

Comments and Questions:

Mr. Beach asked why the applicant could not move the addition to the south side of the existing building and out of the required rear yard. Mr. Koch responded that the existing drive was going to be removed and they would like to allow as much green space of the back yard as possible. Mr. Cooper asked for elevation plans, which Mr. Koch submitted (Exhibit H-1).

Protestants:

None.

Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Variance** to exceed the allowable 20% coverage of required rear yard for accessory building; and a **Variance** to allow the existing non-conforming accessory building as 2-story, per plan, finding the hardship to be there has been an existing structure in the same proximity for around seventy years and existing house for that long, and the new structure would be smaller and take up less area than the existing structure that would be removed, on the following described property:

A part of Lot 4, Block 8, Sunset Park, City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows, to wit: Beg. at the SE/c of said lot; thence NWly along Sunset Dr. 150' to the line between Lots 3 and 4; thence NEly along the line between Lots 3 and 4, 80'; thence SEly about 150' to the E line of said lot at a point 20' SWly from the NE/c thereof; thence SWly along Norfolk Ave. 115' to the POB.

Case No. 18832

Action Requested:

Special Exception to allow a 190' monopole in an OL zoned district. SECTION 601. PRINCIPAL USES PERMITTED IN OFFICE DISTRICTS; and a Special Exception of the required 110% setback from an R zoned district to 73.4'.

Case No. 18832 (continued)

SECTION 1204.C.3.g.1. USE UNIT 4. PUBLIC PROTECTION AND UTILITY FACILITIES, Use Conditions, located NW/c I-44 & US-75.

Presentation:

The applicant, **John W. Moody**, 7146 S. Canton, stated the request adding it is located on a small OL zoned property, next to a mini-storage on the west, and directly across the street from a Warehouse Market on the north. The street dead-ends and is used as a recycling center at that point, and it would be a collocation facility. The south and east line are U.S. Highway 75 and I-44. There are no residents that would be affected by the tower height.

Protestants:

None.

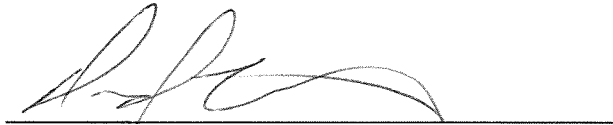
Board Action:

On **MOTION** of **Dunham**, the Board voted 5-0-0 (White, Dunham, Turnbo, Perkins, Cooper "aye"; no "nays"; no "abstentions"; no "absences") to **APPROVE** a **Special Exception** to allow a 190' monopole in an OL zoned district; and a **Special Exception** of the required 110% setback from an R zoned district to 73.4', per plan submitted, finding the criteria has been met as follows: the height of the proposed tower is 190'; there are no residential structures on residential zoning north and south, and boundaries are both street right-of-way; adjacent and nearby properties are commercial and expressway; surrounding topography is mostly flat to gently rolling with no surrounding tree coverage or foliage; design of the tower is standard monopole design; the proposed tower would accommodate collocation; there is no special architectural design of utility buildings and accessory structures to blend with the surrounding environment; ingress and egress is direct from 51st Street; the need for a communications tower within the immediate geographic area to provide an acceptable level of communications service to the area per the proprietary grid; Comprehensive Plan calls for medium intensity, no particular land use, on the following described property:

Part of Lots 2 & 3, Beg. 68.02' W NE/c of Lot 2; thence SW 274.94'; thence W 108'; thence N 150.9'; thence E 311.9' (SIC) to the POB, less the W 20' for street purposes, all in Cameron Cline Acres, City of Tulsa, Tulsa County, State of Oklahoma.

There being no further business, the meeting was adjourned at 3:06 p.m.

Date approved: SEPTEMBER 26, 2000



Chair