

TULSA METROPOLITAN AREA PLANNING COMMISSION  
MINUTES of Meeting No. 1400  
Wednesday, March 24, 1982, 1:30 p.m.  
Langenheim Auditorium, City Hall  
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Freeman Gardner Higgins Hinkle Holliday, 2nd Vice- Chairman Petty, Secretary Rice	Kempe Parmele Young Inhofe	Chisum Compton Lasker Wilmoth	Jackere, Legal Department

The notice and agenda of said meeting were posted in the Office of the City Auditor, Room 919, City Hall, on Tuesday, March 23, 1982, at 11:05 a.m., as well as in the Reception Area of the INCOG Offices.

Second Vice-Chairman Holliday, called the meeting to order at 1:30 p.m. and declared a quorum present.

MINUTES:

The Chair, without objection, tabled this item until April 7, 1982.

REPORTS:

Director's Report:

Alan Jackere reminded the Commission of their request for the Legal Department to look into the legality of reducing the quorum requirements for the Commission. The Legal Department has researched this request and in the absence of any Statutory authorization, a vote requires a majority of any public body to constitute a quorum. He submitted a written opinion (Exhibit "A-1"), which states in order to constitute a quorum, a majority of members, including ex-officio members, must be present. Other matters which this Commission has jurisdiction over, such as Comprehensive Plan and Subdivision Regulations, require a greater vote than just a majority of the full Commission, which is the way the Commission has operated previously.

SUBDIVISIONS:

For Final Approval and Release:

Southbridge East Office Park (283) SW corner of 61st Street and Memorial  
Road (CS)

Mr. Wilmoth advised all release letters have been received and recommended approval.

TMAPC Action: 6 members present.

On MOTION of GARDNER, the Planning Commission voted 6-0-0 (Freeman, Gardner, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Higgins, Kempe, Parmele, Young, Inhofe, "absent") to release the final plat of Southbridge East Office Park as having complied with all conditions of approval.

Subdivisions: (continued)

For Waiver of Plat:

Kensington Addition (PUD #282) (783) SW corner of 71st Street and Lewis Avenue

Mr. Wilmoth explained the Planning Commission approved the request for PUD during the meeting of March 17, 1982. At that time, the applicant requested a waiver of plat, since the property was already platted. Since this was not an agenda item, the Commission voted to act on the request when it was placed specifically on the agenda. The concept was reviewed by the Technical Advisory Committee and the property is already platted as Kensington Fashion Center and Kensington, Block 6. The T.A.C. had no objection to a waiver of plat, on the condition the developer file an amended deed of dedication to reflect the PUD conditions.

Mr. Wilmoth submitted a memo explaining this request, along with a letter from Mr. Norman requesting the plat waiver (Exhibit "B-1").

TMAPC Action: 6 members present.

On MOTION of RICE, the Planning Commission voted 6-0-0 (Freeman, Gardner, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Higgins, Kempe, Parmele, Young, Inhofe, "absent") to approve this request to waive plat for Kensington Addition (PUD #282).

CONTINUED ZONING PUBLIC HEARING:

Application No. Z-5664 Present Zoning: AG  
Applicant: Bogan (Adair) Proposed Zoning: RM-1  
Location: North of the NE corner of Edison Street and 41st West Avenue

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Date of Application: December 31, 1981  
Date of Hearing: March 24, 1982  
Size of Tract: 3 acres, more or less

Presentation to TMAPC by: David Cameron Phone: 581-8200  
Address: 201 West 5th Street, Suite 400

Relationship to the Comprehensive Plan:

The District 11 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low-Intensity -- No Specific Land Use.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the RM-1 District may be found in accordance with the Plan Map.

Staff Recommendation:

The subject tract is approximately three (3) acres in size and is located north of the northeast corner of 41st West Avenue and Edison Street. The tract is vacant, as are the properties to the north and east. It is abutted to the south by a U.S. Post Office and to the west by several single-family residences. The land to the west is zoned RS-3 and to the south it is zoned CS. The subject tract is zoned AG, as is the land to the east and north. The applicant is proposing a multifamily use.

Z-5664 (continued)

The subject tract is designated Low-Intensity and RM-1 may be found in accordance with the Plan Map if it can be supported by the surrounding conditions. RM-1 zoning outside the Node is inconsistent with the Development Guidelines, unless it can be supported by the surrounding zoning and other physical conditions. Given the following facts: (1) The Plan Map designates the area Low-Intensity; (2) the surrounding land uses and zoning patterns are low-intensity; and (3) the subject tract is outside the Node, the requested RM-1 zoning can not be supported. However, RM-0 is considered an appropriate buffer by the Development Guidelines and is consistent with the physical facts of the area.

Therefore, the Staff recommends DENIAL of RM-1 and APPROVAL of RM-0.

Applicant's Comments:

Mr. David Cameron was present on behalf of the applicant. The applicant has no problem with the Staff Recommendation and would accept an RM-0 zoning. The proposed developer has met with a number of the protestors and explained the project, which will be an apartment complex for the elderly. The protestors had waived any objections to the zoning request because of the use proposed.

<u>Protestants:</u> Mary Adams	Address: 4117 West King Street
Herman Edge	104 South 41st West Avenue
Frenchie Loving	432 South 51st West Avenue 74127
Floyd Zook	2406 West Oklahoma Street 74127

Protestant's Comments:

Mary Adams explained the neighborhood held a meeting and has no objection to the land being used for elderly housing. However, the main concern is the uncertainty of funding for a project of this type. If the funding is not available, another project could be developed with the multifamily zoning, particularly low-income housing, and asked if the Commission could give some assurance. Vice Chairman Holliday advised that the Commission is not in any position to give the neighborhood assurances that the project will be built as proposed.

Herman Edge is sympathetic with the need for Senior Citizen Housing, but is also concerned that the proposed plans might not develop. There are two existing complexes in the area that are public housing and have created serious problems. If the residents cannot be assured this will be used for senior citizen housing, then they must oppose the project.

Floyd Zook, chairman of District 11, spoke on behalf of the citizens in the District. No one objects to this property being a senior citizens complex. He pointed out that the application is listed with the wrong address on the wrong side of Edison Street. It is listed as 3922 West Edison, but the north side of Edison where the property is located north of the Post Office is the odd numbers on Edison Street. He hoped there was some way the residents could be assured the project would not be public housing. The existing homes are not big, but Mr. Zook was impressed with the quality of the people he has met and they are wanting to maintain the quality of the neighborhood. He asked how many units could be built under RM-0 zoning and if the structures could be two-story. Mr. Compton replied the density is approximately 14 units per acre under RM-0. He understands the developer is trying to tie this tract to a portion of the CS zoned property to the south and would have to come to the Board of Adjustment for OM exception or

file a PUD application. Either one of these options would require a site plan and public hearing. No assurances for use can be given in a zoning case, beyond the Use Units that are permitted by the Zoning Code.

Mrs. Frenchie Loving, executive secretary of the West O'Main Improvement Association, stated that her organization had heard about this project from Mr. Carnes and the group was enthusiastic. This type of development has been needed in this area because approximately one-fourth of the population in this area is senior citizens. The main concern with the Association would be access and requested the main access be from Edison rather than 41st West Avenue because 41st is a narrow road with bar ditches instead of curbing. Mrs. Loving did some research and found that the Department of Housing and Urban Development is no longer issuing funds for low-income housing. The only funds advertised as being available this year were housing for the elderly. If the developer is going to request funds before October 1, 1982, then he could not get funds for any project except elderly housing.

Applicant's Comments:

Mr. Cameron advised he was not aware of the availability of financing for projects. If Mrs. Loving is correct, that is the only assurance the protestants could get. One protection the residents have is that RM-0 is a low-density zoning which would restrict the usage of this property. The applicant will apply for a special exception through the Board of Adjustment for use of a portion of the CS zoning to the south. This tract alone, zoned RM-0, would not be economical to develop. The applicant has no intention of developing this tract alone without also obtaining some relief with the CS tract. This tract alone would allow for approximately 42 units for this project and Mr. Cameron did not feel the project would flow with that number of units. He is not in any position to make assurances, but the intent is to build housing for the elderly and the architect's plans are drawn for one-story, one-bedroom apartments. No other type of project has been considered. Assuming the special exception to the CS zoning is granted, approximately 65 units will be built. The problem of access can be addressed when the site plan is submitted. The developer has spoken to the residents and is aware of their concerns.

Mr. Compton advised that the sign was on the proper tract.

TMAPC Action: 7 members present.

On MOTION of GARDNER, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to recommend to the Board of City Commissioners that the following described property be DENIED RM-1 zoning and APPROVE RM-0, per Staff Recommendation:

All of Block 2 of West Edison Plaza Addition, an Addition to the City of Tulsa, according to the Recorded Plat thereof.

ZONING PUBLIC HEARING:

Application No. Z-5676  
Applicant: Brian Holliday  
Location: West of the SW corner of Pine Street and 129th East Avenue

Present Zoning: RS-3  
Proposed Zoning: IL

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Date of Application: February 5, 1982  
Date of Hearing: March 24, 1982  
Size of Tract: 2.3 acres, more or less

Presentation to TMAPC by: Brian Holliday  
Address: 12738 East Pine Street

Phone: 437-7836

Relationship to the Comprehensive Plan:

The District 16 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Special District 2 -- No Specific Land Use, Industrial development encouraged.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the IL District may be found in accordance with the Plan Map.

Staff Recommendation:

The subject tract is zoned AG and located west of the southwest corner of 129th East Avenue and Pine Street. It is flat, approximately 2.3 acres in size, vacant, and the applicant is requesting IL, Light Industrial zoning.

The tract is abutted on the north by vacant IM zoning, on the east and south by vacant AG zoned land and to the west by IL zoning which contains a single-family residence, several accessory buildings, and an automotive business. Given the Comprehensive Plan designation, the surrounding patterns and existing land uses, and the fact that the site has no unique physical constraints, the IL zoning can be supported.

Therefore, the Staff recommends APPROVAL of the requested IL zoning.

Applicant's Comments:

Mr. Holliday lives on the subject tract and is trying to legalize used car dealership.

Protestants: None.

TMAPC Action: 7 members present.

On MOTION of RICE, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to recommend to the Board of City Commissioners that the following described property be rezoned IL:

The W/2 of the E/2 of the NW/4 of the NE/4 of the NE/4 of Section 32, Township 20 North, Range 14 East, Tulsa County, Oklahoma.

Application No. Z-5677  
Applicant: John Timmons

Present Zoning: RS-1  
Proposed Zoning: IL

Location: NE corner of 166th East Avenue and Admiral Place

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Date of Application: February 5, 1982  
Date of Hearing: March 24, 1982  
Size of Tract: .22 acres, more or less

Presentation to TMAPC by: John Timmons  
Address: 3245 East 28th Street - 74114

Phone: 743-9761

Relationship to the Comprehensive Plan:

The District 17 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Special District -- Industrial.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the IL District may be found in accordance with the Plan Map.

Staff Recommendation:

The subject tract is zoned RS-1 and located north of the intersection of Admiral Place and 166th East Avenue. It is .22 of an acre in size, vacant, gently sloping to the west, and the applicant is requesting IL zoning.

The tract is abutted on the south by a single-family subdivision zoned RS-3, on the east by a church and accessory buildings zoned RS-1, and on the west and north by vacant tracts zoned IL.

The zoning patterns, existing land uses, the physical conditions of the tract support the Plan designation. Therefore, the Staff recommends APPROVAL of the requested IL zoning.

Remarks:

The applicant was not present.

Protestants: None.

TMAPC Action: 7 members present.

On MOTION of FREEMAN, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to recommend to the Board of City Commissioners that the following described property be rezoned IL:

The West 79' of the East 591' of the South 138' of the W/2 of Lot 3; ALL in Section 2, Township 19 North, Range 14 East of the Indian Base and Meridian, according to the U. S. Survey thereof.

Application No. Z-5678  
Applicant: Bailey Nicholas  
Location: 1319 East 41st Place

Present Zoning: RM-1  
Proposed Zoning: RM-2

Date of Application: February 8, 1982  
Date of Hearing: March 24, 1982  
Size of Tract: .43 acres

Presentation to TMAPC by: Bailey Nicholas  
Address: P. O. Box 52219 - 74152

Phone: 749-7781

Relationship to the Comprehensive Plan:

The District 6 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Medium Intensity -- Residential.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the RM-2 District is in accordance with the Plan Map.

Staff Recommendation:

The subject tract is zoned RM-1 located just east of the intersection of 41st Place and South Peoria Avenue. The tract is vacant except for two non-occupied single-family dwellings and the applicant is requesting RM-2 zoning.

The land to the north of the subject tract is zoned CH and CS and contains several businesses. The property to the west is zoned CH and contains an apartment complex, to the south it is zoned RM-1 and contains a parking lot and vacant dwelling, and to the west the land is zoned RM-2 and contains a small apartment complex. The requested RM-2 zoning is in accordance with the Plan, is consistent with the existing land use and zoning patterns and there are no natural physical features that would negate this request.

Therefore, the Staff recommends APPROVAL of the RM-2 Zoning District.

Applicant's Comments:

Bailey Nicholas informed the Commission that the existing houses will be leveled and the property will be cleaned up within 45 days. He feels the proposed project will be an asset to the neighborhood, since the property is run down now.

Interested Party: Frank Miller

Address: 1340 East 41st Place

Interested Party's Comments:

Mr. Miller is gratified that the property will be cleaned up because it is being used as a junk yard at the present time.

TMAPC Action: 7 members present.

On MOTION of PETTY, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to recommend to the Board of City Commissioners that the following described property be rezoned RM-2:

Lots 18, 19 and 20, Block 1, Jennings-Robards Addition in the City of Tulsa, Tulsa County, Oklahoma, according to the Recorded Plat thereof.

CZ-45 Bob Miller SE corner of 126th Street North and Garnett Road AG to IL

Mrs. Miller was present and submitted a letter from her husband, Bob Miller, requesting this item be continued due to a personal emergency (Exhibit "C-1"). Also submitted was a letter from the Owasso Planning Commission advising that the Owasso Planning Commission voted to deny this case (Exhibit "C-2"). Mr. Compton advised that Mrs. Miller's letter was not timely.

Chairman Holliday asked the protestants if they would object to a continuance. Mr. John Wise, Rt. #3, Box 750, Collinsville, Oklahoma, was not opposed to a 3-week continuance.

TMAPC Action: 7 members present.

On MOTION of FREEMAN, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to continue CZ-45 to April 14, 1982, at 1:30 p.m., in Langenheim Auditorium, Tulsa Civic Center.



Application No. CZ-46  
Applicant: Fern Medina  
Location: 6501 West 51st Street

Present Zoning: RS  
Proposed Zoning: CS

Date of Application: February 10, 1982  
Date of Hearing: March 24, 1982  
Size of Tract: 5 acres, more or less

Presentation to TMAPC by: Fern Medina  
Address: 6501 West 51st Street

Phone: 446-1848

Relationship to the Comprehensive Plan:

The Comprehensive Plan for the Tulsa Metropolitan Area does not cover the area of the subject tract, however, development on the tract should be consistent with the goals and objectives of the Development Guidelines.

Staff Recommendation:

The subject tract is 5 acres in size and located at the northwest corner of West 51st Street and South 65th West Avenue. It contains two single-family residences and several accessory buildings. It is steeply sloping from north to south, zoned RS, and the applicant is requesting CS zoning.

The tract is abutted on the east by RS zoned properties which are mostly vacant, except for one single-family residence, on the north and west by vacant properties zoned RS, and on the south by two large lot single-family residences zoned RS.

The Staff reviewed the Development Guidelines and find that in theory a portion of the subject tract could be considered a part of an arterial intersection node. But, the Guidelines also point out that, "it is intended that in the application of this concept an evaluation of existing conditions, include land uses, existing zoning, and site characteristics, shall be considered." Given the facts that (a) the area surrounding the tract is zoned RS or AG, (b) contains several single-family residences, and (c) is physically isolated, the Staff feels that this application is a clear case of "spot zoning."

Therefore, the Staff recommends DENIAL of the requested CS zoning.

Applicant's Comments:

Fern Medina advised the Commission this request for rezoning is to build a small, two-pump service station.

Protestants: Fred Brant                      Addresses: 6620 West 51st Street  
                 Gladys Brewington                      6850 West 51st Street

Protestant's Comments:

Fred Brant was concerned about this proposal due to the increased traffic and the residents would like to keep the area agricultural and residential. He presented a protest petition with 30 signatures, 6 pictures of the area and a letter from Mrs. Gladys Brewington (Exhibit "D-1").

Applicant's Comments:

Mrs. Medina did not know the lady who wrote the letter, but advised there is no flooding. The business will not be on the corner, but will set 400 yards to the west. This would have nothing to do with the school buses or traffic.

CZ-46 (continued)

Instruments Submitted: Letter of protest from Mrs. Gladys Brewington with petition containing 30 signatures and 6 pictures of the area (Exhibit "D-1").

Special Discussion for the Record:

Commissioner Petty asked the Staff why this application does not qualify as a regular, arterial-type, intersection node. Mr. Compton explained the surrounding zoning is residential except for one corner that is agricultural. It is undeveloped and inappropriate for commercial use. Commissioner Higgins asked if this could be some type of redevelopment area due to the expressways and busy traffic on this road. Mr. Compton replied this might be developed in the future, but at the present time the area is isolated and CS zoning is not appropriate.

Commissioner Rice commented he had inspected the area and agreed with the protestants concerning the conditions.

TMAPC Action: 7 members present.

On MOTION of RICE, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to recommend to the Board of County Commissioners that the following described property be DENIED rezoning:

The E/2 of the SW/4 of the SE/4 of the SE/4, LESS the East 30 feet thereof; and the S/2 of the SE/4 of the SE/4 of the SE/4, ALL in Section 30, Township 19 North, Range 12 East of the Indian Base and Meridian, Tulsa County, Oklahoma.

Application No. Z-5679

Applicant: Morris (John's Park Development)

Location: North of Admiral, East of Garnett Road

Present Zoning: RS-3

Proposed Zoning: RMH & FD

Date of Application: February 11, 1982

Date of Hearing: March 24, 1982

Size of Tract: 12 acres, more or less

Presentation to TMAPC by: Warren Morris

Address: P. O. Box 45551 - 74145

Phone: 627-4300

Relationship to the Comprehensive Plan:

The District 17 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Medium Intensity -- No Specific Land Use.

According to the "Matrix Illustrating District Plan Map Categories Relationship to Zoning Districts," the RMH District is in accordance with the Plan Map.

Staff Recommendation:

The subject tract is located east of the northeast corner of Admiral Place and South Garnett Road. It is 12 acres in size, vacant, with the exception of a small accessory building, and zoned a combination of RM-1 and RM-2.

The subject tract is abutted on the south by a small retail commercial center zoned CS, on the west by a single-family residence and private school zoned RM-2 and RS-3, on the north by vacant land zoned RM-1, and on the east by vacant land and a mobile home project under construction zoned RM-1 and RM-2.

The requested zoning is consistent with the Comprehensive Plan designation. The existing zoning patterns and land uses are mixed and consistent with the requested zoning.

Therefore, the Staff recommends APPROVAL of the RMH zoning, except on that portion of the tract that the applicant or his engineer identifies (prior to the publication of the Ordinance) as being in the Floodplain.

Applicant's Comments:

Warren Morris stated this tract with a little different legal description was previously approved with 250 feet of commercial frontage. This application merely changes the dimensions. The Ordinance to rezone was never published because the flood zone was unknown. Since that time, Mr. Morris has given the City 38 acres for a park and the flood zone has been tied down.

Protestants: None.

TMAPC Action: 7 members present.

On MOTION of GARDNER, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to recommend to the Board of City Commissioners that the following described property be rezoned RMH, EXCEPT that portion of the tract that the applicant or his engineer identifies (prior to the publication of the Ordinance) as being the Floodplain:

OTHER BUSINESS:

Request To Determine Fee For Amendment Of A PUD:

Mr. Compton explained a request has been received to abandon a PUD. There has been no fee schedule set before. In other fee schedules, \$25 has been set for public hearing. An additional \$10 would be needed for processing charges. Therefore, the Staff feels \$35 would be a proper fee for abandoning a PUD.

Mr. Lasker advised the process for abandoning a PUD would be the same as a zoning hearing. A public hearing would need to be held and a Staff recommendation would also be needed.

Mr. Jackere thought the only public notice needed would be as an agenda item. However, the Staff would still have to field check the property and when the property was zoned with the supplemental designation of PUD, there were created several intricacies that would have to be addressed in the abandonment process. Then it must go to the Planning Commission and the City Commission. In processing this, costs would be incurred.

On MOTION of PETTY, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to approve a fee of \$35 for processing an abandonment of a PUD, (\$25 for public hearing, \$10 processing cost).

PUD #190 Bob Nichols (Jones) Lot 12, Block 11, Minshall Park I Addition

Instruments Submitted: Letter from Bob Nichols requesting to revoke a minor amendment to PUD #190 granted February 24, 1982 (Exhibit "F-1").

Staff Recommendation:

The subject tract is Lot 12, Block 11, Minshall Park I Addition. On February 24, 1982, the TMAPC acted on and approved a Minor Amendment requested by Michael R. Dankbar to allow Mr. Dankbar to build a three-story house in PUD No. 190, where building height had been limited to 35' or 2 stories.

The request for TMAPC action was necessary after the Building Inspector had visited the subject tract and determined that the house was not in violation of the height requirement, but did not meet the number of stories required of the PUD and placed a Stop-Order on the construction.

At that time, the Staff reviewed the case and found that, "The structure meets the Zoning Code, meets the 35-foot height maximum and the number of stories is debatable. Since the height of the structure would not change regardless of whether the structure contained a basement, were filled or were built on piers, the Staff can support a Minor Amendment, if by definition, the structure turns out to be 3 stories in height."

After Mr. Bob Nichols filed to revoke the minor amendment, the Staff again reviewed the case and field checked the tract. We found, as the Building Inspector did, that the house met the PUD height requirement. Also, our inspection found that the house contains several levels, but they are half-levels or lofts with floor to ceiling openings throughout the house. Since the Zoning Code does not define story the Staff would rely on the Building Inspector's determination of 3 stories.

PUD #190 (continued)

Therefore, the Staff does not see any change in the facts from the time of the action and would maintain its support of the Minor Amendment.

See copy of initial Staff Recommendation.

Applicant's Comments:

Bob Nichols represented Royce Jones, who is a property owner in Minshall Park I and also owns a 14-acre, unplatted tract under PUD #190. He also represents Ira Crews, Jr. and John L. Boyd who are the developers of Minshall Park and sponsors of PUD #190. This minor amendment came before the Planning Commission and did not need a notice to the public because it was considered minor. He was concerned, because the Planning Commission policy has been that whenever a requested amendment affects the density, open spaces or height of structures, the amendment would be considered major and would require public notice. Mr. Nichols is requesting that the minor amendment be revoked and placed on the agenda as a major amendment with public notice given. The height restriction is also an architectural control as far as height and the number of stories are concerned.

Commissioner Petty asked how far construction has gone and Mr. Compton replied that even though there is a court case to be heard on this matter all of the requirements of the Building Inspector have been met. Construction is in process and the outside of the house is almost completed, but very little has been done inside. The Building Inspector determined the PUD height restriction had been met and the INCOG Staff inspected the site and sees no problem in meeting the 35-foot height restriction either. There is also a 2-story requirement under the PUD and the minor amendment concerned this requirement, since the height restrictions were met.

Mr. Nichols has had the property surveyed and has determined the structure is over the restriction. His clients feel the structure would be detrimental to the value of their property. The structure is also the subject of litigation in District Court concerning the restrictive covenants.

Commissioner Petty asked Mr. Nichols to explain why he felt the structure would be detrimental to property value in order for the Commission to entertain consideration of revoking the minor amendment.

Commissioner Higgins pointed out this was presented as a tri-level and the Commission relies on the recommendations of the Building Inspector and the Staff.

Mr. Nichols explained the underlying zoning for the PUD is RS-3 which limits building height to 26 feet to the plate line. Under this PUD, the structure height to the ridge line is restricted to 35 feet. The purpose for the restriction is to assure continuity and conformity in the neighborhood. The 2-story limitation is also consistent with the RS-3 zoning and with the 35-foot ridge-line consideration. He feels the developers will have problems with control over the PUD restrictions in the rest of the development. Mr. Jones owns the property immediately behind the subject tract and his concern deals with the obstruction of air and light. Mr. Nichols does not feel the Planning Commission had all the facts when the minor amendment was presented.

It is Mr. Nichols' contention that the ridge-line is over 41 feet, per a professional survey, from the base of the property and if the sloping lot

PUD #190 (continued)

is to be considered, the ridge-line is still more than 36 feet. Mr. Jackere advised that would be a zoning violation and this Commission has no jurisdiction over that.

Mr. Compton stated that the Staff had reviewed the PUD Text and the 35' height restriction was not defined. Therefore, the definition in the Zoning Code for building height is used by the Building Inspector and the Staff. The Code definition for building height is the distance from the ground elevation to the highest point of the highest plate.

Mr. Compton stated that Mr. Bob Gardner had advised him that he had discussed this matter two days before the TMAPC's consideration of the minor amendment with Ollie Gresham, who said he represented some of the interested parties and he had no protest to the minor amendment.

Royce Jones was present and advised Mr. Gresham did not appear at the minor amendment hearing because he was told the residents had no right to appear. He found out later the amendment did not need notice.

On MOTION of PETTY, the Planning Commission voted 7-0-0 (Freeman, Gardner, Higgins, Hinkle, Holliday, Petty, Rice, "aye"; no "nays"; no "abstentions"; Kempe, Parmele, Young, Inhofe, "absent") to table this item.

There being no further business, the Chair adjourned the meeting at 2:00 p.m.

Date Approved

4-14-82

Chery A. Kempe  
Chairman

ATTEST:

R. J. Petty  
Secretary