CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 594
Tuesday, September 10, 1991, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle, Chairman	Chappelle	Gardner	Jackere, Legal
Doverspike		Jones	Department
Fuller		Moore	Hubbard, Protective
White			Inspections
			Parnell, Code
			Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, September 9, 1991, at 10:58 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Bolzle called the meeting to order at 1:00 p.m.

MINUTES:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Bolzle, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, Doverspike, "absent") to **APPROVE** the Minutes of August 27, 1991.

Special Recognition for Janet "Hap" Bradley

Chairman Bolzle presented Ms. Bradley with a plaque in recognition of six years of outstanding service on the City Board of Adjustment.

UNFINISHED BUSINESS

Case No. 15800

Action Requested:

Variance to expand a nonconforming use (parking of various vehicles and equipment) - **Section 1407.A.B.C. Parking, Loading and Screening Nonconformities** - Use Units 6 and 25.

Variance of the required all-weather material to permit parking on a gravel lot - **Section 1303.D Design Standards for Off-Street Parking Areas** - Use Units 6 and 25, located 8160 South Elwood.

Presentation:

The applicant, **Mark Sharp**, 632 West Main, Jenks, Oklahoma, informed that the case involves a 4.2-acre tract, which was annexed into the City of Tulsa on March 30, 1966. The applicant submitted a packet (Exhibit A-1) containing signed affidavits, a case review and a receipt from the Revenue Department. Mr. Sharp explained that the property is zoned for agriculture, but is too small for agricultural uses, and residential development of the land behind the houses is not practical, due to lack of access to the back portion of the property. He pointed out that the two dwellings on the street frontage were constructed in 1953 and 1959, and his client has

Case No. 15800 (continued)

continued to operate a business at this location since his home was built. Mr. Sharp stated that the property is near the airport and noise is also a factor in residential development. In regard to other businesses in the area, the applicant pointed out that a pecan sales business and a plant warehouse have been operating in the area for some time. He stated that the majority of the neighbors are supportive of the application, and submitted a location map (Exhibit A-4) depicting the location of property owners in support and those in opposition to the request. Mr. Sharp stated that the tanker truck that has been parked on the property will be removed, and his client is amenable to constructing an elevated screening fence (Exhibit A-6) to assure the privacy of the abutting property owners. He pointed out that there is no work completed on the property, except for routine maintenance of the equipment that is stored there between jobs. In summary, Mr. Sharp stated that the business in question was in operation before the annexation in 1966, which is substantiated by the affidavit signed by an employee of his client. He pointed out that there has been no expansion of the business, however, the equipment has been updated to meet the needs of the changing telecommunication industry. In regard to the variance of the all-weather parking, the applicant informed that the metal cleated equipment cannot be driven on a hard surface, and asked that gravel parking be permitted.

Comments and Questions:

Ms. White asked if the entire tract has been used for the business since 1966, and Mr. Sharp answered in the affirmative. He reiterated that his client has never expanded his business, nor is an expansion proposed.

In response to Mr. Jackere, the applicant stated that the maintenance building is to the rear of the property and supplies and equipment are stored outside the building.

Ms. White asked what type of supplies are stored outside the building, and Mr. Sharp stated that materials used in the installation of telecommunication systems are stored outside.

In reply to Mr. Doverspike, the applicant stated that any repairs that are made in the evening are completed inside the accessory building.

Mr. Doverspike inquired as to specific types of equipment stored on the property, and Mr. Sharp stated that his client owns backhoes, trucks and bulldozers. He informed that the equipment enters the property on the south side of the house, which is the only access.

Mr. Fuller asked Mr. Sharp to describe his clients work boundary, and he replied that he services Oklahoma and surrounding states. Mr. Fuller asked if the boundary has increased since 1966, and the applicant stated that his client did not do out of state work in 1966. He pointed out that fiber optic lines now in use are cross-country.

Case No. 15800 (continued)

Mr. Fuller asked Mr. Sharp if it would be correct to assume that his client is currently storing more equipment than he stored on the property in 1966, and he replied that his client is doing essentially the same work. Mr. Sharp pointed out that he may have replaced one trencher with three bulldozers, since some cable work now requires three bulldozers tied together for digging a 5' deep trench.

Protestants:

John Moody, 550 Oneok Plaza, Tulsa, Oklahoma, stated that he is representing Mr. and Mrs. Sam Young and Mr. and Mrs. Gerald Campbell, owners of property abutting the subject tract on the south and west boundaries. He stated that he is present to protest the application and contest the allegation that the business is a legal nonconforming use. Mr. Moody pointed out that the earliest aerial photograph (Exhibit A-3), which was taken in 1967, does not indicate that equipment was stored on the property or that any type of business was being conducted. He stated that the described business is classified in the Zoning Code as a light industrial use and is not compatible with the residential neighborhood. Mr. Moody submitted photographs (Exhibit A-2) taken in 1980 from his clients property, which shows the land in question to be vacant. In regard to the accessory building, Mr. Moody explained that a building permit for a residential accessory building was issued in 1986. He pointed out that, if the Board should find that there was a nonconforming use (equipment storage) on the eastern 1 1/4 acres in 1966, it is evident that adding another 110,000 sq ft of storage area (green area on map) to the existing 63,000 sq ft (red area on map) would be expanding a nonconforming use (Exhibit A-5). He pointed out that, if the request is approved, the Board would be granting a use variance, which is not permitted by law. Mr. Moody stated that the applicant has not presented a hardship that would warrant granting the variance request.

Additional Comments:

Ms. White asked Mr. Moody how long his clients have lived in the neighborhood, and he replied that his clients will answer that question.

Protestants:

Gerald Campbell, 8170 South Elwood, Tulsa, Oklahoma, stated that he purchased his property in 1985, and equipment was not stored on the subject property at that time.

Mr. Jackere asked if the equipment storage was confined to the front portion of the tract (green area on map) near Elwood, and Mr. Campbell answered in the affirmative. Mr. Jackere asked if additional items have been placed on the tract since he moved to the neighborhood, and Mr. Campbell replied that there seems to be more equipment now. He stated that that the business seemed to begin an increase in 1987 or 1988.

Sam Young, 8164 South Elwood, Tulsa, Oklahoma, informed that he moved to the area in early 1988, and has observed a gradual increase in the business activity on the subject property during the past three

Case No. 15800 (continued)

years. He stated that he would not have purchased the property if he had know there was going to be an industrial operation of this magnitude across the boundary line. Mr. Young stated that an appraiser has made the determination that his property value would decrease approximately $36,000 to $45,000. He stated that the noise from the operation of the airport is not significant enough to have a negative impact on the neighborhood.

Ms. White pointed out that Mr. Campbell began to notice a significant amount of outside storage on the subject property in 1987; however, Mr. Young stated that he purchased his property in 1988 and there was no storage on the property at that time. Mr. Young stated that there was no equipment stored on the west side of the building when he purchased his property in 1988, and now there are fuel tanks, cables, spools, pipe racks, trailers, bulldozer blades, etc., stored in this area. He informed that there were only two Volkswagen bodies on the west side of the accessory building when he bought his property.

Mark English, 652 West 81st Street, Tulsa, Oklahoma, stated that he has lived in the area two months, and owns the property to the north of the subject tract. He explained that he would not have moved to the area if he had known the existing use was proposing to expand.

Applicant's Rebuttal:

Mr. Sharp pointed out that Mr. English was aware of the business operation when he purchased his property. He pointed out that the airport presents a noise problem since the planes are at full throttle when taking off. Mr. Sharp noted that Code Enforcement investigated the property in 1986, and determined the use to be a lawful nonconforming use.

Mr. Jackere asked Mr. Sharp if he disputes the statement that there was some activity in 1985 on the front portion of the tract (green area on map), but no activity on the rear portion (red area on map), and the applicant replied that he definitely disputes that statement.

Mr. Gardner advised that the aerial photograph depicts that the rear portion of the property (red) was not used as a business when the photograph was taken and, therefore, is not a nonconforming use.

In response to Mr. Bolzle, Mr. Jackere stated that the issue is whether or not the back portion of the property has been used consecutively since 1963 for equipment storage and is a nonconforming use. He pointed out that the affidavits supplied do not state the exact location of the business on the property.

Mr. Fuller stated that, based on the aerial and family photographs supplied, it appears that there has been an expansion of the business.

Mr. Jackere advised that the applicant must prove that at least a portion, or the entire 3 1/4-acre rear tract, has been used for his business from 1966 to this date.

Case No. 15800 (continued)

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to find that the applicant failed to present evidence that the rear 3 1/4 acres (110,000 sq ft) of the subject property (red area on map) is a legal nonconforming use and has been consecutively utilized for his commercial business since 1966 (date of annexation).

Mr. Jackere pointed out that, if this property was within five miles of the corporate boundary, the City of Tulsa has had zoning jurisdiction since 1963. He advised that the applicant must provide evidence that the front 1 1/4 acres (green area on map) has been utilized for the use in question uninterrupted, except for a 90-day period, since 1963. It appears that the owner shifted the use from one parcel of land to another, unaware that this could terminate his right to operate his business on the front portion (green) of his land.

Mr. Barber requested permission to make a statement concerning the previous continuation of the application, and Chairman Bolzle pointed out that the applicant and protestants have been heard, and denied the request.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **DENY** a **Variance** to expand a nonconforming use (parking of various vehicles and equipment) - **Section 1407.A.B.C. Parking, Loading and Screening Nonconformities** - Use Units 6 and 25; and to **DENY** a **Variance** of the required all-weather material to permit parking on a gravel lot - **Section 1303.D Design Standards for Off-Street Parking Areas** - Use Units 6 and 25; finding that the area has developed residential and the expansion of the use located on the front 1 1/4 acres (green area on map) of the property would be injurious to the neighborhood; and finding that the granting of the variance requests would violate the spirit, purpose and intent of the Code; on the following described property:

Beginning SE/c, south 26 2/3 acres, north 53 1/3 acres, N/2, NE/4, thence north 225', west 820', south 225', east 820' to POB, less east 50' for roadway, Section 14, T-18-N, R-12-E, Tulsa County, Oklahoma.

Case No. 15809

Action Requested:

Special Exception to waive the screening requirements from an abutting residential zoned district to the north - **Section 1213.C.2. USE CONDITIONS** - Use Unit 13, located 4903 East Admiral Place.

Presentation:

The applicant, **David Grooms**, 901 North Mingo, Tulsa, Oklahoma, explained that, after the church property to the north and the QuikTrip property were surveyed, there was a space approximately 11'

Case No. 15809 (continued)

wide that was not claimed by either owner. He stated that the church has installed a chain link fence and, if QuikTrip is required to screen their property, the 11' space will not be maintained. Mr. Grooms stated that QuikTrip will landscape and mow the area if the screening requirement is waived.

Comments and Questions:

Mr. Jones informed that the Zoning Code states that it is the responsibility of the commercial property to erect a screening fence which will provide visual separation from the residential area. Mr. Jones pointed out that the applicant can readvertise for a variance if he feels there is a hardship.

Mr. Doverspike asked if natural screening is provided by the topography of the property, and Mr. Grooms replied that the QuikTrip lot is visible from the church property.

Mr. Grooms stated that he feels a hardship can be demonstrated, and requested that the application be continued to allow sufficient time for readvertising.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15809 to October 8, to allow sufficient time for readvertising.

NEW APPLICATIONS

Case No. 15817

Action Requested:

Special Exception to permit a home occupation (accounting business and tax service) in an RS-3 zoned district - **Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 12523 East 20th Place.

Presentation:

The applicant, **Jerri Lawhorn**, 12523 East 20th Place, Tulsa, Oklahoma, stated that she has an accounting and income tax business, and requested permission to operate the business from her home. She explained that the accounts are picked up and delivered, and her clients do not customarily come to her home. Ms. Lawhorn stated that no more than one person comes to her office each week to discuss an account, and during tax season some customers are seen by appointment. She informed that there is no walk-in traffic.

Comments and Questions:

Ms. White asked how appointments are scheduled during tax season, and Ms. Lawhorn stated that normally she sees no more than two clients per day.

Case No. 15817 (continued)

Ms. White inquired as to the reason for coming before the Board, and Ms. Lawhorn informed that she is proposing to move her business from an office building to her home.

In response to Mr. Bolzle, the applicant stated that her office hours will be from 8:30 a.m. to 5:00 p.m., Monday through Friday.

Mr. Doverspike asked what percent of the business deals with commercial clients, and Ms. Lawhorn replied that all accounting business is commercial, and approximately 2% of the business deals with personal income tax.

Protestants: None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit a home occupation (accounting business and tax service) in an RS-3 zoned district - **Section 402. ACCESSORY USES IN RESIDENTIAL DISTRICTS** - Use Unit 6; subject to hours of operation being 8:30 a.m. to 5:00 p.m., Monday through Friday, and subject to Home Occupation Guidelines; finding that the use will be compatible with the residential neighborhood, and in harmony with the spirit and intent of the Code; on the following described property:

Lot 46, Block 7, Stacey Lynn Third Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15818

Action Requested:

Special Exception to permit church use in an OL, RM-1 and RM-0 zoned district - **Sections 601. and 401. - PRINCIPAL USES PERMITTED IN OFFICE AND RESIDENTIAL DISTRICTS** - Use Unit 5.

Variance of the required all-weather material for off-street parking to permit gravel parking - **Section 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING** - Use Unit 5, located 13650 East 21st Street.

Presentation:

The applicant, **James Curtis**, 8720 East 41st Street, Tulsa, Oklahoma, submitted a plot plan (Exhibit B-1) and requested permission to use the 10-acre tract in question for church purposes. He explained that the property has been vandalized and the building is in bad repair (Exhibit B-2). Mr. Curtis stated that the church has removed debris from the tract and improved the overall condition of the property. He stated that there will be no exterior changes to the structure and expansion is not proposed.

Comments and Questions:

Mr. Bolzle inquired as to the approximate church attendance, and the applicant stated that the building will accommodate a maximum of 125 people.

Case No. 15818 (continued)

Ms. White asked if the variance of all-weather parking is requested because of financial reasons, and the applicant answered in the affirmative. He explained that there is an existing gravel driveway and parking lot on the east side of the building; however, the church would like to install a drive on the west side of the tract. He requested that the Board allow the congregation three years to complete the parking project.

Mr. Bolzle and Ms. White agreed that the gravel surface could create dusting in the area, and that they would be amenable to waiving the all-weather parking for one year only.

Mr. Curtis pointed out that, due to the extensive damage, the congregation may not be able to complete the parking area in one year.

Protestants: None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit church use in an OL, RM-1 and RM-0 zoned district - **Sections 601. and 401. - PRINCIPAL USES PERMITTED IN OFFICE AND RESIDENTIAL DISTRICTS** - Use Unit 5; and to **APPROVE** a **Variance** of the required all-weather material for off-street parking to permit gravel parking for one year **only** - **Section 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING** - Use Unit 5; per plot plan submitted; finding the use to be compatible with the area, and in harmony with the spirit and intent of the Code; and finding that the temporary gravel parking will not be detrimental to the area; on the following described property:

E/2, E/2, NE/4, NW/4, Section 16, T-19-N, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15819

Action Requested:

Special Exception to permit Use Unit 12 (Entertainment Establishments and Eating Establishments Other Than Drive-Ins), and Use Unit 14 (Shopping Goods and Services) in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Units 12 and 14, located NW/c South Memorial and East 42nd Street South.

Presentation:

The applicant, **Ted Sack**, 110 South Hartford, Suite 131, Tulsa, Oklahoma, submitted a site plan (Exhibit C-1) and explained that the proposed use of the property is acceptable under Use Units 12 and 14, with the exclusion of bars, dance halls and sexually oriented businesses. He pointed out that the property along Memorial and abutting properties are zoned industrial, however, there are many commercial uses in the area. Mr. Sack informed that the traffic count at this location has decreased since the last count.

Case No. 15819 (continued)

Comments and Questions:

Mr. Bolzle asked the applicant if he is deleting from his application the portion of Use Unit 12 that is titled Entertainment and/or Drinking Establishments, and he answered in the affirmative.

Mr. Jackere asked the applicant if he is amending his application to specifically exclude the uses under Entertainment and/or Drinking Establishments, and Mr. Sack answered in the affirmative.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** an amended application for a **Special Exception** to permit Use Unit 12 (Entertainment Establishments and Eating Establishments Other Than Drive-Ins), with the exclusion of those uses found in Section 1212.B.2.; and to permit Use Unit 14 (Shopping Goods and Services) in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Units 12 and 14; per plot plan submitted; finding that there are numerous commercial businesses along Memorial Drive, and that the requested uses will be compatible with the surrounding area; on the following described property:

East 250' of the south 198.5' of Lot 1, Block 2, Industrial Equipment Center, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15820

Action Requested:

Variance of the permitted wall signage to permit three wall signs which exceed the permitted display surface area by a total of 29.5 sq ft - **Section 1221.D. - CS District Use Conditions For Business Signs** - Use Unit 16, located 9101 South Memorial Drive.

Presentation:

The applicant, **Terry Howard**, 6550 East Independence, Tulsa, Oklahoma, explained that Texaco has a new trademark for their food mart locations, and are installing lighted awnings on all signs, which is being figured into the total square footage. He stated that the awnings are 40" tall (4" taller than the Code permits) along the length of the wall. He pointed out that the signs are mass-produced and shipped into each city in the United States.

Comments and Questions:

Mr. Gardner noted that the Planning Commission has studied this issue and has recommended to the City Council that this area of the Code be amended. He informed that the new proposal states that the electric awning does not count toward the square footage of the sign if the awning lighting is low wattage.

In response to Mr. Bolzle, the applicant stated that he is not sure what the wattage is for the awnings.

Case No. 15820 (continued)

In response to Mr. Bolzle, the applicant stated that the increase in square footage per sign is approximately 15 sq ft. He informed that the City of Broken Arrow does not include the square footage of the awning in the total permitted display surface area of the sign.

Mr. Doverspike stated that, since a hardship has not been presented and the City Council has not acted on the sign proposal, he does not see that the Board should set a precedent by approving the signs because they are mass-produced in this configuration.

Mr. Bolzle asked Mr. Howard why the sign cannot be brought into compliance with the Code requirement, and he replied that the signs are mass-produced in another state and shipped to various sign shops for installation.

Mr. Howard stated that similar variances concerning Star Lube were recently approved by the Board.

Mr. Jones pointed out that convenience stores and gasoline stations always have maximum signage, with signs added on top of gasoline pumps, etc., and the fact that the signs are mass-produced does not change the current Code requirements.

Mr. Bolzle pointed out that other businesses, such as Kentucky Fried Chicken and Brad's Auto Parts, have been granted similar relief.

In reply to Mr. Bolzle, Mr. Jackere stated that the standards recommended by the Planning Commission were assigned to a working committee, and have not been heard by the full Council.

Mr. Gardner stated that the sign issue has been studied for three years, and the TMAPC recommendations should be acted upon so the Board will know the Council's decision on the matter.

Mr. Jackere pointed out that there are other cities that have more restrictive sign ordinances than Tulsa, and Mr. Howard suggested that these cities must consider only the graphics as display surface area, and not the awning.

Mr. Doverspike stated that there is no incentive on the part of the Council to address the issue if the Board continues to grant variances for the awnings. He pointed out that a hardship has not been presented for the variance request.

In response to Mr. Bolzle, Mr. Howard stated that all Texaco signs are being changed.

Mr. Jackere explained that, if a small figure appeared on a wall sign that extends the full width of the wall, only the figure would be counted as signage; however, if the wall sign is lighted, the entire face is considered to be signage.

Mr. Doverspike pointed out that the application could be continued to allow the applicant to gather information on the prior approved Star Lube, and if that sign request and the current one are similar. He also requested that the level of illumination be addressed.

Case No. 15820 (continued)

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15820* to September 24, 1991, as requested by the applicant.

*Cases 15822, 15823, 15824 and 15825, similar requests, were also continued to September 24, 1991.

Case No. 15821

Action Requested:

Variance of the permitted wall signage from 336.48 sq ft to 383.9 sq ft - Section 1221.D - CS District Use Conditions for Business Signs - Use Unit 16, located 9014 South Yale Avenue.

Comments and Questions:

Mr. Jones informed that the applicant, **Terry Howard,** is not in need of the relief requested, and has requested by letter (Exhibit E-1) that Case No. 15821 be withdrawn.

Board Action:

On **MOTION** of **WHITE**, the Board voted 3-0-0 (Bolzle, Doverspike, White, "aye"; no "nays"; no "abstentions"; Chappelle, Fuller, "absent") to **WITHDRAW** Case No. 15821, as requested by the applicant.

Case No. 15822

Action Requested:

Variance of the permitted wall signage to permit three wall signs which exceed the permitted display surface area by a total of 28.5 sq ft - **Section 1221.D. - CS District Use Conditions For Business Signs** - Use Unit 16, located 3105 South Garnett.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15822* to September 24, 1991, as requested by the applicant.

*Cases 15820, 15823, 15824 and 15825, similar requests, were also continued to September 24, 1991.

Case No. 15823

Action Requested:

Variance of the permitted wall signage to permit three wall signs which exceed the permitted display surface area by a total of 60.6 sq ft - **Section 1221.D. - CS District Use Conditions For Business Signs** - Use Unit 16, located 9606 East 71st Street.

Case No. 15823 (continued)

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15823* to September 24, 1991, as requested by the applicant.

*Cases 15820, 15822, 15824 and 15825, similar requests, were also continued to September 24, 1991.

Case No. 15824

Action Requested:

Variance of the permitted wall signage to permit three wall signs which exceed the permitted display surface area by a total of 29.5 sq ft - **Section 1221.D. - CS District Use Conditions For Business Signs** - Use Unit 16, located 2109 South Sheridan.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15824* to September 24, 1991, as requested by the applicant.

*Cases 15820, 15822, 15823 and 15825, similar requests, were also continued to September 24, 1991.

Case No. 15825

Action Requested:

Variance of the permitted wall signage to permit three wall signs which exceed the permitted display surface area by a total of 18.8 sq ft - **Section 1221.D. - CS District Use Conditions For Business Signs** - Use Unit 16, located 5108 South Peoria.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **CONTINUE** Case No. 15825* to September 24, 1991, as requested by the applicant.

*Cases 15820, 15822, 15823 and 15824, similar requests, were also continued to September 24, 1991.

Case No. 15826

Action Requested:

Special Exception to permit Use Unit 5 (Community Services and Similar Uses) in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 5, located south and west of SW/c 31st Street and Memorial Drive.

Case No. 15826 (continued)

Presentation:

The applicant, **Roy Johnsen**, 324 Main Mall, Tulsa, Oklahoma, submitted a site plan (Exhibit F-1), and explained that the project will be located on both CS and IL zoned property, however, the proposed use is permitted by right in the CS portion of the property and does not require notification of owners within 300'. The applicant stated that he is representing Continental Medical Systems, Inc., one of the nations largest providers of physical rehabilitation services. Mr. Johnsen stated that the facility will initially contain 60 beds, with future expansion to a maximum of 80 beds. He informed that hotels are located to the north and west of the subject tract, National Cash Register is to the south and property owned by Landmark Land Company is on the east boundary. The applicant stated that the one-story facility will be located on a 7-acre tract, with a floor area of 70,000 sq ft, and will not have an emergency room or surgical ward. He further noted that the use has no connection with drug or alcohol related cases, but is devoted to physical rehabilitation only.

Comments and Questions:

Mr. Bolzle asked Mr. Johnsen if Landmark Land Company is leasing the property to his client, and he replied that Continental Medical Systems, Inc. is purchasing the property.

In response to Mr. Gardner, Mr. Johnsen stated that he will submit a photograph (Exhibit F-2) as an example of the type of construction proposed.

Protestants: None.

Board Action:

On **MOTION** of **FULLER**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to permit Use Unit 5 (Community Services and Similar Uses) in an IL zoned district - **Section 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** - Use Unit 5; per illustrative site plan and photograph submitted (an example of the type of construction materials to be used); subject to the one-story facility containing 70,000 sq ft of floor area and a maximum of 80 beds; finding that the use is compatible with the area and in harmony with the spirit and intent of the Code; on the following described property:

N/2, W/2, N/2, SE/4, NE/4, Section 23, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15827

Action Requested:

Special Exception to modify a previously approved plot plan for Board of Adjustment Case No. 12329.

Variance of the required screening from an abutting residential zoned district - **Section 1215.C. USE CONDITIONS** - Use Unit 15.

Case No. 15827 (continued)

Variance to permit required off-street parking on a lot other than the lot containing the principal use - **Section 1215.D. Off-Street Parking and Loading Requirements** - Use Unit 15, located west of the NW/c of East 21st Street and South Mingo Road.

Presentation:

The applicant, **Jack Cox,** 7935 East 57th Street, Tulsa, Oklahoma, submitted a modified site plan (Exhibit G-1) for the proposed construction. He explained that the main building, an open storage building and a closed building along the fence perimeter of the elevated portion of the tract, are in place at this time. Mr. Cox stated that the main existing facility will be extended 100' to the north and the open storage building and the existing perimeter building will be removed. He informed that this will permit all materials to be stored inside, and the speaker system at the rear of the building will be removed and customer orders will no longer be filled in that area. The applicant stated that a small loading dock will be installed, and some of the required parking will be provided on a lot other than the lot containing the principal use.

Comments and Questions:

In response to Mr. Bolzle, Mr. Gardner explained that the Board previously permitted a long narrow building to be constructed in the RS-1 zoned district. He pointed out that all of the new addition will be constructed entirely within the CS District; however, the parking requirement cannot be met without using a separate lot on the front portion of the property. The RS-1 portion will continue to be used for deliveries and circulation.

Mr. Gardner informed that the Board has received a letter (Exhibit G-2) concerning the screening fence to the north of the business, and pointed out that the residents in that area have requested that a solid wood screening fence replace the existing one, which is wire with metal slats.

Mr. Cox stated that his client has no objection to installing a solid screening fence if it is permitted to remain at the present location. He pointed out that installation of the screening fence on the boundary between the RS-1 and CS portions of the property would place it directly behind the existing building, and would cut off access to the rear of the building.

Protestants:

William Fowler, 9320 East 17th Place, Tulsa, Oklahoma, stated that he owns property abutting the subject tract, and that he was initially supportive of Sutherland constructing a building at this location; however, they have not complied with the previously imposed conditions, and have not been a good neighbor. He stated that they have not maintained the property behind the building and trash is sometimes thrown over the fence. Mr. Fowler informed that the loud speakers at the rear of the building play music continually, and they have not been turned down when the neighbors complained. He requested that trucks be restricted from loading and unloading in the early morning hours or at night.

Case No. 15827 (continued)

Ray Kraft, Mingo Valley Homeowners Association, stated that he is not opposed to the screening fence being at the present fence location, but would like to have the grass mowed and the loud noise eliminated.

Comments and Questions:

Ms. White asked if Code Enforcement was notified about the mowing problem, and Mr. Fowler stated that they were notified and the grass was mowed in about two weeks.

Mr. Bolzle asked where customer loading will be located, and Mr. Cox replied that the customer loading area will be located in front of the building.

Board Action:

On **MOTION** of **FULLER,** the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Special Exception** to modify a previously approved plot plan for Board of Adjustment Case No. 12329; to **APPROVE** a **Variance** of the required screening from an abutting residential zoned district - **Section 1215.C. USE CONDITIONS** - Use Unit 15; and to **APPROVE** a **Variance** to permit required off-street parking on a lot other than the lot containing the principal use - **Section 1215.D. Off-Street Parking and Loading Requirements** - Use Unit 15; per modified plot plan; subject to the existing fence to the north being replaced by a solid wood screening fence; subject to no outside storage of materials in the RS-1 portion, and no loud speakers on the north side of the building; and subject to the execution of a tie contract on the lot containing the principal use and the lot in front containing some of the required the off-street parking; finding that the construction of the addition will allow all materials to be stored inside the building, and will cause the use to be more compatible with the area; and finding that, if the screening fence was installed on the residential boundary line, it would not provide adequate screening for the residential area, and would be too close to the rear of the building to permit truck traffic and delivery of merchandise; on the following described property:

Tracts 1, 2 and 3, Amended Sutherland First, City of Tulsa, Tulsa County, Oklahoma.

Case No. 15829

Action Requested:

Variance of the required 4000 sq ft livability space to 3172 sq ft to permit the reconstruction of a dilapidated garage - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6, located 1515 North Boston Place.

Presentation:

The applicant, **W. E. Jarrett,** 1515 North Boston Place, Tulsa, Oklahoma, submitted a plot plan (Exhibit H-1) for the proposed construction, and requested permission to replace an existing garage. He pointed out that the new structure will be the same size as the old one.

Case No. 15829 (continued)

Comments and Questions:

Mr. Bolzie asked if the new garage will be placed on the existing slab, and Mr. Jarrett answered in the affirmative.

In response to Mr. Fuller, the applicant stated that the new garage will be the same height as the old structure.

Interested Parties:

Terry McGee, informed that he owns property at 1512 and 1527 North Boston Place, and is supportive of the request.

Board Action:

On **MOTION** of **FULLER,** the Board voted 4-0-0 (Bolzie, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **APPROVE** a **Variance** of the required 4000 sq ft livability space to 3172 sq ft to permit the reconstruction of a dilapidated garage - **Section 403. BULK AND AREA REQUIREMENTS IN RESIDENTIAL DISTRICTS** - Use Unit 6; per site plan submitted; finding a hardship imposed on the applicant by the size and long narrow shape of the lot; and finding that the granting of the variance request will not be injurious to the neighborhood, or violate the spirit and intent of the Code; on the following described property:

Lot 16, Block 1, Melrose Addition, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 15821

Comments and Questions:

Mr. Jones advised that the applicant, **Terry Howard,** has requested by letter (Exhibit E-1) that Case No. 15821 be withdrawn and that all fees be refunded. He pointed out that the application was withdrawn prior to processing and suggest a refund of $180.00.

Board Action:

On **MOTION** of **WHITE,** the Board voted 4-0-0 (Bolzie, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **REFUND** application fees in the amount of $180.00.

Case No. 15841

Comments and Questions:

Mr. Jones advised that **Eric Nelson,** Union Public Schools, filed an application to permit the use of portable buildings, which was withdrawn after the Building Inspector determined that no relief was required. He informed that Mr. Nelson paid $49.00 for obtaining the names of surrounding property owners and, since that service was not provided, suggested that $49.00 be refunded.

Case No. 15841 (continued)

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Bolzle, Doverspike, Fuller, White, "aye"; no "nays"; no "abstentions"; Chappelle, "absent") to **REFUND** fees in the amount of $49.00.

There being no further business, the meeting was adjourned at 3:58 p.m.

Date Approved Sept 24 1991

Chairman

09.10.91:594(17)