

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2060

Wednesday, March 20, 1996, 1:30 p.m.

City Council Room, Plaza Level, Tulsa Civic Center

Members Present

Carnes
Chairman
Dick
Doherty, 1st Vice
Chairman
Gray, Secretary
Horner
Ledford
Midget, Mayor's
Designee
Pace

Members Absent

Ballard
Boyle
Edwards

Staff Present

Almy
Gardner
Jones
Matthews
Stump

Others Present

Linker, Legal
Counsel
Romig
Assistant Legal
Counsel

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, March 15, 1996 at 4:04 p.m., in the office of the County Clerk at 3:42 p.m., as well as in the Reception Area of the INCOG offices.

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

Minutes:

Approval of the minutes of March 6, 1996, Meeting No. 2058:

On **MOTION** of **DICK**, the TMAPC voted **7-0-0** (Carnes, Dick, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; "abstaining"; Boyle, Ballard, Midget, Taylor "absent") to **APPROVE** the minutes of the meeting of March 6, 1996 Meeting No. 2058.

REPORTS:

Committee Reports:

Comprehensive Plan Committee

Mr. Ledford informed the Commission that the Comprehensive Plan Committee will meet today following the TMAPC meeting.

Rules and Regulations Committee

Mr. Doherty reported that the Rules and Regulations Committee will meet today following the Comprehensive Plan Committee in Room 201 at City Hall.

Director's Report:

Mr. Gardner informed the Commission that Rezoning Application for PUD 543 and an Ordinance for Closing Public Way at 5516 South Atlanta will be heard by the City Council at their meeting on March 21, 1996.

SUBDIVISIONS:

Final Approval:

Hunter's Pointe II (PUD 540) (2183)

(PD-26) (CD-8)

Southwest corner of South Yale Avenue & Creek Turnpike

Staff Comments:

Mr. Jones informed the Commission that Ted Sack is present representing the Final Approval of Hunter's Pointe II. A final plat was included in the agenda packets for review. Staff has received all the release letters on this plat; however, Legal has not reviewed the deed of dedication. Staff has not received the Owner's Papers or Corporation Commission certificate of non-development. Mr. Sack is aware of this and Staff would recommend approval subject to the receipt and approval of the Owner's Papers and Legal's review of the deed of dedication.

TMAPC Action; 7 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Carnes, Dick, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Ballard, Boyle, Midget, Taylor "absent ") to **APPROVE** the Final Approval of Hunter's Pointe II as recommended by Staff subject to the receipt and approval of Owner's Papers and Legal's review of the deed of dedication prior to final release.

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Based on previous Commission approvals in the immediate area, Staff recommends **APPROVAL**.

TMAPC Action; 7 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Boyle, Gray, Taylor "absent ") to recommend **APPROVAL** of Minor Amendment PUD-166-9 to allow reduction of the required front yard from 25 feet to 20 feet as recommended by Staff.

LEGAL DESCRIPTION FOR PUD 166-9:

Kingsbury II Addition, located south of the southwest corner of East 91st Street South and South Sheridan Road, Tulsa, Oklahoma.

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OTHER BUSINESS:

PUD 413 -B (Braum's) (PD-10) (CD-4)
Tanner Consulting Southeast corner of Gilcrease Museum Rd. and West Easton St.
(*Appeal landscape plan denial*)

Staff Recommendation:

The applicant is appealing Staff's decision regarding the above-noted detail landscape plan. Staff denied the proposed plan on March 7, 1996.

The PUD is located east of Gilcrease Museum Road between the Keystone Expressway and Easton Street. The portion of the PUD in question (current project site) is the southeast corner of Gilcrease Museum Road and Easton Street, located in the northwest corner of the PUD. Existing residences face the Braum's location from the north side of Easton Street.

PROJECT HISTORY:

PUD 413:

In April of 1986 an application was brought before the Commission to allow zone change and PUD on the project site. The existing zoning was RS-3 and RM-1 with the RS-3 zone extending south from the centerline of Easton Street for 140' in the Braum's project area. The proposal was to allow CS and OL zoning and a combination of office, retail, restaurant and retirement residence uses.

Staff comments at the time referred to the fact that the proposal was not in keeping with the Comprehensive Plan; that the area could qualify as a medium intensity node (intersection of freeway and secondary arterial) but that it was in an area of established single-family residences. Staff felt that OL zoning was inappropriate and that CS uses should occur only as accessory uses to principal buildings. Staff further recommended that the CS uses be placed in the interior of the PUD, buffered by placing office uses on the exterior of the project. These office uses were to be those allowed by Special Exception in the RM-1 district. Staff also expressed concern regarding a free-standing restaurant facing Gilcrease Museum Road in the south part of the PUD.

The Commission approved CS zoning on the interior of the tract, denied the OL zoning and approved a PUD which allowed retirement residence in the east with shopping area in the interior. The current Braum's project site was restricted to office uses with the intent of buffering the existing residents from the commercial area. The Commission also approved the restaurant after discussion, on the condition that it was not a fast-food restaurant and that it was adequately buffered from residences across Gilcrease Museum Road through the use of landscaping. A condition of approval was that the Easton Street boundary of the PUD be landscaped and/or bermed to screen parking lots and access drives.

PUD 413 - A:

Major Amendment A was heard in September of 1989. The original submittal requested three restaurant sites along Gilcrease Museum Road, but by the time the request made it to hearing it had been amended, requesting two restaurant sites. The third site (current project site) was to remain in office use as approved by the original PUD in order to buffer the residents across Easton Street from the proposed restaurants.

Staff and the Commission expressed support of the revised amendment which preserved the intended buffer. Two items of note in the discussions were: Staff expressed concern over drive-up or pick-up windows adjacent to residential areas, but felt that the office-use buffer ameliorated the concern; and the applicant expressed concern over sufficient access to the Braum's site in regard to large semi-trucks delivering their products.

The Commission approved the amendment, which allowed two restaurant sites along Gilcrease Museum Road and deleted the internal commercial area, replacing it with additional retirement residential use.

The Gardens (3094)

(PD-17) (CD-5)

South of the southwest corner of East 81st Street South & South Garnett Road

Chairman Carnes struck this item.

Heather Ridge South (983)

(PD-18) (CD-8)

South of the southwest corner of East 71st Street South & South Yale Avenue

Chairman Carnes struck this item.

Lot-Splits For Ratification Of Prior Approval:

L-18108 Don & Ronald Stephens (202)
109 E 59th St. N.

(PD-24)(County)
RS

L-18245 Wm. Carl//Robt. Johnson (2402)
SE corner 36th St. N. & Cincinnati

(PD-25) (CD-1)
CS

* L-18251 Crowley (1192)
SE corner of Frisco & 14th Place

(PD-7) (CD-2)
RM-2

L-18252 Heath/Cooper (1282)
7505 South Elwood (RW)

(PD-8)(CD-2)
AG

* L-18253 Hayes/Sack (2093)
2454 E. 34th Street

(PD-6)(CD-9)
RS-1

L-18254 Williams (294)
432 S. 177th E Ave.

(PD-17)(CD-6)
AG

* L-18255 Shaddock/ Levinson (3383)
E 114th Street S. at S Sandusky

(PD-26)(CD-8)
AG

L-18257 Grubb/Solberg (2792)
4315 S 26th W. Ave.

(PD-9)(CD-2)
RS-3

L-18258 Miller/Cooper (2293)
4050 S. Sheridan (RW)

(PD-18)(CD-5)
IL

L-18259 Pahl/Cooper (283) (RW)
7004 East 70th Street

(PD-18) (CD-7)
RS-3

L-18260 Hunnicutt Trust/Cooper (283) (RW)
6565 E. 71st St.

(PD-18) (CD-7)
CS

* See motion.

Staff Comments:

Mr. Jones informed the Commission that items L-18251, Jack Crowley; L-18253, Bill Hayes and Ted Sack; L-18255, Jeff Levinson need to be stricken from the list. All other items meet the subdivision regulations and are in order; therefore, Staff recommends approval.

TMAPC Action; 7 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Carnes, Dick, Doherty, Gray, Horner, Ledford, Pace "aye"; no "nays"; none "abstaining"; Ballard, Boyle, Midget, Taylor "absent ") to **APPROVE** the Lot-Splits for Ratification of Prior Approval, finding them in conformance with subdivision regulations with the exceptions of L-18251, L-18253 and L-18255.

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ZONING PUBLIC HEARING:

Application No.: PUD 166-9 (Minor Amendment to reduce required front yard)
Applicant: Jeffrey Levinson
Location: East of 93rd Street South & 70th East Avenue
Date of Hearing: March 20, 1996
Presented to TMAPC: Jeffrey Levinson

Staff Recommendation:

The applicant is requesting approval of a Minor Amendment to allow the reduction of the front yard setback from 25' to 20' throughout the entire replatted addition.

Staff has reviewed the request and finds that the majority of the lots in the addition are of sufficient depth to accommodate a 25' setback. Staff also notes that the two streets in question will carry a significant amount of traffic going to and from 91st Street.

As has been noted in previous requests of a similar nature, Staff does not support small streetyards in a traditional single-family setting. Although the RS-4 zone allows a 20' setback, the intent of such setback is to allow a higher density development in appropriate situations, and does not seem to be applicable in this instance. Two negative impacts created by a 20' setback are "tunnel" effect, particularly in the case of two-story units, and vehicles parked in a portion of the right-of-way because the driveways are of insufficient length to accommodate them.

Staff review of the history of the area indicates that both the Heatherridge Addition to the west and the Kingsbury Addition to the northeast were approved for 20' front yards by the Commission. The lots in question in this addition are larger than those of the Kingsbury Addition (typical lot of 62' x 100') and significantly larger than those in the Heatherridge Addition (typical lot of 50' x 91').

PUD 413-B:

Major Amendment B was heard in March of 1995. The applicant requested that restaurant use (Braum's) be allowed in the former office area (southeast corner of Gilcrease Museum Road and Easton Street) and that a convenience store be allowed on the site to the south which had been approved for restaurant use.

After review, Staff recommended approval with a condition that the uses be adequately bermed and landscaped to protect the adjacent residents. In the case of the northern boundary (Easton Street), Staff recommended a 50' landscape strip with at least a 5' high berm and landscaping to screen cars and patrons of the business from the adjoining residential area.

The Commission approved the request with conditions as recommended by Staff.

CURRENT APPEAL

As previously noted, the applicant has submitted an appeal to Staff's denial of the landscaping plan for the Braum's site at the southeast corner of Gilcrease Museum Road and Easton Street. At issue is the amount of landscaping required along the northern boundary of the project. The current submittal shows a sodded berm on the northern edge.

The history of this particular submittal is as follows:

The applicant submitted a detail landscape plan for review in September of 1995. The plans as submitted showed sodded berms with spot landscaping at the entries and in the parking lot and an insufficient number of trees in the streetyards.

Staff requested changes which included additional trees in the streetyards, landscaping along the berms and trees between the parking and the adjacent retirement area to the east. The applicant responded with a request for additional information regarding the amount of landscaping required on the berms. Staff provided verbal information detailing the intent of the screening and offered acceptable alternatives.

The applicant returned for an informal review and presented a plan which had added trees and plant material but had not adequately addressed the intent of the requirement. The applicant asked for a concept sketch from Staff, stating that his client would comply with the requirements of the PUD but preferred to know exactly what Staff expected rather than having a series of alternative plans prepared.

Staff prepared a concept which addressed the berming and landscaping requirement, particularly along the Easton Street frontage. The landscaping concept proposed plant material moving along the ridgeline of the berm and flowing down the face of the berm with the purpose of providing a pleasing and effective visual buffer between uses. Staff informed the applicant that the sketch was a representation of a concept and that a variety of solutions would provide an adequate buffer between adjacent residential and commercial uses. Staff added that the issue was being addressed more frequently around the City and that this plan, if successful, would be used as one in a set of examples of appropriate treatment.

Staff received a phone call from the applicant indicating that the concept as suggested by Staff had been finalized, sent out for cost estimates and was too expensive. Staff responded that the sketch had been a concept and had not been represented as a finalized plan; a range of acceptable solutions was possible.

Staff called the client (Braum's) and indicated willingness to work to find an acceptable solution. Braum's responded that the offer was appreciated and that the applicant would be directed to work with Staff.

Staff obtained a copy of the applicant's plan and prepared revisions for the applicant which significantly reduced the plant material costs.

Staff received a revised plan from the applicant (February 7, 1996) which showed additional landscaping along the Gilcrease Museum Road frontage and a sodded berm to the North. Staff noted that the plan would not be acceptable. The applicant agreed and stated that the client wished to appeal the matter at the Commission.

Staff was contacted by the applicant, who asked that the submittal be held while an alternative plan was being prepared.

Staff was requested by the applicant to process the February plan, acknowledging that Braum's intended to take the issue to Commission.

Staff denied the plan as submitted based on the absence of plant material on the north side, and the applicant has appealed.

STAFF COMMENTS:

Staff cannot support the plan as complying with the intent of the buffering standards of the PUD. The requirements for the north side of the project include "at least a 5' berm and landscaping..."

Braum's is situated on the site so that the drive-up window faces north, specifically mentioned as a concern in previous discussions regarding fast-food restaurants. In addition, the layout of the site directs semi-truck traffic along the east boundary from south to north, around the north side of the site (adjacent to the berm) and west to Gilcrease Museum Road.

Staff's basis for denial is the lack of plant material along the northern berm. A major concern throughout the history of this PUD has been the interface between the northern portion of the PUD and the homes that face directly into it. Staff feels that a sodded berm is an unacceptable substitute for the previously-required office building w/ landscaping when attempting to buffer an established residential area from a high-traffic retail commercial use. Staff conversations with Braum's consultant indicates an unwillingness to provide landscaping in this area based on their perception of the quality of the existing homes. Staff review of the area finds it to be of a quality level significantly higher than that described by the consultant and is of the opinion that the landscaping requested is appropriate for the area. Staff is concerned about Braum's consultant's perception of the existing residential development and the corresponding Braum's Corporation's commitment to the maintenance of this commercial facility. A high-volume retail establishment of this type has the potential for significant positive or negative impacts on a residential community.

Staff has repeatedly expressed willingness to work with the applicant in finding a cost-effective method of providing an appropriate landscape buffer. Staff's opinion is that the amount of plant material required as buffer on the top and face of the north side berm is a small cost when compared to the benefit of the compromise which allowed fast-food commercial on the corner.

Staff requests that the Commission support the denial of the current landscape plan.

Staff Comments:

Mr. Stump informed the Commission that Braum's has received their building permit and construction is in progress. The landscape issue is not holding up the construction process; however, this issue needs to be resolved.

Mr. Gardner stated that in allowing this tract to be commercialized to Easton Street, a six-foot masonry wall or fence would be required as a buffer. However, the fence was waived in lieu of berming and landscaping the northern end as a buffer.

Applicant's Comments:

Dan Tanner, 2202 East 49th Street, is representing Braum's. Mr. Tanner stated that Braum's is seeking a little relief in regard to landscaping, due to the extreme cost. Mr. Tanner informed the Commission that Braum's is in agreement with the 50-foot landscaping strip, berm and the number of trees to be installed. However he is requesting relief on the shrubbery and ground-level landscaping to a maximum of 400 plants. The shrubs will be used in an area at the back of the building and in planters around the frontage. The plan has eliminated planting of shrubs along the berm.

Beulah Moraine, 111 North Olympia, representing the Irving Neighborhood Association which borders on the south of the expressway, stated that they are very interested in seeing the Braum's store completed. The Association feels that the minimum amount of shrubbery proposed by Braum's would be sufficient to buffer the traffic and noise. Ms. Moraine stated that the Gilcrease Shopping Center, located three blocks north, is bare of landscaping except for the grass. Ms. Moraine stated Braum's proposal is an improvement to what has been there.

Paulette Horton, 2525 East 46th Place, stated that her mother lives in the Irving Park area. Ms. Horton expressed there are so many undesirable things in this area, and Braum's, along with Quik-Trip, is one of the most positive things to happen in this area. Ms. Horton feels it is ludicrous for restrictions to be placed on a Tulsa business that is trying to move in and get something going in a positive way. Ms. Horton does not think it is necessary to require a certified architect to prepare the plans if everyone is in agreement. It is a hardship for Braum's to meet these requirements. Ms. Horton expressed that she would like to see Braum's move forward. Ms. Horton suggested the TMAPC look at the restrictions and make them less stringent. Ms. Horton stated no one can beautify what has been done in this area to the degree that TMAPC is requiring, and she feels it is asking too much of a Tulsa business. Ms. Horton thinks a lot of the restrictions placed on Tulsa businesses are not correct. Ms. Horton feels Braum's will make it beautiful, but should not be required to make it \$50,000 beautiful. Again, Ms. Horton expressed her concern that TMAPC should review and change the requirements on landscaping.

Lawrence Calvert, Owen Park Neighborhood Association and North Tulsa Neighborhood Alliance, clarified that the requirement of the TMAPC is to place a buffer between houses and businesses to reduce the noise and make the traffic flow from the drive-through less a burden on area neighbors. Mr. Calvert stated he spoke with Mr. Tanner in regard to changing the trees to evergreens or another type of trees that would not lose their leaves during the winter to establish a year-round buffer. This would be a workable compromise.

Mr. Calvert read the letter submitted to TMAPC in regard to the Owen Park Neighborhood Association and Irving Neighborhood Association, Inc. supporting the proposed landscaping by Braum's. Mr. Calvert questioned whether a compromise could be reached so that Braum's could move forward.

D. W. Brazier, 2517 West Brady, stated the Commission approved the zoning for Braum's on North Gilcrease Museum Drive with the condition of heavy landscaping to protect the neighborhoods to the north.

Joe Westervelt, 1250 East 26th Street, stated that he brought the original zoning application before the TMAPC for Braum's and Quik-Trip. Mr. Westervelt was requested by Quik-Trip to attend the meeting to monitor what went on, and if possible, be of some assistance. Mr. Westervelt informed the Commission that he has received several calls concerning this issue. Mr. Westervelt expressed the review process is very good and where it needs to be. Mr. Westervelt felt that Braum's has no intentions of not meeting their obligation. Mr. Westervelt stated the PUD deleted all the signage from the side of the Braum's that faces north; there is a 65-foot buffer from curb line to curb line; the berm is six feet in height and it would be impossible to keep the plants in place. Mr. Westervelt stated that there is need to protect the neighborhood and encourage businesses to continue to move into these areas that have been neglected. Mr. Westervelt felt that the numbers from Mr. Tanner for landscaping seem extremely high, but he feels the 6-foot high, 65-foot wide berm with trees and grass would be a thorough buffer. Mr. Tanner reported that there are two separate lots. Quik-Trip bought the entire piece of property; however, Braum's was present at the PUD hearing and is cognizant of what the obligations were and intended to meet them. Mr. Tanner stated Braum's lot was purchased from Quik-Trip, at Quik-Trip's cost, because Quik-Trip would not go into this area without having another business going in with them at the same time. This was a joint venture between the two companies. Mr. Tanner informed the Commission that Braum's knew their responsibility would be for buffering and maintaining the area to the north. Mr. Tanner feels that Braum's was "sticker-shocked" at the cost of buffering this area and are seeking some relief.

TMAPC Comments:

Mr. Carnes inquired as to the size of the shrubs.

Mr. Doherty inquired as to the distribution of the 400 shrubs and who was the landscape architect was. Mr. Tanner informed that they had not used a landscape architect.

Mr. Ledford inquired as to what types of trees and whether the trees will lose their leaves during winter. Mr. Tanner informed that the trees proposed on the berm would lose their leaves in the fall.

Ms. Gray informed Ms. Horton of the Coalition for Neighborhoods that exists in the City. Ms. Gray stated the TMAPC has to look at the area and give it the same treatment as other parts of the City.

Mr. Doherty voted in favor of the zoning and assured the Council at that time that it would protect the residential area with adequate landscape buffering, and he feels that the Commission should hold to that. Mr. Doherty expressed disappointment that the applicant has not spent more effort on the landscaping design and less on lobbying. Mr. Doherty moved that the Commission uphold Staff's determination of denial.

Ms. Pace stated she was not on the Commission when this zoning was brought before the Commission. Ms. Pace sympathizes with needing some neighborhood commercial services. Ms. Pace stated that this was an unusual zoning case because it is surrounded on three sides by residential, and she is concerned with using landscaping in lieu of fencing for buffering.

Mr. Midget supported the earlier decision to ensure adequate buffering with landscaping, but stated that he has a dilemma because he wants to continue to encourage business to come into areas like this, as well as other areas in the City. Mr. Midget suggested Staff and the applicant revise the plan to provide adequate buffering for the neighborhood and some relief for the applicant.

TMAPC Action; 8 members present:

On **MOTION** of **DOHERTY**, the TMAPC voted **8-0-0** (Carnes, Dick, Doherty, Gray, Horner, Ledford, Midget, Pace "aye"; no "nays"; none "abstaining"; Ballard, Boyle, Edwards "absent ") to **DENY** the Landscape Plan upholding the decision of Staff.

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There being no further business, the Chairman declared the meeting adjourned at 2:25 p.m.

Date Approved: 4-5-90



Chairman

ATTEST:



Secretary