

TULSA METROPOLITAN AREA PLANNING COMMISSION
MINUTES of Meeting No. 1364
Wednesday, July 1, 1981, 1:30 p.m.
Langenheim Auditorium, City Hall, Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Freeman Gardner Higgins Holliday, Secretary Kempe, 2nd Vice- Chairman Parmele, 1st Vice- Chairman Petty C. Young, Chairman T. Young	Eller Inhofe	Gardner Howell Lasker Wilmoth	Jackere, Legal Department Linker, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Auditor, Room 919, City Hall, on Tuesday, June 30, 1981, at 10:50 a.m., as well as in the Reception Area of the TMAPC Offices.

Chairman C. Young called the meeting to order at 1:35 p.m. and declared a quorum present.

REPORTS:

TMAPC Claims

On MOTION of PARMELE, the Planning Commission voted 7-0-0 (Freeman, Gardner, Holliday, Kempe, Parmele, Petty, C. Young "aye"; no "nays"; no "abstentions"; Eller, Higgins, Inhofe, T. Young, "absent") to approve the 1980-1981 TMAPC Claims (attached).

COMMITTEE REPORTS:

Policy Recommendation On Downzoning

Commissioner Petty, Chairman of the Comprehensive Plan Committee, advised that the Committee met on June 18, 1981, and adopted the following regulations:

As a general rule, the TMAPC shall not consider rezoning applications without the property owner's consent. However, as provided in Section 1730.2, TMAPC initiated zoning recommendations shall be limited to one or more of the following three types of circumstances:

1. Zoning Map Corrections (errors in drawing of zoning boundaries and/or assignment of zoning classifications);
2. Publicly owned or controlled lands (TURA, City, County, Airport Authority, etc.);
3. Study Area Mapping (at the time of adoption of new zoning regulations for the City of Tulsa and Board of County Commissioners) such as:

Policy Recommendation On Downzoning: (continued)

- (a) New Zoning Codes (Districts),
- (b) Floodway Districts, and
- (c) Comprehensive Plans, etc.

Provided further, that written requests for Planning Commission rezoning recommendations of rezoning on its own motion shall be in a form prescribed by the Rules and Regulations Committee.

Chairman of the Rules and Regulations Committee, Commissioner Parmele, presented the following standards for processing petition-initiated zoning applications recommended by the Committee:

1. A statement which cites what the petitioners believe to be the problem under existing zoning - it must meet one or more of the adopted policies for processing petition-initiated zoning applications.
2. A specific delineation of the boundaries of the area said to be affected by the existing zoning.
3. A request that the Planning Commission inquire of its Staff as to the validity of the statement of problem contained in the petition.
4. The signatures of at least 60% of the property owners within the boundaries delineated in the petition.
5. A statement that all persons signing the petition understand that should the subject of the petition be called to public hearing by the Planning Commission that all fees, publication costs, notice costs and postage related to such public hearing will be paid by the petitioners.
6. A statement that all property owners signing the petition recognize that City, County and/or Planning Commission Staff may require access to their respective pieces of property for exterior physical examination needed in determining the validity of the stated problem.
7. A statement that all property owners signing the petition waive the individual notice requirement in the event a public hearing is called.

Procedural steps to be used in petition-initiated zoning applications:

1. Receive petition
2. Refer to Staff
3. Staff report to TMAPC
4. TMAPC determination
5. Staff may determine that boundaries are not appropriate. TMAPC rules that new boundaries are needed and additional signatures are required on the petition.
6. If the petition is denied, appeal of the petitioners would be to the City or County Commission, then to District Court.

Policy Recommendation On Downzoning: (continued)

Bob Gardner advised that the Staff had prepared a recommendation, a rewrite of the Comprehensive Plan Committee report, utilizing the existing language of the Zoning Code. The Staff recommendation reads as follows:

It is the policy of the Commission that in the consideration of proposed map amendments that:

As a general rule, the TMAPC shall not consider Zoning Map amendments without the property owner's consent. However, as provided in Section 1730.2, TMAPC initiated Zoning Map amendments shall be limited to one or more of the following four types of circumstances:

1. To correct mapping errors,
2. To recognize amendments to the Comprehensive Plan,
3. Blanket restrictions for public protections; i.e., floodway zoning, airport approach zones, etc.,
4. Amendments to the Zoning Code.

Provided further that written requests (petitions) for Zoning Map amendments which are provided for in Section 1730.2 shall be in such form and contain such information as may be required by the TMAPC and so set forth in resolution form to be adopted by the appropriate governing bodies.

Mr. Gardner pointed out that the major difference between the Comprehensive Plan Committee recommendation and policy proposed by the Staff was "publicly owned or controlled lands." He noted that if the public owns the property then the rezoning would not be against someone's will - The City owns the property and has the right to zone it.

Commissioner T. Young observed that the three recommendations were very similar. He suggested a clarification to the Rules and Regulations Committee recommendation #1: "A statement which cites what the petitioners believe to be the problem under existing zoning - it must meet one or more of the adopted policies for processing petition-initiated zoning applications. There is no such policy at this time; however, what the Commission may be adopting would be the circumstances for TMAPC initiated applications. He suggested the sentence read: "...of the adopted circumstances for TMAPC initiated zoning hearings." Commissioner T. Young further recommended that, as a point of clarification, the introductory statement should indicate that these seven items be those which are required to be a part of the petition itself. In the procedural steps 1-4, there needs to be some statement on the part of the Planning Commission that these four steps will in no way include opportunity for public hearing or comment - they are administrative steps only. The TMAPC will not be hearing sides of the issue until it reaches the point of TMAPC vote on whether a hearing will be called or not. Procedural step #5 should include the following language: "...TMAPC may rule that new boundaries are needed."

Commissioner Parmele noted that the Rules and Regulations Committee had also discussed an additional procedural step which would allow written comments from other interested parties to be received by the Planning Commission for a period of 10 days from the date the petition is received.

Policy Recommendation On Downzoning: (continued)

Commissioner T. Young advised that he preferred the language proposed by the Comprehensive Plan Committee; however, he suggested the four circumstances recommended by the Staff replace the three set forth by the Committee.

Alan Jackere, Assistant City Attorney, stated that he had advised previously that the notice "...individual notice in the event a public hearing is called," might be waived. He suggested that somewhere in the petition there should be an additional statement of what is specifically the relief sought by the petitioners. He stated that only in the event that there is a specific request for relief would it be possible to waive the notice requirements.

Noting the procedural step set forth by the Committee in the event of denial of a petition, Mr. Jackere pointed out that there is an established procedure and he suggested this step be deleted. Mr. Jackere reiterated that the Legal Department has some general feelings about placing any limitations on the power of a citizen to make a written request and having that request considered by the TMAPC or City Commission.

Commissioner T. Young pointed out that the Planning Commission, by this action, is not relinquishing any of the flexibility it has to hear any one citizen or group of citizens. The TMAPC is setting forth a procedure which, hopefully, will eliminate the frivolous requests.

In regard to obtaining signatures of 60% of the property owners within the boundaries delineated in the petition, Commissioner Petty was of the opinion that this would be a "make-work" proposition to verify that many signatures. He advised that would be getting into something that would go beyond the intent of having the requirement in the first place. He questioned the wisdom of that requirement.

Commissioner Higgins pointed out that if a neighborhood has a problem, their effort in solving that problem can be reflected by the signatures. It will take a great deal of effort to obtain 60% of the property owner's signatures and, therefore, will assure that the petition will be pursued only if there is really a problem in the area.

Commissioner Parmele advised that the recommended percentage would reflect that there is a concern of a majority of the people in the area.

Chairman C. Young stated he felt the recommended 60% was meaningless and that the Commission should consider anyone who petitions.

Commissioner T. Young stated that he agreed with the Legal Department and felt that the whole discussion was a waste of time - the Zoning Code and State Statutes specifically provide for everything that the Commission is doing. He advised that he had not made this comment previously because he did not think the other members of the Commission wanted to hear the comment. There is a desire at the Planning Commission and, perhaps at the other levels, to have a statement approved which would seem to remove or supercede the statutes - the opportunity to rezone, in either a higher or lower intensity direction, which would be in direct conflict with the law. He noted that a statement of that fact on record could have significant impact on how we do our business from this day forward. Commissioner

Policy Recommendation On Downzoning: (continued)

Young advised that although he agreed with Mr. Jackere and also agreed with those who are concerned with absolute property rights protection, he recognized that the Commission must find a "middle ground" to accommodate all the interests.

Commissioner Freeman stated that he had felt all along that part of the Commission efforts was to limit the police powers of government rather than limiting the rights of property owners. If the 60% rule would limit rights of the property owners, the Commission suggested that percentage be stricken. It was his opinion that the Committee was trying to make a statement that the Commission would use what powers they had with a great deal of discretion.

Commissioner Petty stated he did not feel that requiring signatures of at least 60% of the property owners be submitted is legal. He did not feel that the Commission could presume to restrict people's redress before the TMAPC or any other body.

A proposed Amendment to Title 42, Section 1710 of the Code (Exhibit "A-1") was exhibited from G. C. Spillers, Jr.

Commissioner Parmele stated that he was of the opinion that the discussion should be limited to the recommendations presented by the Committees. He noted that the proposed amendment should have been submitted during the Public Hearings.

G. C. Spillers pointed out that he did not know what the Committee was going to recommend and has had no chance to make additional suggestions.

On MOTION of PARMELE, the Planning Commission voted 7-2-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty "aye"; C. Young, T. Young "nay"; no "abstentions"; Eller, Inhofe "absent") to declare the proposed amendment out of order and not under consideration at this time.

Roy Johnsen advised that he felt the key item which is behind all the controversy, is the determination that there has been a zoning map error. He pointed out that one circumstance recommended by the Committee was Zoning Map corrections; however, there is no criteria of what kind of error, to what extent will the Commission undertake the process of going back and adding restrictions to properties which have previously been rezoned. Mr. Johnsen presented some suggested language (Exhibit "A-2") as an amendment to #1 of the recommended policy offered by the Comprehensive Plan Committee. The recommended language is as follows: "To correct error in the zoning map upon a finding that the continuance of the existing zoning will result in substantial detriment to the neighborhood and the community as a whole."

Mr. Johnsen noted that this suggestion of language is not necessarily an acquiescence in the balance of the policy recommended by the Committee, but is a constructive suggestion to improve the general policy.

G. C. Spillers, noting that 92% of the property in his immediate area is RS-1, defacto, when it actually is zoned RS-2 - a result of a change in the size of the lots in various categories in 1958. Mr. Spillers suggested that the RS-2 zoning was not a mapping error, but is a deliberate perpetuation of an injustice and improper zoning dating back to 1958.

Policy Recommendation On Downzoning: (continued)

Robert Nichols, speaking on behalf of the Metropolitan Tulsa Board of Realtors, advised that further comments would be reserved until after the TMAPC recommendation has been made and referred to the City Commission.

On MOTION of FREEMAN, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe "absent") to recommend the following procedure for processing petition-initiated requests:

As a general rule, the TMAPC shall not consider rezoning applications without the property owner's consent. However, as provided in Section 1730.2, TMAPC initiated zoning recommendations shall be limited to one or more of the following four types of circumstances:

1. To correct mapping errors (errors in drawing of zoning boundaries and/or assignment of zoning classifications);
2. To recognize amendments to the Comprehensive Plan;
3. Blanket restrictions for public protections; i.e., floodway zoning, airport approach zones, etc.;
4. Amendments to the Zoning Code.

Provided further, that written requests for Planning Commission rezoning recommendations of rezoning on its own motion shall be in a form prescribed by the Rules and Regulations Committee.

The Rules and Regulations Committee recommended the following standards for processing non-owner petition-initiated zoning applications:

1. A statement which cites what the petitioners believe to be the problem under existing zoning - it must meet one or more of the adopted policies for TMAPC initiated zoning hearings.
2. A specific delineation of the boundaries of the area said to be affected by the existing zoning.
3. A request that the Planning Commission inquire of its Staff as to the validity of the statement of problem contained in the petition.
4. A statement that all persons signing the petition understand that should the subject of the petition be called to public hearing by the Planning Commission that all fees, publication costs, notice costs and postage related to such public hearing will be paid by the petitioners.
5. A statement that all property owners signing the petition recognize that City, County and/or Planning Commission Staff may require access to their respective pieces of property for exterior physical examination needed in determining the validity of the stated problem.
6. A statement that all property owners signing the petition waive the individual notice requirement in the event a public hearing is called.

Policy Recommendation On Downzoning: (continued)

Procedural steps to be used in petition-initiated zoning applications:

1. Receive petition
2. Refer to Staff
3. Written comments from other interested parties will be received for a period of 10 days from the date the petition is received by the Planning Commission.
4. TMAPC determination
5. Staff may determine that boundaries are not appropriate. TMAPC may rule that new boundaries are needed and additional signatures are required on the petition.

CONTINUED ZONING PUBLIC HEARING:

Z-5533 John Moody (Midwesco, Inc.) SW corner of East 71st Street and South
Yale Avenue OM to CS

PUD #258 John Moody (Midwesco, Inc.) SW corner of East 71st Street and South
Yale Avenue (OM)

Mr. Gardner advised that the Staff still has not received the necessary details to evaluate this proposed zoning and PUD application. A continuance to July 29, 1981, was recommended.

Chairman C. Young stated it was his understanding that if the necessary information is not furnished so that the cases can be heard on July 29, 1981, the applications will be withdrawn.

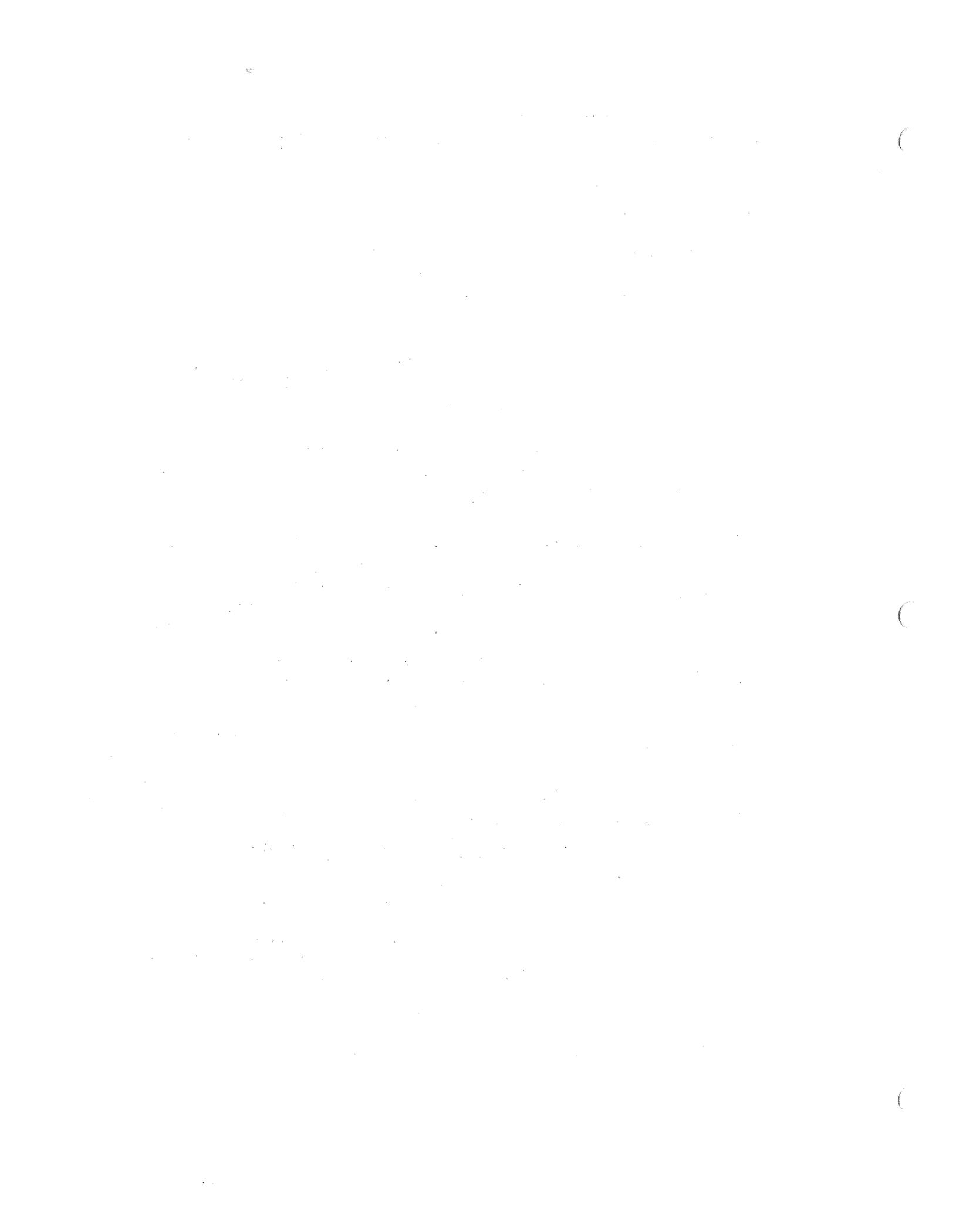
Several protestants were present at the meeting, but did not object to the recommended continuance.

On MOTION of KEMPE, the Planning Commission voted 7-0-0 (Freeman, Gardner, Holliday, Kempe, Parmele, Petty, C. Young, "aye"; no "nays"; no "abstentions"; Eller, Higgins, Inhofe, T. Young, "absent") to continue Z-5533 and PUD #258 to July 29, 1981, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

L-5543 Arnold Webster South of 4th Street, East of 129th East Avenue RS-2 to IL

The Staff pointed out that the Board of Adjustment continued the application on the same piece of property until July 9, 1981. The Staff recommended this application be continued to July 15, 1981.

On MOTION of PARMELE, the Planning Commission voted 8-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young "aye"; no "nays"; no "abstentions"; Eller, Inhofe, T. Young, "absent") to continue Z-5543 to July 15, 1981, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.



SUBDIVISIONS:

Rim Rock Estates (2090) West 41st Street and Rim Rock Road (AGR)

Tower Estates (2990, 3090, 3290) West 51st Street and South 257th West Ave.
(AG, AGR)

Mr. Wilmoth advised that the applicant is working with the Health Department to attain the necessary tests. This is a very large subdivision which is on septic tanks. He noted that it would be several weeks before the tests are completed and recommended a continuance of these items to August 5, 1981.

On MOTION of KEMPE, the Planning Commission voted 8-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young "aye"; no "nays"; no "abstentions"; Eller, Inhofe, T. Young, "absent") to continue Rim Rock Estates and Tower Estates to August 5, 1981, 1:30 p.m., Langenheim Auditorium, City Hall, Tulsa Civic Center.

Stockton Industrial Acres (3472) NW corner of 181st Street and Okmulgee Beeline
(IL)

The Staff presented the plat with the applicant not represented.

The Health Department recommended the plat be reviewed, but not transmitted to the Planning Commission until perc-tests were available. The County Engineer advised the applicant to correct written legal and face of plat to reflect the proper bearings and distances.

The Technical Advisory Committee and Staff recommended APPROVAL of the preliminary plat of Stockton Industrial Acres, subject to the conditions, (including withholding the plat until perc-tests are available.) (The Staff advised that percolation tests were now in process.)

On MOTION of KEMPE, the Planning Commission voted 8-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young "aye"; no "nays"; no "abstentions"; Eller, Inhofe, T. Young, "absent") to approve the preliminary plat of Stockton Industrial Acres, subject to the following conditions:

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements should be tied to or related to property and/or lot lines. (Show gas line right-of-way on plat.)
2. Water plans shall be approved by the Rural water district prior to release of final plat. (if required)
3. Paving and/or drainage plans shall be approved by the County Engineer, including storm drainage and detention design (and Earth Change Permit where applicable), subject to criteria approved by County Commission.
4. Access points shall be approved by the County Engineer.
5. Street lighting in this Subdivision shall be subject to the approval of the County Engineer and adopted policies as specified in Appendix "C" of the Subdivision Regulations.

Stockton Industrial Acres (continued)

6. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City-County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
7. The method of sewage disposal and plans therefore, shall be approved by the City-County Health Department.
8. The method of water supply and plans therefore, shall be approved by the City-County Health Department.
9. A "letter of assurance" regarding installation of improvements shall be submitted prior to release of final plat. (Including documents required under Section 3.6 (5) of the Subdivision Regulations.)
10. All Subdivision Regulations shall be met prior to release of final plat.

Brighton Square (3093) SW corner of 48th Street and South Quaker Avenue (RM-T)

The Staff presented the plat with the applicant represented by Clayton Morris.

Mr. Wilmoth advised that Lots 6 and 7, and 18 and 19 are considered duplexes under the Zoning Code. (A townhouse is three or more units with a common wall, designed for individual ownership...etc..) Duplexes are not an allowable use in an RM-T zone. It was suggested the developer either eliminate these four units or change the lots sufficiently to permit three 20' wide structures.

The developer's engineer has revised the plat and new copies were submitted eliminating the duplex units. All the lots will be considered townhouses now. However, the location of each townhouse unit will need to be adjusted to provide the required 20' rear yard.

The Technical Advisory Committee and Staff recommended APPROVAL of the preliminary plat of Brighton Square, subject to the conditions.

On MOTION of GARDNER, the Planning Commission voted 8-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, T. Young, "absent") to approve the preliminary plat of Brighton Square, subject to the following conditions:

1. Covenants: Page 2, paragraph C; some duplication in water and sewer language. See Water and Sewer Department for required changes. Page 3, paragraph D; eliminate notation on limited access. Not required on nonarterial streets. Section II, paragraph A; change to read... "limited to attached single family dwellings."
2. Show number of lots and total acres on face of plat.
3. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements should be tied to or related to property and/or lot lines.

Brighton Square (continued)

4. Water plans shall be approved by the Water and Sewer Department prior to release of final plat. (Include language in covenants relating to water and sewer.)
5. Pavement repair within restricted water line easements as a result of water line repairs due to breaks and failures shall be borne by the owner of the lot(s).
6. A request for creation of a Sewer Improvement District shall be submitted to the Water and Sewer Department prior to release of final plat.
7. Paving and/or drainage plans shall be approved by the City Engineer, including storm drainage and detention design (and Earth Change Permit where applicable), subject to criteria approved by City Commission.
8. It is recommended that the developer coordinate with Traffic Engineering during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for release of plat.)
9. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City-County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
10. A Corporation Commission letter (or Certificate of Nondevelopment) shall be submitted concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged.)
11. A "letter of assurance" regarding installation of improvements shall be submitted prior to release of final plat. (Including documents required under Section 3.6 (5) of the Subdivision Regulations.)
12. All Subdivision Regulations shall be met prior to release of final plat.

Braeswood Addition (483) 61st Street and Oswego Avenue (RS-1)

The Staff advised that not all letters of approval have been received and it was recommended the item be tabled.

The Chair, without objection, tabled Braeswood Addition.

Silver Chase Amended (2183) 101st Street and Jamestown Avenue (RS-2)

All letters for release have been received and the Staff recommended final approval and release of Silver Chase Amended.

On MOTION of KEMPE, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, "absent") to grant final approval and release of Silver Chase Amended.

Delaware Crossing Condominiums (PUD #256) (1783) SW corner of 90th Street and
College Ave. (CS, RM-2, RM-0)

Mr. Wilmoth advised that when work was started on the original plat, South Delaware Avenue wasn't on the Major Street Plan as a major arterial, it was only a collector street with 40-foot of right-of-way on each side of the centerline. The site plan was reviewed and recommended for approval by the T.A.C. and Planning Commission before it was learned that Delaware now had been placed on the Major Street Plan requiring 50-foot of right-of-way from the centerline. The residential buildings will be located more than 85 feet from the centerline and will meet the zoning and the PUD. The Staff would recommend a limited waiver of the Major Street Plan requiring 50 feet from centerline on the commercial portion of the subject tract and 40 feet from the centerline on the balance of the tract. Adrian Smith was present to represent the applicant.

On MOTION of PETTY, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, "absent") for final approval and release of Delaware Crossing Condominiums, including waiver of the Subdivision Regulations requiring conformance with the Major Street Plan.

EXTENSION OF APPROVAL:

Thousand Oaks (1683) 91st Street and Quebec Avenue (RS-2)

The TMAPC released this plat sometime ago and the subdivision is already built. However, there is a slight problem with the language, since some of the area which will be a drainage and park combination is being processed through the Legal, Park and Engineering Departments. Mr. Wilmoth advised that the plat will expire on July 2, 1981, and since there would not be time to file it of record before that time, he recommended a 30-day extension.

On MOTION of HOLLIDAY, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, "absent") to grant a 30-day extension to Thousand Oaks.

ACCESS CHANGE ON PLAT:

Jones Trucking Center (2593) 4700 Block of South Memorial Drive (IL)

The Staff advised that this is a request to relocate two access points on South Memorial Drive due to a lot-split and separate ownerships. The Traffic Engineering Department has approved the request which does not increase the total number of accesses, but only the location. It is recommended the Planning Commission concur with the Traffic Engineer in approval.

On MOTION of GARDNER, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, "absent") to approve the relocation of two access points on South Memorial Drive for the Jones Trucking Center.

REQUEST TO WAIVE PLAT:

CZ-22 Russ Roach (1412) East side of Osage Drive, NW of Sperry (RS)

Mr. Wilmoth advised that this small tract was recently rezoned from AG to RS. A lot-split has been filed to separate it from the remaining larger parcel. (#15183) Since it has been rezoned, there is no waiver of the zoning requirements since the property is approximately .6 acre in size. Any right-of-way and/or easements will be obtained as necessary. The Staff sees no objection to the request and recommends APPROVAL, subject to:

- (a) Health Department approval of septic system; and
- (b) granting any necessary easements and/or right-of-way.

The Technical Advisory Committee and Staff recommended APPROVAL of the waiver of plat on CZ-22, as recommended by the Staff.

Mr. Wilmoth advised that the applicant was unable to attend the meeting; however, he had talked with him on the phone concerning the Staff recommendation. The Health Department approval has been received and there are no additional easements or right-of-way required.

On MOTION of HIGGINS, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe "absent") to approve the waiver of plat on CZ-22.

L-15229 (3093) Ron Mook, et al

The Staff advised that this property had failed the percolation test and it would be necessary to strike the item.

The Chair, without objection struck L-15229 from the agenda.

LOT-SPLITS:

L-15232 (2502) T.U.R.A.
15236 (603) Ray and Mary Bates
15237 (694) John Stutsman and Gene Oliver
15238 (3593) Professional Properties
15240 (2093) Franklin S. Nelson

On MOTION of HIGGINS, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, "absent") for ratification of prior approval of the above-listed lot-splits.

L-15198 Pat Turner (514) SW corner of East 122nd Street North and North 129th East Avenue (AG)

The Staff advised that this is a request to clear title on two existing residences on one tract of land. It will be split into two tracts of about 1-acre each. The Health Department has already approved the application and the frontage requirements exceed the minimum of 200'. (One has 250' of frontage and the other 300'.) The only waiver is that of the area since the AG zone requires 2 acres. There are other lots in the area of similar size, so the Staff sees no objection to the request, subject to County Board of Adjustment approval of the lot area.

L-15198 (continued)

The Technical Advisory Committee and Staff recommended APPROVAL of L-15198, subject to Board of Adjustment approval.

On MOTION of HIGGINS, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, "absent") to approve L-15198, subject to Board of Adjustment approval.

L-15225 Justus O'Reilly (2993) SE of East 47th Place and South Birmingham Avenue (RS-1)

The Staff made the following report:

This is a request to waive the Subdivision Regulations requirement of the street dedication of 50' (25' from centerline). Both lots would meet the zoning bulk and area requirements, but not the Health Department's for a septic system, which the existing residence is now on.

The new lots to be created must be served by the sewer line that runs north and south along Birmingham Avenue. The Staff advised the T.A.C. that a great deal of the right-of-way on Birmingham in this area had been obtained by voluntary dedications on numerous lot-splits. The west-half of the street, directly across from this split, was obtained in the platting process. Therefore, we have a half street dedication in front of Lots 5 through 8 already. The building setback will be measured from the centerline regardless of how much is dedicated. The applicant on Lot 7 (this split) is unwilling to volunteer the additional right-of-way needed to meet the Major Street Plan requirement. However, the Staff has been advised by the agent or owner of Lot 8 to the south, that he may want to split and would be willing to meet all of the necessary requirements. The Staff further advised the T.A.C. that the Planning Commission can not require dedication as a condition of approval as the result of numerous Court cases in the past. The choice would be either for the applicant to volunteer the necessary right-of-way, or the Commission could deny the split on the basis of need and that it did not meet the Subdivision Regulations requirement of adherence to the Major Street Plan.

The City Engineer advised that a drainage ditch or water course crosses near the northwest corner of the lot on the west side of the split. Any plans to regrade, or propose houses should be reviewed by the City Engineer.

Water and Sewer Department advised that if the split were approved, both water and sewer main extensions would be required. Since the request for waiver of the Subdivision Regulations requiring conformance with the Major Street Plan was the main reason for this review, the T.A.C. and Staff felt that they can not recommend approval.

The Technical Advisory Committee and Staff recommended DENIAL of L-15225 because the request does not meet the Subdivision Regulations requiring conformance with the Major Street Plan, particularly in view of the fact that all other right-of-way in this immediate vicinity had been obtained voluntarily by lot-splits and platting.

The applicant, James Meredith, stated that he had agreed with the City Engineering Department to meet all other requirements, except the dedication of the 25-foot street right-of-way. He noted that there are cases

L-15225 (continued)

which hold that this requirement is unconstitutional and was of the opinion that if all other requirements are met, the dedication of the right-of-way is not a valid requirement before the City approves the lot-split. The applicant also felt it would be inappropriate for persons whose property rights are not involved to address the TMAPC on the waiver of the lot-split.

The City Engineer advised that a drainage ditch or water course crosses near the northwest corner of the lot on the west side of the split - the applicant noted that this statement, a part of the Staff Recommendation, was not correct. Mr. Meredith owned the lot immediately north of the subject tract 20 years ago and the City put in a 6-foot storm sewer to eliminate that water course. The applicant stated that he had given the City a right-of-way, at that time, for a 6-foot storm sewer. It is now in place and there is a catch basin that protects the subject tract from any drainage.

Mr. Meredith has agreed with the City Engineering Department not to take from the seller, a 10-foot strip along the west-half of the south side of the lot, so that the existing house can be adjacent to and abutting water and sewer lines.

The applicant noted that the plat does not disclose that there is a 20-foot easement on the SW corner of Lot 6 which he reserved when he sold the property and that dedication has been given to the City voluntarily.

Mr. Meredith stated he did not want to dedicate the right-of-way to the City because he would lose a tree, 5 feet in diameter and shoulder high, which is at least 100 years old. This particular tree is a material asset to the subject tract and makes the lot considerably more valuable. There are two trees on the subject property, but one will be removed to allow construction of the house.

Michael Whitworth, 4670 South Columbia Place, advised that he objected to the granting of the waiver, not to the lot-split. He expressed concern that if the waiver was granted it would isolate his property.

Several other area residents, who shared the same concern, were in attendance at the meeting. Mr. Whitworth stated that it would have a drastic effect on the worth of their property since they would not be able to get easement to the tract in any other way.

Commissioner Parmele questioned if there is a plan for opening Birmingham Place and Mr. Whitworth advised that he did not know. The applicant pointed out that all the lots in the area are large enough to split and they would be of considerable value for people moving back into the inner city area, closer to downtown and future building sites.

Bob Gardner, noting that the applicant was correct, advised that there is a law which provides that the City cannot deny a lot-split on the basis of the applicant not giving the right-of-way, but this same enabling legislation that deals with lot-splits states that a lot-split is a subdivision of land and it is necessary to meet all requirements. If the City would, sometime in the future, be required to buy that right-of-way to improve the street, then it would be in the public interest to take the right-of-way today.

L-15225 (continued)

Chairman C. Young questioned why this right-of-way was not provided when the tract was originally platted.

Commissioner Parmele was of the opinion that if the street was put in, it would be done by private developers.

Commissioner T. Young advised that he understood the applicant's concern about the loss of a tree; however, the County has been involved in matters where the property owners have provided the right-of-way and have been compensated for the loss of a tree. He stated that he has a distaste for lack of willingness to provide the public improvements.

In answer to Commissioner Higgins' question, Mr. Wilmoth advised that the applicant's lots will be large enough to build on, including the dedication of the right-of-way, but they will require a sewer and water line extension.

On MOTION of PARMELE, the Planning Commission voted 7-2-0 (Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, "aye"; Freeman, T. Young, "nay"; no "abstentions"; Eller, Inhofe, "absent") to waive the Subdivision Regulations requirement of the street dedication of 50 feet (25-foot from centerline) on L-15225.

L-15228 Lana Elrod (993) NW corner of 16th Street and South Jamestown (RS-3)
The Staff advised that this is a request to split a 50' x 140' platted lot, into two lots, each 70' x 50' or 3,500 square feet each. There is an existing house on each half and the applicant is wanting to separate the ownership. If this split was approved, sewer and water extensions would be required to serve the split lot. The total area in the lot is only 7,000 square feet and even if it were an attached duplex, would not meet a 9,000 square foot requirement. The owner received approval from the Board of Adjustment (#1210) to "...permit the erection of an additional residence thereon..." but this did not approve a lot-split, nor was the intent of the Board to create a lot-split. Therefore, the Staff recommends DENIAL of the request for the reasons outlined above, mainly insufficient area to meet the zoning requirements.

The Technical Advisory Committee and Staff recommended DENIAL of L-15228 as it will not meet the minimum requirements of the RS-3 District.

Mr. Wilmoth pointed out that there are no other lots in this area as small as the subject tract. The applicant was not present at the meeting, but was aware of the Staff Recommendation for denial of the requested lot-split.

On MOTION of GARDNER, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, "absent") to deny the requested lot-split on L-15228.

OTHER BUSINESS:

PUD #183 Northeast corner of Peoria Avenue and 68th Street South

Consider approving detailed site plan.

The Staff, noting that the applicant was present, advised that Lot 50, Block 1, San Souci Addition is located on the NE corner of the intersection of

PUD #183 (continued)

68th Street and Peoria Avenue. The property was approved for apartments, subject to a site plan approval by the Planning Commission prior to the issuance of a building permit.

The applicant has submitted a detailed site plan which has been reviewed by the Staff. The Staff recommended APPROVAL, subject to the conditions and modifications.

On MOTION of PARMELE, the Planning Commission voted 9-0-0 (Freeman, Gardner, Higgins, Holliday, Kempe, Parmele, Petty, C. Young, T. Young, "aye"; no "nays"; no "abstentions"; Eller, Inhofe, "absent") to approve the detailed site plan, subject to the following conditions:

1. That the maximum number of dwelling units not exceed 96.
2. That the minimum open space (livability) area be 23,780 square feet, which includes the swimming pool, recreational areas and sidewalks.
3. That a minimum number of 160 off-street parking spaces be provided.
4. That the two northernmost parking spaces adjacent to Peoria Avenue, be eliminated on the site plan (to become landscape area).

This situation creates a potential safety hazard since automobiles entering the site at this access point, off the arterial street, would be presented with an obstacle when a vehicle is leaving one of the parking spaces. The same situation exists on 68th Street, however the Staff is not so concerned with the interior street as Peoria Avenue because of the significant decrease in traffic.

5. That the restrictive covenants of the plat be amended to reflect the conditions of approval.
6. That a 6-foot solid surface screening fence be erected on the north and east boundaries of Lot 50.
7. That the Peoria access on the approved plat be modified to be consistent with the site plan access.

There being no further business, the Chair adjourned the meeting at 3:20 p.m.

Date Approved _____

July 15, 1981

1st Vice-Chairman

ATTEST:

Marian E. Holliday

Secretary

TULSA METROPOLITAN AREA PLANNING COMMISSION

Claims: 1980-81

<u>Account Number</u>	<u>Claim Number</u>	<u>Vendor</u>	<u>Amount</u>
7171	13029	Indian Nations Council of Governments	\$4,590.26

This is to certify that the above claims are true, just and correct to the best of our knowledge.


TMAPC Fiscal Officer


Assistant Director

