

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1734
Wednesday, February 22, 1989, 1:30 p.m.
City Commission Room, Plaza Level, Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Carnes Coutant, Secretary Doherty Draughon Kempe, Chairman Paddock, 2nd Vice Chairman Parmele, 1st Vice Chairman Selph Wilson Woodard	Randle	Gardner Setters Stump Wilmoth	Linker, Legal Counsel

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, February 21, 1989 at 11:11 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 1:30 p.m.

MINUTES:

Approval of the Minutes of February 8, 1989, Meeting #1732:

On **MOTION** of **PARMELE**, the TMAPC voted **8-0-1** (Carnes, Coutant, Doherty, Draughon, Kempe, Paddock, Parmele, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Randle, Selph, "absent") to **APPROVE** the **Minutes of February 8, 1989, Meeting #1732**.

REPORTS:

Chairman's Report:

Chairman Kempe advised receipt of a letter from John B. Johnson, Jr., Chairman of the Metropolitan Tulsa Chamber of Commerce, in regard to their comments/suggestions for the TMAPC FY 89-90 Work Program. Copies of the letter were distributed to the TMAPC members.

Committee Reports:

Mr. Paddock advised of a meeting of the **TMAPC Joint Committees** regarding the District 18 Plan amendments proposed for the Mingo Valley Expressway Corridor. He stated the Committees were advised that a realignment of the expressway corridor was being considered; therefore, a continuation of the March 1st public hearing was suggested.

Mr. Paddock also announced a meeting of the **Rules & Regulations Committee** on March 1st to discuss enforcement of the Zoning Code as it relates to signage.

Mr. Parmele advised of the February 15th meeting of the **Budget & Work Program Committee** for the quarterly review of the FY 88-89 work program. He announced a work session would be scheduled in the near future to begin review of the FY 89-90 TMAPC work program.

SUBDIVISIONS:

Fairway Park Amended (PUD 347-2)(382) W. 65th & S. 27th W. Ave. (RS-3, RMT)

On **MOTION** of **PARMELE**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Draughon, Kempe, Paddock, Woodard, "aye"; Wilson, "nay"; Parmele, "abstaining"; Randle, Selph, "absent") to **CONTINUE Consideration of the Final Plat & Release of Fairway Park Amended** until **March 1, 1989** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

ZONING PUBLIC HEARING:

Application No.: **Z-6230** Present Zoning: **RS-3**
Applicant: **Sublett (Cook)** Proposed Zoning: **OL**
Location: **NE/c of East 61st Street & South 99th East Avenue**
Date of Hearing: **February 22, 1989**
Presentation to TMAPC by: **Mr. John Sublett, 320 South Boston (582-8815)**

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 1 - Industrial.

According to the Zoning Matrix the requested OL 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 .35 acres in size and is located at the northeast corner of East 61st Street South and South 99th East Avenue. It is nonwooded, flat, contains a single-family dwelling and is zoned RS-3.

Surrounding Area Analysis: The tract is abutted north and south by single-family dwellings zoned RS-3; on the east by an auto car center zoned IL; and on the west by vacant property zoned IL, OL and PUD 368 permitting a mixture of office and commercial uses.

Zoning and BOA Historical Summary: Similar and more intense OL and IL zoning has been approved along the north side of East 61st Street South.

Conclusion: The Comprehensive Plan designates the subject tract as Special District (Industrial) and based on the existing zoning patterns in the area Staff can support the requested OL rezoning. Staff would note that the proposed use and zoning would be a good interim use until the tract and surrounding properties are ready to develop as industrial.

Therefore, Staff recommends **APPROVAL** of OL zoning for Z-6230.

Applicant's Comments:

Mr. John Sublett, attorney for the applicant, stated agreement to the Staff recommendation. He explained the applicant's intended use for the site was an office location for an appliance service repair business.

Staff answered general questions from the Commission regarding dedication, access, etc. Mr. Parmele stated it appeared IL zoning would be more than appropriate, and inquired why the applicant had not filed for IL instead of OL zoning. Mr. Gardner reviewed a recent court case involving IL zoned property to the west which was required to submit a PUD. Therefore, the applicant filed for OL in order to avoid the costs of a PUD filing on such a small tract.

Interested Parties:

Ms. Karen Hicks (5945 South 99th East Avenue) submitted a petition of protest to the requested OL zoning, and advised she resided in the house adjacent to the subject tract. Ms. Hicks stated concerns with water flow problems and discussed the situation with sewer line development in this area. Ms. Hicks also submitted a map showing the location of residentially zoned properties and undeveloped IL zoned properties in the area. She expressed concern for the health of her retired husband who had heart problems, because he would be disturbed by noise from the proposed business during the day.

Mr. Ed Everett (5911 South 99th East Avenue), who lives 1-1/2 blocks north of the subject tract, stated he had questions regarding building permits, the Building Code requirements, outdoor lighting, required screening, etc. Mr. Gardner confirmed that the applicant would be required to install a solid privacy fence with OL zoning, and the parking requirement would be one space per 300' with a hard surface required. Chairman Kempe verified

that, if a PUD had been filed, the TMAPC could place restrictions on pole lighting; however, without a PUD, the TMAPC could not impose these limitations. Mr. Everett also expressed concern as to drainage.

Applicant's Rebuttal:

Mr. Sublett stated the applicant did not apply for IL zoning as the property was not useable for IL uses. He advised the applicant did not intend to add any lighting to the existing outdoor lights, which were of the type used by many homeowners for protection. In reply to Mr. Doherty, Mr. Sublett confirmed that no additional storage would be needed for inventory. With regard to drainage concerns associated with additional paving for parking, Mr. Sublett commented that the parking lot paving would be for only two vehicles. Mr. Gardner verified that the applicant would have to go before the Board of Adjustment in order to seek waiver of the parking lot paving requirement.

TMAPC Review Session:

Mr. Parmele commented he felt the tract was in a transitional area, and that OL zoning would be a good interim use. Therefore, he moved for approval of the OL zoning request. Mr. Carnes asked Staff to follow up with the Department of Stormwater Management regarding water flow requirements.

TMAPC ACTION: 10 members present

On **MOTION** of **PARMELE**, the TMAPC voted **8-2-0** (Carnes, Coutant, Doherty, Kempe, Paddock, Parmele, Selph, Wilson, "aye"; Draughon, Woodard, "nay"; no "abstentions"; Randle, "absent") to **APPROVE Z-6230 Sublett (Cook) for OL Zoning**, as recommended by Staff.

Legal Description:

OL Zoning: Lot 7, Block 2, GUY COOK ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

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Application No.: **Z-6231** Present Zoning: CS & CH
Applicant: **Baker** Proposed Zoning: CH & CS
Location: North of the NE/c of East 31st Street & South Sheridan Road
Date of Hearing: February 22, 1989
Presentation to TMAPC by: Mr. Austin Neal, 4815 So. Harvard, #510 (749-2249)

Relationship to the Comprehensive Plan:

The District 5 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject property Medium Intensity - Commercial.

According to the Zoning Matrix the requested **CS District Is** in accordance with the Plan Map and the requested **CH District Is not** in accordance with the Plan Map.

Staff Recommendation:

Site Analysis: The subject tract is .3 acres in size and is comprised of two separate parcels presently zoned CH and CS. The CH tract which the applicant has requested CS zoning on is a 25' strip extending from South Sheridan Road, east a distance of 357'. This tract is currently used for shopping center parking. The CS tract which the applicant has requested CH on is a 50' x 106.5' portion of the building itself.

Surround Area Analysis: The subject tract is abutted to the north and south by the same shopping center property zoned CH and CS; on the east by shopping center property zoned OL and to the west across South Sheridan Road by a variety of commercial uses zoned CS.

Zoning and BOA Historical Summary: The Board of Adjustment recently approved a trade school, with conditions, in the CS portion of the shopping center.

Conclusion: Although the Comprehensive Plan does not support the requested CH zoning, Staff would note the request is in the interior of an existing development and is for the purpose of aligning an interior building wall with the commercial zoning boundary line. Staff would also note the overall square footage to be changed from CH to CS zoning (8,925 sq. ft.) is more than the area to be changed from CS to CH zoning (5,325 sq. ft.), thus reducing the overall zoning intensity.

Therefore, Staff recommends **APPROVAL** of CH and CS zoning as requested.

Applicant's Comments:

Mr. Austin Neal, partner to the applicant, explained that the subject building (15,000 square feet) could not be broken into smaller units due to the heating and cooling system that was installed for the original tenant (Safeway). He reiterated that the applicant was giving up 9,000 square feet of CH in order to get the CS/CH rezoning.

Interested Parties:

Mr. Ray McCollum (3135 South 76th East Avenue), President of the Whitney Homeowners Association, submitted a petition of protest from the adjoining property owners. Mr. McCollum objected to the proposed trade school use due to the number of people and the night classes, and he felt it would not be compatible with the neighborhood. He pointed out there were already a number of trade schools in the area. Mr. McCollum requested the TMAPC do nothing on the zoning and leave the BOA special exception action as is.

In response to questions from the Commission, Staff clarified that the BOA placed certain restrictions when the special exception for the trade school was granted. Mr. Doherty commented that it appeared the applicant was seeking the zoning change to possibly nullify the BOA restrictions. Mr. Gardner stated that the only time the BOA conditions were applicable was if the special exception was utilized, and if the zoning request was

approved, then the BOA action would be moot. He added it was his understanding that area to the south, which was in the CS, had already been leased to another party; therefore, it already appeared to be a moot issue since the space was occupied.

Mr. Terry Wilson (7728 East 30th Street), District 5 Chairman, pointed out the access from the shopping center onto 29th Street which abutted the residential area. He expressed concerns about additional traffic and parking problems in the neighborhood. Mr. Wilson stated the residents wanted the shopping center to keep retail uses, and not a trade school use.

Applicant's Rebuttal:

Mr. Neal clarified that the BOA restrictions were based on the applicant's request, and were not initiated by the BOA. He also pointed out that the access on the north side into the neighborhood was not actually a street, but was an access left open for emergency vehicles, and all designated parking was in front of the center away from this back access. Mr. Neal added that the deal with the trade school, at this point, was doubtful which was one reason to seek rezoning rather than utilize the BOA action on the special exception. He reiterated that the applicant's request would decrease the overall zoning intensity.

TMAPC Review Session:

Mr. Coutant advised that due to a conflict of interest he would be abstaining.

Mr. Paddock inquired as to the need for CH on this tract at all. Mr. Gardner commented that this particular section of the building was divided by two different zoning categories, with the obvious preference being to extend the CH zoning line south, rather than extend CS to the north. He added that Staff had reviewed the request with the applicant and advised that the only way they could support the request was if the applicant downzoned more property than being rezoned CH. Mr. Gardner confirmed that the district plan map was not even compatible with the existing CH; it only indicated medium intensity.

In reply to Mr. Doherty, Mr. Gardner stated that CG zoning would work as well as CH zoning, and could be considered without readvertising as it was a less intense use than CH. Mr. Parmele commented that the Commission appeared to be getting involved in uses instead of the facts of the zoning. Mr. Doherty stated he had a problem with CH zoning outside of the Central Business District (CBD). He added that, if CG would accomplish the normal functions of a shopping center, he had no problem considering CG. Mr. Paddock stated he felt the commercial shopping center use should remain on the site, and he could not see the justification for "fine tuning of zoning". Mr. Parmele commented on the difficulty of leasing space in today's market, and he felt that attempts by Staff and the

applicant to "fine tune" this application were acceptable. Mr. Parmele added that he also did not like CH zoning outside of the CBD. Therefore, he moved for approval of rezoning the existing CH to CS, but amend the application to rezone the existing CS to CG.

Mr. Paddock stated that, in this instance, he supported the Comprehensive Plan and Map; therefore, he could not support the motion. Ms. Wilson commented that she felt the TMAPC needed to zone and plan according to the Comprehensive Plan and not zone to facilitate some leasing arrangement. Therefore, she agreed with Mr. Paddock and would be voting against the motion. Mr. Woodard and Ms. Kempe echoed the sentiments of Mr. Paddock and Ms. Wilson.

TMAPC ACTION: 10 members present

On **MOTION** of **PARMELE**, the TMAPC voted **3-6-1** (Carnes, Doherty, Parmele, "aye"; Draughon, Kempe, Paddock, Selph, Wilson, Woodard, "nay"; Coutant, "abstaining"; Randle, "absent") to **APPROVE Z-6231 Baker** for rezoning of the existing CH to CS, and rezoning of the existing CS to CG.

That motion failing, Ms. Wilson moved for denial of the application for CS to CH and CH to CS.

TMAPC ACTION: 10 members present

On **MOTION** of **WILSON**, the TMAPC voted **7-2-1** (Doherty, Draughon, Kempe, Paddock, Selph, Wilson, Woodard, "aye"; Carnes, Parmele, "nay"; Coutant, "abstaining"; Randle, "absent") to **DENY Z-6231 Baker** for rezoning CS to CH and CH to CS.

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Application No.: **CZ-171** Present Zoning: RS
Applicant: **Madewell** Proposed Zoning: IL
Location: NE/c of West 56th Street & South 113th West Avenue
Date of Hearing: February 22, 1989
Presentation to TMAPC by: Mr. John Madewell, Rt 4 Box 197, Sapulpa (446-2225)

Relationship to the Comprehensive Plan:

The Sand Springs Comprehensive Plan, designates the subject property as Low Intensity - Residential.

The requested IL zoning is not in accordance with the Comprehensive Plan.

Staff Recommendation:

Site Analysis: The subject tract is 6.9 acres in size and located at the northeast corner of West 56th Street South (unimproved) and South 113th West Avenue (a frontage road to Highway 97). It is partially wooded, gently sloping, contains a mobile crane company with outside storage and is zoned RS.

Surrounding Area Analysis: The tract is abutted on the north by vacant property and a single-family dwelling zoned RS; on the east and south by vacant property zoned RS; and on the west across 113th West Avenue and Highway 97 by a mixture of residential and Industrial uses zoned CG and RS.

Zoning and BOA Historical Summary: None. Staff can find no approval permitting the existing use on the subject tract.

Conclusion: Based on the Sand Springs Comprehensive Plan and lack of nonresidential zoning on the east side of Highway 97, staff cannot support the requested rezoning. Such a rezoning could lead to all of the Highway 97 frontage between the nodes being zoned commercial or Industrial. Other than at the intersection nodes, staff cannot support such a zoning request.

Therefore, Staff recommends **DENIAL** of IL zoning for CZ-171 as requested.

Applicant's Comments:

Mr. John Madewell, owner of the subject tract, stated he was needing the rezoning in order to obtain a Building Permit to place an additional building on the tract to continue his business. Mr. Madewell advised that he purchased the tract in 1978, contingent on being able to get a permit for his first building, which was an extension and refurbishing of an existing structure that had burned. He advised that in 1981 he constructed and obtained a permit for a second building on the tract. He briefed the Commission on the background regarding a lot split and further land purchases to obtain the seven acres (approximate).

Staff was unable to verify for the Commission how the applicant was able to obtain previous Building Permits without rezoning. Mr. Carnes inquired, since this tract has had the same usage since 1978, if the applicant could seek relief through the BOA and not have to rezone. Mr. Gardner advised that the applicant could seek a principal use variance through the BOA if done before November 1st, as a pending house bill could take effect at that time deleting use variance powers of the BOA.

In reply to Ms. Wilson regarding a recommendation from Sand Springs on this application, Mr. Stump advised that this tract was not in the Sand Springs fenceline. Ms. Wilson and Commissioner Selph agreed that, although not in their fenceline, Sand Springs might have had an interest in this case.

Mr. Madewell advised he has discussed this with the two abutting property owners who were in support of the request. Chairman Kempe read a letter of support for IL zoning from Mrs. Margarett W. Roberts.

Interested Party:

Ms. Loise M. Anderson (5413 South 113th West Avenue) advised she was representing her aunt who owned the property north of the subject tract. Ms. Anderson stated she was not present to oppose the rezoning, but was attending to be more enlightened. After confirming that the rezoning would not change the zoning of her aunt's property, Ms. Anderson stated she would not oppose the IL request. In reply to Ms. Wilson, Ms. Anderson stated that they had not experienced any problems with the applicant's current operation and that it was, in fact, very quiet.

TMAPC Review Session:

Due to a conflict of interest, Mr. Parmele advised he would be abstaining from the vote on this case.

Mr. Doherty recognized the applicant's problem with a legal nonconforming use, and pointed out that the County BOA was an avenue to seek relief. He added he had a problem with "blockbusting" by placing IL zoning on the east side of Highway 97 in the middle of a mile section. Therefore, he moved for denial of the request.

Mr. Carnes stated the physical facts have been and remain to be IL usage, and he would be voting against the motion. Commissioner Selph commented that, after hearing the facts and with the support of the abutting property owners, he would also be voting against the motion for denial. Mr. Draughon agreed with Mr. Carnes' comments in support of the applicant's request. Mr. Coutant stated he was in favor of the motion as he felt there was a remedy available through the BOA. He added that, should the motion for denial carry, he hoped the BOA would favorably consider the application in view of the unfortunate and unfair circumstances of this case. Mr. Paddock remarked that, reluctantly, he would be voting in support of the motion as the applicant could go to the BOA for relief.

TMAPC ACTION: 10 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **5-4-1** (Coutant, Doherty, Kempe, Paddock, Woodard, "aye"; Carnes, Draughon, Selph, Wilson, "nay"; Parmele, "abstaining"; Randle, "absent") to **DENY CZ-171 Madewell**, as recommended by Staff.

OTHER BUSINESS:

REQUEST TO INITIATE A REZONING APPLICATION:

NW/c of 61st Street North and North Cincinnati Avenue,
and 59th Street North and North Garrison Place

Staff Recommendation:

Staff requests that TMAPC consider initiating a rezoning request for properties recently annexed into the City of Tulsa. When these properties were annexed to the City, they were automatically zoned AG. While in unincorporated Tulsa County, the residential subdivisions annexed were zoned RS; that is the same as RS-3 in the City of Tulsa. Also, the Northgate Center Addition was zoned CS when in the County.

Staff is proposing that TMAPC initiate a rezoning to restore the zoning classifications that existed prior to annexation. The properties involved are described below:

RS-3: All of Northgate Addition, all of Northgate Second Addition and all of Northgate Third Addition, all in the City of Tulsa, Tulsa County, State of Oklahoma;

CS: All of Northgate Center Addition, City of Tulsa, Tulsa County, State of Oklahoma; and

RS-3: Blocks 1 - 9 and Blocks 14 - 19, Suburban Hills Addition to the City of Tulsa, Tulsa County, State of Oklahoma

TMAPC ACTION: 9 members present

On **MOTION** of **PARMELE**, the TMAPC voted **9-0-0** (Carnes, Coutant, Doherty, Draughon, Kempe, Paddock, Parmele, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Randle, Selph, "absent") to **APPROVE** the Request for the TMAPC to initiate a rezoning application for the above described properties, as recommended by Staff.

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PUD 177-5: Approval of Declaration of Restrictions & Covenants
SE/c South 76th East Avenue & East 83rd Place

Staff Recommendation:

On 11/30/88 the TMAPC approved a minor amendment to the above described PUD permitting the division of an unplatted tract into three building sites. This division was accomplished by L-17109 which was approved as part of the Minor Amendment to the PUD. Due to the curve in the property line, one tract only had 17.84' of frontage on the street. This being less than the 30' minimum, a BOA application was filed, processed and approved to permit the frontage as submitted (Case #15008, 12/15/88).

PUD 177-5 Walker - Cont'd

Since this property is unplatted and no restrictions were of record, a Declaration of Restrictions and Covenants, including the PUD conditions, is submitted for approval and filing of record. The filing of these restrictions, along with the approval of the lot split will satisfy Section 260 of the Zoning Code.

Therefore, it is recommended that the Declaration of Restrictions and Covenants be APPROVED, subject to form by the Legal Department.

TMAPC ACTION: 10 members present

On **MOTION** of **DOHERTY**, the TMAPC voted **10-0-0** (Carnes, Coutant, Doherty, Draughon, Kempe, Paddock, Parmele, Selph, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Randle, "absent") to **APPROVE** the **Declaration of Restrictions and Covenants to PUD 177-5 Walker**, as recommended by Staff.

There being no further business, the Chairman declared the meeting adjourned at 3:40 p.m.

Date Approved

March 9, 1989

Ralph J. Duff
Vice-Chairman

ATTEST:

Kevin C. Coutant
Secretary

