

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2081

Wednesday, September 4, 1996, 1:30 p.m.

City Council Room, Plaza Level, Tulsa Civic Center

### Members Present

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

### Members Absent

Boyle

### Staff Present

Almy  
Gardner  
Jones  
Stump

### Others Present

Linker, Legal  
Counsel

The notice and agenda of said meeting were posted in the Office of the City Clerk on Tuesday, September 3, 1996 at 9:43 a.m., in the office of the County Clerk at 9:38 a.m., as well as in the Reception Area of the INCOG offices.

Agenda with additional item was posted at 2:00 p.m. in the INCOG offices.

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

## Minutes:

### Approval of the minutes of August 21, 1996, Meeting No. 2079:

On **MOTION** of **HORNER**, the TMAPC voted **6-0-1** (Carnes, Dick, Doherty, Horner, Ledford, Pace "aye"; no "nays"; Westervelt "abstaining"; Ballard, Boyle, Gray, Midget "absent") to **APPROVE** the minutes of the meeting of August 21, 1996 Meeting No. 2079.

\*\*\*\*\*

## **REPORTS:**

### **Committee Reports:**

#### **Rules and Regulations Committee**

Mr. Doherty informed the Commission that there are two Public Hearings to come before the Commission. Consideration will be given to the proposed amendments to the Zoning Codes in regards to multifamily districts scheduled for September 18, 1996. Mr. Doherty requested the Public Hearing to consider amendments to outdoor advertising signs be scheduled for September 25, 1996. Chairman Carnes directed staff to set the public hearing accordingly.

#### **Director's Report:**

Mr. Gardner reminded the Commission that the second portion of the Audio Workshop Conference, Amending the Zoning Ordinance, will be held on September 11, 1996, at 3:00 p.m. in the large conference room at INCOG.

## **SUBDIVISIONS:**

### **Plat Waiver, Section 213:**

#### **Z-6555 (Unplatted) (3094)**

(PD-18)(CD-5)

East of the northeast corner of East 51st Street South & South Mingo Road

#### **TAC Comments:**

Jones presented the application with Ted Sack present.

Jones stated he visited with D. French, Traffic Engineering, who recommend the driveway be a minimum of 24' in width.

Jones gave Sack the two recommendations from John Herbert (P.F.P.I. may be required, finished floor elevation suggested).

#### **Z-6555 (Unplatted) (3094) (PD-18) (CD-5)**

East of the northeast corner of East 51st Street and South Mingo Road

Z-6555 is a rezoning request to change an existing RS-3 designation to IL to permit office use. The applicant proposes a 4,500 square feet office building with 18 off-street parking spaces. All right-of-way for East 51st Street South appears to be existing to meet the Major Street Plan.

Based on the size of the tract and existing right-of-way, staff can see no benefit to the City with a replat. Staff recommends Approval of the plat waiver for Z-6555, subject to the following conditions:

1. Grading and/or drainage plan approval by the Department of Public Works in the permit process.
2. Access control agreement, if required by the Department of Public Works (Traffic Engineering).
3. Utility extensions and/or easements if needed.

On the motion of McGill, the Technical Advisory Committee voted unanimously to recommend Approval of the plat waiver for Z-6555, subject to all conditions listed above.

**TMAPC Action; 7 members present:**

On **MOTION** of **DOHERTY**, the TMAPC voted **7-0-0** (Carnes, Dick, Doherty, Horner, Ledford, Pace, Westervelt “aye”; no “nays”; none “abstaining”; Ballard, Boyle, Gray, Midget “absent”) to **APPROVE** the Plat Waiver for Z-6555 subject to grading and/or drainage plan approval by the Department of Public Works in the permit process, access control agreement, if required by the Department of Public Works (Traffic Engineering), utility extensions and/or easements if needed and the driveway being a minimum of 24-feet in width, as recommended by TAC.

\*\*\*\*\*

**OTHER BUSINESS:**

**Public Hearing on proposed closing of 57th Place South, east of Madison Place and closing Owasso Avenue between 57th Place South and 58th Street South.**

**Staff Recommendation:**

The Tulsa City Council conducted a public hearing on the proposed permanent closing of 57th Place South east of the Brunswick Place Townhomes and South Owasso Avenue between 57th Place South and 58th Street South. As a result of that hearing, the Council requested that the TMAPC study this matter and recommend a course of action.

The applicant requesting the street closing is the owner of the Riverwalk Apartments, the Forest Park Patio Homes and a 12-unit duplex complex between Owasso Avenue and Peoria Avenue at 57th Place. The applicant desires to close these streets and use the access road between the duplexes as the only entrance or exit to all of these

developments, with the exception of the apartments' parking lot entrances onto 57th Place west of the area to be closed. Widening of the entry and exit points at the east and west ends of the duplex access road is proposed and parallel parking on this road would be prohibited. A 20'- wide area of Owasso Avenue immediately north of 58th Street South is proposed to be removed and replaced with sod and curbs installed to prevent any access to or from the south. The area currently temporarily closed on 57th Place would be made permanent with a 20'-wide sodded area bounded by curbs. All of this construction would be carried out by the applicant. The remainder of 57th Place and Owasso would remain open to provide internal circulation for the three complexes' residents and guests.

Staff has a number of concerns with the street closings. First, with only one main entrance/exit point, it is staff's opinion that if there is difficulty entering onto Peoria Avenue more people will go through the apartment parking lot and exit west on 57th Place and then through the single-family neighborhood. Also, emergency vehicle access would be rather limited for this many residences. The proposal would also create situations which violate the zoning code. The duplexes would no longer have adequate off-street parking and the lot containing the Forest Park Patio Homes would not have frontage on a public street.

Staff would recommend that the closing be allowed subject to the following conditions.

- 1.) Only the north-bound lane of Owasso Avenue north of 58th Street be closed, leaving the south-bound lane open as an exit for residents and guests and an emergency entrance for fire trucks and ambulances.
- 2.) Require that the BOA grant a parking variance for tandem parking for the duplexes and a variance of the street frontage for the Patio Homes. These variances should be made subject to 57th Place, Owasso Avenue and the duplex access road being made part of a mutual access easement shared by the three developments. Also, each duplex should have at least a 10' x 36' paved parking area for each unit which does not block the sidewalks, and no parking would be permitted on the access road going through the duplex development.

**Applicant's Comments:**

**John Piercey**, 8717 South Forest, is representing the applicant. Mr. Piercey stated this is the first time he has heard the staff recommendation, which is different from the proposal he submitted. Mr. Piercey commented that while the staff may call the Jersey barrier, which is on a two-foot strip of land, a temporary closing, it is not. When the City approved the closing last year, it was as a two-foot wide permanent closing with a jersey barrier. Mr. Piercey commented that when the street was closed and the barrier installed across 57th Place, his concern was that the Riverwalk Apartments had east and west access on 57th Place for twenty years. Forest Park Patio Homes also had the same access. In regards to the duplexes, the City granted a private street to the owners of the duplexes and a fence was installed across the back, the west side, of the duplexes.

What Mr. Piercey thought would be accomplished by his proposal was to reduce the traffic in and out of the residential neighborhood and to reduce the traffic in the complex to deal with the high incidence of crimes in this particular area. Mr. Piercey feels it is a benefit for the apartment complex to have direct access to the main arterial as opposed to the way these properties are located at the current time. Mr. Piercey expressed the desire for direct access to Peoria for the flow of traffic in and out of the complex. Mr. Piercey stated this direct access would allow him to eventually close off the back entrance to Riverwalk, which some residents from the neighborhood association still have a problem with. However, Mr. Piercey does not want to make this dramatic change until the impact on the apartment has been taken into consideration.

Mr. Piercey stated when the plan was developed, it was first taken to the City Engineer to determine whether 181 units could be accommodated through the normal street size, to avoid additional expense if the plan is not appropriate for the area. After some discussion and modifications with the City Engineer, a plan was developed and submitted to the City Council for consideration. Mr. Piercey stated that the City Council referred the plan including the City Engineer's approval of it to the Planning Commission.

Mr. Piercey stated that after the plan was referred to the TMAPC, he had met with the homeowners association on several occasions to work out a plan that was acceptable to the association, as well as himself. Mr. Piercey feels a solution has been found; however, staff proposed another solution. Mr. Piercey stated the curb cuts on the east and west side of the duplexes are not items to be considered by the TMAPC.

Mr. Piercey stated that while working with the City Engineer, the City Legal Department requested a he provide a permanent easement through the street that is currently a private street, that runs through the duplexes, so that emergency vehicles could have access into this area. Mr. Piercey was surprised by this request since the access has not been changed other than that the access is off Peoria as opposed to Owasso. Mr. Piercey feels there was never a concern for emergency vehicles when the street was originally closed.

Mr. Piercey stated that the reason for the plan is to develop a defensible space because the complex residents have the same concerns and problems that the single-family residents have with the added difficulty of pedestrian traffic. The original idea was to extend the eight-foot fence that abuts the south side of Riverwalk Apartments across Owasso to the Community Bank fence to block pedestrian traffic and reduce or eliminate the vandalism in this area.

At a meeting with the homeowners association, the association requested that the fence not be constructed, but to install an "exit only" gate. Mr. Piercey stated he agreed to the "exit only" gate as a modification to the way the street is being closed. Mr. Piercey stated he does not know how this will affect the application when it is returned to the City Council. The association also requested that the back entrance to Riverwalk be made an "exit only." This entrance has been a problem to him as well as to the homeowners due to traffic cutting through the back of complex. Mr. Piercey has agreed to make this access an "exit only".

Mr. Piercey stated he is trying to beautify the area and decrease the flow of traffic by removing the Jersey barrier and pavement, sodding the area and installing wrought iron across 57th Place. However, with the modifications as proposed by staff, he would propose an "exit only" gate which would allow residents to exit onto Owasso. Mr. Piercey feels that the design of the entryway to the duplexes being expanded to three lanes would allow the primary traffic and the major orientation would be from Peoria.

In summary, the main entrance would be from Peoria, with an "exit only" on Owasso and the back access of Riverwalk. The 20-foot strip would be removed where the Jersey barrier is located to make this area look more permanent. Mr. Piercey stated this is the proposed plan as modified at the request of the homeowners association. Mr. Piercey understood this plan to be in compliance with the resolution the homeowners association approved at their last meeting.

#### **Interested Parties Comments:**

**David Wilson**, 127 East 57th Street, stated he is the president of the homeowners association and attended the City Council meeting in regards to this request. After hearing Mr. Piercey's basic plans, Mr. Wilson met with other neighbors to discuss the plan and came up with a few requests that would work with the neighborhood and not create more problems. Mr. Wilson met with Mr. Piercey to discuss the request.

An exit gate on Owasso was one of the requests which Mr. Wilson feels would give the residents in Riverwalk and duplexes a way to exit and have access to 61st Street and Riverside instead of going through the parking lot and funneling back through the neighborhood. Mr. Wilson stated that several of the residents from Fairmont Terrace have figured out it is easier to go through the neighborhood and access 56th Street than it is to turn north on Peoria to access 56th Street. Mr. Wilson feels an "exit only" gate on Owasso would take care of the traffic from Fairmont Terrace or the other apartments to the south.

Mr. Wilson stated that the homeowners association does not oppose the modifications to the greenbelt area or the new design for the Peoria entrance. However, there were two areas of concern were expressed by the homeowners association. Mr. Wilson stated that the main concern is that whatever changes are approved, they should be permanent to prevent future owners of the complex from removing the gates. Also, the association requested that the gates be required to be maintained and operable.

Mr. Wilson questioned whether this request will be approved as a Planned Unit Development (PUD) to be passed from owner to owner and the facilities will be maintained and remain as approved. Mr. Wilson stated he has received several calls in regards to whether the property will be required to file a PUD.

Mr. Wilson stated another concern is the west apartment gates. These gates have remained open during the street closing, which has resulted in the funneling of traffic through the neighborhood. Originally, the association requested that the street closing be at a different location to restrict the flow of traffic through the neighborhood. However, the neighborhood received opposition to that request. The street closing was approved as it is now.

Mr. Wilson stated after discussion by the association and several votes the final request is to make the west gate an "exit only" that would be triggered by a pressure plate or some type of device. Again, Mr. Wilson stated that Mr. Piercey has met the association's concerns on the exit gates and with the vote, it is a fair approach to the project. Mr. Wilson stated that there are some individuals who do not agree with this approach, but that is what is involved in an association.

Mr. Wilson feels that the street closing has lowered the crime rate in the area during the last nine months. However, the traffic has increased through the neighborhood and Mr. Wilson feels the two exit gates will take care of the traffic flow.

**Mike Addison**, Community Bank and Trust Company, P. O. Box 9428, reiterated the request to continue the request for thirty days to meet with the parties concerned to find out if the plan is feasible for the community.

**John Wilkinson**, 5725 South Madison Place, stated his property backs up to the apartments. Mr. Wilkinson feels this property should not have ever been zoned to allow apartments. Mr. Wilkinson stated this is a changing society and with more people involved, zoning becomes more complicated. The 1965 guidelines would not have allowed these apartments, but it was approved by the City Commission.

Mr. Wilkinson feels that the tenants at the adjacent apartments have degenerated to subsidized rent, food stamps and gangs. Mr. Wilkinson stated he and several others are frightened by the gangs. Mr. Wilkinson stated that he was the first single-family homeowner in the subdivision, then the City and Planning Commission allowed all the apartments to be built adjacent to the single-family residences.

Mr. Wilkinson stated the residences requested the barricade from the City to separate the single-family from the apartments. The City approved the barricade, but the owners of the apartments immediately opened all the gates and allowed people to go out around the barricade. Mr. Wilkinson requested the west gate be permanently closed to restrict traffic from exiting through the single-family subdivision.

Mr. Wilkinson feels the single-family residences are being pushed out of the area by the apartments. Mr. Wilkinson stated that several of the neighbors indicated the selling of homes to move away from the problem. The City has a chance to correct the problem at this time.

Mr. Wilkinson stated the single-family residences are trying to protect their property and way of life from apartment encroachment. Mr. Wilkinson feels the apartment complex has brought in undesirables. The single-family residents' safety is at risk because of the gang wars. The local school is currently on probation and Mr. Wilkinson feels it is because of the degenerates in the neighborhood.

Mr. Wilkinson requested that the west end be closed and the apartment complex not allowed access. Mr. Wilkinson stated that the single-family residents are also giving up some of their rights by doing. He requested again the west end to be closed.

**Carol Wilkinson**, 5725 South Madison Place, stated she sent two letters last week, one from Ms. Fred Dexter and one from herself, on the proposed closing of the street. Ms. Wilkinson stated she obtained a copy of the staff recommendation.

Ms. Wilkinson stated she does not understand why the multifamily residents are allowed to go around the barrier that was previously approved and installed. Ms. Wilkinson feels the City can rectify the problem. She feels if the barrier was originally placed where the single-family residences requested there would not be any problem and the multifamily would have had a nice dead-end street.

Ms. Wilkinson stated that the tenants to the east of her residence are speeding through the neighborhood, throwing trash out and providing an escape route for the criminals. Ms. Wilkinson stated there are police reports in regard to the criminal/gang activity going on in this area.

Ms. Wilkinson feels that with the single-family residences being the first development in this area, it would be in everyone's best interest to block off the west exit. She feels this would help not only the single-family residents, but also the multifamily complexes. Ms. Wilkinson requested the Commission to do what is fair for everyone. The single-family resident is not requesting any more than what was originally requested when Riverside South was developed in 1965. The original plat shows that area closed with no accesses.

Ms. Wilkinson feels what the City has done since 1965 has caused all the problems. Ms. Wilkinson does not understand the approval of all the development in this area. Ms. Wilkinson questioned why this area is not a good place to live any more. Ms. Wilkinson feels this is a one way to help the area.

**Charlene Zeller**, 5616 South Madison Avenue, stated she has lived here for 30 years. There was previously no development to the south of the residential district. The area has grown and developed. Ms. Zeller feels the residential neighborhood made a mistake by not protesting sooner. The City made mistakes and the Governor admitted that 61st and Peoria is a disaster.

Ms. Zeller feels the crime is down in the area due to the neighborhood watch program. Ms. Zeller approached a black pickup that had parked in front of her house. It was Senator Lewis Long and he stated he was over this precinct and was out meeting the neighbors. Ms. Zeller presented correspondence from Lewis Long in regard to the South Madison area traffic problem.

Ms. Zeller stated she asked for a traffic count in this area, but has been unable to obtain one. Mr. Doherty stated that Councilor Hall requested a traffic count on 57th Place just west of the driveway. The count was 358, which was taken last week. Ms. Zeller stated based on this count, Madison could have been half that amount and she feels that is still too high.

In summary, Ms. Zeller requested assistance in closing the street, but she knows the neighborhood will have to work with the Commission and Council, as well as the Brunswick residents in need of having access.

**Councilor Darla Hall** remarked that she has concerns as to why Community Bank has not gotten involved until now. She feels the issue deserves some time to reflect what is going to happen in this area.

Councilor Hall indicated she does not understand Mr. Gardner's concern with emergency vehicles because emergency vehicles only have one entrance on Owasso. Ms. Hall questioned if Owasso were closed and Peoria opened, would emergency vehicles have a second entrance. Mr. Doherty replied the emergency vehicles could access any gates that are now open. These are considered effective entrances.

Ms. Hall stated that the Council approved the temporary or permanent closing with jersey barriers to see how it would work. Ms. Hall feels the closing has worked. The crime rate has dropped dramatically since the barriers were installed.

Ms. Hall feels the west gate is a problem. With the gate being left open, it is just another street. Ms. Hall stated she has a great concern about the west gate and the placement of the barriers if they are relocated.

Finally, Ms. Hall feels the only way to guarantee security to the neighbors is through a PUD. Ms. Hall recommended a PUD to require future owners to maintain the requirements that are being put forth today.

#### **Applicant's Rebuttal:**

Mr. Piercey stated that two of these complexes were built twenty years ago and another one built thirty years ago. Mr. Piercey feel when he purchased the properties in 1993-94, the property was deteriorated and he has improved the property and made a positive, proactive investment in this area. Mr. Piercey stated that none of the complexes are Section 8. He does not rent to people who receive Section 8 subsidies.

Mr. Piercey stated he has learned about property rights during this process. Mr. Piercey feels the City has taken the rights of the complexes without compensation. The City has the right to close the street; however, what right does the complex have to counter that?

Mr. Piercey feels the single-family residents and he have worked out a successful solution to the problem. Mr. Piercey has agreed to everything the homeowners requested except for the back gate being closed. Mr. Piercey also indicated that if in fact the traffic flow increases, he would possibly agree to closing the gate. However, Mr. Piercey feels the Commission is requesting a PUD and as the owner of the property, he has the right to withdraw the application and leave the properties as they as. Mr. Piercey does not believe the Commission can impose a PUD on these properties.

Mr. Piercey stated he has been working on this application since February, going through every committee and spending his own money to come up with a solution that would be positive to both side. It is now September and nothing has been resolved. Mr. Piercey stated if the Commission desires a PUD, then they should consider his application withdrawn.

### **TMAPC Comments:**

Mr. Gardner commented that staff could support the modified plan providing that emergency vehicles can access the "exit only" areas. Mr. Gardner stated the entire complex cannot be accessed by one location for safety reasons. Mr. Piercey stated he does not understand how the modified plan differs from what is currently there. Mr. Gardner stated that with the "exit only" gates at two locations, the only entrance is from Peoria, and as long as emergency vehicles have access to the "exit only" gates, then staff can support the plan. Staff cannot support a permanent closing with no way to enter the southeast area of the property, but with the "exit only" gates could permit emergency vehicles.

Mr. Dick questioned if there is such a thing as an "exit only" crash gate. Mr. Dick stated that crash gates have been installed in the past for emergency vehicles. Mr. Gardner replied that if the gates are operated by code, the Fire Department will have access to the code and come through the gates, but the general public cannot. Mr. Dick questioned if this is an acceptable proposal. Mr. Gardner believes that Mr. Piercey is proposing to install "exit only" gates, which staff can support will the provision that there needs to another access besides Peoria for emergency vehicles. Mr. Piercey replied he does not believe the provision will be a conflict. Mr. Piercey stated that staff and he can accomplish the same things by allowing the two-lane street to have one lane closed and one lane opened as "exit only", and if he understands Mr. Gardner correctly, if he allows the "exit only" to be accessed by emergency vehicles, then staff's condition is accomplished. Mr. Gardner stated that the reason staff does not recommend a gate on the southeast opening is because of the turn when exiting the apartment complex.

Chairman Carnes stated that the Planning Commission received a letter from Community Bank requesting a thirty-day extension.

Mr. Doherty complimented Mr. Wilson's work on this project for the last eighteen months and his efforts to resolve it.

Mr. Doherty informed Mr. Addison that the TMAPC is a recommending body and there is nothing in the code to require the TMAPC to review this request. However, the request was forwarded to the TMAPC by the City Council for review due to the planning issues involved. The TMAPC will make a report the City Council, and the City Council will make the decision on the request. Mr. Doherty stated that Mr. Addison will have time to make his inquiries and comments before the City Council considers the request even though the TMAPC will finalize their action today.

Mr. Doherty stated that Councilor Hall and he walked the neighborhood last week to observe the streets, curbs and development in the area.

Mr. Westervelt questioned whether Mr. Piercey has any intentions of seeing the properties as separate entities. Mr. Piercey replied that the properties are cross-collateralized and it would be difficult to separate one property from another. Mr. Piercey stated he was going to eliminate the separate names and make it a private development under the name of River Run as one complete complex. Mr. Westervelt questioned whether the properties will remain as rental units in one complex. Mr. Piercey replied in the affirmative.

Mr. Westervelt questioned Mr. Piercey as to his concerns or problems were with a PUD. Mr. Piercey replied without consulting with counsel, he is unable to specify his concerns with a PUD other than the fact that he is in over his head without counsel.

Mr. Westervelt questioned whether there is any public money available or discussion of such to resolve the problem with 58th Street. Mr. Piercey replied he cannot imagine the City spending public money on 58th Street because it separates Fairmont Terrace from Riverwalk. There are many other streets with higher priority; for example, the widening or paving of Peoria. Mr. Piercey stated he also looked into installing traffic signals at the duplex access.

Ms. Pace stated that everyone needs defensible space; however, she is a critic of gated communities. Ms. Pace feels that gated communities are granted if it is good planning. She feels there are several communities that the fire department has to serve that are in excess of 180 units.

Ms. Pace feels that if Mr. Piercey could close the west gate, without any more expense to himself, it would be easier to maintain his defensible space. Ms. Pace stated she entered the complex this morning by driving around the "exit only" gate. She stated she is not a believer in the "exit only" gate and feels the Jersey barriers have not accomplished anything.

Ms. Pace stated she does not have confidence in closing half of Owasso and half of the exit. She feels if nothing else is accomplished, the City ought to take a look at the temporary barrier and relocate it west to the division line between the single-family and the apartments. This will create two defensible spaces without requiring a PUD and no additional expense. The installation of a break-away gate for emergency vehicles would be necessary.

Mr. Doherty reminded Ms. Pace of the condos that specifically requested access to the west and the City Council honored that request. He also reminded her of Ms. Gray's proposed solution that the Commission recommended to the City to close the street at that point, but to provide a driveway to the condos. There is also a question of the apartment's fences to the north on the west side that are encroaching on City right-of-way that would leave more than adequate room for that the driveway. This was all discussed a year ago with a unanimous vote. Ms. Pace stated it is not working. Mr. Doherty feels it is working.

Ms. Pace reminded Mr. Piercey that the Commission's objectives are for planning purposes. Ms. Pace assumes that every tenants is an upstanding citizen and she feels that Brunswick Place needs to realize that also. She feels this was bad land use and it can easily be resolved by separating land uses.

Mr. Doherty stated that staff's recommendations that a BOA variance be required and to have some City body or governing board establish conditions under which streets are closed are well-founded. As to the suggestion of the PUD, if this were a new development then a PUD would be the obvious solution. Mr. Piercey stated that a PUD would solve all

the problems. Mr. Piercey stated that the Jersey barriers have resulted in a ten per cent vacancy rate on Forest Park Patio home. Mr. Piercey requested the Commission to not only consider the positive impact on the neighborhood, but the possible negative impact on his properties.

Ms. Pace questioned if the additional entrance through the duplex area would increase the quality of life if a barrier were located to the west of last exit from the parking lot, in effect turning this complex into a nice gated community. Mr. Piercey replied it is possible and that is why he agreed to install the "exit only" gate. Mr. Piercey feels if he agreed to close the west gate and by doing so result in negative impact on this complex, he would not be able to get the decision reversed.

Mr. Dick questioned whether he can support staff's recommendation. Mr. Piercey replied that he understands the recommendation as requiring him to build a 10' x 36' gate by each complex and make a one-lane exit on Owasso. Mr. Gardner stated that staff can support the compromise between Mr. Piercey and the neighborhood if emergency vehicles could access the "exit only" gates. Mr. Gardner pointed out that the duplexes have room to park a car behind a car if the privacy fence and trash receptacles were moved back farther on the lot due to the need for three lanes to access Peoria. Mr. Gardner feels this is the best solution. Mr. Piercey stated this was his original plan.

Mr. Gardner stated this solution can be accomplished; however, there is an item in the ordinance that states that no lot shall contain any building used in whole or part for residential purposes unless such lot has a minimum of 30 feet of frontage on a public street or a dedicated right-of-way. In other words, if the street is closed there will be some lots that will not be able to meet that requirement without a variance from the BOA. Mr. Gardner stated that the BOA can also place conditions on the request much like a PUD would.

Mr. Gardner feels that the City can reopen streets it desires; however, if there are landscaping and fencing, and streets and curbs are removed, it is unlikely the City would reopen it.

Ms. Pace feels this is a situation that everyone should win. Ms. Pace questioned whether the closure could be relocated across the intersection to the south to allow for two full entrance/exits. Mr. Doherty stated it would block the entrance to the bank. Mr. Gardner stated that staff did not recommend a gate at Owasso due to the turning movement. However, the gate could be moved to the north and Mr. Piercey would not move any parking spaces. But if it is an "exit only" gate it would solve the problem. Ms. Pace stated that the gate could be driven around unless spikes have been installed.. Mr. Gardner reminded Ms. Pace that this will be an operative gate that will require some type of code or button to access it.

Mr. Midget expressed that he can appreciate the neighborhood's concern to separate the different land uses as Ms. Pace noted. However, he feels there is an obligation of the Commission to lessen the hardship on both the residents and the developer. Mr. Midget feels the compromise will ensure the flow of traffic from the apartments to the residential area will be minimized. With the "exit only" gates and the BOA variance, it will be the best opportunity to provide the safeguards that the neighborhood is looking for and give Mr. Piercey the opportunity to evaluate the process for a year.

Mr. Doherty stated the Jersey barriers have been an effective solution. Mr. Doherty stated that Mr. Westervelt pointed out that 58th Street still has dedicated right-of-way adjacent to the parking lot that will never be used. Mr. Doherty feels the right-of-way should be vacated and revert to the adjacent land owners. This would provide additional land that would be very useful to everyone involved.

Mr. Doherty feels the provision of defensible space would stabilize both the single-family and multi-family use in this area. Mr. Doherty stated that the compromise is very workable but it needs some type of mechanism for enforcement in the future. Mr. Doherty feels a board or committee needs to act on the conditions as a part of the street-closing approval. There are internal details, such as turning radius, that need to be addressed.

Mr. Doherty recommended that the Commission recommend to the City Council the implementation of the compromise solution worked out between the neighborhood and Mr. Piercey, and that as a condition of approval, the request be reviewed by the BOA for appropriate conditions and actions or that it be implemented through a PUD. If a PUD, Mr. Doherty would try to expedite the request for a PUD to minimize the cost and possible fee waiver.

Mr. Doherty feels, in the long-term, that creating an enclosed development would maximize Mr. Piercey's return on the property with the highest yields and highest occupancy rates. This would stabilize the apartments and make better neighbors for the single-family neighborhood.

Chairman Carnes asked whether when there is a community action to make two areas defensible, the PUD fees could be waived. Mr. Gardner stated that the City and the Commission have the right to waive the fees.

Ms. Pace feels there was a hole left last time in regards to the traffic through the back of Riverwalk. Ms. Pace questioned what the Commission is proposing to recommend on the western most gate. Chairman Carnes replied it would be an "exit only" gate. Ms. Pace questioned if it would be a one-lane, gated with some type of locking card to prevent others from using it as a street.

Mr. Gardner replied that the gate would have to be accessed on the inside by a code or button and anyone trying to enter would have to access before the gate closed. Ms. Pace stated that the gate has to be operable or in a working manner. Mr. Doherty stated that is where BOA could place conditions on the approval that the gate has to be operable and maintained in a working manner and if not, the gate should remain closed, not opened, until operable.

Ms. Pace stated this is a general proposal that does not include any type of conditions. Mr. Doherty replied this is a recommendation to the City Council. This is not an application before a body of that detailed.

Mr. Dick questioned Mr. Piercey if he is trying to change the layout of the complex. Mr. Piercey replied in the negative. Mr. Dick stated he cannot support a PUD when nothing is changing in terms of the physical structures on this property. Mr. Dick questioned whether Mr. Piercey's property rights are less than the neighborhood's property right. Mr. Dick stated he feels that property rights are the same.

Mr. Dick stated the neighborhood and Mr. Piercey have worked out a compromise and to take their compromise one step further to require a PUD is not right. The Commission cannot make Mr. Piercey file a PUD, but in essence that is what the TMAPC is trying to do. Mr. Dick feels that Mr. Piercey has approached the TMAPC to try to address something that was started by the City Council. There have been mistakes made and Mr. Dick feels that the mistake he is concerned about is heavy-handedness.

Mr. Doherty replied that one of the lots created by the closing will be a non-conforming lot because it does not front a dedicated street. To close the street and be in conformance, Mr. Piercey would have to go before the BOA for a variance or file a PUD. Mr. Doherty stated this is a concern and some of the reasons that the City Council forwarded it to the TMAPC for consideration. The lot can be made legal by a variance from the BOA or through a PUD; either route will accomplish it.

Mr. Dick stated that Mr. Piercey does not have to do anything and the people in Riverside South will have to suffer, as they have, ever since the apartments have been built. Mr. Doherty replied affirmative. Mr. Dick stated he sees Mr. Piercey as someone trying to work out a solution and the Commission is trying to place additional conditions. Mr. Dick stated a compromise has been worked out with the neighborhood, so why not recommend the compromise and if it does not work, then he could come back before the TMAPC.

Mr. Doherty stated that the motion was to implement the compromise. Mr. Dick stated he understood the motion to be that Mr. Piercey will either go to the BOA or file a PUD. Mr. Doherty replied in the affirmative because if not, there would be a non-conforming lot with no frontage on a dedicated street and nothing in the way of assurances to the neighborhood that this will be maintained.

Mr. Dick questioned whether Mr. Piercey bought these properties from the original owners. Mr. Doherty replied probably not. Mr. Dick stated that these properties have passed through a series of hands and today the Commission will take action which could have been taken at anytime over the past twenty or thirty years. Mr. Doherty replied it probably should have been. Mr. Dick stated that he was a police officer in that district when Fairmont Terrace was built, and he feels it should have never been built. However, Mr. Dick stated he cannot change that.

Ms. Pace questioned whether, if the streets are closed, Mr. Piercey has every right to apply to have the streets vacated. In doing so, he would gain additional property. Mr. Doherty stated he would also gain maintenance and responsibility for the property. Ms. Pace feels that the separation of the commercial entity from the single-family area to west would be a good and fair trade. Ms. Pace feels the Commission should make sure that the west exit is not used as a street.

Chairman Carnes stated there is a motion on the floor and asked if anyone did not understand the motion. Mr. Dick replied he did not understand the motion. Mr. Doherty stated that the motion was to recommend to the City Council implementation of the compromise agreement as presented today, noting that so doing will require BOA action or Planned Unit Development action to fully ensure the stability of the agreement and that it be made a condition of the closing.

Chairman Carnes questioned Mr. Dick if he understood the motion. Mr. Dick replied the motion was what he thought it was and that he wanted to hear it one more time so that he was clear as to where the PUD or the BOA came in. Mr. Dick feels this is a step beyond what the neighborhood and Mr. Piercey agreed to. Mr. Dick stated he understands the purpose of the motion, but he feels it is a step beyond.

Ms. Pace moved to amend the motion by Mr. Doherty to include the closing of the west entrance permanently as a condition for granting the semi-closure of Owasso Avenue. The motion died due to lack of second.

Mr. Westervelt stated that he supports the compromise but feels that the condition to go before the BOA should be to avoid the substandard conditions in the duplex area and not restrict the applicant further. Mr. Dick stated the supports the compromise but not the extra conditions.

**TMAPC Action; 9 members present:**

On **MOTION** of **DOHERTY**, the TMAPC voted **5-3-1** (Ballard, Carnes, Doherty, Gray, Horner "aye"; Dick, Pace, Westervelt "nays"; Ledford "abstaining"; Boyle, Midget "absent ") to recommend **APPROVAL** to implement the compromise agreement by the neighborhood and Mr. Piercey as presented today, noting that so doing will require Board of Adjustment action or Planned Unit Development action to fully ensure the stability of the agreement and that it be a condition of the closing.

\*\*\*\*\*

**Resolution No. 2080:781 amending the District Ten Plan Map and Text, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, relating to the Charles Page Boulevard Area Neighborhood Revitalization Planning Program.**

**TMAPC Action; 9 members present:**

On **MOTION** of **LEDFORD**, the TMAPC voted **9-0-0** (Ballard, Carnes, Dick, Doherty, Gray, Horner, Ledford,, Pace, Westervelt “aye”; no “nays”; none “abstaining”; Boyle, Midget “absent “) to **APPROVAL** the Resolution No. 2080:781 amending the District Ten Plan Map and Text, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, relating to the Charles Page Boulevard Area Neighborhood Revitalization Planning Program.

\*\*\*\*\*

**AC-004-Consider alternative landscape compliance for corridor site plan Z-5110-SP1**

Southeast corner of 123rd East Avenue & I-44.

**Staff Recommendation:**

The applicant is requesting Alternative Landscape Plan approval for the “Body Booster” site (landscaping has previously been installed). The applicant requests that:

Only the area of the Corridor Site Plan be considered (a portion of the lot is not included in the Site Plan).

Trees planted outside the streetyard be included in the satisfaction of the tree requirement.

Staff has reviewed the request and finds that the total site requires 46 trees, 24 of which are required within the affected area. Five trees are also required in the proposed parking area, bringing the total amount of required trees to 29.

Review also indicates that 19 trees have been planted in the area in front (north) of the building and 16 trees have been planted along the parking area west of the building. The proposed plans do not show the screening fence along the entire length of the southern boundary or extending far enough north along the easterly boundary.

The applicant has submitted a letter from the landscape architect stating that the landscaping as installed has greater screening impact than would be accomplished by conforming to the code; that the area along the frontage road may be too wet to afford maximum tree growth; and, that the applicant’s personal criteria are better accomplished.

Staff’s opinion is that the landscaping as installed is in substantial compliance with the intent of the code although the screening impact of the trees as installed may or may not be as effective as that of strict compliance.

Staff recommends **APPROVAL** subject to the following:

Addition of five trees in the street yard area

Addition of two trees in the southwest portion of the parking area

A five-foot landscaped area between the paving and the east property line

Irrigation of all landscaped areas

An eight-foot screening fence along the entire south property line and along the east property line to within 119' of the northern boundary

**Applicant's Comments:**

**Jerry Ledford, Jr.** stated that 24 trees are required; however, he has 19 shown and an additional 16 along the perimeter of the building, which is more than is required. Mr. Ledford presented photographs of the landscaping, trees and irrigation that have been installed. One photograph was of the screening fence, which is currently being installed along the east and south boundaries.

Mr. Ledford stated he is in agreement with staff's recommendation with the exception of the five additional trees in the streetyard and the two additional trees in the parking area. Mr. Ledford requested approval as installed for a total of 35 trees.

**TMAPC Comments:**

Mr. Stump stated that there was room in the streetyard for the additional trees. Chairman Carnes questioned why he did not wish to plant the trees if there is room. Mr. Ledford replied that he has to go with what the owner has requested; however, if it is required, the additional trees will be installed.

Mr. Stump stated that staff would waive the two additional trees in the parking area. Mr. Dick questioned if that was an amendment to staff's recommendation. Mr. Stump replied in the affirmative.

**TMAPC Action; 9 members present:**

On **MOTION** of **DICK**, the TMAPC voted **8-1-0** (Carnes, Dick, Doherty, Horner, Ledford, Midget, Pace, Westervelt "aye"; Ballard "nay"; none "abstaining"; Boyle, Gray "absent") to **APPROVAL** the Alternative Compliance AC-004 Z-5110-SP-1a subject to an addition of five trees in the streetyard area, a five-foot landscaped area between the paving and the east property line, irrigation of all landscaped areas, and an eight-foot screening fence along the entire south property line to within 119' of the north boundary, as recommended by staff.

\*\*\*\*\*

There being no further business, the Chairman declared the meeting adjourned at 3:20 p.m.

Date Approved: 9-18-96

*[Signature]* Chairman X

ATTEST: *[Signature]*  
Secretary