

TULSA METROPOLITAN AREA PLANNING COMMISSION
Minutes of Meeting No. 1760
Wednesday, **September 13, 1989**, 1:30 p.m.
City Commission Room, Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Coutant	Carnes	Gardner	Linker, Legal
Doherty, Chairman	Kempe	Setters	Counsel
Draughon, Secretary	Randle	Stump	
Paddock	Selph		
Parmeale			
Wilson, 1st Vice Chairman			
Woodard			

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, September 12, 1989 at 11:21 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Doherty called the meeting to order at 1:35 p.m.

MINUTES:

Approval of the Minutes of August 23, 1989, Meeting #1758:

On **MOTION** of **Woodard**, the TMAPC voted **6-0-1** (Doherty, Draughon, Paddock, Parmele, Wilson, Woodard, "aye"; no "nays"; Coutant, "abstaining"; Carnes, Kempe, Randle, Selph, "absent") to **APPROVE** the **Minutes of August 23, 1989, Meeting #1758**.

REPORTS:

Committee Reports:

Mr. Coutant advised the **Comprehensive Plan Committee** had met this date to review amendments to the District 2 Plan as relates to the Osage/Emerson Sector, and the District 18 Plan as relates to the Mingo Valley Expressway Corridor. The public hearing for these items is scheduled for September 20, 1989.

Mr. Paddock announced the **Rules & Regulations Committee** would be meeting on September 20th & 27th to continue review of proposed amendments to the Sign Code.

PUBLIC HEARING:

TO AMEND THE TULSA ZONING CODE, CHAPTER 11 - PLANNED UNIT DEVELOPMENTS, SECTION 1170.7 - AMENDMENTS, AND ANY OTHER SECTION(S) OF THE ZONING CODE INCIDENTAL TO OR AFFECTED BY SAID AMENDMENTS.

Comments & Discussion:

Mr. Gardner reviewed the process leading to this public on amendments to Planned Unit Developments (PUD's) as to what constitutes a major or minor amendment. He advised that three alternatives had been submitted suggesting criteria for determining major/minor amendments: Staff's proposal, as reviewed and adopted by the Rules & Regulations Committee; the Mayor's proposal, as recommended by Legal Counsel; and a proposal by zoning attorneys Mr. Charles Norman and Mr. Roy Johnsen.

Mr. Gardner reviewed the specifics of the Staff's proposal, giving examples of previous cases where the suggested conditions would have assisted or applied. He stressed a key issue or concern was the amount of time involved in processing these amendments; a minor amendment requires two to three weeks, while a major amendment can take three to four months. Therefore, Staff feels the main purpose of this hearing should be to arrive at a procedure which offered enough flexibility to keep the process timely and not so restrictive as to discourage the use of PUD's. Mr. Gardner pointed out that the Staff proposal for minor amendments included notice to those within 300', although it did not suggest publication in the legal newspaper, as was required for major amendments.

Mr. Paddock confirmed that there was nothing in the Staff's proposal which would preclude the TMAPC from requiring compliance with Zoning Map Amendments Section 1730. Therefore, it appeared to him that latitude was given so the TMAPC could, in its judgement, determine an amendment request was major, even though the request might meet the criteria for a minor amendment. Mr. Gardner added that it was impossible to write a list of criteria that would meet every situation. He stated Staff's proposal was suggested in ordinance form, which would make it law rather than policy (which might be waived).

Mr. Linker commented the Legal Department had a problem with the proposal submitted by Staff and the Norman/Johnsen proposal. Mr. Linker reiterated Legal's opinion that these proposals would violate the state enabling statutes as to notice. He explained the statutes require publication of notice 15 days prior to the public hearing, and 20 days written notice to those within 300' of the subject tract. The other proposals provide for 10 days written notice to residents within 300' for minor amendments with no publication of notice. Mr. Linker remarked these would be a violation of the law as any change, whether 5% or 10%, required publication of notice and a hearing before the City Commission. He added he did not have a problem with most of the criteria suggested by Staff for a minor amendment. The main point of contention was changing use without giving proper notice, as a change in zoning was a legislative function and that power could not be delegated to the Planning Commission.

PUBLIC HEARING: Section 1170.7 - Cont

Mr. Linker stated he also had a problem with Staff's suggestion for home occupation approvals, as the TMAPC should comply with the same requirements as used by the BOA which requires proper publication and mailing of notice.

In regard to the other proposals (Staff and Norman/Johnsen), Mr. Linker commented he felt the Norman/Johnsen was the best choice due to the wording used. He advised the Legal Department recommendation would be the Mayor's proposal, as this followed the letter of the law and would present no problem from a legal point of view. Mr. Linker suggested that, City approval of a list of minor amendments, by resolution, as set out in the Mayor's proposal would be more easily amended than a list adopted by ordinance. However, there was no legal problem with either procedure.

Mr. Linker advised he had a problem with Staff's proposal for Section 1170.8 - Abandonment. After discussion initiated by Mr. Paddock, he agreed the TMAPC written policy on abandonment of a PUD was an acceptable guideline. Therefore, Section 1170.8 would not need to be amended.

Interested Parties:

Mr. Charles Norman, zoning attorney, advised he was appearing in support of the Staff and Rules & Regulations Committee proposal with respect to minor amendments. Mr. Norman commented on the complexity of administering PUD's and the number of situations that can arise requiring an amendment after the approval of what was thought, at the time, to be very comprehensive and detailed PUD standards. He added that the City now has a number of older PUD's, which were just coming forward for redevelopment. Under the current economic conditions existing in the community, the PUD's deal with parcels of land that have been sold and resold, with new owners presenting different ideas or standards which, in turn, require a modification to the PUD. Often it is not until engineers and architects do the detailed development work on a PUD that the need for amendments are discovered. Mr. Norman remarked his experience has been that, too often, minor amendments do not come up until the Building Permit stage. Or, they are discovered midway into the working drawings which is when a substantial amount of time and money has already been committed to the preparation of the development plans. Therefore, his primary concern related to time and resultant cost of delay involved for these amendments, as time was the most important element in the development process. Under the present process, a major amendment requires about five to seven weeks to reach the TMAPC; and then requires an additional four to six weeks to reach the City Commission. Then, the publication of the ordinance takes an additional four to six weeks, and the Building Inspector's office will not issue a permit until this ordinance has been approved AND published. Mr. Norman compared the cost of a minor amendment at \$25 to that for a major amendment, which could range from \$500 to \$700 (which does not include the cost of professionals needed for this process).

PUBLIC HEARING: Section 1170.7 - Cont

Mr. Norman commented that he respectfully disagreed with the Legal Counsel's interpretation of what was or was not a zoning change. He stated the same enabling statute applies to Oklahoma City, who provided, by ordinance, approval of some minor amendments by a Staff administrator, without hearing before their Planning Commission. Therefore, he felt these were matters of interpretation and opinion. Mr. Norman stated he would ordinarily suggest the TMAPC listen to the advice of their Legal Counsel, however, in this instance, he felt these procedural requirements were so important to the development process that there were valid reasons for proceeding as recommended by the Staff and TMAPC Committee without acceptance of that kind of strict interpretation of the state statutes.

Mr. Norman posed the question of who was at risk under the Staff's proposal, and he felt that, under the interpretation of Mr. Linker, it was the property owner. As an example, Mr. Norman stated that, if an applicant did not follow the statutory notice/publication requirements, he might possibly be subject to an attack by an interested party citing the approved minor amendment was approved without valid notice. Therefore, the burden was placed on zoning attorneys, developers, etc. to make the initial decision. Mr. Norman commented that listing the kinds of minor amendments permitted and the extent to which these were permitted, would be very helpful to the development community.

Mr. Norman stressed that he was not opposed to meeting any notice requirements or having minor amendments considered by the City Commission, if it could be done in a shorter period of time than now required for major amendments. He added that he felt the City Commission probably would not want to take the time to hear and review the types of things constituting minor amendments. Mr. Norman reiterated his main objection was the time currently required to approve major amendments.

In reply to Mr. Doherty, Mr. Norman confirmed that the proposal he and Mr. Johnsen submitted was essentially the same as Staff's proposal, as they did not wish to change intent or content. Mr. Paddock asked Mr. Norman if he regarded the items listed under "Minor Amendments" as being subject to administrative review by the TMAPC by specific action of the City Commission in approving this Zoning Code change. Mr. Norman replied the advantage of doing this modification by ordinance was that it represented a delegation from the legislative body (City Commission) to the TMAPC of what he considered to be an administrative process. Mr. Norman added that changing a development area by not more than 10%, which has the effect of extending an approved use, did not constitute a zoning change in his opinion. He agreed that, if an amendment was to add a use unit or a use specifically excluded, then it should be considered a major amendment.

Mr. Roy Johnsen, zoning attorney, concurred with Mr. Norman's comments, as the language they jointly developed was an attempt to improve the language and grammar of Staff's proposal and was not to change the substance. In regard to Mr. Linker's opinion as to violation of statutes, Mr. Johnsen commented that he was already on record as to his legal interpretation and opinion on this issue. Mr. Johnsen advised that he was employed in the City Attorney's office in the 1970's when the PUD ordinance was adopted for the City of Tulsa. He added that there was nothing in the state statutes specifically authorizing PUD's and it takes interpretation and imagination by planners and attorneys throughout the state to use them.

Mr. Johnsen pointed out that over the last 19 years there has been no litigation on this issue, so this would suggest that the process was working well. He agreed with Mr. Norman that the one at risk was not the City, but the applicant. Mr. Johnsen reiterated there were varying degrees of legal opinion, and emphasized that Legal Counsel has been unable to produce a case implying minor amendments to PUD's cannot be approved by the TMAPC.

Mr. Johnsen agreed that the time and cost involved with a major amendment process for a small change was the main problem for the development community. He felt the act of creating the PUD was a zoning change, but modifications within the PUD was not a zoning change within the meaning of the statute. In response to Mr. Doherty, Mr. Johnsen agreed it would be helpful to have PUD provisions in the state statutes. Mr. Johnsen mentioned that, with the new city charter, this whole issue may become moot, as the City would have full authority for zoning.

Chairman Doherty read into the record a letter from **Mr. Rick Ellison**, President of the Builders Association of Metropolitan Tulsa. Mr. Ellison expressed his concern about the delays that may result if the builders and developers were forced to wait 60 - 90 days for minor amendments. Mr. Ellison noted the financial consequences associated with these days would result in inflated home prices "...at a time when it appears the Tulsa market is stabilizing." **Mr. Jerry Eisner**, Executive Vice President of the Association, also submitted correspondence expressing his concern that the "PUD process and changes affecting PUD's remain flexible." Mr. Eisner reiterated Mr. Ellison's comments regarding the economic impact of delays in the process, i.e. building loan interest charges, schedule delays, etc. Mr. Eisner wrote, "considering that housing is a leading economic indicator in this country, we need to look at ways to improve that indicator in Tulsa, not hinder it."

Ms. Wilson advised she had contacted the Planning Director for the Oklahoma City Planning Commission, and had learned that they take a very conservative approach to minor amendments. Although allowed by their Code, the Planning Director rarely made decisions at his discretion on amendments, but instead forwarded them to the Planning Commission and/or City Council for review. Therefore, she felt that Oklahoma City reviewed

PUBLIC HEARING: Section 1170.7 - Cont

most PUD changes as major amendments. Mr. Gardner remarked that, although allowed to make the decisions, he did not blame the Oklahoma City Planning Director for forwarding the cases to the Planning Commission, thereby avoiding the tremendous pressure. However, it was the Director's choice to follow, or not follow, their ordinance, and he chose to forward the amendments to the Planning Commission for review. Mr. Gardner pointed out the Staff's proposal was different from the procedure used by Oklahoma City, in that notice would be given to those property owners within 300'.

TMAPC Review Session:

Mr. Gardner advised that Staff has no problem with the language offered by Mr. Norman and Mr. Johnsen, and would suggest using this proposal in lieu of the language used in the Staff's proposal. The consensus of the Commission was to consider the Norman/Johnsen proposal as an alternative supported by Staff, with the remaining alternative being the Mayor's proposal. The Commission also agreed to delay action on Section 1170.8 - Abandonment.

Mr. Paddock commented that the Rules & Regulations Committee has "wrestled with this problem for months." He added that it has only been recently that the Mayor injected himself into this by sending a letter to the TMAPC asking that a public hearing be called to consider the proposed draft incorporated in his letter. Mr. Paddock stated that it was his understanding that the TMAPC Chairman responded to the Mayor and requested a meeting with him. But a meeting was not arranged and the Mayor did not even respond to the Chairman of this Commission. Mr. Paddock commented that, in view of all of the comments made, he moved that the TMAPC recommend to the City Commission the proposed revisions to Section 1170.7 A and B, on the basis of the draft submitted by Norman/Johnsen and supported by Staff, and amended by Staff to include the word "ratio" in item #4 (third line after "floor area").

In regard to item #1, Ms. Wilson admitted she was still befuddled as to how a change of an internal boundary did not constitute a change in use. Chairman Doherty replied that this item essentially allowed some flexibility to accommodate shifts of internal circulation patterns, shifting due to drainage channels, etc. as a minor amendment, as it should not require 90 days to do these minor shifts. It would not allow transfer of use from one development area into another development area, but would allow adjustment of the development area boundaries only. Mr. Linker disagreed, and suggested putting a limitation "prior to approval of the subdivision plat". Discussion followed and Mr. Norman commented he felt this was a good suggestion. He reworded condition #1 of his proposal (Staff concurred) to read: "Adjustment of internal development area boundaries, prior to final approval of the subdivision plat," Mr. Paddock amended his motion to incorporate this modification to condition #1.

PUBLIC HEARING: Section 1170.7 - Cont

Mr. Coutant stated he felt this issue was primarily a legislative problem, and he was hopeful this could be dealt with in due haste. He commented he was enthusiastic about getting this issue resolved, but he did not think the Mayor's proposal, if adopted, would get amendments handled as quickly as needed. Therefore, he moved to amend the main motion for approval (Norman/Johnsen proposal) so as to delete conditions #1, #3 and #4. Condition #9 was also suggested for deletion by Ms. Wilson, and Mr. Coutant commented he did not have a problem with this condition.

Mr. Paddock pointed out that his motion for approval reduced to some extent the present flexibility that the TMAPC has historically had in the administration of PUD's, but he was hopeful it was not reduced to the point of inflexibility so that developers would not want to use this process. Therefore, he felt the Norman/Johnsen proposal went about as far as the Commission ought to go as far as the TMAPC's part in the process. He asked the Commissioners to keep in mind that the TMAPC action would be forwarded to the City Commission as a recommendation, and the City Commission could use their wisdom and prerogative in deciding any further changes to the proposal, and as pointed out by Mr. Coutant, this was a legislative action.

Chairman Doherty concurred and stated that he felt the proposal under consideration, which included conditions #1, #3 and #4, would sufficiently limit the PUD to the point that the Commission would see a decrease in PUD filings. He added that this disturbed him as the PUD process has been one success the city has had, which was substantiated by the studies of the Staff. Therefore, he did not wish to add any more limitations or lack of flexibility or, in particular, increase the time required to do the necessary development of the PUD after the initial filing.

Mr. Parmele also agreed that with the elimination of #1, #3 and #4, this further decreased the flexibility the Commission was trying to maintain. He commented that some of the key issues faced with major/minor amendments have dealt with these items. As pointed out by Staff, a pencil line on an initial PUD scaled drawing could prove to be a difference of 20' after completion. Therefore, he felt flexibility had to be maintained. Mr. Parmele stated that, having been involved with the TMAPC since 1978, he did not know of any case where the Planning Commission has not used reasonable care or judgement in reviewing major and minor amendments. Mr. Parmele reiterated the need to maintain flexibility for the present and future Commissions; therefore, he was opposed to the amended motion.

TMAPC ACTION: 7 members present

On **MOTION** of **COUTANT**, the TMAPC voted **2-5-0** (Coutant, Wilson, "aye"; Doherty, Draughon, Paddock, Parmele, Woodard, "nay"; no "abstentions"; Carnes, Kempe, Randle, Selph, "absent") to **AMEND** the main motion by deleting conditions #1, #3 and #4 from the proposal recommended by Staff (Norman/Johnsen proposal).

That motion failing, Chairman Doherty called for the main motion.

TMAPC ACTION: 7 members present

On **MOTION** of **PADDOCK**, the TMAPC voted **5-2-0** (Doherty, Draughon, Paddock, Parmele, Woodard, "aye"; Coutant, Wilson, "nay"; no "abstentions"; Carnes, Kempe, Randle, Selph, "absent") to **APPROVE** the Recommendation to the City Commission for revisions to Chapter 11 - Planned Unit Developments, Section 1170.7 - Amendments of the Tulsa Zoning Code, as modified and recommended by Staff (Norman/Johnsen proposal), as follows:

"1170.7 Amendments

A. Minor Amendments:

Minor amendments to the PUD may be authorized by the Planning Commission, which may direct the processing of an amended subdivision plat, incorporating such changes, so long as a substantial compliance is maintained with the Outline Development Plan and the purposes and standards of the PUD provisions hereof. The following minor amendments may be approved by the Planning Commission:

- 1) Adjustment of internal development area boundaries, prior to final approval of the subdivision plat, provided the allocation of land to particular uses and the relationship of uses within the project are not substantially altered, and the land area for each does not increase or decrease by more than 10%.
- 2) Limitation or elimination of previously approved uses, provided the character of the development is not substantially altered.
- 3) Increases in dwelling units, provided the approved number of dwelling units is permitted by the underlying zoning and the density of a development area is not increased more than 10%.
- 4) Increases in permitted nonresidential floor area, provided the increased floor area is permitted by the underlying zoning and the floor area ratio of a development area is not increased more than 10%.
- 5) Modification of the internal circulation system, provided the system is not substantially altered in design, configuration or location.
- 6) Changes in points of access, provided the traffic design and capacity are not substantially altered.
- 7) Addition of customary accessory buildings and uses within the delineated common open space of a residential PUD, including but not limited to, swimming pools, cabanas, security buildings, club houses and tennis courts.
- 8) Location of customary residential accessory buildings and uses on an adjoining single-family residential lot within the PUD, including but not limited to, a swimming pool, cabana, garage and tennis court, provided an agreement has been recorded by the owner prohibiting the conveyance of the lot containing the accessory use separate from the conveyance of the lot containing the principal use.

PUBLIC HEARING: Section 1170.7 - Cont

- 9) Changes in structure height, building setback, yards, open spaces and lot widths or frontages, provided the approved Outline Development Plan the approved PUD standards and the character of the development are not substantially altered.
- 10) Lot splits which have been reviewed and approved by the Technical Advisory Committee (TAC).
- 11) Home occupations which meet the requirements of **Section 440.2, Home Occupations**, of the Zoning Code.

For minor changes, ten days notice of public hearing shall be given by mailing written notice to all owners of property within a 300 foot radius of the exterior boundary of the subject property. In instances where the municipal legislative body has specifically imposed PUD condition(s) more restrictive than recommended by the Planning Commission, the minor amendment must be approved by the municipal legislative body.

Nothing herein shall preclude the Planning Commission from requiring compliance with **Section 1730, ZONING MAP AMENDMENTS**, if the Commission determines that the proposed amendment(s), even though they meet the criteria above, will result in a significant departure from the Outline Development Plan.

B. Major Amendment:

If the Planning Commission determines that a proposed minor amendment does not meet the criteria of **Section 1170.7A, Minor Amendment**, or the cumulative effect of a number of minor amendments substantially alters the Outline Development Plan, then the amendment(s) shall be deemed a major amendment to the Outline Development Plan. Major amendments shall comply with the notice and procedural requirements of **Section 1730, ZONING MAP AMENDMENTS.**"

ZONING PUBLIC HEARING:

Application No.: PUD 413-A Major Amendment Present Zoning: RS-3, RM-1, CS
Applicant: Johnsen (Isaacs) Proposed Zoning: Unchanged
Location: NE/c of Gilcrease Museum Road and the Keystone Expressway
Date of Hearing: September 13, 1989 (Continued from 9/6/89)
Presentation to TMAPC by: Mr. Roy Johnsen, 324 Main Mall (585-5641)

Staff Recommendation:

Gilcrease Oaks comprises approximately 10.6 acres situated at the northeast corner of Gilcrease Museum Road (formerly known as 25th West Avenue) and the Keystone Expressway. The property is the site of the former Tulsa Children's Home which was constructed in 1928. This structure remains there today. The grounds are topographically varied with a steep slope to a floodplain area along the easterly portion of the site and numerous mature trees throughout the site. The western portion of the site is gently sloping from north to south. The tract is bordered on the north by single-family homes facing West Easton Street, on the east by Zenith Avenue and single family home, on the south by the Keystone Expressway and on the west across Gilcrease Museum Road by single-family homes facility side streets. The property is zoned RS-3 on the north and east, RM-1 on the west, CS in an area surrounding the former Children's Home and the entire tract is included in PUD 413. The District 10 plan designates the area Low Intensity - Residential. The development proposed in PUD 413-A would not be in conformance with the Plan.

The major changes proposed by PUD 413-A, as modified, compared with the original PUD 413 include:

- A) Two restaurant sites rather than one at the southwest corner of the PUD.
- B) Elimination of the shopping area.
- C) Increase of the office floor area from 7,800 sf to 12,800 sf.

The conference center and retirement residence planned for the eastern portion of the property remain virtually unchanged from PUD 413.

After review of PUD 413-A, consideration of the TMAPC member's comments at the public hearing and the type of development approved in the existing PUD, Staff finds the uses and intensities of uses proposed to be in harmony with the spirit and intent of the Code. Based on the following conditions, Staff finds PUD 413-A as amended to be: (1) Consistent with the Comprehensive Plan, if it is amended to reflect the nature of this PUD; (2) in harmony with the existing and expected development of surrounding areas; (3) a unified treatment of the development possibilities of the site, and; (4) consistent with the stated purposes and standards of the PUD Chapter of the Zoning Code.

Therefore, Staff recommends **APPROVAL** of PUD 413-A subject to the following conditions:

1) That the applicant amended Outline Development Plan and Text be made a condition of approval, unless modified herein.

2) **Development Standards:**

DEVELOPMENT AREA 1

Land Area: *	0.957 acres (net)
Permitted Uses:	Use Units 11 and 12, ice cream stores and sale of baked goods, confectionery and dairy products, except no Entertainment and/or Drinking Establishments. **
Maximum Floor Area:	5,000 sf
Minimum Floor Area:	3,200 sf
Maximum Building Height:	23' (1 story)
Minimum Building Setbacks:	
from C/L of Gilcrease Museum Rd	100'
from R/W of Keystone Expressway	50'
from C/L of Cameron (extended)	75'
from east development boundary	30'
Minimum Off-Street Parking:	As required by the applicable Use Unit of the Tulsa Zoning Code.
Minimum Interior Landscaped Open Space:	10% of net area after right-of-way dedication

DEVELOPMENT AREA 2

Land Area: *	0.965 acres (net)
Permitted Uses:	Use Units 11 and 12, ice cream stores and sale of baked goods, confectionery and dairy products, except no Entertainment and/or Drinking Establishments. **
Maximum Floor Area:	4,500 sf
Minimum Floor Area:	3,200 sf
Maximum Building Height:	23' (1 story)
Minimum Building Setbacks:	
from C/L of Gilcrease Museum Rd	100'
from C/L of Cameron (extended)	75'
from north development boundary	30'
from east development boundary	30'

* Includes land to be dedicated for street right-of-way for Gilcrease Museum Road.

** Amended per the TMAPC on 12/6/89.

PUD 413-A Johnsen (Isaacs) - Cont

Minimum Off-Street Parking: As required by the applicable Use Unit of the Tulsa Zoning Code.
Minimum Interior Landscaped Open Space: 10% of net area after right-of-way dedication

DEVELOPMENT AREA 3

Land Area: * 1.027 acres (net)
Permitted Uses: Use Units 10, 11 and children's nursery, church, library, or museum
Maximum Floor Area: 12,800 sf
Maximum Building Height: 30' (2 stories) **
Minimum Building Setbacks:
from C/L of Gilcrease Museum Rd 100'
from C/L of Easton Avenue 80'
from south development boundary 30'
Minimum Off-Street Parking: As required by the applicable Unit of the Tulsa Zoning Code.
Minimum Interior Landscaped Open Space: 15% of net area after right-of-way dedication

DEVELOPMENT AREA 4

Land Area: 3.847 Acres (net)
Permitted Uses: Elderly/ Retirement Housing and Life Care Retirement Center
Maximum Number of DU's: 110 ***
Maximum Livability Space: 100,500 sf
Maximum Building Height: 60' (5 stories)
Maximum Building Setbacks:
from C/L of West Easton Avenue 125'
from east development boundary 200'
from south development boundary 30'
from west development boundary 10'
Minimum Off-Street Parking: As required by the applicable Use Unit of the Tulsa Zoning Code.

- * Includes land to be dedicated for street right-of-way for Gilcrease Museum Road.
- ** Elevation drawings of proposed buildings shall be required to determine design compatibility with adjoining residential areas.
- *** For the purposes of this PUD, a dwelling unit may include residence suites which do not have individual kitchens.

DEVELOPMENT AREA 5

Land Area:	1.974 Acres (net)
Permitted Uses:	As permitted within a CS District including restaurant, lodging and health club.
Maximum Floor Area:	29,500 sf
Maximum Building Height:	35' (3 stories)
Minimum Building Setbacks:	
from west development boundary	20'
from north development boundary	20'
from east development boundary	10'
from R/W of Keystone Expressway	20'
Minimum Off-Street Parking:	As required by the applicable Use Unit of the Tulsa Zoning Code.
Minimum Interior Landscaped Open Space:	20% of net area excluding landscaped right-of-way

3) **SIGNS:** Signs accessory to the principal uses within the development shall be permitted, but shall comply with the restrictions of the PUD Ordinance and the following additional restrictions:

a) **Project Identification:** Within Development Area 1 or Development Area 2, a monument sign identifying the project shall be permitted. The sign shall not exceed 4' in height nor 32 square feet in display surface area.

b) **Development Areas 1 and 2 - Restaurants:**

Ground Signs: Within Development Area 2, a monument sign identifying the establishment therein shall be permitted. The monument sign shall not exceed 6' in height nor 64 square feet in display surface area. A ground sign shall be permitted within Development Area 1, identifying the establishment therein, and shall not exceed 25' in height nor 100 square feet in display surface area. In addition to the above permitted signs, a ground sign shall be permitted within Development Area 5 and along the Keystone Expressway identifying the restaurant establishment located within Development Area 2. The ground sign shall not exceed 25' in height nor exceed a display surface area of 100 square feet. [Amended, see TMAPC motion, pg 18]

Wall or Canopy Signs: The aggregate display surface area of the wall or canopy signs shall be limited to one square foot per each lineal foot of the building wall to which the sign or signs are affixed. Wall or canopy signs shall not exceed the height of the building.

- c) **Development Area 3 - Office:**
Ground Signs: Within Development Area 3, a monument sign identifying the establishment therein shall be permitted. The monument sign shall not exceed 4' in height nor 32 square feet in display surface area.
Wall or Canopy Signs: If no ground sign is erected, wall signs may be erected not exceeding an aggregate display surface area of 32 square feet in display surface area.
- d) **Development Area 4 - Retirement Residence:**
Ground Signs: Ground signs shall be limited to one monument sign along West Easton Street not exceeding 4' in height, nor 32 square feet in display surface area.
Wall or Canopy Signs: A wall sign may be erected on the entry facade not exceeding an aggregate display surface area of 32 square feet.
- e) **Development Area 5 - Conference Center:**
Ground Signs: None, other than the ground sign identifying the restaurants as earlier set forth.
Wall or Canopy Signs: The aggregate display surface area of the wall or canopy signs shall be limited to 2 square feet per each lineal foot of the building wall to which the sign or signs are affixed. Wall or canopy signs shall not exceed the height of the building.
- 4) **VEHICULAR ACCESS:**
Development Areas 1 and 2: The only access points shall be from Cameron Street. No access shall be allowed directly onto Gilcrease Museum Road nor to Development Area 3. [Amended, see TMAPC motion, pg 18]
Development Area 3: Access shall be allowed only to Gilcrease Museum Road. No access shall be allowed from West Easton Street nor from Development Area 2.
Development Area 4: Access shall be provided from either Cameron Street or West Easton Street, but not both streets. If needed, an emergency entrance may be provided in addition to the primary access point if prohibited to all but emergency vehicles.
Development Area 5: Access shall be provided from Cameron Street.
- 5) **PEDESTRIAN ACCESS:** In order to enhance pedestrian access to the restaurants in Development Areas 1 and 2 the developer should, through use of PFPI with the City of Tulsa, extend the existing sidewalk on the east side of Gilcrease Museum Road to West Easton Street. [Amended, see TMAPC motion, pg 19]

- 6) That a Detail Landscape Plan for each development area shall be submitted to the TMAPC for review and approval. A landscape architect registered in the State of Oklahoma shall certify that all landscaping and screening fences have been installed in accordance with the approved landscape plan for that development area prior to issuance of an Occupancy Permit. The landscaping materials required under the approved Plan shall be maintained and replaced as needed, as a continuing condition of the granting of an Occupancy Permit.
- 7) That no Building Permits in a development area shall be issued within the PUD until a Detail Site Plan for that Development Area which includes all buildings and required parking has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
- 8) No Building Permits shall be issued for erection of a sign within a development area of the PUD until a Detail Sign Plan for that development area has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
- 9) That all trash and mechanical equipment areas shall be screened from public view.
- 10) That all parking lot lighting shall be directed downward and away from adjacent residential areas. Light standards shall be limited to a 10' maximum height within Development Area 3 and 4 and a 20' maximum height on the balance.
- 11) Prior to issuance of an occupancy permit for a development area all stormwater drainage structures and detention areas required by the Department of Stormwater Management to serve that Development Area shall be installed. The Department of Stormwater Management or a professional Engineer registered in the State of Oklahoma shall certify that these Stormwater facilities were installed in accordance with the approved plans.
- 12) That no Building Permit shall be issued until the requirements of Section 260 of the Zoning Code have been satisfied 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 City of Tulsa beneficiary to said Covenants.

Applicant's Comments:

Mr. Roy Johnsen, representing the applicant, clarified for Mr. Coutant that the PUD approved three years ago established the underlying zoning of CS and RM that did not meet the low intensity designation on the Plan at that the time. He pointed out the Districts Plans are then amended periodically to conform with zoning decisions made throughout the year. Mr. Johnsen stated the current PUD request was based on the existing underlying zoning, with no change proposed and, if approved, would not result in a greater departure from the Plan than already approved. Mr. Johnsen reviewed the recent changes to the PUD proposal, the major change being from three restaurants to two restaurants and office use.

In regard to the Staff's recommendation for the current development proposal, Mr. Johnsen advised he had a few exceptions to their recommendations, with the most important exception having to do with access. Mr. Johnsen reviewed the original internal access for the three western development areas, advising the amended PUD had three access points to the Braum's site. Knowing the user (Braum's) would want to keep these access points, Mr. Johnsen advised he contacted the Traffic Engineer's office to review the proposed access, and the Traffic Engineer indicated he did not have a problem with the proposed access points, as the separation between accesses appeared to be sufficient for the frontages involved and the internal circulation would appear to work better. Mr. Johnsen added the Traffic Engineer indicated that, if the restaurant use changed, then "he may want to rethink this". In regard to the retirement center, Mr. Johnsen pointed out that access would be either to Easton or Cameron, but not both. This limitation would preclude access from the office or restaurants area to Easton Avenue.

In regard to right-of-way for Gilcrease Museum Road, Mr. Johnsen commented Staff feels there should be additional right-of-way. He advised that, if additional right-of-way were dedicated, their plan would still work, but some of the landscaping would be in the right-of-way. However, they would still meet the Staff's recommended percentage of landscaping of net area.

Mr. Johnsen reviewed the signage previously approved for the PUD, and the signage proposed for the amended PUD. He advised that Mazzio's and Braum's both requested signage along the expressway frontages and in the previous PUD, two signs along the expressway were approved. Mr. Johnsen commented that, in comparison with normal shopping/restaurant areas, the 140 square feet of display surface area per sign was not out of size, particularly in relation to the expressway. Therefore, Mr. Johnsen requested consideration of two signs, each 140 square feet of display surface area, with the spacing requirements outlined by Staff. In regard to the height of the signs, Mr. Johnsen advised that Braum's requested 50' and Mazzio's requested 40', so that was the way he filed the request. Acknowledging he was at the mercy of the Commission, Mr. Johnsen asked the TMAPC to tell him what would be reasonable. He remarked that Staff was indicating a 25' height limitation, which he felt was too restrictive for a site of this size, especially considering the elevated expressway height. Mr. Johnsen agreed it would be difficult to predict the visibility of signage, considering the topography of the area. Mr. Johnsen remarked he did advise Braum's that 50' would not be possible, and commented the TMAPC did have the authority to approve 40', and he requested the Commission consider an appropriate sign height between the 25' recommended by Staff and the maximum allowed of 40'.

Mr. Johnsen advised the applicant had no problem with Staff's recommended setbacks or the recommendations for the sidewalk extension. He commented, in regard to condition #11 addressing stormwater concerns, that he did not object in this case, but he may suggest some slight improvement to the language in the future.

Mr. Paddock commented that Braum's appeared to have access totally around their building, and Mazzio's did not. Mr. Johnsen answered that Mazzio's would probably like to have this type of access, but their building was located closer to the off ramp. He added this was a trade-off situation; i.e. best visual exposure but not the best access. Also, Braum's has the large semi-trucks delivering their products and, although it could be done with fewer access points, it would be very difficult.

In reply to Mr. Paddock regarding the sign heights, Mr. Johnsen confirmed the expressway was higher than the subject tract. Chairman Doherty commented he had viewed the tract and felt the applicant could gain or lose as much as 8' - 10' depending on the placement of the sign, which was a critical factor. Chairman Doherty suggested the sign height be keyed to an elevation above the expressway and not from the base, which should offer some flexibility. Mr. Johnsen agreed and suggested a general standard since the applicant would be bringing in a Detail Sign Plan in the near future.

Interested Parties:

Mr. Frank Keith (2223 Charles Page Blvd.) reiterated comments made at the previous hearings case in opposition to this PUD.

Mr. J.L. Sullivent (2526 West Cameron) spoke in support of the request, stating he felt this proposal would impact the residential areas in a very favorable way. Mr. Sullivent requested TMAPC approval.

Mr. Larry Duke (1919 West Seminole), representing the Gilcrease Homeowners Association, advised of their strong support for the applicant's proposal. Mr. Duke commented the homeowners felt this was an excellent addition to the community and their area.

Applicant's Rebuttal: None

TMAPC Review Session:

Mr. Paddock commented he has seen this type of arrangement work before in regard to refuse associated with fast food or carry out restaurants. He felt that, if approved, the prospective users could police themselves in regard to the problem of refuse.

Mr. Parmele commented that Braum's and Mazzio's were two of the highest quality fast food type restaurants. As he officed next door to a Braum's, he observed their efforts in regard to keeping their parking lots free from trash and debris.

Ms. Wilson requested Staff's opinion as to a pick up window for call-in orders versus a drive-thru window where orders were placed. Mr. Stump commented that, as far as land use impacts, Staff feels a drive-thru was only a problem when residential development was immediately adjacent to

the cars idling or creating noise while waiting in line to place or pick up orders. He added that Staff felt this to be a normal part of a commercial establishment, which could be a sensitive issue if abutting residential. However, in this case, the restaurant would be adjacent to office use and Staff did not consider the drive-thru to be a significant feature.

In regard to access, Mr. Paddock remarked he felt it practical to have an additional access for the Braum's operation. He supported Mr. Doherty's comments regarding signage and suggestion concerning height of the signs reference to elevation above the expressway. He would also be in favor of 140 square foot display area for each of the two restaurants signs.

Mr. Parmele moved for approval of the Staff recommendation, with the following changes:

- The two ground signs be allowed 140 square feet of display surface area each.
- The sign heights be limited to 25' above the expressway elevation, not to exceed 40'.
- Development Area 2 be allowed access to Gilcrease Museum Drive and Cameron Street, but access shall be prohibited to the office use in Development Area 3. (Development Area 1 accesses only to Cameron Street.)
- In the reference to pedestrian access (condition #5), change "should" to "will".

Discussion followed on the motion in regard to access, with clarification of the motion indicating three access points to Braum's. Mr. Stump advised that Staff did not have a problem with two access points on Cameron Street to either restaurant site, as this was a minor road and its major function was to provide access to these lots.

TMAPC ACTION: 7 members present

On **MOTION** of **PARMELE**, the TMAPC voted **6-0-0** (Doherty, Draughon, Paddock, Parmele, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Coutant, Kempe, Randle, Selph, "absent") to **APPROVE** the **Major Amendment to PUD 413-A Johnsen (Isaacs)**, as recommended by Staff, with the following modifications:

- Amend Condition #3 (SIGNS) to allow each of the two ground signs a display surface area of 140 square feet, with a sign height limitation of 25' above the expressway elevation, not to exceed 40'.
- Amend Condition #4 (VEHICULAR ACCESS) to allow Development Area 2 access to Gilcrease Museum Drive and Cameron Street, but access shall be prohibited to the office use from Development Area 2. (Development Area 1 allowed access only to Cameron Street.)

- Amend Condition #5 to read: "PEDESTRIAN ACCESS: In order to enhance pedestrian access to the restaurants in Development Areas 1 and 2, the developer will, through use of PFPI with the City of Tulsa, extend the existing sidewalk on the east side of Gilcrease Museum Road to West Easton Street."

Legal Description:

All of Block 3, NEW IRVING PLACE ADDITION, to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, and all of Blocks 1 and 2, and Lots 1 thru 17, both inclusive, of Block 3, NEW IRVING PLACE SECOND ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, together with all vacated streets, places and ways abutting any and all of the above described real property, LESS AND EXCEPT those certain rights-of-way and other property rights over, across, in and to a portion of the above described real property acquired by the Board of County commissioners of Tulsa county, Oklahoma, in connection with the securing of right-of-way for the Keystone Expressway as evidenced by the proceedings in Case No. C 69-706 in the District Court of Tulsa County, State of Oklahoma, styled Board of County Commissioners of Tulsa County, Oklahoma, Plaintiff, v. The Children's Home and Welfare Association, a corporation et al., Defendants, the Journal Entry of Judgment therein describing the property condemned and taken having been entered the 17th day of July, 1970.

* * * * *

Application No.: **CZ-176** Present Zoning: AG
Applicant: **Butler (Williams)** Proposed Zoning: CH
Location: East of the SE/c of North Cincinnati Avenue & State Highway 20
Date of Hearing: September 13, 1989
Presentation to TMAPC by: Robert Butler, 1710 South Boston (585-2797)

Relationship to the Comprehensive Plan:

The Skiatook Comprehensive Plan designates the subject tract as Agriculture and Development Sensitive.

According to the Zoning Matrix, the requested CH district would not be in accordance with the Plan Map.

Staff Recommendation:

Site Analysis: The subject tract is approximately 7.6 acres in size and is located east of the southeast corner of North Cincinnati Avenue and State Highway 20. It is partially wooded, gently sloping, contains a large metal building that is used as a flea market with outside storage and is zoned AG.

CZ-176 Butler (Williams) - Cont

Surrounding Area Analysis: The tract is abutted on the north by both vacant property and a single-family dwelling zoned AG; on the east and west by vacant property zoned AG; on the south by sewage disposal lagoons in the town of Skiatook zoned AG.

Zoning and BOA Historical Summary: The Tulsa County Board of Adjustment denied a use variance to permit a flea market on the subject in May. The case is currently on appeal in District Court.

Conclusion: Based on the Skiatook Comprehensive Plan and the tracts location away from the node, Staff cannot support the requested rezoning due to the lack of commercial zoning in the area. Staff views the request as spot zoning.

Therefore, Staff recommends **DENIAL** of CH zoning or any less intense designation in the alternative.

Applicant's Comments:

Mr. Robert Butler, representing the applicant, advised the site has been used as an oilfield service shop for several years and has recently been used for a flea market operation. Mr. Butler stressed that, due to the flooding situation on this tract, the site has never been used for agricultural purposes, and he did not see this changing in the near future. In regard to the mentioned District Court case, Mr. Butler advised the appeal was dismissed so the applicant could seek remedy through a zoning change.

Mr. Doherty inquired as to the request for CH when the use appeared to be industrial. Mr. Butler replied he was told CH was needed in order to run the flea market. Staff confirmed a flea market operation required some type of commercial zoning.

Chairman Doherty advised receipt of a letter from the Skiatook Planning Commission which indicated that, due to insufficient notice, they have not had an opportunity to hear this case. However, it was mentioned that the site was development sensitive and part of the acreage was located in a floodplain.

Discussion followed among the TMAPC members and Staff as to the various alternatives since some felt there should be a way to offer relief to the applicant. Mr. Butler agreed a continuance might be appropriate in order to let the case be heard by the Skiatook Planning Commission before proceeding before the TMAPC.

TMAPC ACTION: 6 members present

On **MOTION** of **PADDOCK**, the TMAPC voted **6-0-0** (Doherty, Draughon, Paddock, Parmele, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Coutant, Kempe, Randle, Selph, "absent") to **CONTINUE** Consideration of **CZ-176 Butler (Williams)** until Wednesday, **October 11, 1989** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

* * * * *

Application No.: **CZ-177** Present Zoning: RS-3
Applicant: **Fisher** Proposed Zoning: CS
Location: NE/c of 7th Street & South 65th West Avenue
Date of Hearing: September 13, 1989
Presentation to TMAPC by: Joe W. Fisher, Box 111, Sand Springs (245-4011)

Relationship to the Comprehensive Plan:

The District 10 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.

Staff Recommendation:

Site Analysis: The subject tract is approximately .32 acres in size and located north of the northeast corner of Charles Page Blvd. and South 65th West Avenue. It is nonwooded, flat, contains a vacant nonresidential building and is zoned RS.

Surrounding Area Analysis: The tract is abutted on the north, east and west by single-family dwellings on large lots zoned RS; and on the south by railroad tracks zoned RS.

Zoning and BOA Historical Summary: As noted on the zoning background, The Staff recommended denial of CG zoning but approval of CS zoning at the northwest corner of South 65th West Ave and 7th Street. The TMAPC recommended denial of both CG and CS zoning.

Conclusion: Based on the Comprehensive Plan and the previous recommendation for CS zoning across South 65th West Avenue, Staff can support the requested rezoning. Staff views the request as an orderly transition since the request is located at the intersection of the railroad track and the arterial.

Therefore, Staff recommends **APPROVAL** of CS zoning for CZ-177.

Applicant's Comments:

Mr. Joe Fisher, representing the applicant, stated agreement with the Staff recommendation. He stated the applicant has owned this property since 1952 and planned to reopen a grocery store operation.

Interested Parties:

Ms. Judy Ford (473 South 65th West Avenue) advised she has been a resident in this area for 13 years. Ms. Ford commented that she would like assurance that, whatever zoning was placed on the property, that some limitations would be placed on the hours of operation to control noise, etc. Chairman Doherty advised the requested CS zoning was the lightest commercial category with the heaviest restrictions, but the Commission could not place conditions as to hours of operation, etc. with a zoning request.

CZ-177 Fisher - Cont

Ms. Sylvia Ford (6425 West 6th Street) stated she would like to see this tract developed for residential use, as she did not wish to have the problems associated with commercial type uses in neighborhood areas.

Ms. Ora Wallace (6417 West 6th Street) advised she would also like to see this tract developed for residential use as she felt a commercial operation would hurt, not help, the nearby residential neighborhoods.

Applicant's Rebuttal:

Mr. Fisher advised he has tried but been unable to market this property for residential use, and developing it commercially was the applicant's only hope.

In reply to Mr. Paddock, Mr. Gardner confirmed that a screening fence would be required, if the TMAPC and County Commission approved the request for CS. If CS was denied, Mr. Gardner advised the Comprehensive Plan would need to be amended.

TMAPC ACTION: 6 members present

On **MOTION** of **PADDOCK**, the TMAPC voted **6-0-0** (Doherty, Draughon, Paddock, Parmele, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Coutant, Kempe, Randle, Selph, "absent") to **APPROVE CZ-177 Fisher for CS Zoning**, as recommended by Staff.

Legal Description:

Lot 37, PARTRIDGE SUBDIVISION, an addition to the County of Tulsa, State of Oklahoma.

* * * * *

Application No.: Z-6263 Present Zoning: OM
Applicant: **Moody (HBM-71)** Proposed Zoning: CS
Location: North of the NE/c of 71st Street & Yale Avenue
Date of Hearing: September 13, 1989
Continuance Requested to: October 25, 1989 (Timely request by the applicant)

TMAPC ACTION: 6 members present

On **MOTION** of **PARMELE**, the TMAPC voted **6-0-0** (Coutant, Doherty, Draughon, Paddock, Parmele, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Kempe, Randle, Selph, Wilson, "absent") to **CONTINUE** Consideration of **Z-6263 Moody (HBM-71)** until Wednesday, **October 25, 1989** at 1:30 p.m. in the City Commission Room, City Hall, Tulsa Civic Center.

OTHER BUSINESS:

PUD 288-6: Minor Amendment for Building Setback
North side of 27th Place, West of Birmingham Place

Staff Recommendation:

The subject tract has underlying zoning of RS-1 with PUD 288 and is described as Lot 15, Block 1, Eight Acres Addition. This tract has double frontage with a private street on the west and Birmingham Place on the east. The applicant is requesting an amendment from 35' to 25' for the building setback requirement on Birmingham Place. The adjacent lot to the north has already been granted a change to a 25' setback on Birmingham Place. Because the PUD provides for a screening fence at the property line along Birmingham Place and other lots have been granted this relief, staff can support this request.

Therefore, Staff recommends **APPROVAL** of Minor Amendment PUD 288-6 for Lot 15, Block 1 of Eight Acres Addition amending the building setback line along South Birmingham Place from 35' to 25'.

TMAPC ACTION: 6 members present

On **MOTION** of PARMELE, the TMAPC voted **6-0-0** (Doherty, Draughon, Paddock, Parmele, Wilson, Woodard, "aye"; no "nays"; no "abstentions"; Carnes, Coutant, Kempe, Randle, Selph, "absent") to **APPROVE** the **Minor Amendment to PUD 288-6 (Design Properties)**, as recommended by Staff.

There being no further business, the Chairman declared the meeting adjourned at 5:08 p.m.

Date Approved 9/27/89

James R. Doherty
Chairman

ATTEST:

Art Draughon
Secretary

