

TULSA METROPOLITAN AREA PLANNING COMMISSION

Minutes of Meeting No. 2428

Wednesday, October 26, 2005, 1:30 p.m.

Francis Campbell City Council Room
Plaza Level, Tulsa Civic Center

Members Present	Members Absent	Staff Present	Others Present
Ard	Dick	Alberty	Boulden, Legal
Bayles	Midget	Fernandez	
Bernard		Huntsinger	
Cantees		Matthews	
Carnes			
Harmon			
Hill			
Horner			
Jackson			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Monday, October 21, 2005 at 12:50 p.m., posted in the Office of the City Clerk, as well as in the Office of the County Clerk.

After declaring a quorum present, Chair Bayles called the meeting to order at 1:30 p.m.

REPORTS:

Worksession Report:

Ms. Bayles reported that a worksession will be immediately following today's TMAPC.

Mr. Carnes in at 1:35 p.m.

CONTINUED ZONING PUBLIC HEARING:

PUD-230-7 – Breisch & Associates, Inc./Rowland Group

MINOR AMENDMENT

3851 South 103rd East Avenue.

(PD-17) (CD-5)

STAFF RECOMMENDATION:

The applicant, Rowland Group, proposes to reallocate floor area, permit frontage on a mutual access easement, provide for signage and reduce the 75-foot building setback off the centerline of South 103rd East Avenue to 50 feet for a 3.31-acre parcel. The tract is zoned OL and is part of PUD-230. The Comprehensive Plan designates the tract as Low Intensity.

The 3.31-acre tract was created by TMAPC lot-split approval in 2004 and is Tract 'B-1' per Exhibit A. The tract of land is located north of East 41st Street on the east side of South 103rd East Avenue. The easterly boundary of the tract is adjacent to the Mingo Valley Expressway.

The applicant currently has a preliminary plat, "Tuscany Pointe", (Exhibit 'B'), in process which encompasses the 3.31 acre parcel. For purposes of processing the plat and providing for future development, the applicant requests the following minor amendments to PUD 230:

1. Reallocation of floor area pro-rata among the proposed four lots. PUD-230-5 allocated 56,459 square feet for Tract 'B-1'. Following is each lot's proposed pro-rata share of floor area:

Lot 1 = 11,856 SF (21% of total)

Lot 2 = 16,938 SF (30% of total)

Lot 3 = 11,292 SF (20% of total)

Lot 4 = 16,373 SF (29% of total)

2. The proposed Lots 2 and 4 do not have 50 feet of frontage along a public street as required within the OL zoning district. The proposed plat of "Tuscany Pointe" (Exhibit B) provides a mutual access and utility easement which runs between Lots 1 and 3 and into both Lots 2 and 4. The applicant requests that the required 50 feet of frontage be along the mutual access and utility easement as shown on Exhibit 'B'. An existing 26'-wide concrete drive is located within the mutual access and utility easement and provides access to all four lots within the proposed subdivision. All four lots shall be equally responsible for the maintenance of the private drive.

3. The original PUD 230 provided for 32 square feet of signage for all of Development Area B – which consisted of all of Lot 1, Block 2, Bishop Acres, before any lot-splits were done. TMAPC has approved several minor amendments, PUD 230-1, 2, 4 & 6, to PUD-230, allowing additional signage.

Per Section 602.B.4.c of the Tulsa Zoning Code, signage within an OL zoning district may not exceed two-tenths of a square foot of display surface area per lineal foot of street frontage. The applicant's parcel has 586.15 feet of frontage on the Mingo Valley Expressway and 262.69 feet of frontage on South 103rd East Avenue. Therefore, signage allowed under the OL zoning district is 117.23 square feet of display surface area for the Mingo Valley Expressway frontage and 52.54 square feet of display surface area for the South 103rd East Avenue frontage, or a total of 169.77 square feet. Per PUD-230-6, the developer (the current applicant) constructed a ground sign using up 60 square feet of signage which leaves a total of 109.77 square feet of signage. The applicant requests that the remaining 109.77 square feet of signage be divided equally among the four lots so that each lot may use 27.44 square feet of signage.

4. The applicant also requests changing the 75-foot building setback off the centerline of South 103rd East Avenue to a 50-foot building setback of the centerline of South 103rd East Avenue. Although the OL zoning district allows for a 50-foot setback off the centerline of a non-arterial street, existing development along South 103rd East Avenue is at or behind the 75-foot setback. Staff believes the 50-foot setback of centerline would be inconsistent with established development.

Staff considers the proposed amendments to be minor in nature and recommends **APPROVAL** of PUD-230-7 as proposed, with exception of the requested 50 foot setback, and as summarized below:

1. Reallocation of the 56,459 square feet of floor area as follows:
 - Lot 1: 11,856 SF
 - Lot 2: 16,938 SF
 - Lot 3: 11,292 SF
 - Lot 4: 16,373 SF
2. Minimum frontage:
 - Lot 1: per Section 603 of the Tulsa Zoning Code
 - Lot 2: 50 feet along mutual access and utility easement
 - Lot 3: per Section 603 of the Tulsa Zoning Code
 - Lot 4: 50 feet along mutual access and utility easement

3. Maximum signage permitted, whether wall or ground sign(s):

Lot 1: 27.44 SF

Lot 2: 87.44 SF

Lot 3: 27.44 SF

Lot 4: 27.44 SF

4. Minimum building setback:

From centerline of South 103rd East Avenue: 75 FT

Applicant's Comments:

Kevin Coutant, 320 South Boston, Suite 500, Tulsa, Oklahoma 74103, stated that he appreciates the staff recommendation except for the 75-foot setback off of 103rd requirement. He requested that this be reduced to a setback that is consistent with the underlying zoning, which is OL (50 feet). He commented that there is nothing wrong with the 75 feet, but it is not what is required by the Code or the underlying zoning.

Mr. Coutant explained that he researched the records on this PUD and found that the Development Standards specify that the height limitation on the subject parcel is six stories. It was contemplated that the property (development area adjacent to East 103rd) would be a high intensity office project, which has never happened.

Mr. Coutant stated that the first thing to develop in the subject PUD was the development of the parking lot to the north, then the Junior Achievement came in with 17,000 SF of office space. He commented that it is his best interpretation, of all of these facts: that 75 feet (the additional setback) was required in light of the fact that there would be the taller buildings on this development area and that never happened. He believes it would be appropriate for a 50-foot setback since the proposed building will only be two stories and the intensity level will be down.

TMAPC COMMENTS:

Ms. Bayles asked staff to respond to Mr. Coutant's proposal. In response, Mr. Alberty stated that the facts that Mr. Coutant has presented may very well be true in terms of the reasons for the original setback being set at 75 feet. However, there are two considerations: 1) the majority of the subject area has maintained the 75 feet and the subject property is the only undeveloped portion. From staff's standpoint, staff would like to hold to the original requirement; 2) The subject tract is being divided into four lots, which is basically allowing a totally different development pattern and staff feels that it is important to hold to that 75 feet for uniformity and for consistency with the development. The other development in the subject area is two stories and they met the 75 feet and staff expects the subject proposal to do the same.

There were no interested parties wishing to speak.

Mr. Harmon asked Mr. Coutant what has happened that has caused him to want to go from the 75 feet to the 50 feet or is there something that has developed that causes his client to need the additional 25 feet. In response, Mr. Coutant stated that primarily the market drives this request and it is for the maximum utilization of the subject property. The original PUD contemplated a market that would support the more intense and higher buildings; however, that market is not there today. He believes his proposal is an improvement of the overall quality of what will ultimately be built on the subject parcel, as opposed to what could be built in accordance with the PUD. The 75-foot setback is no longer necessary and there is no need to keep a wide alleyway between tall buildings. It would impact on the usability of the lots if the setback is enforced. It is a change of the highest and best use that then drives the need for a bigger footprint for more efficient and appropriate utilization of the land.

Mr. Ard stated that he will be abstaining on this item due to prior consultation related to this property.

Ms. Cantees in at 1:40 p.m.

Mr. Jackson asked staff what other buildings were in the subject PUD. In response, Ms. Matthews stated that the Junior Achievement Building is at a 75-foot setback. The philosophy behind the 75-foot setback in the PUD was that they would be built higher and at a higher floor area ratio. Ms. Matthews further stated that perhaps the higher buildings haven't developed, but perhaps it will in the future. She indicated that there are two additional buildings in the subject area that are a part of the PUD and they are at a 75-foot setback as well.

Mr. Jackson asked if the Planning Commission could impose a condition that if the building is less than two stories it could have a 50-foot setback, but if it is over two stories it would require a 75-foot setback.

Ms. Matthews stated that the applicant is proposing a more intense development because it will have four lots once it is built out. There will be four buildings rather than one building once it is fully developed. This is next to an expressway, where it is more appropriate for a higher story building. Mr. Jackson suggested that the Planning Commission require that if the applicant goes over two stories he would have to remain at the 75-foot setback. Ms. Matthews stated that this is a decision that the Planning Commission will have to make. Staff has already made the recommendation and believes that the 75-foot setback is the place where staff wants to be.

Mr. Jackson asked if the setbacks are always 50-, 75- and 100-foot setbacks or any in the middle like 62.5 feet. Ms. Matthews stated that the Planning Commission has usually rounded it to whatever is convenient and seems appropriate.

Mr. Harmon stated that the PUD standards are there for a reason and sometimes those reasons change, but he is hesitant to change a PUD unless there is a significant change or something extraordinary that would cause a change. It doesn't appear anything has occurred in this case to warrant the change.

TMAPC Action; 9 members present:

On **MOTION** of **HARMON**, TMAPC voted 5-2-2 (Bayles, Bernard, Harmon, Hill, Horner, "aye"; Cantees, Jackson "nays"; Ard, Carnes "abstaining"; Dick, Midget "absent") to **APPROVE** the minor amendment for PUD-237 as proposed, with exception of the requested 50-foot setback per staff recommendation.

Legal Description for PUD-237:

A tract of land that is part of Lot 1, Block 2 of Bishop Acres, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, said tract of land being more particularly described as follows, to-wit: starting at the most Southerly Southeast corner of said Lot 1; thence N 31°26'24" E along the Southeasterly line of Lot 1 for 313.29' to the Point of Beginning of said tract of land; thence N 37°20'07" W for 347.57' to a point on the Westerly line of Lot 1; thence N 28°01'15" E for 0.00' to a point of curve; thence Northeasterly along said Westerly line on a curve to the left with a central angle of 15°03'04" and a radius of 1,000.00' for 262.69'; thence N 89°52'07" E for 346.44' to a point on the Easterly line of said Lot 1; thence S 00°07'53" E along said Easterly line for 141.46' to the most Northerly Southeast corner of said Lot 1; thence S 36°26'24" W along the Southeasterly line of said Lot 1 for 444.69' to the Point of Beginning of said tract of land, and located at 3851 South 103rd East Avenue, Tulsa, Oklahoma.

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SUBDIVISIONS:

PRELIMINARY PLAT:

Tuscany Pointe – (9419)

(PD 17) (CD 5)

3851 South 103rd East Avenue (Related to Item 4.)

STAFF RECOMMENDATION:

This plat consists of four lots, one block, on 3.3 acres.

The following issues were discussed October 6, 2005 at the Technical Advisory Committee (TAC) meeting:

1. **Zoning:** The property is zoned PUD-230. A minor amendment is pending. All PUD conditions must be met.

2. **Streets:** The 40 x 50-foot mutual access easement label in Lot 2 needs clarification. Include the PUD number in the title. The point of beginning needs identification. Put PUD number on plat. Show U.S. 169. Correct drafting error on mutual access easement. Correct covenants.
3. **Sewer:** The existing six-inch service line will not be allowed to connect at the manhole. Ductile iron pipe will be required for service lines in the mutual access easement/utility easement.
4. **Water:** Distance between sanitary sewer and water should be labeled. Label the type and size of waterline. Indicate cut in a tee, not a tapping sleeve and valve.
5. **Storm Drainage:** The 24-inch existing storm sewer, located along the west boundary of Lot 3, is not in an easement. Please add additional storm sewer easement from the east boundary of the 17.5-foot utility easement along a line at least 7.5 feet east of the centerline of this pipe. The 15 X 15-foot drainage easement, near the southwest corner of Lot 3 must have the "DOC. NO." blank filled in.
6. **Utilities: PSO, ONG, Cable:** Okay.
7. **Other: Fire:** Move the lot dimensions along 103rd inside the lot. Check the right-of-way dimension along 103rd with the legal. Show the point of beginning and dimension to it. Include Block 2 of Bishop Acres at the end of starting sentence.

Staff recommends **APPROVAL** of the Preliminary Subdivision plat subject to the special and standard conditions below.

Waivers of Subdivision Regulations:

1. None requested.

Special Conditions:

1. The concerns of the Public Works Department staff must be taken care of to their satisfaction.

Standard Conditions:

1. Utility easements shall meet the approval of the utilities. Coordinate with Subsurface Committee if underground plant is planned. Show additional easements as required. Existing easements shall be tied to or related to property line and/or lot lines.

2. Water and sanitary sewer plans shall be approved by the Public Works Department prior to release of final plat. (Include language for W/S facilities in covenants.)
3. Pavement or landscape repair within restricted water line, sewer line, or utility easements as a result of water or sewer line or other utility repairs due to breaks and failures shall be borne by the owner(s) of the lot(s).
4. Any request for creation of a Sewer Improvement District shall be submitted to the Public Works Department Engineer prior to release of final plat.
5. Paving and/or drainage plans (as required) shall be approved by the Public Works Department.
6. Any request for a Privately Financed Public Improvement (PFPI) shall be submitted to the Public Works Department.
7. A topography map shall be submitted for review by TAC (Subdivision Regulations). (Submit with drainage plans as directed.)
8. Street names shall be approved by the Public Works Department and shown on plat.
9. All curve data, including corner radii, shall be shown on final plat as applicable.
10. Bearings, or true N/S, etc., shall be shown on perimeter of land being platted or other bearings as directed by the County Engineer.
11. All adjacent streets, intersections and/or widths thereof shall be shown on plat.
12. It is recommended that the developer coordinate with the Public Works Department during the early stages of street construction concerning the ordering, purchase and installation of street marker signs. (Advisory, not a condition for plat release.)
13. It is recommended that the applicant and/or his engineer or developer coordinate with the Tulsa City/County Health Department for solid waste disposal, particularly during the construction phase and/or clearing of the project. Burning of solid waste is prohibited.
14. The method of sewage disposal and plans therefor shall be approved by the City/County Health Department. [Percolation tests (if applicable) are required prior to preliminary approval of plat.]

15. The owner(s) shall provide the following information on sewage disposal system if it is to be privately operated on each lot: type, size and general location. (This information to be included in restrictive covenants on plat.)
16. The method of water supply and plans therefor shall be approved by the City/County Health Department.
17. All lots, streets, building lines, easements, etc., shall be completely dimensioned.
18. The key or location map shall be complete.
19. A Corporation Commission letter, Certificate of Non-Development, or other records as may be on file, shall be provided concerning any oil and/or gas wells before plat is released. (A building line shall be shown on plat on any wells not officially plugged. If plugged, provide plugging records.)
20. A "Letter of Assurance" regarding installation of improvements shall be provided prior to release of final plat. (Including documents required under 3.6.5 Subdivision Regulations.)
21. Applicant is advised of his responsibility to contact the U.S. Army Corps of Engineers regarding Section 404 of the Clean Waters Act.
22. All other Subdivision Regulations shall be met prior to release of final plat.
23. All PUD standards and conditions shall be included in the covenants of the plat and adequate mechanisms established to assure initial and continued compliance with the standards and conditions.
24. Private streets shall be built to City or County standards (depending upon the jurisdiction in which the plat is located) and inspected and accepted by same prior to issuance of any building permits in the subdivision.

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **HARMON**, TMAPC voted 8-0-1 (Bayles, Carnes, Bernard, Cantees, Harmon, Hill, Horner, Jackson "aye"; no "nays"; Ard "abstaining"; Dick, Midget "absent") to **APPROVE** the preliminary plat for Tuscan Pointe, subject to special and standard conditions per staff recommendation.

FINAL PLAT:

Belmont – (8328)

(PD 26) (CD 8)

East 109th Street and South Louisville

STAFF RECOMMENDATION:

This plat consists of 23 lots in one block on 23.5 acres.

All of the release letters have been received and staff recommends **APPROVAL**.

The applicant indicated his agreement with staff’s recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **HARMON**, TMAPC voted 9-0-0 (Ard, Bayles, Carnes, Bernard, Cantees, Harmon, Hill, Horner, Jackson, "aye"; no "nays"; none "abstaining"; Dick, Midget "absent") to **APPROVE** the final plat for Belmont per staff recommendation.

CHANGE OF ACCESS ON RECORDED PLAT:

Lot 2, Block 1, “4100 Garnett Center” – (9430)

(PD 17) (CD 6)

West of South Garnett Road and South of East 41st Street

STAFF RECOMMENDATION:

This application is made to allow a change of access along South Garnett Avenue. The proposal is to move a 40-foot limited access to the south on Garnett Avenue for the CS-zoned property.

Staff recommends approval of the change of access. The Traffic Engineer has reviewed and approved the request. Staff recommends **APPROVAL** of the change of access as submitted.

The applicant indicated his agreement with staff’s recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted 9-0-0 (Ard, Bayles, Carnes, Bernard, Cantees, Harmon, Hill, Horner, Jackson, "aye"; no "nays"; none "abstaining"; Dick, Midget "absent") to **APPROVE** the change of access on recorded plat for Lot 2, Block 1, "4100 Garnett Center" per staff recommendation.

OTHER BUSINESS:

PUD-306-H – Michael Dwyer

(PD-18) (CD-2)

9700 Riverside Parkway (Detail Site Plan for a one-story bicycle shop.)

STAFF RECOMMENDATION:

The applicant is requesting approval of a detail site plan for a one-story, 10,000 square foot bicycle shop. The proposed use, Use Unit 14, Shopping Goods and Services, is in conformance with development standards.

The proposed building complies with development standards for maximum permitted floor area, building coverage of land and building height. The site also complies with minimum building setbacks and net landscaped area and streetyard requirements.

Proposed parking provides 48 spaces. This is sufficient to provide the minimum 45 spaces for the bicycle shop and an additional 900 square feet of outdoor storage or display of merchandise.

Parking lot lighting will be supplied by 18-foot high mounted lights. Application of the Kennebunkport Formula shows the site to be in compliance with development standards and the zoning code.

Therefore, staff recommends **APPROVAL** of PUD-306-H detail site plan as proposed.

(Note: Detail site plan approval does not constitute landscape and sign plan approval.)

The applicant indicated his agreement with staff's recommendation.

There were no interested parties wishing to speak.

TMAPC Action; 9 members present:

On **MOTION** of **CARNES**, TMAPC voted 9-0-0 (Ard, Bayles, Carnes, Bernard, Cantees, Harmon, Hill, Horner, Jackson, "aye"; no "nays"; none "abstaining"; Dick, Midget "absent") to **APPROVE** the detail site plan for PUD-306-H per staff recommendation.

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Ms. Hill out at 1:50 p.m.

Commissioners' Comments

Mr. Ard asked whether, considering that the last Planning Commission meeting lasted past 9:00 p.m., if there is any way to try to avoid this from happening again. He understands that many cases had been continued to that meeting, which caused it to have numerous items and it is difficult to predict which cases will be controversial.

Mr. Alberty stated that when applications are continued at the Planning Commission, staff doesn't know where we are in two weeks to two months from that date.

Mr. Alberty stated that one other thing he could suggest is that, under the direction of the Chair, the Planning Commission would be within their grounds to admonish the crowd not to repeat, only relate new information, stick to the point, etc. He indicated that there were editorial comments that went on too long and they had absolutely no bearing on the case. He understands that the Planning Commission was attempting to give everyone a fair hearing and it is a difficult balance. When one case is going on for over two hours, then the Planning Commission is justified to evoke a time limit or suggest to those who wish to speak to keep their comments to something that hasn't been mentioned. Mr. Alberty stated that he is not criticizing the Planning Commission because he believes that the last meeting was done in a fair manner and everyone who appeared had an opportunity to speak. The last meeting was bogged down with speakers talking for 20 minutes or more about issues that didn't pertain to the zoning case before the Planning Commission.

Mr. Ard asked if it would be possible for staff to keep a list in front of them so that as items are continued during the meeting staff could look at the list and warn the Planning Commission how many cases are on the upcoming agendas. In response, Mr. Alberty stated that it would be possible.

Mr. Alberty stated that in his 35 years he doesn't believe there has ever been a meeting that lasted that long.

Mr. Harmon stated that the Planning Commission has informed interested parties that stormwater issues are not handled by the Planning Commission and yet they continue to discuss it. He asked how this could be prevented without being confrontational.

Mr. Jackson stated that the City Council shuts off the microphone when someone is speaking about something unrelated to the issue.

Mr. Alberty stated that the Planning Commission could simply remind the interested parties that the stormwater issues would not be discussed by the Planning Commission.

Mr. Bernard commented that applicants and developers tend to go over their time limits as well and then the interested party is only given three minutes.

After discussion it was determined that staff would print out the agenda log and have it available at each meeting to prevent too many cases being continued to one agenda and creating a long meeting.

There being no further business, the Chair declared the meeting adjourned at 1:55 p.m.

Date Approved:
12/21/05

James M. Bayles
Chairman

ATTEST: 
Secretary

