

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1567
Wednesday, August 7, 1985, 1:30 p.m.
City Commission Room, Plaza Level, Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHER PRESENT
Carnes	Harris	Frank	Linker, Legal
Connery	Wilson	Gardner	Counsel
Draughon	Young	Setters	
Higgins		Wilmoth	
Kempe, Chairman			
Paddock, Secretary			
VanFossen			
Wilson, 1st Vice- Chairman			
Woodard			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, August 6, 1985, at 11:45 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Kempe called the meeting to order at 1:34 p.m.

MINUTES:

Approval of Minutes of July 17, 1985, Meeting No. 1564:

Mr. Paddock advised that these minutes need to be amended to show the new fire station location mentioned on page three to be 36th and Peoria, and not 26th and Peoria. Mr. Paddock referred to the bottom of page 25 of the minutes concerning the discussion under Z-6045 and PUD 402. He stated Ms. Little's remarks should read to emphasize that 36th Street is a residential collector street.

On **MOTION** of **VANFOSSEN**, the Planning Commission voted 7-0-1 (Carnes, Connery, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; Draughon, "abstaining"; Harris, Wilson, Young, "absent") to **APPROVE** the **Minutes of July 17, 1985, Meeting No. 1564** with the above corrections.

Approval of Amended Minutes of June 26, 1985, Meeting No. 1562

Staff advised that Ms. Wilson contacted the TMPAC office and indicated there was some discussion that was to follow the Applicant's rebuttal which should be included in the minutes. The change was made to the last paragraph on page 34 by Staff and was discussed with Ms. Wilson, who indicated it was satisfactory.

On **MOTION** of **PADDOCK**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **APPROVE** the **Corrected Minutes of June 26, 1985, Meeting No. 1562**.

MINUTES: (continued)

Approval of Minutes of July 24, 1985, Meeting No. 1565:

After advice by Staff that the date on the agenda for this meeting number was incorrect and consent of Legal Counsel to continue for approval, on **MOTION** of **VANFOSSEN**, the Planning Commission voted 6-0-2 (Carnes, Connery, Draughton, Kempe, Woodard, VanFossen, "aye"; no "nays"; Higgins, Paddock, "abstaining"; Harris, Wilson, Young, "absent") to **APPROVE** the **Minutes of July 24, 1985, Meeting No. 1562.**

REPORTS:

Chairman's Report:

Chairman Kempe advised the Commission that consideration of PUD 352 (Medearis) and related improvements could involve a great deal of discussion and asked the Commission members if a time allotment should be set for this report. Mr. VanFossen suggested the matter be left open until such time it became unreasonable. Therefore, the Commission did not wish to impose any set time limit.

Applicant's Presentation:

Mr. Carson H. Medearis, 1359 East 64th Street, Tulsa, Oklahoma read from a prepared statement, attached as Exhibit "A", and displayed graphs to the Commission regarding drainage plans for PUD 352. After reading his statement, Chairman Kempe asked Mr. Medearis to remain for questions.

Comments & Discussions:

Mr. VanFossen stated he had personally visited the site several times. He inquired as to topography being already built up before the project was started, and any changes to the ground level on Mr. Medearis' northeast property. Mr. Medearis acknowledged that the rise in the fence row had been there several years and dirt on his property had been graded level when he built his home.

Mr. VanFossen further mentioned listening to the tapes of PUD 352 and not being able to distinguish any protestants. Chairman Kempe stated that she did not believe that Mr. Medearis ever went on record by coming to the microphone. Mr. Medearis stated he was not called to the microphone; it was settled there by Mr. Moody explaining what they would do and my withdrawal of any protest. Chairman Kempe explained there was evidently some misunderstanding as to what the Commission adopted as conditions based on Mr. Moody's presentation. The conditions the Commission approved were not necessarily those presented by Mr. Moody.

Mr. Paddock had questions, some on behalf of Ms. Wilson who was not in attendance. One question inquired as to why the north setback was established at 2½ feet from the multi-family abutting property, instead of a three feet. Mr. Medearis was unable to answer except to suggest that it may have been for a required 3 foot swale, which drains on his

property. Mr. Paddock's next question related to the six foot tall solid fence requirement and placement of the fence in relation to Mr. Medearis' property. Mr. Medearis gave a description of the fence in question and referred the Commission to the pictures he had submitted with his statement. The next question by Mr. Paddock dealt with earth changes and any changes of water course. The earth changes mentioned by Mr. Medearis, as pointed out by Mr. VanFossen, were items done years back and do not relate to this project. After some discussion on this matter, Mr. Draughon asked Mr. Medearis to indicate his property (on the chart) and where the natural flow of water was before the Watson, Taylor project. Mr. Draughon further inquired if the water from the Peachtree Apartment area continued to come south. Mr. Medearis acknowledged that it did, but soaked into the previously unimproved property. When asked by Mr. Draughon as to what has happened since the present drainage and earth changes, Mr. Medearis replied that all the water that did pond and overflow in one area now floods his and his neighbor's property. Mr. Draughon then inquired if they did alter the drainage established going south and west to where it now goes south and east. Mr. Medearis stated that when they removed some dirt, the water now flows east and south. Mr. VanFossen interjected that the problem appeared to be the water from the Peachtree Apartments rather than the Watson, Taylor project, and questioned whether that was changed. Mr. Medearis stated there was supposed to be a three foot wide swale built the entire length of the property. Mr. Connery asked Mr. Medearis to explain the "supposed" swale.

Chairman Kempe then asked Staff if that was made a condition of the PUD. Mr. Gardner stated that the reason that the building is 2½ feet from the north property line is that the building, itself, serves as the solid screening wall. That was the reason why the building is closer to the north boundary, rather than have a solid wall and then a solid fence and a ten foot space in between that couldn't be utilized. Mr. Gardner further explained the configuration of the fence being solid except for where the water has to drain under it. Mr. Gardner stated that the only thing that was required was the the normal drainage requirements meeting the City's drainage requirements in the subdivision platting process and in the building permit process. In regard to conversation in the minutes, Mr. Gardner stated that the water drains and would drain west and southwest, and that 90% of it does. The remaining 10% in the northeast does not drain south/southwest, but comes naturally onto the Medearis property. Mr. Gardner then stated that the City could not enforce any requirements unless they are specifically stated as conditions of approval, however, if the condition of approval violates City law, there would be a conflict. For example, if a fence was made solid (damming water up and pushing it onto somebody else), this would prohibit the natural flow, and violate the natural drainage law. Had a specific condition been made by the TMAPC on this case making the water go in another direction, there would have been a conflict, and the condition could not be enforced.

Ms. Higgins questioned the definition of a solid wall. Discussion between Ms. Higgins and Mr. Gardner followed clarifying a screening wall

and the issue of a condition of approval and conflicting City laws. Chairman Kempe stated the Commission did act in good faith at that hearing but that it was unfortunate that we didn't hear from the homeowners in the area as to the problems that already existed. Mr. Draughon then asked Mr. Gardner to comment on the minutes referring to findings by Mr. Charles Hardt, a Hydrologist and Civic Engineer (minutes of January 25, 1985). Discussion followed on the technical information and Mr. Gardner suggested that clarification come from Mr. Hardt, Mr. Moody (attorney for the Applicant), etc. Mr. Gardner and Mr. Medearis commented on the low level of the Medearis property and that it had once been farmed and graded.

Chairman Kempe then asked Mr. Gardner if we had the file of the hearing of the PUD to get the fence design at that time. The meeting proceeded to technical questions from Mr. John W. Moody, representing Watson, Taylor. Mr. Moody reviewed the situation from the time the preliminary plans were shown to Mr. Medearis, consultations with Mr. Hardt and the conversation where Mr. Medearis was told that if water did not now (before the development) drain onto his property, water would not drain into his property after the development. Mr. Moody then reviewed the topography of the area (with maps) from 1977 and 1983, showing the contested area to be a flat drainage area that drains east and southeasterly, except for a portion of the area along Peoria which drains west. Mr. Moody established that the water flow from the Warehouse Market and Peachtree Apartment sites has not been diverted since Mr. Medearis' complaint to the City in 1974. Mr. Moody continued to establish that, per engineering techniques, Watson, Taylor was, in fact, able to reduce the total amount of water that flowed onto Mr. Medearis' property. In regard to the 2½ foot concrete swale and fence, Mr. Moody ascertained that they were constructed as required by the City. Mr. Moody further explained his meetings with Mr. Medearis, whereby he reiterated to Mr. Medearis that, regardless of his suggestions, Watson, Taylor could not build a fence to divert or dam the water flow in any way.

Chairman Kempe asked Mr. Moody if the fence that had been removed had been replaced and it was ascertained that the wall was to replace the fence. Chairman Kempe then inquired if the drainage now is what it will be upon completion of the project and Mr. Moody confirmed that it was. At this time Mr. Charles Hardt of McLaughlin Water Engineers was introduced. Mr. Hardt confirmed several of the items stated by Mr. Moody and asked for questions from the Commission.

Mr. Draughon examined the issue that Mr. Medearis states he is getting more water but Watson, Taylor assures they are reducing the amount of runoff. Mr. Hardt stated he did not become involved until the project was well underway and relied on the survey information and site observation, which clearly indicated that Mr. Medearis did receive water from the property before the Watson, Taylor project.

Mr. VanFossen interjected that maybe the issue was not the quantity of water, but how it arrives onto Mr. Medearis' site, and inquired if maybe

the water could spread back to a more natural condition. Mr. Hardt said they did leave it in a "sheet flow" situation and that is why it doesn't come at one point, but flows uniformly. Further, their obligation, based on normal drainage regulations, is to receive the water and pass it on, which is exactly what they have done (from the Peachtree Apartments and passed to the exact same point where it drained to start with).

Mr. Bob Biolchini, representing Peachtree Apartments, made his statements regarding his involvement with Mr. Medearis and the Watson, Taylor representatives whereby he understood that the matter was solved by way of their meetings and correspondence. Mr. Paddock questioned if Mr. Biolchini listened to the actual tapes of the Commission meeting. Mr. Biolchini replied he had not, but was at the April 24, 1984 meeting. Mr. Draughon asked Mr. Biolchini if he has a suggestion that might clear up this matter. Mr. Biolchini stated he had previously suggested to Mr. Moody and Mr. Hardt that they consider something that would take the water flow from the north and run it down in some fashion into a storage area. Mr. Biolchini acknowledged that he was not aware of the costs involved, but that it was obviously a factor. Mr. Biolchini further added that it was his understanding in April that the above suggested solution would be initiated.

Chairman Kempe asked Staff at which meeting and whose determination it was that there would be a three foot concrete swale and when was it changed to 2½ feet. Mr. Gardner replied that it was in the second meeting because of the fact that they had to have a way to drain the water, and it appeared to be determined by engineering and came back to the Commission. Mr. VanFossen interjected the plan approved on April 25th shows it at 2½ feet. Mr. Gardner then stated to the Commission that Mr. Biolchini was not proposing that the fence on the north property line be solid to the ground and form a dam. Mr. Biolchini agreed that this was correct. Further discussion ensued as to the construction and elevation of the fence. Mr. Moody was able to add, per the plans, the swale is 2½ feet as it was necessary to put in a six inch retaining wall to retain the dirt. Mr. Carnes stated it appeared the Commission was being asked to judge a lawsuit. Chairman Kempe assured that that was not the Commission's position, but was merely allowing interested parties from both sides of an issue, which seems to be a drainage issue, to address the Commission with their concerns. Mr. Paddock stated his interest in how this misunderstanding arose and exactly what the consequences might be, as well as refining procedures in the future to avoid situations such as this.

Mr. Ted Gray, 1422 East 64th Street, Tulsa, OK and Ms. Pauline Morrow of 1413 East 64th Street, Tulsa, OK addressed the Commission as neighbors and interested parties on behalf of Mr. Medearis. They also stated that they, too, believed they were getting additional water. In reply to their statements and questions, Chairman Kempe informed these parties that the Commission did impose certain conditions on the Watson, Taylor development and that, so far as the Chair was able to ascertain, those conditions have been met. Chairman Kempe further informed that the Commission was a recommending body only.

Mr. Wayne Medearis of 1415 South 128th East Avenue, Tulsa, OK, son of Mr. Medearis, next addressed the Commission. At mention, again, of the "wall", Mr. VanFossen stated the definition of a wall in the codes is a screening fence or wall and its purpose is a visual screen, not a water barrier. Mr. VanFossen and Mr. Gardner continued to explain the necessity of adhering to the City's regulations. Mr. Paddock, from his notes from Ms. Wilson, indicated that there had been a problem installing landscape material. Mr. Gardner explained that the northern boundary had, at one time, intended to be a grass area and not a concrete swale. Mr. Biolchini advised that previously, by way of correspondence, the Watson, Taylor people had agreed to some sort of green belt line. Mr. Moody introduced correspondence answering the landscaping issue. Mr. Biolchini pointed out the time lapse in the reply of correspondence relating to this landscape matter.

Mr. Wayne Medearis asked who, for public record, has the authority to enforce conditions against an out-of-town contractor. Chairman Kempe asked for clarification on what Mr. Medearis was wanting to be enforced, that as far as this Commission could ascertain, all conditions imposed by the planned unit development have been met. Mr. Gardner confirmed this statement for Chairman Kempe. Chairman Kempe again reminded Mr. Medearis that any protests should have been made at the microphone at the first meetings, and that since that was not done, the Commission was not aware of any protests at the time the conditions were approved. Mr. Gardner stated that if the Commission had fully understood and said okay to a condition of approval that you must have a solid wall and that all the water must drain southwest and west, when it was received in City Hydrology for approval, the City would have advised that it could not be done so as to divert the natural flow, and would have been directed back to the Commission. Mr. Gardner further commented, that in his opinion, the ultimate solution would have come out the same.

Mr. Draughon expressed concern over Mr. Medearis' question regarding the authority to enforce compliance. Mr. Gardner assisted by replying that regardless of the number of conditions of approval under a PUD, a protestant (with approval of the Commission) can initiate other conditions; although, a condition cannot be made that violates a City law. Mr. Linker further advised that there is an inspection process, and violations are so noted to be corrected by the various governing City offices. Mr. Linker reiterated the fact that the concerns of the protestant were not made clear at the first meeting to be made a condition of the PUD.

Based on a comment by Mr. Paddock, Chairman Kempe reviewed the opening statements that state the Commission will hear from any interested parties or protestants. At this point, Mr. Medearis commented confusion from correspondence submitted in the early stages led him to believe that making a protest would not be necessary. Chairman Kempe reiterated that to be made a part of the record, an interested party/protestant must come to the microphone. Chairman Kempe continued by apologizing for any confusion and expressed sympathy for the problems of this case, as did other members of the Commission.

Continuing with the Chairman's Report:

Chairman Kempe reported receipt of several letters:

University of Tulsa, Dr. Paschal Twyman, regarding existing and future development surrounding the TU campus. As Mayor Young was copied on this correspondence, he wrote to Chairman Kempe requesting that the TMAPC conduct a special study to update previous work in this area. Mr. Gardner commented that it has been made a part of the TMAPC work program and after research has been completed, it is slated to be a part of the Comprehensive Plan.

Mayor Young corresponded to Chairman Kempe regarding a Report of the Arkansas River Task Force, and asked that this also be included in the Comprehensive Plan. Mr. Gardner stated he was not sure if this was a specific part of the Plan, but would be sure to include this report in the Plan.

A letter from Mr. L.E. Kindred regarding exclusion of the Cedar Crest Development #1 from the proposed Flood Plain Plan. Chairman Kempe referred this letter to Stormwater Management.

Director's Report:

Mr. Gardner suggested that the Day Care Homes request for a hearing from the City Commission be held September 4, 1985. Mr. VanFossen questioned if, the way this resolution was published, the number six could be adjusted if deemed appropriate. Mr. Gardner commented that Staff would be preparing a report with standards, but the notice would be broad enough for any consideration. There being no objections, Chairman Kempe directed Staff to advertise for a public hearing on September 4, 1985. Mr. Draughon requested Staff inform the Commissioners as to what City and State regulations, if any, there might be governing these homes.

Chairman Kempe and the Commission agreed to a meeting of the Rules and Regulations Committee to discuss the day care home matter on Wednesday, August 28th at 11:45.

SUBDIVISIONS:

PRELIMINARY PLAT:

East Admiral Industrial Park (194), North side of East Admiral Place at
South 189th East Avenue (IL)

On **MOTION** of **VANFOSSEN**, the Planning Commission voted 7-0-0 (Carnes, Connery, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Draughon, Harris, Wilson, Young, "absent") to **APPROVE** the Preliminary Plat of East Admiral Industrial Park (194), as recommended by Staff, subject to the following conditions:

8.14.85:1568(7)

On **MOTION** of **PADDOCK**, the Planning Commission voted 7-0-0 (Carnes, Connery, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Draughon, Harris, Wilson, Young, "absent") to **APPROVE** the final plat of Sunwest Highlands Plaza release same as having met all conditions of approval.

EXTENSION OF APPROVAL:

Fairway Park (PUD 347) (382) 6500 Block, South 28th West Avenue
(RS-3)

Lansing Industrial Park II (3602) SW Corner of Pine & North Lansing
Avenue (CH, CS, IL)

The Staff advised the Commission these plats were still active and the Applicants had requested an extension. Staff recommended one year.

On **MOTION** of **HIGGINS**, the Planning Commission voted 7-0-0 (Carnes, Connery, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Draughon, Harris, Wilson, Young, "absent") to **APPROVE** the preliminary approval extension of one year on Fairway Park (PUD 347 (382) and Lansing Industrial Park II (3602), as recommended by Staff.

WAIVER OF PLAT:

BOA 13698 North Tulsa Addition (192, 3602) 419 North Elgin Avenue (RM-2)

This is a request to waive plat on Lots 1 - 4 and part of Lots 6 and 7, remaining after the Crosstown (IDL) Expressway was constructed. The church has been in this location for many more years that there has been zoning. However, an expansion is planned and the Building Inspector has required Board of Adjustment approval on all the remaining lots. Since this is already platted and within an approved TURA area and all the area around for several blocks has been cleared, Staff had no objection to a waiver. (Applicant had not furnished an actual plot plan as of TAC date. Staff reviewed the plot plan submitted to the Building Inspector and still had no objection to the request. Plot plan was provided for TMAPC review. The Applicant was represented by David Weaver.

On **MOTION** of **WOODARD**, the Planning Commission voted 7-0-0 (Carnes, Connery, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Draughon, Harris, Wilson, Young, "absent") to **APPROVE** the Waiver of Plat of BOA 13698 North Tulsa Addition (192, 3602, as recommended by TAC and Staff, subject to the following conditions:

- (a) Storm water detention on site. (Storm Water Management)
- (b) A short extension of utility easement south of existing building to cover an existing sanitary sewer manhole.
- (c) Retain existing easement and/or alleyway for utilities already in place.

CHANGE OF ACCESS:

Tulsa Southeast Industrial District (3194) 5333 South Mingo Road (IL)

Staff advised the Commission that this was a request to add one access point to South Mingo Road where no access existed before. This makes one access point in 282 feet of frontage on Mingo. Traffic Engineering and Staff recommended approval.

On **MOTION** of **HIGGINS**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **APPROVE** the Change of Access of Tulsa Southeast Industrial District (3194) as recommended by Traffic Engineering and Staff.

LOT SPLITS:

LOT SPLITS FOR RATIFICATION OF PRIOR APPROVAL:

L-15500 (1803) Parsons	L-16512 (1794) Skateland
L-16497 (1192) McGraw	L-16513 (1803) Parsons
L-16498 (1202) Smith	L-16514 (3294) Leland
L-16500 (2683) Sanborn	L-16515 (794) Hunter
L-16504 (3292) Hardesty	L-16516 (1292) Sunwestern
L-16505 (3592) Dyer	L-16517 (293) Woods
L-16507 (1083) Stevens	L-16519 (784) 4th Church
L-16508 (874) Bowman	L-16520 (2502) TURA
L-16509 (1102) Stripco	L-16521 (3602) TURA
L-16510 (1202) Smith	L-16522 (994) Andrews

On **MOTION** of **HIGGINS**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **APPROVE** the above Lot Splits for Ratification of Prior Approval as recommended by Staff.

LOT SPLITS FOR DISCUSSION:

L-16523 R. Sanderson (2193) West of SW corner of 36th Street and New Haven Avenue (RS-3)

In the opinion of Staff, the lot split meets the subdivision and zoning regulations but since the lots may be irregular in shape, notice has been given to the abutting owners so that property owners in the area may be aware of the application. (Auth: PC meeting #1505, page 1; 5/9/84 approval was recommended.)

On **MOTION** of **HIGGINS**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **APPROVE** L-16523 as recommended by Staff.

LOT SPLITS FOR WAIVER:

L-16482 (Christian (1262) W of SW Corner of 201st & So Peoria (AG)

Chairman Kempe advised this item was to be stricken, and there being no objections, this Lot Split for Waiver was stricken for the agenda.

CONTINUED ZONING PUBLIC HEARING:

Z-6063 Vensel Creek, City of Tulsa, Consideration of Master Drainage Plan for Vensel Creek.

As reported by Chairman Kempe, this item has been requested for continuation to October 9, 1985.

On **MOTION** of **VANFOSSEN**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **CONTINUE** Consideration of Z-6063 Vensel Creek, City of Tulsa and the Master Drainage Plan until Wednesday, October 9, 1985 at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

OTHER BUSINESS:

Z-4948 SP-1 Hammond Engineering, South of SE corner of 81st and Union, Site Plan Review.

(Continued from TMAPC Meeting #1565, July 24, 1985)

On **MOTION** of **PADDOCK**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **CONTINUE** Consideration of the Site Plan Review of Z-4948 SP-1 until Wednesday, August 21, 1985 at 1:30 pm in the City Commission Room, City Hall, Tulsa Civic Center.

PUD #343 SW Corner of 81st & Memorial First Memorial Bank at Echelon Centre

(Continued from TMAPC Meeting #1565, July 24, 1985)

Staff Recommendation - Detail Landscape Review

The subject tract is located at the southwest corner of East 81st Street South and Memorial Drive, and has a triangular shape with a net area of .97 acres. It is described in the PUD as Development Area "A" with a principle use for a drive-in bank. The tract received Detail Site Plan approval by the TMAPC on January 16, 1985. The applicant is now requesting Detail Landscape Plan approval.

PUD #343 - Continued

After review of the applicant's submitted plans, Staff finds one major discrepancy between the Applicant's plans and previous plans submitted with the PUD. Along both Memorial Drive and 81st Street, the PUD is bordered by a double row of Red Maple trees. The applicant's submitted plans do not show this landscaping. Landscaping abutting the proposed structure is adequate and the applicant more than exceeds the required 15% open space requirement. However, the majority of this open space consists of grassed areas only without shrubs or trees. The plan includes a detailed schedule of tree and shrub types as well as size. Staff would recommend that the triangular island directly west of the subject tract have more landscaping than the one Water Oak as shown.

Therefore, Staff could not find the Plan to be consistent with existing landscape for the entire PUD which should appear as one office/commercial complex instead of three independent developments. Staff recommends APPROVAL of the landscaping plan subject to provision of additional landscaping of the triangular island west of the building, and subject to installation of a double row of Red Maple trees on the west and north abutting right-of-way consistent with adjacent development.

Comments & Discussions:

Mr. Frank reminded the Commission that this item was discussed at last week's meeting, and the Applicant did not indicate that they were going to put the double row of Red Maple trees on the north and west property line as had been done throughout the rest of the PUD. The Commission felt, at that time, and motioned that the Detail Landscape Plan be amended and resubmitted and that the Applicant reappear before the Commission. However, because of expenses and other reasons, the Applicant indicated he preferred not to install those trees. Mr. Frank stated it was his impression the Applicant would be at today's meeting to discuss this, but the Applicant was not present.

Based on comments by Mr. Carnes regarding the sensitivity of PUDs of this nature, Chairman Kempe stated that the options open would be to not approve the plan as submitted, or continue it to a later date. Mr. Gardner commented that a denial would "put the ball" back to the Applicant to meet the requirements or file an amendment.

TMAPC ACTION: 8 members present

On **MOTION** of **HIGGINS**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **DENY** the Detail Landscape Plan, as submitted, of PUD #343.

PUD #111-B Phase IV Eagle Ridge Condominiums
South 135th East Avenue and East 30th Street

Staff Recommendation - Detail Landscape Plan Review:

Eagle Ridge Condominiums is planned to be a 113 unit townhouse-type development with 32 units included in Phase IV. The Applicant received approval of a Minor Amendment and Detail Site Plan from the TMAPC on July 24, 1985. The Detail Landscape Plan includes a schedule of types of trees and shrubs, sizes and locations. Each yard will receive landscape treatment, including a tree or trees in the front yard and rear yard, as well as shrubbery in the yard areas. The remainder of the yard area will be grassed.

The Staff review of the plan indicates that it is consistent with the approved PUD. Therefore, the Staff recommends APPROVAL of the Detail Landscape Plan as submitted.

TMAPC ACTION: 8 members present

On MOTION of HIGGINS, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to APPROVE the Detail Landscape Plan to PUD #111-B Eagle Ridge Condominiums, Phase IV, as recommended by Staff.

PUD #128-A-11 Kensington II, Lot 45 Block 7

**Staff Recommendation - Minor Amendment for Lot Split
& Rear Yard Setback**

The Applicant has requested a minor amendment which would allow approval of a lot split to add 11 feet to the adjacent lot which is Lot 36, Block 7. This lot split is caused by a dwelling unit which was built as a 4-foot encroachment into a utility easement and a patio which encroaches 4 feet into the adjacent lot. The history of this application is that the house and patio were existing at the time PUD #128-A-6 (a related case) was requested and denied by the TMAPC on July 20, 1983. Three alternative solutions were considered by the TMAPC at that time. Two involved bringing the structure into compliance by removing all or part of the building encroachment, and the third involved waiving the rear yard down to 7 feet. The Applicant is now proposing a fourth alternative solution which involves increasing the size of the lot by 11 feet through the lot split process, thereby meeting an 18-foot rear yard minimum and relocating the utilities. Processing of the request for vacation of utility easements and relocation of utilities is pending review by utility companies and other affected agencies, such as gas, telephone, electric and cable television. Notice has been given to abutting property owners of this request for a minor amendment.

The nature of this request will require approval of a revised rear yard building line on the new lot created by the split. Granting of the requested relief could also imply modification of the 20-foot rear yard building line on Lot 45, Block 7. The Staff review of this application indicated that the revised requested lot area for Lot 45, Block 7 will be in accordance with the PUD: before lot split -- 9,241 square feet; after lot split -- 8,288 square feet.

Review of the site conditions and topography indicate that no hardship is present, except the physical fact that the house was built as an encroachment on the required 20-foot rear yard and as an encroachment into the utility easement. Although the latest proposal is a costly one and more acceptable than reducing the rear yard to 7 feet, the solution still negatively impacts the area and, therefore, the Staff recommends DENIAL of the Minor Amendment.

For the record, if the Commission is inclined to approve this compromise solution, the Applicant should be required to submit a detailed plot plan of Lot 45, Block 7 for approval by the TMAPC prior to issuance of a Building Permit. No change is recommended to the 20-foot rear yard building for Lot 45; although, some relief is likely to be required due to the relatively shallow depth of this lot. This relief, if needed, can be reviewed by the TMAPC upon submission of the detail site plan for Lot 45. If a compromise solution is accepted by the TMAPC, it should be noted that the maximum rear yard possible under the lot split would be 18 feet.

Applicant's Comments:

Mr. Bob Goble, representing Goble & Ramsey, Builders, commented that after sale of the house, the encroachment problem was found. A solution was sought that would be satisfactory to the buyer, and the buyer opted for the 4th solution, as they wanted a larger back yard. To get to this solution, the Builder went to the expense of relocating the sewer and is willing to give the buyer the extra footage from the lot behind the buyer.

Comments and Discussion:

Mr. Carnes asked the Staff to explain the recommendation of denial. Mr. Frank stated that this is a situation where all of the information was available to the Applicant, and this was not hardship situation that caused them to build something in noncompliance. Mr. Gardner added that, at one time, TMAPC had suggested that removing the sliding door on the rear of the house and placing it on the east side of the house to make the side yard the rear yard. Mr. Gardner interpreted the Applicant's actions of

PUD #128-A-11 - Continued

spending two years relocating the utilities and bearing that expense, in lieu of altering the structure of the house, as sincere. It is the Staff's feeling that the best solution would have been to modify the structure and rear yard.

After comments/questions from a few Commission members, Mr. Goble added that this was really the only solution that the Buyer would accept, and it was not the Builder's intention to change anything or make it nonconforming with the neighborhood. Mr. Carnes suggested going with the Applicant and giving him his lot split, in light of the economic climate and buying market. Mr. Draughon stated that the Applicant coming in with a fourth possible solution, was after the fact, as Staff had previously submitted three suggestions. Based on this, Mr. Draughon recommended supporting the Staff recommendation of denial.

TMAPC ACTION: 8 members present:

On **MOTION** of **CARNES**, the Planning Commission voted 6-2-0 (Carnes, Connery, Higgins, Kempe, Woodard, VanFossen, "aye"; Draughon, Paddock, "nay"; no "abstentions"; Harris, Wilson, Young, "absent") to **APPROVE** the Minor Amendment to PUD #128-A-11 for Lot Split and Rear Yard Setbacks, subject to approval of the utilities companies for relocation of the utilities.

PUD #190 Minshall Park III, Lot 11, Block 5

Staff Recommendation - Minor Amendment for Lot Split

The purpose of this minor amendment is to allow approximately 10 feet from Lot 12 to be split off and combined with Lot 11. This will reduce the frontage of Lot 12 from 90 feet to 80 feet and will preserve existing utility easements. The underlying zoning of the subject tract is RS-3 and the lot area of Lot 12 will exceed 6,900 square feet after the split. Lot 12 is presently vacant.

Therefore, the Staff recommends **APPROVAL** of the minor amendment to allow a Lot Split for approximately 10 feet of Lot 12 to be combined with Lot 11, Block 5, Minshall Park III Addition.

TMAPC ACTION: 8 members present

On **MOTION** of **HIGGINS**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **APPROVE** the Minor Amendment for Lot Split, Minshall Park III, Lot 11, Block 5.

Staff Recommendation - Minor Amendment

The subject tract has frontage on both East 81st Street and Sheridan Road and in order for the applicant to realize the requested relief, minor amendments for signage should be requested for both Tracts B and C: one ground sign on both Sheridan and East 81st, 64 square feet in area and 20 feet tall; and Tract C - one ground sign on East 81st Street, 64 square feet in floor area and 20 feet tall. The Applicants have installed one cube ground sign on East 81st and indicate this will be the only sign needed. However, they are requesting to be permitted to retain this total 128 square feet of display areas plus the 64 square feet from Sheridan; a total of 192 square feet.

In order to properly permit the "cube" type ground identification signs which have been installed, 232 square feet of sign area would be required. A restaurant sign for "Chimi's" has been installed on the East 81st Street sign (10.5 square feet) and a new restaurant sign for "Palermos" (8.1 square feet) is proposed on the Sheridan frontage. Total existing and proposed signage would then be 251.6 square feet. This area would not exceed the display surface which would be permitted under 1130.2(b) of the PUD Chapter of the Zoning Code.

Based upon the Staff review, the requested changes have been determined to be minor in nature and are recommended for APPROVAL as follows:

- (1) That only one ground identification sign shall be placed upon the East 81st Street frontage for both Tracts B and C.
- (2) That the total display surface area shall not exceed 251.6 square feet for the two ground identification signs, one each on Sheridan and East 81st (Tracts B and C).
- (3) That the "Palermos" sign be approved per the submitted plans for the Sheridan frontage only.
- (4) That a Detail Sign Plan be required to be submitted to the TMAPC for review and approval prior to installation of any future signage.

Further, the Staff recommends that the owner be required to remove the existing real estate signs from the sign column on Sheridan which exceed the 251.6 square feet.

PUD #300-3 Tract B - Continued

Comments and Discussion:

Mr. Frank informed the Commission that item 4, above, was not a requirement on this PUD, as is normal. He further added that this case is a good example of what PUD sign controls can do, as this center is very attractively signed with uniformity of size, material, etc. Mr. Paddock asked Mr. Frank about a question of equity in regard to the sign size difference between Chimi's and Palermos. Mr. Frank stated this was not an issue in this matter. Mr. Gardner described the main signs as being a "cube" rather than a sign with two faces, each face having 64 square feet. This is what necessitates an increase in the sign area. Mr. Gardner agreed with Mr. Frank's comments on the attractiveness of the signs in this center.

Applicant's Comments:

Mr. Phil Ryan, one of the owners and developers of the center, commented he has previously met with Mr. Frank to discuss this matter. He stated he was in total agreement with Mr. Frank's recommendation except for item 2. Mr. Ryan requested the surface area be increased to 287.0 square feet, which does not exceed the allowance in 1130.2(b) of the Zoning Code. He further added that they would not be using the additional area at this time, but advised that they would submit for approval any additional signage.

Additional Comments and Discussion:

Mr. Gardner asked if the additional signage would be similar to the Chimi's and others, such as a name or letters for identification. Mr. Ryan assured they would stay with their controlled signage where the standards already established would be adhered to in the future. Mr. Ryan confirmed for Mr. VanFossen the sign pylons, as they exist, would not be changed for additional signs, but signs would just be added to the area. Mr. Frank advised that Staff would have no objections to going to the maximum allowed of 287.0.

TMAPC ACTION: 8 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **APPROVE** the Minor Amendment to increase sign surface area of PUD #300-3 Tract B, subject to the Staff Recommendation and amending of condition (2) to read as follows:

That the two existing ground pylon signs total display surface area shall not exceed 287.0 square feet for the two ground identification signs, one each on Sheridan and East 81st (Tracts B and C).

PUD 323-A Anderson South of Coyote Trail between 241st & 257th West Avenue

NOTE: This case was submitted as a Minor Amendment (PUD #323-1), however, was approved by the TMAPC as a Major Amendment requiring approval of the Tulsa County Commission.

Staff Recommendation - Major Amendment

This case was initially being processed as a minor amendment; however, the Staff has required this application to be readvertised by giving notice to all property owners within 300 feet and publication in the legal news. The purpose of the amendment is to add sufficient area to the original PUD to allow the applicant to develop 20 sites for mobile home units. This will be accomplished by adding 10.109 acres to the original PUD and spreading the approved 20 units under PUD #323 over the revised total area of 22.398 acres.

The original area of the PUD was 12.289 acres which has an underlying zoning of RE. The underlying zoning of the tract to be added to the PUD is AG. It is determined that, due to topography, it was not possible to achieve the 20 mobile home sites on the original 12.289 acres, and only 10 sites (3 existing plus 7 new) should be constructed. A total of 10 units is proposed in the area which is to be added to the PUD which makes the proposed minor amendment consistent with the density conditions of PUD #323.

The Outline Development Plan indicates statutory right-of-way for 51st Street West, and the Staff recommends that, as a condition of approval, a total of 100 feet of right-of-way be dedicated and indicated on the Plan and the subdivision plat if required by the TAC and County. It also appears that additional right-of-way will be required for Coyote Trail. A condition of approval that continues to be applicable is that common park and recreation facilities (which may include trails, playgrounds, community buildings and tot lots) shall be provided. This common area is required to be not less than 6% of the gross area of the tract and centrally located with frontage on Coyote Trail.

Therefore, based on the Staff review and with the above conditions, the Staff recommends APPROVAL of PUD #323-A, subject to the following conditions:

- (1) That the Applicant's revised Outline Development Plan be made a condition of approval, unless modified herein.

PUD 323-A Anderson - Continued

(2) Development Standards:	<u>PUD #323</u>	<u>PUD #323-A</u>
Land Area:	12.289 acres	22.398 acres
Permitted Uses:	Mobile Home dwelling and accessory uses on 20 spaces, plus open space set aside as required below. Open space is reserved for garden area, recreation, possible future fire station uses and maintenance, and storage building for mobile home park use only.	
Maximum No. of Units:	20	20 total (17 new and 3 existing)
<u>Minimum Livability Area</u>		
per Mobile Home Unit:	12,000 sq ft	Same
Minimum Off-Street Parking:	2 paved spaces/unit	Same
Maximum Building Height:	1-story	1-story
<u>Minimum Building Setbacks:</u>		
From Centerline of Coyote Trail	85 ft	85 ft
From Private Drives	20 ft	20 ft
From Rear Yard	10 ft	10 ft
From Centerline of 51st Street West, if required	Not Specified	85 ft
<u>Separation Between Units:</u>		
One Side Yard	5 ft	5 ft
Other Side Yard	20 ft	20 ft
Minimum Open Space:	6% of Gross	Same
Land Area: "See Permitted Uses", above	1.4 acres	Same

- (3) Subject to review and conditions of the Technical Advisory Committee.
- (4) That internal streets shall be 24 feet in width and paved with an all weather dust-free surface.
- (5) That all mobile home units shall be completely skirted with materials that are architecturally compatible with the unit being skirted and installed in a manner that the unit appears to be placed on-grade.
- (6) That the tie-down facilities shall be incorporated into concrete anchors so that guy lines can be installed under each mobile home at sufficient intervals to prevent upheaval of the unit during strong winds and storms.
- (7) That common park/recreation facilities (which may include trails, playgrounds, community buildings and tot lots) shall be provided. Six percent (6%) of the gross area (1.4 acres) shall be designated for a fire station or related purposes.

PUD 323-A Anderson - Continued

- (8) That the mobile home space shall have a minimum of 100 square feet of paved outdoor living area (patio).
- (9) That each mobile home space shall have an enclosed storage accessory building of not less than 36 square feet, but no greater than 100 square feet.
- (10) That one sign, not to exceed four feet in height, eight feet in length and 24 square feet in display surface area may be located along the north perimeter between the entrances to the park.
- (11) That a Detail Site Plan (subdivision plat) including space and unit configuration and street alignment shall be submitted to and approved by the TMAPC, prior to the issuance of a Building Permit.
- (12) That no Building Permit shall be issued until the requirements of Section 260 of the Zoning Code have been satisfied, including the incorporation within the restrictive covenants the PUD conditions of approval, making the County of Tulsa beneficiary to said Covenants. The plat should be submitted to the County Building Inspector's Office for review of flooding potential.

Comments and Discussion:

Ms. Higgins inquired about septic system requirements. Mr. Gardner replied that the lots were not going to be lotted into a subdivision type lot, but they average an acre per mobile home. Mr. Paddock questioned as to how this qualified as a minor amendment, as the acreage was almost doubling. Mr. Frank explained that the number of sites was remaining the same, although the area was doubling; thereby, reducing the density. Mr. Gardner further explained that the public hearing, advertising and publishing requirements have already been met, and that the Applicant should not be charged \$375 just to add ten acres. Chairman Kempe asked what the zoning was for this case. Mr. Gardner replied the original PUD was RE but the acreage being added is AG, and stressed that the Applicant doesn't need more units. At this point, Mr. Paddock asked for an opinion from Legal Counsel. Mr. Linker replied that any type of an amendment that would increase intensity, increase the number of dwelling units, change use, etc. would be considered major. Mr. Linker agreed that he did not feel that adding property to a PUD could be done with a minor amendment. Mr. Gardner stated that this may just be a technicality and waiving the fee would be part of the answer.

Applicant's Comments:

Ms. Barbara Anderson, of Route 2 Box 410, Sand Springs, OK, asked for clarification of the Commission's decision and was informed that the Commission had recommended approval of the PUD as a Major Amendment, waiving the fee, but it would now have to go to the County Commission for approval.

TMPC ACTION: 8 members present

On **MOTION** of **VANFOSSEN**, the Planning Commission voted 8-0-0 (Carnes, Connery, Draughon, Higgins, Kempe, Paddock, Woodard, VanFossen, "aye"; no "nays"; no "abstentions"; Harris, Wilson, Young, "absent") to **APPROVE** the PUD-323-A as a Major Amendment and waive the fee.

There being no further business, the Chairman declared the meeting adjourned at 5:35 p.m.

Date Approved August 28, 1985
Cherry Kempe
Chairman

ATTEST:

ABPaddock
Secretary

