

**TULSA METROPOLITAN AREA PLANNING COMMISSION**  
Minutes of Meeting No. 1726  
Wednesday, **December 28, 1988**, 1:30 p.m.  
City Commission Room, Plaza Level, Tulsa Civic Center

**MEMBERS PRESENT**

Carnes  
Coutant, Secretary  
Doherty  
Harris  
Kempe, Chairman  
Paddock, 2nd Vice-  
Chairman  
Parmele, 1st Vice-  
Chairman  
Woodard

**MEMBERS ABSENT**

Draughon  
Randle  
Wilson

**STAFF PRESENT**

Jones  
Setters  
Stump

**OTHERS PRESENT**

Jackere, Legal  
Counsel

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, December 22, 1988 at 12:37 p.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 1:30 p.m.

**MINUTES:**

**Approval of the Minutes of December 14, 1988, Meeting #1724:**

On **MOTION** of **CARNES**, the TMAPC voted **8-0-0** (Carnes, Coutant, Doherty, Harris, Kempe, Paddock, Parmele, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Randle, Wilson, "absent") to **APPROVE** the **Minutes of December 14, 1988, Meeting #1724**.

**REPORTS:** None

ZONING PUBLIC HEARING:

Application No.: **Z-6222** Present Zoning: AG  
Applicant: **Rabon (City of Tulsa)** Proposed Zoning: IL  
Location: North of the NE/c of South Garnett & East 58th Street  
Date of Hearing: December 28, 1988  
Presentation to TMAPC by: Mr. Jim Hawk, 5649 South Garnett (252-5739)

Relationship to the Comprehensive Plan:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Special District I - Industrial, (3.1.2 - Future Industrial development within District 18 will be encouraged to locate within this special industrial district).

According to the Zoning Matrix the requested IL District "may be found" in accordance with the Plan Map. All zoning districts are considered in accordance with Special Districts.

Staff Recommendation:

**Site Analysis:** The subject tract is approximately 20 acres in size and is located north of the northeast corner of South Garnett Road and East 58th Street South. It is nonwooded, flat, vacant, contains a variety of industrial uses and structures and is zoned AG.

**Surrounding Area Analysis:** The tract is abutted on the north by Tulsa County garage and industrial uses zoned IL; on the east, south and west by industrial uses zoned IL.

**Zoning and BOA Historical Summary:** Industrial Light zoning has been approved several times in the immediate area.

**Conclusion:** Based on the Comprehensive Plan and existing zoning in the area, Staff can support the requested IL rezoning.

Therefore, Staff recommends **APPROVAL** of IL zoning for Z-6222.

TMAPC ACTION: 8 members present

On **MOTION** of **PARMELE**, the TMAPC voted **8-0-0** (Carnes, Coutant, Doherty, Harris, Kempe, Paddock, Parmele, Woodard, "aye"; no "nays"; no "abstentions"; Draughton, Randle, Wilson, "absent") to **APPROVE Z-6222 Rabon (City of Tulsa)** for IL zoning, as recommended by Staff.

Legal Description:

IL Zoning: The north 990.0' of the NW/4 of the SW/4, LESS the north 600.0' of the west 742.0' thereof, Section 32, T-19-N, R-14-E, Tulsa County, Oklahoma.

\* \* \* \* \*

Application No.: Z-6223 Present Zoning: RM-0 & RS-2  
Applicant: Horner Proposed Zoning: CS  
Location: SE/c of East 12th Street & South 129th East Avenue  
Date of Hearing: December 28, 1988  
Presentation to TMAPC by: Mr. Baker Horner, 1117 South Braden (834-6451)

Relationship to the Comprehensive Plan:

The District 17 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 Zoning Matrix the requested CS District is not in accordance with the Plan Map.

Staff Recommendation:

**Site Analysis:** The subject tract is approximately 2.5 acres in size and is located at the southeast corner of South 129th East Avenue and East 12th Street South. It is nonwooded, gently sloping and contains both vacant property and single-family dwellings and is zoned RM-0 and RS-2.

**Surrounding Area Analysis:** The tract is abutted on the north by single-family dwellings and a kennel zoned RS-2; on the east and south by single-family dwellings zoned RS-2; and on the west by a church on a large tract zoned RS-3.

**Zoning and BOA Historical Summary:** Commercial Shopping (CS) zoning with an OL buffer has been approved on the southwest corner of East 11th and South 129th East Avenue to a depth of 660'.

**Conclusion:** The proposed rezoning application is located outside the node which has been established at the southwest corner of the intersection. The case represents the classic example of spot zoning with no similar requested zoning abutting the subject tract. Staff cannot support CS zoning or any less intense commercial designation based on the Comprehensive Plan and existing zoning pattern in the area.

Therefore, Staff recommends **DENIAL** of CS zoning for Z-6223.

Applicant's Comments:

Mr. Baker Horner, owner of the property, advised the rezoning request would allow him to relocate his existing wholesale glass business from Admiral Blvd. to this location.

Mr. Coutant stamped as exhibits to these minutes and read into the record four letters submitted by property owners in support of the rezoning for commercial use. Chairman Kempe noted there were no protestants or interested parties in attendance.

Mr. Carnes moved for approval of CS as requested due to the existing conditions of the area. Mr. Parmele stated that, due to the physical facts along 11th Street in this area, he felt this was an appropriate area for CS zoning and would be voting in favor of the request.

Mr. Paddock inquired if the CS zoning would accommodate the intended use. Mr. Jackere confirmed that a glass shop as a retail establishment was allowed in a CS District. However, if the business was wholesaling, it would be classified as an industrial type use, and could possibly be approved as a Special Exception use in a CS District. Therefore, the issue depended on the nature of the operation and the extent of the wholesaling. In reply to Chairman Kempe, Mr. Horner confirmed that the majority of his business was of a wholesaling nature with very limited retail to walk-in customers. Discussion continued on the nature of the business and the best alternative to accommodate the intended use.

Mr. Parmele reiterated that he felt the CS use, with a BOA Special Exception, was appropriate. Mr. Coutant agreed with Staff's recommendation for denial and would, therefore, be voting against the motion. Mr. Paddock agreed with Mr. Coutant for denial.

**TMAPC ACTION: 8 members present**

On **MOTION** of **CARNES**, the TMAPC voted **6-2-0** (Carnes, Doherty, Harris, Kempe, Parmele, Woodard, "aye"; Coutant, Paddock, "nay"; no "abstentions"; Draughon, Randle, Wilson, "absent") to **APPROVE Z-6223 Horner** for CS zoning, as requested.

**Legal Description:**

CS Zoning: The north 91.5' of Lot 6, all of Lots 7 & 8, Block 4, ROMOLAND ADDITION to the City and County of Tulsa, Oklahoma.

\* \* \* \* \*

Application No.: **Z-6224** Present Zoning: **RS-3**  
Applicant: **Tracy (Stokely Outdoor Advertising)** Proposed Zoning: **CS**  
Location: **SE/c of East 7th Street & the Mingo Valley Expressway**  
Date of Hearing: **December 28, 1988**  
Presentation to TMAPC by: **Mr. David Tracy, 1701 South Boston (582-8000)**

**Relationship to the Comprehensive Plan:**

The District 5 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Low Intensity - No Specific Land Use, Low Intensity - Residential and Development Sensitive.

According to the Zoning Matrix the requested CS District is not in accordance with the Plan Map.

Staff Recommendations:

**Site Analysis:** The subject tract is 6.88 acres in size and is located at the southeast corner of East 7th Street South and the Mingo Valley Expressway. It is partially wooded, gently sloping, contains both vacant property, a single-family dwelling and an outdoor advertising sign and is zoned RS-3.

**Surrounding Area Analysis:** The tract is abutted on the north across East 7th Street South by single-family dwellings zoned RS-3; on the east by single-family dwellings on large tracts zoned RS-3; on the south by vacant property, commercial uses and an apartment complex zoned RS-3, CG and RM-2; and on the west by the Mingo Valley Expressway zoned RS-3.

**Zoning and BOA Historical Summary:** Commercial zoning has been approved on property with frontage on East 11th Street.

**Conclusion:** Staff cannot support commercial zoning for the subject tract based on the Comprehensive Plan and lack of access to an arterial street. A major portion of the tract is in a flood prone area which would also limit more intense development. Staff would be supportive of CS zoning on the portion of the subject tract at the southwest end which is located out of the development sensitive area and would include the existing outdoor advertising sign.

Therefore, Staff recommends **APPROVAL** of CS zoning on the southwest portions of the subject tract located outside any development sensitive area (legal description to be provided by the applicant's engineer and approved by the Department of Stormwater Management and INCOG) and **DENIAL** of the balance.

**NOTE:** If approved by the City Commission, Staff would recommend an amendment to the Comprehensive Plan to reflect the change.

Applicant's Comments:

Mr. David Tracy, representing Stokely Outdoor Advertising, advised he had no objections to the Staff recommendation for approval of rezoning only on the southwest portion of the subject tract. Mr. Tracy submitted photos of the site at this location and also submitted a map of the area indicating the creek and floodplain area. He added that discussions with Stormwater Management confirmed that 95% of the tract was not suited for development due to the Development Sensitive nature of the area.

Interested Parties:

Mr. Robert Holman (620 South 106th East Avenue) stated he had no problem with rezoning the southwest portion as long as it would not allow redevelopment of the entire tract.

**TMAPC ACTION: 8 members present**

On **MOTION** of **PARMELE**, the TMAPC voted **7-1-0** (Carnes, Doherty, Harris, Kempe, Paddock, Parmele, Woodard, "aye"; Coutant, "nay"; no "abstentions"; Draughon, Randle, Wilson, "absent") to **APPROVE Z-6224 Tracy (Stokely Outdoor Advertising)** for CS zoning only on the southwest portions of the subject tract located outside any Development Sensitive area (legal description to be provided by the applicant's engineer and approved by the Department of Stormwater Management and INCOG), as recommended by Staff.

**Legal Description:**

The legal description is to be provided by the applicant's engineer and approved by the Department of Stormwater Management and INCOG, as stipulated by the TMAPC in the above action.

**OTHER BUSINESS:**

**PUD 432-A: Detail Site Plan, Detail Landscape Plan & Amendment to the Declaration of Covenants**  
SE/c of 12th Street and South Utica Avenue

**Staff Recommendation: Detail Site Plan**

The Detail Site Plan for PUD 432-A includes the first of two potential office buildings on the tract. The first building is to be located on the northwest corner of the site with surface parking meeting the off-street parking requirement. As of this date, the exact location of the new right-of-way for the realignment of 12th Street and Utica has not been determined.

Upon review of the Site Plan, Staff finds that after the following conditions are met, the Detail Site Plan will be in conformance with the conditions of the PUD:

- 1) Remove parking lot lights from utility easements on the west, east and south sides of the property.
- 2) Reduce height of parking lot lights to 12' if they are within 300' of the south property line.
- 3) Maximum height of the building cannot exceed 60'.
- 4) Provide the exact right-of-way location of realigned 12th Street which has been approved by the City Traffic Engineer and City Engineering.
- 5) Withhold issuance of an Occupancy Permit for the new building until the additional right-of-way needed to realign 12th Street is dedicated.

Therefore, Staff would recommend **APPROVAL** of the Detail Site Plan for PUD 432-A subject to the above mentioned conditions.

Staff Recommendation:     **Detail Landscape Plan & Amendment to the Declaration of Covenants**

The Detail Landscape Plan for PUD 432-A is acceptable as submitted with the following alteration: All plantings should be at least three feet away from parking lot curbs to allow for vehicle overhand beyond the curb.

Therefore, Staff would recommend **APPROVAL** of the Detail Landscape Plan for PUD 432-A, subject to the mentioned condition.

Upon review, Staff finds the Amendment to the Declaration of Covenants to be in order and, therefore, recommends **APPROVAL** as submitted.

Comments & Discussion:

Staff advised that conditions #1 and #2 could be deleted as the Detail Site Plan drawing was received and reviewed after the Staff recommendation was written for the agenda packet, and these two conditions have been met.

Applicant's Comments:

Mr. Charles Norman, representing Hillcrest Medical Center, agreed with the Staff recommendation except for condition #5. He stated this requirement should be a part of the replat waiver process and not the Detail Site Plan review. He advised that the legal descriptions and plans for the 12th Street intersection were being prepared for final approval by Traffic Engineering, and should be finalized as soon as next week. Mr. Norman added that the TMAPC previously approved the waiver in accordance with the recommendation of the Technical Advisory Committee.

Additional Comments & Discussion:

In reply to Mr. Coutant, Mr. Stump confirmed that Traffic Engineering had indicated the plans for 12th Street were at a point that they had no problems with the applicant's proposed Detail Site Plan. Discussion followed on condition #4 in regard to the realignment of 12th Street.

Mr. Coutant moved for approval, with additional wording to condition #4 as follows: "... with such realignment substantially as displayed on the Detail Site Plan." After discussion, Mr. Coutant further amended his motion to modify condition #5 to begin with the wording, "as a part of the replat waiver". The Commission had no questions regarding the Detail Landscape Plan or the Amendment to the Declaration of Covenants.

**TMAPC ACTION: 7 members present**

On **MOTION** of **COUTANT**, the TMAPC voted **7-0-0** (Carnes, Coutant, Doherty, Kempe, Paddock, Parmele, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Harris, Randle, Wilson, "absent") to **APPROVE** the **Detail Site Plan for PUD 432-A Norman (Hillcrest Medical Center)**, as recommended by Staff, subject to the following conditions, as modified:

- 1) Maximum height of the building cannot exceed 60'.
- 2) Provide the right-of-way location of the realigned 12th Street, which has been approved by the City Traffic Engineer and City Engineering, with such realignment substantially as displayed on the Detail Site Plan.
- 3) As a part of the Replat Waiver, withhold issuance of an Occupancy Permit for the new building until the additional right-of-way needed to realign 12th Street is dedicated.

**TMAPC ACTION: 7 members present**

On **MOTION** of **COUTANT**, the TMAPC voted **7-0-0** (Carnes, Coutant, Doherty, Kempe, Paddock, Parmele, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Harris, Randle, Wilson, "absent") to **APPROVE** the **Detail Landscape Plan and the Amendment to the Declaration of Covenants for PUD 432-A Norman (Hillcrest Medical Center)**, as recommended by Staff.

\* \* \* \* \*

**PUD 321-1: Minor Amendment to Reduce Density**  
N & W of East 91st Street & South Yale Avenue

**Staff Recommendation:**

PUD 321 is located at the intersection of East 89th Street and South Urbana Avenue. It is 7.48 acres in size, vacant and zoned RD. The tract has been platted as "Red Oak Bluff", contains 48 lots with each lot proposed for one-half of a duplex dwelling unit. The property was graded, streets roughed in and some utilities and improvements made. The remainder of improvements were not completed, no houses constructed and no lots sold. Ownership of the entire subdivision has now been assumed by the lending institution. The applicant is requesting the PUD be amended to permit replatting and development of the tract for 26 single-family homes.

Review of the applicant's proposal finds the request to be minor in nature due to the reduction in density and single-family use. Therefore, the Staff recommends **APPROVAL** of the Minor Amendment to PUD 321, subject to the following conditions:

- 1) That the applicant's conceptual layout be made a condition of approval.
- 2) **Development Standards:**
  - Land Area: 7.48 acres
  - Permitted Uses: Single-family dwellings and related customary accessory uses.
  - Maximum Number of DU's: 26
  - Maximum Building Height: 35'
  - Minimum Building Setbacks:
    - Front Yard 20'
    - Side Yards 5'
    - Side Yard Abutting Street: 15' (provided that garages which access said street shall be set back a minimum of 20')
    - Rear Yard 20'
  - Minimum Lot Area: 6,300 sf
  - Minimum Livability Space: 2,500 sf
  - Minimum Average Lot Width: 70'
  - Minimum Off-Street Parking: 2 spaces per dwelling
- 3) Subject to review and approval of conditions as recommended by the Technical Advisory Committee, including completion of improvements, relocation of existing facilities and/or easements necessitated by the amended plat.
- 4) Approval of the final plat (as amended) shall meet the requirements of the Detail Site Plan.
- 5) No building permit shall be issued until the property has satisfied the requirements of Section 260 of the Zoning Code, submitted to and approved by the TMAPC and filed of record in the County Clerk's Office, incorporating within the restrictive covenants the PUD conditions of approval, making the City of Tulsa beneficiary to said covenants.

Comments & Discussion:

In reply to Chairman Kempe, the applicant stated agreement to the Staff recommendation with the listed conditions.

TMAPC ACTION: 7 members present

On **MOTION** of **CARNES**, the TMAPC voted **7-0-0** (Carnes, Coutant, Doherty, Kempe, Paddock, Parmele, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Harris, Randle, Wilson, "absent") to **APPROVE** the **Minor Amendment to Reduce Density for PUD 321-1 Alexander**, as recommended by Staff.

\* \* \* \* \*

**PUD 128-E: Detail Sign Plan**  
SW/c of East 71st Street & South Riverside Parkway

Staff Recommendation:

PUD 128-E is approximately 92 acres in size and located at the southwest corner of East 71st Street South and Riverside Parkway. The tract has an underlying zoning of CS, OMH and RM-2 and has been approved for mixed uses, including commercial, office, multifamily and single-family. The applicant is now requesting Detail Sign Plan approval to permit a temporary "for sale" sign.

Review of the applicant's submitted sign elevation and plot plan show a double sided sign in a "V" configuration, which is 120 square feet (15' x 8') per sign. The sign is proposed to set back 60' from both the centerlines of East 71st Street and Riverside Parkway. Staff finds the request to be consistent with the original PUD, as well as other signage along East 71st Street.

Therefore, Staff recommends APPROVAL of the Detail Sign Plan for PUD 128-E subject to the applicant's submitted sign elevation and plot plan for a two year time period or until the property is sold, whichever comes first. Staff would suggest additional review at the end of the two year time period if the sign is to stay to determine compatibility at that time.

TMAPC ACTION: 7 members present

On MOTION of PARMELE, the TMAPC voted 7-0-0 (Carnes, Coutant, Doherty, Kempe, Paddock, Parmele, Woodard, "aye"; no "nays"; no "abstentions"; Draughon, Harris, Randle, Wilson, "absent") to APPROVE the Detail Sign Plan for PUD 128-E Kennedy, as recommended by Staff.

\* \* \* \* \*

**PUD 440-1: Minor Amendment to Reduce Setbacks**  
East side of South Yale Avenue & East 103rd Street

Staff Recommendation:

The applicant is requesting that two setbacks be reduced for Lot 1, Block 2 of Wexford addition in PUD 440. The developer of the subdivision has also requested that the setback for garages in side yards abutting a street be reduced from 25' to 20' for the entire subdivision and the appropriate changes made in the Declaration of Covenants.

The setback amendments requested for Lot 1, Block 2 of Wexford Addition are as follows:

- 1) That the required side yard abutting a street for a garage be reduced from 25' to 22' to allow proper alignment with the remainder of the principal structure. (Note: The required side yard abutting a street for residences is 20'.)
- 2) The rear yard setback be reduced from 25' to 15'.

The garage which is infringing upon the required side and rear yards is part of the principal structure connected by a breezeway at ground level and an enclosed corridor on the second floor of the residence. The garage would not be allowed in the required rear yard as a detached structure because it is almost twice as large as the maximum floor area allowed for a detached accessory building.

The requirement that garages have a 5' greater side yard setback than a residence when it abuts a street was a requirement proposed by the developer in the Outline Development Plan for the PUD. Staff has no objection to reducing the side yard setback for garages to 20' making it the same as residences. This would also be consistent with amendments recently made to the City of Tulsa Zoning Code allowing garages abutting a street at the side of a house to be setback 20'.

To accomplish this, Staff recommends amending the PUD to eliminate the reference to an additional setback for garages in the PUD's Development Standards, and the elimination of the same reference in the Declaration of Covenants for Wexford Addition.

In regard to the requested amendment to reduce the rear yard setback on Lot 1, Block 2 from 25' to 15', Staff can find no hardship peculiar to the lot. The need of the amendment to setbacks appears to be entirely self imposed since those restrictions existed when the lot was purchased for development and this lot is no different than any other corner lot in the subdivision. Therefore, Staff recommends DENIAL of the requested minor amendment to the rear yard setback on Lot 1, Block 2 of Wexford Addition.

Applicant's Comments:

Mr. Duane Higgins confirmed that the house fronted on Braden Avenue. Mr. Higgins stated his main concern was with the rear yard setback and he requested approval of the submitted setback for 15'. In response to Mr. Paddock, Mr. Higgins explained that the auxiliary area attached to the garage offered additional space for storage of mowers, bicycles, etc. or for a work shop area. He commented that the subdivision covenants allowed a 10' rear yard setback for detached customary auxiliary buildings. Mr. Higgins remarked there was some confusion, as the same covenants also stipulate that no detached garages or out buildings were allowed. In reply to Mr. Doherty, Mr. Higgins confirmed the breezeway attached the garage to the main structure and had storage space, similar to an attic or second floor room extension. Mr. Higgins submitted drawings indicating the garage would be setback 15'6" from the rear property line. He stated he felt the hardships associated with this case were: (1) vagueness of what was or was not allowed in regard to an auxiliary or accessory building; (2) the purpose of building the house was to have a top quality example of housing in Tulsa; and, (3) if not approved, the plan would have to be "scrapped" and they could not participate in the Parade of Homes.

Mr. Greg Breedlove, representing the developer, clarified that the 25' required side yard adjacent to a street for garages was an oversight as they had intended this to be 20'. He confirmed the developer was in agreement with the request as submitted. Mr. Breedlove submitted a letter of support from the property owner abutting on the east side (rear of the property).

Chairman Kempe inquired as to the impact, if approved, on the other corner lots in this particular subdivision. Mr. Stump confirmed this lot would have a different required rear yard than other corner lots if approved as requested. Mr. Higgins commented that the applicant had no intention to build all the corner lots the same as this case, as this was a specific plan for a specific lot. Mr. Doherty stated that, since the developer and builder were in agreement on this particular house on this particular lot, then he had no problem with the applicant, in view of the letter from the abutting property owner.

In reply to Mr. Coutant, Mr. Breedlove confirmed that there were only three or four lots beginning construction and there were no sales as yet. The particular lot in question was under contract, but had not been closed as yet. Mr. Paddock remarked that the circumstances of this case might be true of other corner lots in the subdivision, and he asked what kind of hardship there might be if the rear yard setback change from 25' to 15' was not approved. Mr. Breedlove commented that a hardship would be losing this particular builder (Mr. Higgins) as one of the builders in the Parade of Homes. In further response to Mr. Paddock, Mr. Higgins advised that the breezeway had already been shortened 3' to produce the 15' setback. Mr. Higgins submitted for review the architectural drawings of the house to verify that the breezeway was an architectural feature of the house.

Mr. Coutant stated it appeared to be a relatively standard subdivision with standard size lots and layout, and had this come to the TMAPC initially as a plat or PUD with a 15' setback, he felt the Commission would not have granted the 15' request. Therefore, he felt it would be bad policy to start granting this type of exception or amendment, and he moved for approval of the minor amendment for the required side yard abutting a street for garages, and denial of the proposed amendment as relates to the rear yard setback, as recommended by Staff. (There was no second to this motion.)

Mr. Parmele commented that corner lots offered peculiar standards or problems for builders, and this particular developer obtained the support of the other builders by virtue of quality and reputation, then he would move for approval of the minor amendment to reduce the setbacks as requested by the applicant, and amend the Declaration of Covenants accordingly. (There was no second to this motion.)

Discussion continued among Staff, Commission and Legal as to "customary and/or accessory building". In response to Mr. Doherty, Mr. Parmele repeated his motion for approval of the minor amendment as requested, and including Staff's recommendation to amend the PUD to eliminate the

reference to an additional setback for garages in the PUD's Development Standards, and the elimination of the same reference in the Declaration of Covenants for Wexford Addition. Mr. Doherty offered a second to this motion. Mr. Coutant reiterated his concern as to setting a precedent if this case was approved as requested. Chairman Kempe agreed with the concerns expressed by Mr. Coutant.

Mr. Parmele commented that a problem with corner lots involved the configuration and differentiating a rear yard or side yard, as a simple placement of the doors could alter this. Mr. Doherty stated that one of the reasons for a PUD was to permit flexibility in certain area, setbacks being only one area, and the proposal for this particular structure and lot did not appear to present a disservice to any abutting property owners. He added that, with this being presented as a PUD, the Commission would be reviewing on a lot-by-lot or item-by-item basis, and because the Commission did have the floor plan and detail on the specific case, he did not have a problem with this house on this lot.

Mr. Paddock stated agreement with Mr. Coutant as he felt the Commission would be hard pressed to deny minor amendments on other corner lots if this case was approved. Mr. Parmele commented that the developer admitted that in their application for a PUD an error was made in their restrictive covenants.

In response to Mr. Higgins, Mr. Stump clarified that this was not an accessory structure as it was part of the principle structure. Mr. Doherty asked, if the breezeway was eliminated and the garage was detached, would there still be a problem with the rear yard setback. Mr. Stump explained a problem would still remain as the structure was approximately twice as large as could be permitted for a detached structure.

In reply to Mr. Paddock, Mr. Higgins stated that, should the request be denied, he did not know how he could preserve the effect of the house with the elimination of the breezeway as it was critical to the style of the house.

**TMAPC ACTION: 6 members present**

On **MOTION** of **PARMELE**, the TMAPC voted **3-3-0** (Doherty, Parmele, Woodard, "aye"; Coutant, Kempe, Paddock, "nay"; no "abstentions"; Carnes, Draughon, Harris, Randle, Wilson, "absent") to **APPROVE** the Minor Amendment to PUD 440-1 Higgins (Wexford Subdivision) as requested by the applicant, with the inclusion of Staff's recommendation to amend the PUD to eliminate the reference to an additional setback for garages in the PUD's Development Standards, and the elimination of the same reference in the Declaration of Covenants for Wexford Addition.

The above motion failing due to the tie vote, Mr. Doherty moved for approval of the minor amendment as recommended by Staff.

**TMAPC ACTION: 6 members present**

On MOTION of DOHERTY, the TMAPC voted 3-3-0 (Coutant, Doherty, Kempe, "aye"; Paddock, Parmele, Woodard, "nay"; no "abstentions"; Carnes, Draughon, Harris, Randle, Wilson, "absent") to APPROVE the Minor Amendment to PUD 440-1 Higgins (Wexford Subdivision) as recommended by Staff.

The above motion failing due to the tie vote, Mr. Paddock moved for approval of the minor amendment of the required side yard abutting a street for garages, as recommended by Staff, and modify the rear yard setback from 25' to 20'.

**TMAPC ACTION: 6 members present**

On MOTION of PADDOCK, the TMAPC voted 4-2-0 (Doherty, Paddock, Parmele, Woodard, "aye"; Coutant, Kempe, "nay"; no "abstentions"; Carnes, Draughon, Harris, Randle, Wilson, "absent") to APPROVE the Minor Amendment to PUD 440-1 Higgins (Wexford Subdivision) of the required side yard abutting a street for garages, as recommended by Staff, with a modification to the rear yard setback from 25' to 20'.

There being no further business, the Chairman declared the meeting adjourned at 3:07 p.m.

Date Approved 1-11-89

RBPaddock  
2<sup>nd</sup> Vice Chairman

ATTEST:

Kevin C. Coutant  
Secretary