

**TULSA METROPOLITAN AREA PLANNING COMMISSION**

Minutes of Meeting No. 1971

Wednesday, April 13, 1994, 1:30 p.m.

City Council Room, Plaza Level, Tulsa Civic Center

**Members Present**

Ballard  
Carnes, 2nd Vice  
Chairman  
Doherty, Secretary  
Harris  
Horner  
Midget, Mayor's  
Designee  
Neely, 1st Vice  
Chairman  
Pace  
Parmele  
Chairman  
Wilson

**Members Absent**

Broussard

**Staff Present**

Gardner  
Hester  
Matthews  
Peters  
Stump

**Others Present**

Linker, Legal  
Counsel

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, April 11, 1994 at 4:40 p.m., as well as in the Reception Area of the INCOG offices.

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

**REPORTS:**

**Chairman's Report**

Chairman Parmele reported that the River Parks Authority reviewed the Riverside & 51st Street left-turn lane plans earlier today and concurred with the plans as submitted.

**Committee Reports:**

**Budget and Work Program Committee**

Ms. Wilson announced that the Budget and Work Program Committee met today and received information on the Citizen Participation Study and will meet again in work session May 18 for further review. She reported that the Budget and Work Program Committee considered amending State Statutes as relates to requiring a 60% majority of land owners in order to replat property and are still seeking additional information. The Committee will pursue this matter at a later date. Ms. Wilson announced that the Committee discussed amendment of the State Statutes to include a provision that the names of owners of real property as shown by the current year's tax rolls in the office of the County Treasure shall meet the notice requirements. It was decided to continue to prepare legal notice based on current computer records at the County Assessor's office since this is the most current information available.

Comprehensive Plan Committee

Mr. Neely announced that the Comprehensive Plan Committee met today to review the following items set for public hearing April 27, 1994: Adoption of the Tulsa Trails Master Plan as a part of the Comprehensive Plan for the Tulsa Metropolitan Area; Tulsa Development Authority (TDA) Plan Amendment for Oaklawn Neighborhood and certify as in accord with the 11th Street Corridor Study and District 4 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area; and review of the proposed Tax Increment Financing District No. Two, City of Tulsa, Oklahoma Project Plan for recommendation to TMAPC.

**SUBDIVISIONS:**

**FINAL APPROVAL AND RELEASE:**

7700 Riverside Park (PUD-128-E)(783)

South of the SW/c of East 71st Street South and South Riverside Drive.

Staff Comments

Mr. Stump advised that all releases have been received and Staff was recommending approval subject to approval of the Legal Department.

**TMAPC Action; 9 members present:**

On **MOTION** of **HORNER**, the TMAPC voted **9-0-0** (Carnes, Doherty, Harris, Horner, Midget, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard "absent") to **APPROVE** the FINAL PLAT of 7700 Riverside Park and **RELEASE** same as having met all conditions of approval as recommended by Staff.

\* \* \* \* \*

**ZONING PUBLIC HEARING:**

Application No.: **Z-6439/PUD 509**

Applicant: David Riggs

Location: 129th East Avenue between 5th Street and 7th Street.

Date of Hearing: April 13, 1994

Present Zoning: RS/CH

Proposed Zoning: IL/PUD

TMAPC Comments

Chairman Parmele announced that the applicant has requested a continuance to April 27.

There were no interested parties in attendance.

**TMAPC Action; 8 members present:**

On **MOTION** of **NEELY**, the TMAPC voted **8-0-0** (Carnes, Doherty, Harris, Midget, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Ballard, Broussard, Horner "absent") to **CONTINUE** Z-6439/PUD-509 to April 27, 1994.

\* \* \* \* \*

Application No.: Z-6440

Present Zoning: RM-1 & RM-2

Applicant: TMAPC

Proposed Zoning: RS-4

Location: Between East Pine Street and Zion from North Peoria Avenue to the Right-of-Way of the Union Pacific Railroad

Date of Hearing: April 13, 1994

Presentation to TMAPC: Donna Peters

Relationship to the Comprehensive Plan:

The District 2 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as Special District 1 - (NDP) Neighborhood Development Plan.

According to the Zoning Matrix the requested RS-4 District may be found in accordance with the Plan Map.

Staff Comments:

**Site Analysis:** The subject property contains approximately 215 acres. The property is flat, non-wooded and has single-family dwellings and multifamily dwellings.

**Surrounding Area Analysis:** The subject tract is abutted on the north by single-family dwellings, zoned RS-3; to the east by commercial businesses and single-family homes, zoned CH, CS, RS-3 and RM-1; to the south by vacant property and a vacated school, zoned CS and RM-1; and to the west by the Union Pacific Railroad R-O-W with single-family dwellings north of the railroad and zoned RS-4, RM-2 and RS-3.

**Zoning and BOA Historical Summary:** This area is primarily single-family homes. It was zoned RM-1 through blanket zoning in 1970. Staff recommends **APPROVAL** of RS-4 zoning of this area to preserve and enhance the predominantly single-family residential character of the neighborhood.

Applicant's Comments

Ms. Peters informed that Staff met with area residents on February 15 at the Rudisill North Library with approximately 60 individuals attending. She reported that notices were mailed to area residents within a 300' radius of the subject property. Ms. Peters reviewed the following:

**Neighborhood Profile and Resident Response**

**Lincoln-Dunbar Neighborhood**

**Profile:**

Total Lots: 726

Single-family	697 Lots	(95.9%)
Multifamily	11 Lots	( 1.5%)
Park	1 Lot	(.14%)
Commercial	5 Lots	(.69%)
Church/Comm.	12 Lots	(1.7%)

**Resident Response as of April 8, 1994:**

For: 100  
Against: 4  
No Opinion: 2

Of those who responded, sentiment ran **25:1 FOR** the rezoning.

Ms. Peters displayed a map indicating responses supporting and opposing the rezoning request. She pointed out that the vacant Dunbar Elementary School at the southwest corner of the area is excluded from the area as are two parcels of CS zoning on the east boundary, along Peoria Avenue.

Ms. Peters answered questions from the Planning Commission regarding existing uses other than single-family residential. Mr. Gardner described existing nonconforming uses within the area noting that they will not be affected by the proposed rezoning. He advised that there are duplexes in the area, but knows of no apartments.

Mr. Neely asked Ms. Peters to review the oppositions to the rezoning and the reasons for oppositions.

Ms. Peters explained that reasons as to why individuals may be opposed to the rezoning were not stated on the reply sheets.

In order to expedite the public hearing process, Chairman Parmele asked for a show of hands of those opposed to the rezoning request. Only one individual was opposed.

Interested Parties

**Leonard Taylor**

**1860 North Norfolk**

Mr. Taylor was present on behalf of Mrs. McPherson to express opposition to the proposed zoning change. He advised that Mrs. McPherson does not totally understand what the rezoning entails.

Mr. Gardner explained the effect this rezoning would have on the area. He informed of the Planning Commission policy to assist owners of existing duplexes who may need to make application to the Board of Adjustment at some future date, for example building permits in the event of destruction or refinancing. The Planning Commission would authorize an application for relief through the Board of Adjustment if necessary.

**Marcella Taylor**

**1842 North Boston Avenue**

Ms. Taylor, Mrs. McPherson's daughter, explained that her mother has rental properties which are duplexes, and wants to ensure that they will not be required to turn the duplexes into single-family residences.

Mr. Doherty assured Ms. Taylor that the proposed rezoning will not affect existing duplexes.

Interested Parties In Support of Rezoning

**Vanessa Manson & Janella Shumate**

**James D. Bell**

**Brett Biesemeyer**

**A.E. Ware**

**Augusta Mann**

**Elizabeth Chappelle**

**Hassita Perples**

**Charles Andrew**

**L.R. Bee**

**Ora L. Sewain**

**Leneta Dyer**

**Elnore Cozart**

**Vivian & Sam Breckeen**

**Marquita Swan**

**Margaret Hightower**

**Mattie McPherson**

**Mahle Burrell**

**Wanda Hampton**

**Evelee Miller**

1043 East Zion 74106  
2108 North Peoria Avenue 74106  
1606 East Oak Ridge Drive, Claremore 74107  
715 East Queen Place 74106  
1502 North Norfolk 74106  
1136 East 26th Place North 74106  
4603 North Boston Avenue 74126  
5955 South 113th, Sand Springs 74063  
746 East Queen Place  
783 East Pine Place 74106  
2005 North Madison Place 74106  
1016 East Apache 74106  
1015 East Zion Court 74106  
783 East Pine Place 74106  
787 East Queen Street 74106  
1860 North Norfolk 74106  
2428 North Peoria 74106  
790 East Queen Place 74106  
791 East Queen Place 74106

**TMAPC Action; 9 members present:**

On **MOTION** of **CARNES**, the TMAPC voted **9-0-0** (Ballard, Carnes, Doherty, Harris, Midget, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Horner "absent") to recommend **APPROVAL** of RS-4 zoning as recommended by Staff.

**LEGAL DESCRIPTION**

Lots 13-24, Block 1, Lots 13-24, Block 2, and All of Blocks 3, 5, & 6, and Lots 1 thru 22, Block 4, Booker Washington Addition; All of Block 7, Berry-Hart's Resubdivision of Blocks 7-10 of Roosevelt Addition; All of Blocks 2, 3, & 6, Roosevelt Addition; All of Blocks 1, 3, & 4, and Lots 5-7, and the south 42' of Lot 4, Block 2, Carter Addition; Lots 1 - 7, Block 2, Resubdivision of Lots 8 & 9, Carter Addition; All of Block 1-10, Liberty 2nd Addition; All of Middletown Addition; All of Blocks 1-3, Sunny Slope Addition; All of Blocks 1-6, LeClaire Addition; and All of Block 1-6, Henry Addition; and Lots 1-3, and the north 31.33' of Lot 4, Block 2, Carter Addition, All being approximately between East Pine Street and East Zion Street; the Midland Valley Railroad and North Peoria Avenue, Tulsa, Oklahoma.

\*\*\*\*\*

Application No.: **Z-6441**

Applicant: Jeff Levinson

Location: East of the Southeast corner of South Yale Avenue and East 91st Street South

Date of Hearing: April 13, 1994

Presentation to TMAPC: Jeff Levinson

Present Zoning: RS-1

Proposed Zoning: RS-3

Relationship to the Comprehensive Plan:

The District 18 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the property as Low Intensity - No Specific Land Use.

According to the Zoning Matrix the requested RS-3 District is in accordance with the Plan Map.

Staff Comments:

**Site Analysis:** The subject property contains approximately 17.8 acres. The property is flat, partially wooded and has two single-family dwellings.

**Surrounding Area Analysis:** The subject tract is abutted on the north by vacant property, zoned PUD-354/RM-1 and OL; to the east by single-family dwellings, zoned RS-3; to the south by single-family dwellings, zoned RS-1 and to the west by vacant property zoned PUD-501 and a commercial shopping center zoned CS.

**Zoning and BOA Historical Summary:** Past zoning actions in this area have established low intensity single-family zoning to the west within a Planned Unit Development and high intensity single-family development to the east. Based on the Comprehensive Plan, surrounding land uses and existing zoning patterns, the Staff recommends **APPROVAL** of RS-3 zoning for Z-6441.

Applicant's Comments

Mr. Levinson expressed support of Staff recommendation.

Chairman Parmele acknowledged receipt of a letter from Alnen and Ruth Cravens, 9110 South Darlington 74137, expressing opposition to the proposed rezoning.

Interested Parties

**Jim Barnes**

5110 East 93rd Street 74137

**Ruth M. Cravens**

9110 South Darlington 74137

Ms. Cravens informed that she is not opposed to the project, but is opposed to the change to a higher density and prefers that the subject area remain RS-1. She would rather see larger lots to the west of her property than the smaller lots RS-3 would allow.

In response to Mr. Gardner's question about the single-family development, Darlington South, across the street from her, Ms. Cravens informed that the lots closest to her home were made larger.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, the TMAPC voted **8-0-0** (Ballard, Carnes, Doherty, Harris, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Horner, Midget "absent") to recommend **APPROVAL** of Z-6441 for RS-3 zoning as recommended by Staff.

**LEGAL DESCRIPTION**

Part of the NW/4, Section 22, T-18-N, R-13-E, Tulsa County, Oklahoma, more particularly described as follows: Beginning at a point 660' East of the Northwest corner of said NW/4; thence East along the North line of said NW/4 660'; thence South 370'; thence East 150.6'; thence South 290'; thence West 220'; thence South 200'; thence West 217.4'; thence South 460'; thence West 378.6'; thence North 1,320' to the point of beginning; containing 17.8 acres, more or less, and being approximately located east of the southeast corner of South Yale Avenue and 91st Street South.

\* \* \* \* \*

Application No.: **PUD-510** Present Zoning:  
Applicant: Charles C. Boyd Proposed Zoning:  
Location: On the west side of Yale Avenue north and south of East 12th Street South  
Date of Hearing: April 13, 1994  
Presentation to TMAPC: Charles Boyd

The Will Rogers United Methodist Church is proposing a PUD containing church, commercial and single-family uses on a 4.6-acre tract on the west side of Yale Avenue that includes the right-of-way of 12th Street South. The PUD currently contains a church, a 3700 SF commercial building, eight single-family dwellings and a large parking lot. The proposed use is ultimately to be church facilities and accessory off-street parking with the 12th Street right-of-way used for parking as well as the areas currently occupied by dwellings and commercial buildings. In the interim, the existing commercial building would continue under its current use and the single-family dwellings would be used to house church staff, missionaries and church classes.

The proposed uses are a significant intrusion into an existing residential area, but with properly designed buffering, screening and landscaping, the negative effects could be minimized. In order to more logically present the Staff proposed development standard, the PUD was divided into the following Development Areas:

- Area A** - the area of the PUD north of the 12th Street right-of-way and east of the Winston Avenue right-of-way
- Area B** - the area of the PUD south of the north right-of-way line of 12th Street
- Area C** - the area of the PUD west of the east right-of-way line of Winston Avenue

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Based on the following conditions, Staff finds PUD-510 to be: (1) consistent with the Comprehensive Plan; (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-510 subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.

2. **Development Standards:**

Land Area (Gross): 5.62 acres

**Development Area A**

Permitted Uses:

Entire Development Area: Church and customary accessory uses

North 50' of Development Area: Use Units 11, 13 and 14

Maximum Building Floor Area:

Church Uses: 75,000 SF  
Commercial Office Uses: 4,700 SF

Minimum Landscaped Open Space: 10%

Minimum Off-Street Parking: As required by the Tulsa Zoning Code for the applicable Use Unit

Maximum Building Height: 2-story

Minimum Building Setback:

From north boundary of PUD: 0'  
From centerline of Yale Ave.: 100'  
From centerline of Winston Ave.: 50'  
From south boundary of Development Area (if 12th Street is closed): 5'

Minimum Setback for Off-Street Parking:

From centerline of Yale Ave.: 50'  
From centerline of Winston Ave.: 0'

Screening Requirements: None

**Development Area B**

Permitted Uses: Use Unit 6 and accessory off-street parking for the church

Maximum Dwelling Units: 2

Bulk and Area Requirements: As required in the RS-3 district for Use Unit 6 uses

Minimum Setbacks for Off-Street Parking:

From centerline of Winston Ave.: 50'  
From centerline of Yale Ave. within 40' of the south boundary of PUD: 25'  
From south boundary of PUD: 5'

Minimum Landscaped Open Space*:	10%
Minimum Setback of Access Drives from the south boundary of PUD	
Access to Winston Ave.:	70'
Access to Yale Ave.:	60'

\* *Development Area B shall comply with the requirements of Chapter 10 of the Tulsa Zoning Code.*

### Development Area C

Permitted Uses:	Use Unit 6 and church and customary accessory uses
Maximum Dwelling Units:	7
Bulk and Area Requirements:	As required in the RS-3 district for Use Unit 6 uses
Minimum Setbacks for Off-Street Parking:	
From centerline of Winston Ave.:	30'
From centerline of 12th Street:	40'
From west boundary of PUD:	5'
Minimum Landscaped Open Space*:	10%

\* *Development Area C shall comply with the requirements of Chapter 10 of the Tulsa Zoning Code.*

3. Landscaped open space covering at least the following areas shall be provided when off-street parking is established:
  - a) The west 25' of the south 70' of Development Area B;
  - b) The east 25' of the south 20' of Development Area B;
  - c) The south 5' of Development Area B; and
  - d) The south 10' of Development Area C.
  
4. A screening fence meeting the requirements of Section 212 of the Tulsa Zoning Code shall be provided at the following locations when off-street parking is established:
  - a) Along the southern boundary of Development Area B, except the east and west 25' of that boundary;
  - b) Along the east side of the landscaped area required in the southwest corner of Development Area B;
  - c) Along the west side of the landscaped area required in the southeast corner of Development Area B;
  - d) Near the southern boundary of Development Area C on the north side of the landscaped area required there; and
  - e) Along the west boundary of Development Area C, except the south 10'.
  
5. No access to off-street parking areas accessory to church use in Development Area C shall be permitted from 12th Street.

6. Off-street parking provided in Development Areas B and C may be used to meet the off-street parking requirements of uses in Development Area A.
7. No ground or wall signs are permitted in Development Areas B and C. One ground sign is permitted in Development Area A which shall be adjacent to Yale Avenue and shall not exceed 6' in height nor 60 SF of display surface area. Wall signs are permitted on the commercial building not to exceed 2 SF per lineal foot of building wall to which it is attached.
8. No Zoning Clearance Permit shall be issued for a development area within the PUD until a Detail Site Plan for the 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.
9. 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 to the zoning officer that all required 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.
10. No sign 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.
11. All trash, mechanical and equipment areas shall be screened from public view by persons standing at ground level.
12. All parking lot lighting shall be directed downward and away from adjacent residential areas. Light standards shall be limited to a maximum height of 12 feet in Development Areas B and C.
13. The Department of Public Works or a Professional Engineer registered in the State of Oklahoma shall certify to the zoning officer that all required stormwater drainage structures and detention areas serving a development area have been installed in accordance with the approved plans prior to issuance of an occupancy permit.
14. No Building Permit shall be issued until the requirements of Section 1107E of the Zoning Code has 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 the City beneficiary to said Covenants.

Mr. Gardner pointed out that the PUD requires a new plat requirement or waiver of plat regarding the issue that there is no right-of-way on Yale north and south of this property consistent with the Major Street and Highway Plan (MSHP), and the applicant does not want to lose property or parking places, etc.

Mr. Stump noted that the applicant is considering, in the future, using 12th Street as a parking lot with guaranteed access for the public through the parking lot to Yale.

Mr. Doherty gave a history of the subject property, informing that this matter was referred to the Planning Commission by the City Council. He informed that it went to the City Council strictly as a street closing. The Planning Commission met with the District Planning team at length, and the recommendation from the City Council was to not close 12th Street without a PUD.

Chairman Parmele asked if the street closing was part of the application.

Mr. Doherty replied that it is an essential part of the PUD. He disclosed that the City Council, by separate action, will have to close the street, but have indicated they would not do so until the Planning Commission submits a recommendation for approval of a PUD.

Applicant's Comments

Mr. Boyd expressed agreement with the intent of Staff recommendation with the exception of a few items. He informed of holding a neighborhood meeting and having conversations with adjacent neighbors. Mr. Boyd addressed the following items of contention.

**Development Area A**

Maximum Building Floor Area:  
Church Uses: 85,000 SF

Mr. Boyd informed that the eventual size of the church will be well under the 75,000 SF Staff recommends, but the existing building is only 58% efficient, and depending on phasing and future development, there is the chance the floor area may need to be increased to 85,000 SF.

Mr. Doherty asked if parking will be sufficient for 85,000 SF.

Mr. Stump advised that Staff would have no objection to the 85,000 SF and that parking would be ample.

Minimum Setback for Off-Street Parking:  
From centerline of Yale Ave.: 50'  
From centerline of Winston Ave.: 0'

Mr. Boyd noted that the setback requirement for Yale would cause a loss of 10 parking spaces and requested that this be subject to Board of Adjustment (BOA) variance.

There was discussion over waiving the minimum setback of off-street parking, and Mr. Linker advised that this would require BOA approval.

Mr. Doherty expressed concern with parking space being interpreted as a structure.

Minimum Setbacks for Off-Street Parking:  
From south boundary of PUD: 5'

Mr. Boyd declared that because of a physical limitation of the site, parking spaces will be lost. He asked that this condition be waived for the east 135' of the south boundary.

4. A screening fence meeting the requirements of Section 212 of the Tulsa Zoning Code shall be provided at the following locations when off-street parking is established:

- a) Along the southern boundary of Development Area B, except the east and west 25' of that boundary;

Mr. Boyd advised that a neighbor abutting this boundary has requested a 4' chain link fence along which the applicant intends to plant crepe myrtles. Another neighbor who has a kitchen window near the fence has requested a 5'6" high fence so as not to obstruct her view.

- c) Along the west side of the landscaped area required in the southeast corner of Development Area B;

Mr. Boyd asked that this be changed to evergreen landscaping rather than fencing.

Mr. Doherty advised that the City Council was concerned that parking on the south side of 12th Street for church would create a safety hazard for people crossing the street to get to church.

- d) Near the southern boundary of Development Area C on the north side of the landscaped area required there; and

Mr. Boyd requested that evergreen landscaping be permitted rather than a fence.

Interested Parties

**Buddy Carpenter**

**1212 South Yale 74112**

Mr. Carpenter expressed concern that setback and landscaping at the southeast corner be done in a manner to ensure sufficient line of sight to safely back out of his driveway. He expressed support of the remainder of the PUD.

**Joan McKinney**

**1208 South Yale 74112**

Ms. McKinney, whose residence abuts the parking lot against Yale, expressed concern over sufficient line of sight to safely back out of her driveway. In response to Mr. Doherty's question as to proposed setback of parking which abuts her property, Ms. McKinney has no objection to waiving standard requirements.

Interested Parties

**Ron Miller**

**1148 South Vandalia 74112**

**Jason Johnson**

**1127 South Vandalia 74112**

**Ricky G. McCage**

**1117 South Vandalia 74112**

**Freeman Jordan**

**4703 East 12th Street 74112**

**Shirley Marney**

**1204 South Winston Avenue 74112**

**Leona Gipson**

**1210 South Winston 74112**

(Unable to attend, but sent letter of opposition.)

All of the above-listed parties appeared in protest to the PUD proposal.

Area residents expressed opposition to the closing of 12th Street, stating this is their direct access to Yale Avenue. Residents questioned why the City would vacate this portion of 12th Street. There was also concern that Winston Avenue from 11th to 12th Streets may also be closed in the future.

Residents revealed that they were not informed of neighborhood meetings concerning this application, nor were they informed when the closing of 12th Street was considered by the City Council. They also informed that many residents in the neighborhood are unaware that 12th Street may be closed.

One individual declared that closing 12th Street would impede fire and police protection to the area.

One individual advised that representatives from the church were very defensive in regard to revealing information concerning plans for future expansion.

Residents questioned whether there would be sufficient parking for the church by closing 12th Street.

Residents expressed concern of property devaluation and loss of privacy by having a parking lot abut their back yards.

#### Applicant's Rebuttal

Regarding the 12th Street closing, Mr. Boyd informed that notification was sent to area residents, and protestants appeared at the City Council meeting regarding such. He divulged that Planning District Chairs arranged meetings for their Planning Districts. Mr. Boyd informed that the PUD incorporates attempts to respond to concerns voiced by area residents. He explained that based upon the proposed size of the sanctuary, parking is insufficient. Mr. Boyd declared that there are no plans to close Winston or to close access across this property. He informed that they are attempting to resolve a parking situation associated with church expansion and meet residents' requests.

Mr. Parmele asked why the property the church purchased on the west side of Winston could not be utilized for parking.

Mr. Boyd advised that this area could be considered for parking; however, they are trying to create a situation where parking is not located across the street.

Mr. Stump revealed that the manner in which the PUD is constructed is such that the area west of Winston could be allowed for parking.

#### TMAPC Comments

Mr. Carnes advised that the Planning Commission has never recommended closing a street unless it was a dead-end street; therefore, he opposes setting a precedent by closing this street with so much objection. He revealed that he would be voting against this PUD.

Mr. Doherty, who was at the City Council meeting when the street closing was addressed, gave a detailed report of discussion at that meeting.

There was considerable discussion over how a street can be closed yet be made available for public use, and the liability that creates.

Mr. Neely suggested that stop signs may take care of safety hazards and was concerned that a great number of individuals are being affected on a daily basis compared to a church being affected on Wednesday nights and Sunday. He advised that he would have difficulty supporting the PUD as presented; however, he could support it if 12th Street was not closed and parking was still allowed along the north side of 12th Street and on the south side on the two lots the church owns.

Mr. Doherty pointed out the danger of allowing parking on a street where a parking lot is adjacent to it.

Chairman Parmele expressed reluctance to accompany the street closing with a PUD.

Mr. Doherty surmised that the City Council recognized the Planning Commission's interest in traffic circulation, patterns, etc., and believes that at some point the Planning Commission should review street closings to ensure internal circulation in a section is maintained.

Regarding the proposed closing of 12th Street, Commissioner Harris remarked that he failed to see how a public street can be closed, yet remain open for use. He noted that a private property owner may not want the liability of traffic crossing it as though it were a public thoroughfare. Commissioner Harris pointed out that downtown churches have parking lots across the street from their sanctuaries and he does not see the problem with parking across the street. He disclosed that he will not support the PUD with the closing of 12th Street included.

Ms. Wilson deems the possible street closing to be poor planning. This is an isolated area and closing a street made available to the general public is not good planning.

Mr. Carnes made a motion for denial of the PUD. Commissioner Harris seconded the motion.

Chairman Parmele expressed support of the majority of the PUD and suggested approving the PUD except for parking along the south side and transmitting to the City Council a recommendation that the majority of the PUD can be approved.

It was the consensus of the Planning Commission that they could support the PUD if the closing of 12th Street were not a part of it.

Mr. Carnes rescinded his motion for denial.

Mr. Midget made a motion to approve the PUD with the deletion of the closing of 12th Street. Mr. Carnes seconded the motion.

The Planning Commission reviewed areas to be amended.

Mr. Gardner suggested the motion be limited to whether or not the Planning Commission could support the PUD if the street is closed. Once that determination is made, the balance of the PUD can be continued. He noted that if the plan is denied with respect to the street closing, then the plan must be redesigned and the Planning Commission could continue it to allow for redesign or the applicant could appeal the TMAPC decision. He suggested making it clear how the majority of the Planning Commissioners feel about the street closing.

There was considerable discussion among the Planning Commission over closing 12th Street.

Mr. Neely asked Legal Counsel if there was a way to take a vote to determine the Planning Commission's feeling for closing 12th Street and keep the PUD alive.

Mr. Linker advised that the Planning Commission could vote on that issue and continue it to allow the applicant time to redesign the project.

Mr. Midget withdrew his motion.

**TMAPC Action; 9 members present:**

On **MOTION** of **NEELY**, the TMAPC voted **8-1-0** (Ballard, Carnes, Harris, Midget, Neely, Pace, Parmele, Wilson "aye"; Doherty "nays"; no "abstentions"; Broussard, Horner "absent") to **RECOMMEND** to the City Council that 12th Street remain open.

Mr. Neely then made a motion for continuance, which was seconded by Mr. Midget.

Mr. Doherty informed that the applicant has no reason to file a PUD, and in effect the Planning Commission is moving to deny the PUD.

**TMAPC Action; 9 members present:**

On **MOTION** of **NEELY**, the TMAPC voted **8-1-0** (Ballard, Carnes, Harris, Midget, Neely, Pace, Parmele, Wilson "aye"; Doherty "nays"; no "abstentions"; Broussard, Horner "absent") to **CONTINUE** PUD 510 to May 11, 1994.

**LEGAL DESCRIPTION**

All of Block 1, Emmons, less and except Lots 1 & 6 and the North 15' of Lots 2 & 5; All of Block 1, Franklin 2nd Addition and all the North 50' of Lot 1 and the North 58' of Lot 8, Block 1, Franklin Heights and Lots 2, 3, 4, 5, 6, 7, & 8, Block 1, Herald Addition, all being approximately located south of the southwest corner of East 11th Street and S. Yale Avenue.

\* \* \* \* \*

Application No.: **PUD-452-A/Major Amendment**

Applicant: Kevin Coutant

Location: South side of East 55th Street South at South Delaware Place.

Date of Hearing: April 13, 1994

Presentation to TMAPC: Kevin Coutant

The applicant is proposing to expand this PUD 66' to the west between 55th Street and 55th Place and to add three single-family dwelling units. One would be an existing dwelling on the lot. Access to the two new dwelling units would be from the already-planned private drive that would start at the east end of 55th Place.

Staff finds the uses and intensities of development proposed to be in harmony with the spirit and intent of the Code. Based on the following conditions, Staff finds PUD-425-A to be: (1) consistent with the Comprehensive Plan; (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-425-A subject to the following conditions:

1. The applicant's Outline Development Plan and Text be made a condition of approval, unless modified herein.

2. **Development Standards:**

Land Area (Gross):	5.72 acres
Permitted Uses:	Use Unit 6 and customary accessory uses
Maximum Number of Dwelling Units:	25
Minimum Livability Space (entire PUD):	110,000 SF
Maximum Building Height:	
West 66' between 55th St. & 55th Pl.:	1-story
Remainder of PUD:	35'
Minimum Off-Street Parking Spaces:	4 (2 in garage and 2 in driveway)
Minimum Lot Width:	50'
Minimum Lot Area:	4,000 SF

Building Setback from Public Street:

40' from centerline of 55th Street  
50' from centerline of 55th Place  
(except Lot 5, Block 1, Twin Oaks)

Required Yards:

PUD Boundaries

East:	20'
South:	20'
North:	15'
West:	20' except north of 55th Place

West Boundary North of 55th Place

For existing dwelling:	existing yard
For new construction:	5' if a side yard 20' if another yard

Interior Yards

Front:	15'
Side:	5'
Rear:	10'*

Signs: One ground sign containing the name of the development is permitted at each entrance to the PUD. The signs shall not exceed 5' in height nor 32 SF in display surface area.

\* *Except 0' for Lots 4 and 5, Block 1, Twin Oaks Amended.*

3. No Zoning Clearance Permit shall be issued within the PUD until a Detail Site Plan 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.

4. A Detail Landscape Plan shall be submitted to the TMAPC for review and approval. A landscape architect registered in the State of Oklahoma shall certify to the zoning officer that all required landscaping and screening fences have been installed in accordance with the approved Landscape Plan 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.

5. No sign permits shall be issued for erection of a sign within the PUD until a Detail Sign Plan has been submitted to the TMAPC and approved as being in compliance with the approved PUD Development Standards.
6. A homeowners association shall be created and vested with sufficient authority and financial resources to properly maintain all common areas, including any stormwater detention areas within the PUD.
7. All private roadways shall be a minimum of 20' in width for two-way roads and 18' for one-way loop roads, measured face-to-face of curb or edge-to-edge of paving if center drained streets area used. All curbs, gutters, base and paving materials used shall be of a quality and thickness which meets the City of Tulsa standards for a minor residential public street. The maximum vertical grade of private streets shall be 10 percent.
8. No Building Permit shall be issued until the requirements of Section 1107E of the Zoning Code has 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 the City beneficiary to said Covenants.
9. Subject to review and approval of conditions as recommended by the Technical Advisory Committee.

Applicant's Comments

Mr. Coutant asked that maximum building height of 1 story not prohibit construction of rooms in the attic space. He agreed that no windows be allowed overlooking the property to the west from the subject property. Mr. Coutant asked that the interior side yard requirement for the southerly 100' of the new property, the westerly 66', be waived to 3'. He noted that the carport which is in front of an existing garage is within 3' of the westerly property line. Mr. Coutant explained the intent of the applicant is to renovate the existing structure and construct a garage which would sit where the carport currently exists.

There were no interested parties in attendance.

TMAPC Action; 8 members present:

On **MOTION** of **CARNES**, the TMAPC voted **8-0-0** (Ballard, Carnes, Doherty, Midget, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Harris, Horner "absent") to recommend **APPROVAL** of PUD 452-A as recommended by Staff with the following changes:

Maximum Building Height:

West 66' between 55th St. & 55th Pl.:

1-story

West Boundary North of 55th Place

For existing dwelling:

existing yard

For new construction:

waive 5' if a side yard, 20' if another yard

to allow for alignment and no second story windows on the west side of the structure.

**LEGAL DESCRIPTION**

A tract of land commencing 990' East of the Northwest corner of the S/2, SE/4, NW/4 of Section 32, T-19-N, R-13-E of the IBM, Tulsa County Oklahoma, for the point of beginning; thence East 330'; thence South 747' to a point in the center of a creek; thence West along center of said creek 285' to a point which is in the center of a ravine; thence North 417' to a point which is 330' North of the South line of said S/2, SE/4, NW/4; thence West 45'; thence North 330' to the point of beginning, containing 5.2 acres, more or less, in Tulsa County, State of Oklahoma, according to U.S. survey thereof; and Beginning 942' East of NW corner of S/2, SE/4, NW/4, Section 32, T-19-N, R-13-E, of the IBM, Tulsa County, Oklahoma; thence East 66'; thence South 330'; thence West 66'; thence North 330', less 25' on South for road, and being approximately located on East 55th Street and East 55th Place, east of South Columbia Avenue.

\* \* \* \* \*

**COMPREHENSIVE PLAN PUBLIC HEARING:**

Amendments to the Brookside Study,  
a part of the Comprehensive Plan for  
the Tulsa Metropolitan Area

Ms. Matthews disclosed that the Comprehensive Plan Committee along with other members of the Planning Commission were briefed on the draft of the plan at an earlier Committee meeting. After the Committee was briefed they asked Staff to develop alternatives because the planning team had reached an impasse. Ms. Matthews then reviewed the following:

**BROOKSIDE STUDY UPDATE ALTERNATIVES**  
March 29, 1994

1. Do nothing; text and map remain as is.
2. Allow expansion of commercial/office and parking on an incremental basis and only through use of the PUD. Further office and commercial uses through traditional zoning would be prohibited unless applicant could provide enough on-site parking.

If this alternative is chosen, substitute the following text for draft 3.4.1.13.

Buffering uses such as light offices may be appropriate to separate the Business Area (commercial and parking) from adjacent residential areas. Such uses should be considered only when presented as part of a Planned Unit Development (PUD) and only when adequate parking is provided on-site to accommodate the use.

If in light office, the structure should maintain the single-family character of the property and architecture, with screening and attractive landscaping. The light office use, in this case, should be adjacent to the residential area, with parking facilities adjacent to the commercial uses along Peoria. These parking facilities could be shared with the after-5:00 p.m. commercial businesses.

If this alternative is chosen, the draft text 3.4.1.23 should be deleted.

3. Expansion of the parking area boundaries according to the conceptual design presented to the Planning Team, including cul-de-sacs on such side streets as 34th and 35th Streets and a walled barrier with landscaping facing the residential areas. If this alternative is chosen, the draft text amendments should be approved as presented.

Chairman Parmele clarified with Mr. Neely that the Comprehensive Plan Committee voted to set this item for public hearing to hear comments from interested parties, and then return to committee to select an alternative for the final recommendation.

Interested Parties

**Pam Deatherage**

1516 East 36th Street 74105

**Planning District 6 Chair**

Ms. Deatherage displayed a map of the north Brookside area, 31st to 41st Streets, indicating areas of commercial, office and parking. She reminded the Planning Commission that parking is a major problem in the north Brookside area. Ms. Deatherage recommended that 3.4.1.13 be eliminated. She cited an example where development blocked the possibility of parking needed in that location. Ms. Deatherage discerns that until the parking situation is stabilized, any growth toward the residential area must have parking to support existing commercial and office use. Ms. Deatherage recommends leaving the boundary line as it is until the area begins to fill out. Ms. Deatherage informed that she had hoped to have a parking study readied by an independent agency which would determine the amount of parking needed in order to justify moving that line. She noted that residents questioned why the line should be moved when the space available to the line has not been used yet. Ms. Deatherage recommends #3 of the alternatives. She advised of the need to proceed cautiously and monitor growth in the area. Ms. Deatherage expressed support of PUDs to ensure growth in a logical manner and for control. She expressed not being able to support buffering the areas with light office due to misuse in the past.

Mr. Gardner reminded the Planning Commission that in the original Brookside Parking Study the boundary line was established and the property was recommended to be solely for off-street parking. Applications came before the Planning Commission for office use, and the Planning Commission approved those uses in violation of that Study. Originally the purpose of the parking plan was to obtain parking for existing businesses on Peoria Avenue that were short of parking. He advised that it is better not to approve uses which only generate more demand for off-street parking within the area designated for off-street parking. The problem of fully utilizing those existing businesses will never be solved.

Mr. Neely asked how this can be done when most of the improvements are single-family homes, and individuals who purchase these have an economic interest.

Mr. Gardner advised that the plan states that those are to be used as single-family or converted to parking to meet the demands generated by the businesses on Peoria.

**Nancy Apgar**

Ms. Apgar is a Board member of the Brookside Neighborhood Association. She informed that they try to work with the Brookside Business Association and a member attends monthly meetings. She expressed disappointment with the Business Association because of their lack of attendance at these meetings. Ms. Apgar commented on areas to which she was opposed within the Study. At this time, she supports doing nothing and let things remain as-is.

Chairman Parmele announced that the next Comprehensive Plan Committee meeting regarding the Brookside Study update will be May 11, at 11:30 a.m., in the INCOG conference room.

**TMAPC Action; 8 members present:**

On **MOTION** of **NEELY**, the TMAPC voted **8-0-0** (Ballard, Carnes, Doherty, Midget, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Harris, Horner "absent") to **CONTINUE** the PUBLIC HEARING to consider amendments to the Brookside Study, a part of the Comprehensive Plan for the Tulsa Metropolitan Area to May 25, 1994.

\* \* \* \* \*

**OTHER BUSINESS:**

**PUD-385-A:** Detail Sign Plan - northwest corner of East 71st Street South and South Utica Avenue.

The applicant is proposing to replace the existing 15'8" high ground sign with a 24'8" high sign containing 128 SF of display surface area. The new sign still complies with the PUD conditions; therefore, Staff recommends **APPROVAL**.

**TMAPC Action; 8 members present:**

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Ballard, Carnes, Doherty, Midget, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Harris, Horner, "absent") to **APPROVE** PUD 385 DETAIL SIGN PLAN as recommended by Staff.

\* \* \* \* \*

**PUD-196:** Sign Plan Review  
7188 South Memorial Drive

**Staff Comments**

Mr. Stump informed that this is the former Yucatan Liquor Stand location. He advised that the applicant enclosed all of the outside area, but never processed a revised site plan. Protective Inspections informed that a permit was issued allowing the enclosure as a remodel. Mr. Stump advised that the shopping center barely has enough parking spaces to accommodate the increased floor area for a bar. He informed that there is enough building wall for the sign, but there is nothing on file indicating that this area was enclosed as part of the building.

**TMAPC Action; 7 members present:**

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Ballard, Carnes, Doherty, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Midget, Harris, Horner "absent") to **CONTINUE** PUD 196 to April 27 to allow time for submittal of a site plan.

\* \* \* \* \*

**PUD-489:** Revised Detail Sign Plan - northeast corner of East 71st Street South and South Mingo Road.

The applicant is proposing to revise the approved ground sign on 71st Street in Lot 6, Block 1 of Mingo Center to increase the height to 40' and the display surface area to 540 SF. Business signs are limited to 500 SF by the PUD chapter; therefore, Staff recommends **DENIAL**.

Mr. Stump advised that the applicant has submitted a revised sign plan making the sign 2' shorter at the bottom, which brings it in compliance. Mr. Stump advised that Staff can recommend **APPROVAL** of the revised sign plan.

**TMAPC Action; 7 members present:**

On **MOTION** of **NEELY**, the TMAPC voted **7-0-0** (Ballard, Carnes, Doherty, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Midget, Harris, Horner "absent") to **APPROVE** PUD 489 AMENDED REVISED DETAIL SIGN PLAN as recommended by Staff.

\* \* \* \* \*

**PUD-196:** Detail Sign Plan - southwest corner of South Memorial Drive and East 71st Street South.

Ann's Hallmark Store is again requesting to place 4' X 8' non-illuminated portable signs on 71st Street and Memorial Drive for four seven-day periods in 1994. The locations will be the same as previously approved by TMAPC. Therefore, Staff recommends **APPROVAL** of the two portable signs for the following periods in 1994:

- May 30 - June 4
- June 10 - June 16
- September 5 - September 10
- November 7 - November 13

**TMAPC Action; 7 members present:**

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Ballard, Carnes, Doherty, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Midget, Harris, Horner "absent") to **APPROVE** PUD 196 DETAIL SIGN PLAN as recommended by Staff.

\* \* \* \* \*

**PUD-166-D:** Detail Sign Plan - 6560 East 91st Street South.

The applicant is requesting approval of a 3' X 8' wall sign for "Tanning Tulsa" on a 75' wide wall in the shopping center. The new sign meets the PUD conditions; therefore, Staff recommends **APPROVAL**.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES**, the TMAPC voted **7-0-0** (Ballard, Carnes, Doherty, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Midget, Harris, Horner "absent") to **APPROVE** PUD 166-D **DETAIL SIGN PLAN** as recommended by Staff.

\*\*\*\*\*

**PUD-360-A:** Revised Detail Site Plan - north of the northeast corner of East 91st Street South and South Memorial Drive.

Back Yard Burgers restaurant is requesting approval of a shade structure over an outside seating area and the elimination of 9 off-street parking spaces from the site. With the elimination of the parking spaces, the site no longer contains enough parking spaces to meet the zoning code requirements; therefore, Staff recommends **DENIAL**.

Mr. Stump informed that the applicant advises there is mutual access for parking on the north side of the canopy, out of their lot and on the lot Homeland is on, which would accommodate the two spaces needed.

**Applicant's Comments**

**Danny Mitchell**

**6106 South Memorial**

Mr. Mitchell requested that the Planning Commission approve the application amended with the condition that the required parking be installed.

Mr. Stump advised that since there is surplus parking at Homeland and there appears to be mutual access to the north which would provide the two additional spaces required, Staff would recommend **APPROVAL** contingent upon receipt of a letter for mutual parking.

**TMAPC Action; 7 members present:**

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Ballard, Carnes, Doherty, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Midget, Harris, Horner "absent") to **APPROVE** PUD 360-A **SITE PLAN** subject to receipt of a letter indicating a mutual parking agreement.

\*\*\*\*\*

**PUD-179-C:** Revised Site Plan - northeast corner of East 72nd Street South and South Memorial Drive.

The Tulsa Brewing Company is requesting approval of a covering over an outside seating area. The area contains 775 SF and would increase the requirement of 8 additional off-street

parking spaces to be devoted to the restaurant and 8 fewer spaces available to the furniture store on the same lot. There are presently enough existing spaces to accommodate the increased seating area for the restaurant. Therefore, Staff recommends **APPROVAL** of the revised site plan contingent upon receipt of a letter from the owner of the land stating that he is in agreement with the request.

**TMAPC Action; 7 members present:**

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Ballard, Carnes, Doherty, Neely, Pace, Parmele, Wilson "aye"; no "nays"; no "abstentions"; Broussard, Midget, Harris, Horner "absent") to **APPROVE** PUD 179-C REVISED SITE PLAN as recommended by Staff.

\* \* \* \* \*

**PUD-166-F:** Revised Detail Site Plan - north of the northeast corner of South Sheridan Road and East 93rd Street South - Development Area 2-3.

The applicant is proposing a revised site plan for the mini-storage complex in development area 2-3. The total building floor area for the complex is 66,960 SF. The exterior walls of the perimeter buildings are to be used as a screening fence and where there is a gap between buildings an 8' cedar wood fence with brick columns would be provided. The exterior sides of the perimeter buildings would have concrete columns supporting 8' wide painted metal panels. This violates the PUD requirement that these exterior walls not be composed of metal sheeting. Also no design of the entry gate was provided. In order to meet the PUD condition that no building openings be visible from Sheridan Road, this gate must be of an opaque design. For these reasons, Staff finds that the proposed site plan does not meet the requirements of PUD-166-F and recommends **DENIAL**.

**Applicant's Comments**

**Joe Donelson**

**17440 South 89th East Avenue, Bixby**

Mr. Donelson advised that Carl Roberts will present the proposal of alternative material to the Planning Commission.

Mr. Roberts proposed to amend the site plan to use tilt-up concrete columns with a decorative finish and between the columns a cedar or masonite material and an 8' cedar gate.

It was the consensus of the Planning Commission that the gate should be of stained opaque cedar with stained cedar sections between the concrete columns.

**TMAPC Action; 7 members present:**

On **MOTION** of **PACE**, the TMAPC voted **5-1-1** (Carnes, Doherty, Pace, Parmele, Wilson "aye"; Neely "nay"; Ballard "abstaining"; Broussard, Midget, Harris, Horner "absent") to **APPROVE** PUD 166-F as recommended by Staff with the gate stained opaque cedar with stained cedar sections between the concrete columns.

\* \* \* \* \*

Review of mutual access requirement for Woodland Hills Plaza PUD and subdivision plat.

Mr. Stump informed that interested parties met with the Legal Department and Ricky Jones and were unable to reach agreement regarding easement on the plat. The parties involved want clarification from the Planning Commission.

Chairman Parmele recalled that the PUD required that mutual access be provided, but did not specify where it should be located.

Mr. Johnsen informed that the action of the Planning Commission reads "*a mutual access agreement must be negotiated with the adjacent property owner to the east*". He advised that an attempt has been made to do so, but at this point they are not in agreement. He distributed a quote from the Deed of Dedication of the subdivision plat. Mr. Johnsen advised that this provision repeats that the applicant must provide access, it must be provided by a recorded document that meets the approval of the Planning Commission and it must be complete prior to occupancy. He advised that the question the Legal Department raised is if that is an appropriate procedure to follow. This will permit the applicant to go forward, still gives the Planning Commission control and it gives the applicant time to continue to negotiate with Mr. Wenrick, the property owner to the east, and his attorney.

Mr. Linker pointed out that the condition set out in the minutes of January 12, 1994 state, "*access to the signalized intersection shall be permitted for the commercial development to the east at one location*". He advised that the question was raised as to what was meant by *the property to the east*: is that referring to the one lot to the east or to all the properties to the east along 71st Street?

Mr. Doherty recalled that the Planning Commission was in agreement and it has been their practice to provide for mutual access agreements for all commercial lots within a strip to prevent the necessity of intense traffic accessing an arterial street to move back and forth and minimize the number of access points to the street. He declared that it was his intent to refer to the location of the specific access point, not who is responsible for what or protected from what, etc. He explained that the property in question would put a driveway up to that property line and the development on the lot adjacent would pick that driveway up at that point and continue the drive.

Mr. Johnsen declared that the minutes do not reflect that. He informed that there was discussion about what would be appropriate by way of sharing of construction cost, etc.

Mr. Doherty informed that he never entertained the idea that there should be a cost-sharing for maintenance or for the driveway on the subject property or for the traffic light.

Mr. Johnsen informed that there was a lot of discussion about that and declared it has not been a standard practice to require a developer to give access across his property in order for him to get to a signal light. He advised that the developer agreed to access and thinks that it at least should meet customary standards. Mr. Johnsen described that in commercial complexes, normally mutual access is provided within that development, and there is provision for maintenance, indemnity, etc. What makes this development unusual is that the reason they want access across this tract is so they can go to the signal light.

Mr. Johnsen continued that in regard to the signal light, the developer has off-site expenses for that signal light to function. He explained in detail expenses the applicant must incur. His concept is that the adjoining property owner bought a piece of property without access to that traffic light. Now that this developer is proceeding with development, the other property owner wants to go across this property, but does not want to pay anything for the benefit of

that traffic light. Mr. Johnsen informed that the point of location has been agreed to and is not the issue. The issue is whether should they contribute to those off-site costs.

Chairman Parmele informed that the Planning Commission will not become involved in the imposition of shared costs on mutual access, traffic signal or maintenance. He asked Mr. Linker what needs to be done to clarify the Planning Commission's intent.

Mr. Linker informed that Mr. Johnsen is proposing that prior to occupancy, they work out agreements with the abutting property owner and file of record. He stated that there is a provision that states, *"that the owner/developer hereby grants and establishes a perpetual nonexclusive mutual access easement for the purposes of permitting vehicular and pedestrian passage to and from Lot 3 to and from East 71st Street on, over and across the area within Lot 2 depicted on the accompanying plat as mutual access easement"*. What Mr. Johnsen is objecting to is, if this is done, then the Planning Commission has granted this to the abutting property owner with no contribution.

There was discussion among the Planning Commission regarding requirement of the mutual access agreement; however, they did not recall that it was prior to occupancy, but rather during platting. They also recalled stating that they wanted to stay out of private disputes between property owners.

Mr. Johnsen stated that he does not believe the minutes reflect when this must be resolved. He advised that one of the problems is that of time. Mr. Johnsen advised that the plat is ready to go forward with this language. The point of access is designated on the plat and this language is included.

Mr. Johnsen stated that the real policy question is that there is a hold on this and the developer must provide access. When the project is built and it comes time for occupancy, they will meet whatever that requirement is. He is asking from a procedural standpoint that they be allowed to go through with this plat.

**Richard Riddle**

**P.O. Box 35827**

Mr. Riddle, attorney for Tom Wenrick, informed that the reason they are present is because of the last-minute narrow delineation of this issue. He stated that his client would appreciate not having to return to confirm access on the plat and whether or not it is a requirement.

Mr. Linker noted that the point is defined on the plat.

Mr. Riddle informed that their concern is that the issue of maintenance and contribution has been held over their heads. Mr. Riddle informed that his client will install the strip that connects, but the developer has wanted a contribution for maintenance costs.

Chairman Parmele advised seeing no need to address this issue if it is a platted access point, and if the developer must install it prior to occupancy, there is no problem.

Mr. Riddle informed that it has to do with the interpretation as Mr. Johnsen has stated and asked for clarification of the language.

Mr. Neely informed that the Planning Commission's intent was to require a mutual access easement and to have that on record before final plat.

Chairman Parmele added that it should be on record and in place before occupancy.

Mr. Linker asked if this requirement includes other properties along 71st Street and if they were talking about more than just the abutting property having access at the subject location.

Mr. Doherty informed that on this plat, they cannot address anything but the abutting property to this plat.

Mr. Doherty stated that on any plat the Planning Commission has certain requirements, parking, driveways, etc. They are never built when they are approved and before a Certificate of Occupancy is issued, all the conditions of those points have to be met. If the Planning Commission requires a mutual access agreement on any plat, all they are requiring is that before a Certificate of Occupancy is issued that conditions must be met. How they are met, other than subject to the subdivision regulations and building codes, is not the business of the Planning Commission.

Mr. Linker advised that then the question is, did they want that done at the time of final plat approval? With this language they are saying it shall be worked out.

Mr. Johnsen informed that the excerpt is set out in the Deed of Dedication on the plat and it refers to a point called the *Commencement of Access Easement*, so the plat has the point where it is supposed to be and this language is set out in the Deed of Dedication. The implementation is that the easement must be created and approved by the Planning Commission prior to occupancy. That is a workable provision; the Planning Commission has told them that they are not looking for contributions and they must come up with language and file it. This lets them go forward now and that is why it is an acceptable procedure.

Mr. Riddle advised that they want to ensure that those clarifications are made so the issue of contribution does not need to be discussed.

Ms. Ballard disclosed that she believes the abutting property should contribute.

**Tom Wenrick**

**2930 East 51st Street 74105**

Mr. Wenrick informed that he created one of the largest retention/detention facilities in the City of Tulsa, privately owned, which is in Camelot Park. He stated that the Planning Commission asked him to create a six-acre facility for his subdivision, which he did at a cost of approximately \$380,000. As a result, all of the other subdivisions in that area put their water in his facility. He acknowledged that he received a pay-back of approximately \$1,500 an acre, but it did not even approach what he contributed, and he did it because that was the thing to do.

Chairman Parmele informed that the Planning Commission position has been made clear and they can proceed with that understanding.

It was the consensus of the Planning Commission that they want to ensure that when this project is constructed, there is mutual access when the Certificate of Occupancy is issued, regardless of who pays for it and there is no condition of mutual contribution.

Mr. Johnsen stated that they would be going forward with their present release plat recognizing that a contribution of maintenance will not be required and according to this language, the applicant must file the document.

Mr. Linker advised that he would then approve the plat with the language he has.

\*\*\*\*\*

There being no further business, the Chairman declared the meeting adjourned at 4:35 p.m.

Date Approved: \_\_\_\_\_

4/27/94



Chairman

ATTEST:



Secretary

