

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 618
Tuesday, October 13, 1992, 1:00 p.m.
City Council Room, Plaza Level
Tulsa Civic Center

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

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, October 9, 1992, at 1:25 p.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 **S. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the Minutes of September 22, 1992.

UNFINISHED BUSINESS

Case No. 16131

Action Requested:

Special exception to permit a church/community center (Use Unit 5) in an OL district - **SECTION 601. PRINCIPAL USES PERMITTED IN THE OFFICE DISTRICTS - Use Unit 5.**

Variance to permit a two story structure in an OL district - **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS - Use Unit 5**, located 2816 West 51st Street.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, Tulsa, Oklahoma, stated that this application was continued from the previous meeting, and it was concluded at that meeting that the use is appropriate; however, there was a concern as to the appearance of the building. Mr. Johnsen explained that the building plans (Exhibit A-1) have been revised, and submitted development standards (Exhibit A-4) for the project. He stated that the building will be set back 110' from the street, or 10'

Case No. 16131 (continued)

farther than the plans reflect, which will leave a 20' landscaped area along the street frontage. He noted that the plan also depicts a drive along the east boundary; however, it has been determined that a driveway at this location would not be appropriate, and a 25' landscaped area will replace the proposed drive. Mr. Johnsen stated that there are three existing trees along the east boundary line, and three additional trees will be added along that property line, with the total amount of landscaping for the project exceeding 30%. The applicant informed that 50 parking spaces will be provided, and one access point to 51st Street will be installed on the eastern portion of the tract. Mr. Johnsen stated that the plan does not reflect the correct amount of brick and stucco on the building. He explained that the east, west and north building wall will have a contrasting stucco band from the top of the windows to the roofline, and from the bottom of the windows to the ground, with an 85% brick coverage on the east and west walls. It was noted that the porte cochere and the front of the building will be brick.

Comments and Questions:

Mr. Doverspike asked if there are two-story structures near the proposed building site, and the applicant stated that there are some two-story residences in the area. He informed that there is a church and fire station in the area that would be comparable in height to the proposed building.

In response to Mr. Doverspike, the applicant stated that the proposed lighting can be altered to comply with any Board requirements.

Councilor Darla Hall asked if the plans were prepared by a licensed Oklahoma architect, and Mr. Johnsen replied that the architect resides in Oklahoma.

Protestants:

Councilor Darla Hall stated that she is representing the district surrounding the property in question, and informed that the Shri Lord Krishna Society has put down a \$10,000 deposit to purchase another property in the area. She asked if the organization is proposing to purchase two sites. She pointed out that the residents did not oppose the OL zoning, because a Hillcrest medical building was initially proposed for the property. Ms. Hall stated that a commercial type building in the area would depreciate property values, and increase water runoff. She asked if a report has been received from Stormwater Management.

Case No. 16131 (continued)

Mr. Bolzle stated that the Board does not have information regarding water runoff in the area.

Mr. Johnsen informed that it is his understanding that his client is not proposing to purchase other property in the area.

Bill Hoover requested that the protestants be supplied with building plans for the project, and informed that there are no two-story structures within 300' of the property in question. He stated that the construction of the center at the proposed location will be detrimental to the neighborhood.

James Sharp, 2714 West 51st Street, Tulsa, Oklahoma, stated that he lives to the east of the property in question. He informed that the minutes from the previous meeting state that Mr. Johnsen informed that all drainage will be directed toward the expressway, with plans being approved by Stormwater Management. Mr. Sharp stated that there has been no information stating that the plans have been approved by that office. He pointed out that the minutes reflect that Mr. Johnsen advised that there are trees on the northwest corner of the property and heavy tree cover along the south boundary, with a significant number of trees on the east boundary. Mr. Sharp stated that Mr. Johnsen's clients removed the trees along the east boundary after they purchased the property. Photographs (Exhibit A-3) were submitted. He noted that the minutes state that there are other metal buildings in the area; however, those buildings have brick and stone, with metal.

Wanda Glover, 2903 West 51st Street, submitted a letter of opposition (Exhibit A-2) and stated that there are tall grass and weeds that have not been mowed, and the property is not properly maintained. She voiced a concern with possible recruiting in the neighborhood and growth of the organization.

Betty Bundy stated that her residence is at the corner of 26th West Avenue and 51st Street, and she is greatly concerned with the potential traffic problem that could be created as a result of the proposed use.

Faye Hallford, 2823 West 51st Street, stated that she lives directly across the street from the proposed center, and is concerned with the noise and the traffic that will be generated by the center.

Robert Scott, 2930 West 51st Street, submitted a letter of opposition (Exhibit A-2)

Case No. 16131 (continued)

Additional Comments:

Mr. Gardner informed that, if approved, a subdivision plat review will be required by TMAPC, and the Technical Advisory Committee will address other issues concerning the property. He pointed out that the property can then only be developed as approved by the Board.

Applicant's Rebuttal:

Mr. Johnsen stated that his client plans to divert the water run-off to I-44; however, if that is not acceptable, a detention facility will be constructed. He pointed out that Mr. Sharp's property is separated from the subject tract by a 100' lot. Mr. Johnsen stated that he has met with Traffic Engineering concerning the use, and that department did not find that the proposed church would create a traffic problem at this location. He informed that there will be no signs on the property.

Additional Comments:

Mr. Chappelle inquired as to the distance from the proposed church to Mr. Sharp's dwelling, and Mr. Johnsen replied that his home will be approximately 150' from the building.

Mr. White stated that he has found that the construction of an all-brick building is no more expensive than a metal building.

Mr. Doverspike noted that the revised plans are not available; however, according to Mr. Johnsen's explanation of the changes, it seems that the design of the building will be compatible and consistent with the surrounding neighborhood.

Mr. Bolzle stated that the Board could require the applicant to return with detail plans.

Board Action:

On **MOTION** of **S. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a church/community center (Use Unit 5) in an OL district - **SECTION 601. PRINCIPAL USES PERMITTED IN THE OFFICE DISTRICTS** - Use Unit 5; and to **APPROVE** a **Variance** to permit a two story structure in an OL district - **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS** - Use Unit 5; subject to the following development standards:

Case No. 16131 (continued)

1. Development and use of the site shall be in substantial accord with the submitted plot plan.
2. A minimum of 30% of the net site area shall be landscaped.
3. Within the east 25', 3 additional trees (Green Ash or Bradford Pear) 3½" caliper shall be planted and maintained.
4. A landscaped area of not less than 20' in width shall be maintained along the north boundary, exception the point of access.
5. A landscaped area of not less than 25' in width shall be maintained along the east boundary.
6. A contrasting stucco band shall be installed above and below the windows on the east, north and west building walls.
7. Not less than 85% of the east and west building walls shall be brick facade and not less than 92% of the north building wall shall be brick facade.
8. The floor area of the building shall not exceed 7500 sq ft.
9. The second level floor area shall not exceed 1875 sq ft.
10. The building shall be set back from the centerline of West 51st Street, not less than 110'.
11. The maximum building height shall not exceed 25'.
12. Not less than 50 parking spaces shall be provided.

subject to no signage on the property; subject to a subdivision plat review; subject to the applicant returning to the Board with a detail site plan and elevations for the proposed structure, and all protestants and interested parties being notified of the meeting date; subject to all lighting directed away from the residential areas; subject to Stormwater Management review; and subject to no activities on the property prior to 1:00 p.m.; and subject to all activity ceasing at 11:00 p.m., Monday through Friday, and beginning at 8:00 a.m. and ending at 11:30 p.m., Saturday and Sunday, (except for 1 religious holiday per year); on the following described property:

A tract of land beginning 35' south and 100' east of the NW/c of the NE/4, NW/4, thence east a distance of 242' thence south a distance of 247' thence west a distance of 242' thence north a distance of 247', to the POB, all in Section 34, T-19-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16089

Action Requested:

Special Exception to permit a transmitting tower in an AG zoned district - Section 1204.C.1. - Use Conditions - Use Unit 4, located east of Sheridan, south side of 61st Street.

Presentation:

The applicant, **City of Tulsa**, was represented by **Dale LeSturgeon**, 707 South Houston, Suite 306, Tulsa, Oklahoma. He requested permission to install a 180' monopole communication tower on City property at 61st Street and Sheridan Road. Mr. LeSturgeon submitted a packet (Exhibit B-4) containing information concerning the tower and its use.

Comments and Questions:

Mr. Chappelle asked if the property sales information submitted to the Board was prepared by a certified real estate appraiser, and Mr. Le Sturgeon stated that the Cellular One representative will answer the question.

Darrell Walker, 2325 East 71st Street, Tulsa, Oklahoma, stated that he is representing Cellular One, and informed that the appraiser referred to by Mr. Chappelle is certified.

Mr. Doverspike asked if this is the only location on the property that the pole can be installed and still function, and Mr. LeSturgeon replied that electrically it could be placed at several points on Shadow Mountain, but the Tulsa Metropolitan Utility Authority restricts the location of the pole to this particular point and one other location closer to the water tanks.

In response to Mr. Doverspike, Mr. LeSturgeon replied that the water tanks and the tower are under two different departments.

In regard to maintenance, Mr. LeSturgeon informed Mr. Doverspike that the City is responsible for maintaining the tower.

Mr. Doverspike asked if Cellular One is responsible for beautification of the existing tower site, and Mr. LeSturgeon replied that the City is responsible for the existing tower, and Cellular One will maintain the proposed monopole.

In reply to Mr. Doverspike, Mr. LeSturgeon stated that the emissions from the monopole will not be a health risk to nearby residents, because the radio frequency is 800 to 900 megahertz, less than 140 watts.

Case No. 16089 (continued)

Mr. Doverspike asked if the City has considered leasing space to install towers on existing buildings, and Mr. LeSturgeon replied that economics and public safety prevent this type of arrangement.

Mr. White noted that a dish is shown on the tower plan, and Mr. LeSturgeon stated that the dish will be placed on the existing tower.

In regard to landscaping, Mr. LeSturgeon stated that landscaping (8 trees and 12 shrubs) is proposed around the towers and the transmitter shacks.

Protestants:

Councilor John Benjamin stated that he is representing the interest of his district, as well as the City of Tulsa. He stated that the original purpose for the land at this location was to accommodate water storage for the Utility Board. Mr. Benjamin noted that the 350' communications tower was installed in 1987, and another tower was recently placed on AG zoned property near 85th Street and Sheridan Road. He pointed out that City Council agreed that AG properties surrounded by residential properties deserve some review, and the Council determined that all such towers would require Board of Adjustment approval. Mr. Benjamin stated that the residents of the neighborhood feel that the burden is placed on the City to prove that the tower would not be injurious to the surrounding area.

Dick Hastings, 6342 South 70th East Avenue, explained that he is president of the Shadow Mountain Homeowners Association, and an experienced appraiser. He pointed out that the hill is becoming cluttered and the area is experiencing some degree of decay because of the City property.

F. M. Huntley, 6114 South 69th East Place, stated that a second tower on the hill will be detrimental to the area by reducing property values. He pointed out that landscaping cannot adequately cover a tall tower. Mr. Huntley stated that Shadow Mountain residents should not be asked to experience reduced aesthetics and reduced property values to accommodate the tower. A photograph (Exhibit B-2) was submitted.

Carol Ann Mahan, 6902 East 64th Place, stated that she is an experienced real estate agent and broker. Ms. Mahan informed that any type of tower on a property tends to decrease the value.

Case No. 16089 (continued)

Jim Moon, 6601 East 60th Place, stated that the City Zoning Code is devised to protect the citizens of the community; however, because of a loop-hole in the Ordinance, the residents of Shadow Mountain have been forced to live next door to this existing undesirable structure since 1987. He pointed out that the tower was constructed without notice to the surrounding property owners, and property values within several hundred feet of the tower have declined dramatically over the past five years. Mr. Moon asked the Board to deny the application for an additional tower on the City property.

Rod Smith, 7737 East 60th Place, informed that he lives directly under the tower, and noted that City representatives stated that the existing tower would be sufficient to supply the needs of the City if it was not utilized by Cellular One. Mr. Smith stated that an additional pole would lower property values, would be dangerous and is unsightly.

Rosie Moon, 6106 East 60th Place, submitted a petition (Exhibit B-3) opposing the application, and photographs (Exhibit B-2). She stated that the towers are not in harmony with the intent of the Code, and questioned the need for the additional tower at this time. Ms. Moon stated that she attended a recent City Council meeting, and it was noted that Cellular One will not need the tower space for more than four years, due to advanced technology. She pointed out that the contract states that a dish will be installed on the tower, and it is a major concern that storms may cause the tower to collapse.

Susan Speaker, 6210 South 69th East Place, stated that the applicant has not shown that the special exception will be in harmony with the spirit and intent of the Zoning Code. She further noted that the applicant has not shown that the tower will not be injurious to the neighborhood, since the area has already experienced injury because of the tower that was erected in 1989. Ms. Speaker suggested that the City find another solution to the problem, without creating additional problems for the homeowners in this area of Tulsa. She stated that the City will not be breaking their contract with Cellular One if the application is denied by the Board.

Case No. 16089 (continued)

Eric Boluski, 1839 East 63rd Street, chairman for the District 18 Planning Team, stated that the Board must determine the intent of the Code. He pointed out that there are parcels of agricultural land throughout southeast Tulsa, and the City Council determined that the Board should decide which parcels are appropriate for towers. Mr. Boluski commented that it is not the intent of the Code to have towers near residential developments.

Letters of opposition (Exhibit A-1) were submitted.

Applicant's Rebuttal:

Mr. LeSturgeon informed that, after the tower ordinance was passed, the City Council went to great lengths to put together a resolution that encouraged the use of City land for communications towers. He pointed out that the application before the Board at this time is in the spirit of that City Council resolution. Mr. LeSturgeon stated that Cellular One and the City are committed to adding more shrubbery and trees on the site. He explained that the tower site required careful planning, because the communication needs of several government agencies, as well as Cellular One, had to be satisfied. Mr. LeSturgeon pointed out that a minimum of four towers would be required at any other location, and the additional antennae will be needed in approximately two or three years.

Mr. Walker addressed the safety issue, and informed that the tower is designed by certified engineers and must meet safety standards. In regard to the comment that Cellular One will only need the pole for four years, Mr. Walker informed that he does not believe one of his staff would make that statement.

Additional Comments:

Mr. Doverspike inquired as to the term of lease on the existing tower, and Mr. Walker stated that the lease expired August 31, 1992. He informed that the monopole lease is for 16 years, but is not sure how long Cellular One will need the pole.

In response to Mr. White, Mr. Walker informed that there are six antennas on the existing tower, and the type and size of the antennas will determine the number that can be placed on the new pole.

Mr. Bolzle asked if the existing tower could accommodate the needs of the City if Cellular One was not using it, and Mr. LeSturgeon replied that the City would be without adequate space in approximately two or three years.

Case No. 16089 (continued)

Mr. Walker clarified that the new contract has been approved by the utility Board and the City, and Cellular One is operating under the new lease agreement.

Councilor Benjamin stated that the spirit of the resolution referred to by Mr. LeSturgeon was broken when the City signed a 16-year binding contract without any regard for the residents and homeowners of the area. He stated that the resolution has been amended since the initial adoption. He pointed out that the amendment stated that all City facilities related to communication needs would have priority over private needs, and that any proposed contract with a private corporation for City tower needs will not be signed until one public hearing is held with residents within 300' of the property abutting the proposed site.

Mr. Doverspike noted that it is necessary to consider the need for the tower, health and safety factors, the impact on land values, the size of the tower and if this is the only suitable location. He pointed out that it is also important to know who will maintain the towers, how they will be disposed of after they are no longer required and if the towers will be injurious to the surrounding developments. Mr. Doverspike stated that the City has demonstrated that there is a need for the tower, and that the monopole, without the existing tower, might be placed somewhere on the City property without an adverse impact on the residential developments. He stated that the accumulative affect of adding another high-rise structure beside the existing structure would be placing a greater burden on one section of the town than it deserves. Mr. Doverspike stated that the tract in question has been poorly maintained, and is an eyesore in a neighborhood that has invested a great deal of money to make an attractive area for the City of Tulsa.

Mr. White suggested that two monopoles at this location might be adequate for City use, and Mr. LeSturgeon replied that two monopoles could serve the City if one was 350' high.

Mr. Bolzle stated that it must be determined by the Board if the structure is appropriate at this location.

Mr. Chappelle stated that he is not sure if the needs of the City outweighs the impact on the neighborhood. He pointed out that he is not convinced that the tower has had an adverse impact on property values in the area.

Case No. 16089 (continued)

Ms. White agreed with Mr. Chappelle regarding property values in the area, and pointed out that Mr. White's suggestion concerning the erection of two monopoles could be the ideal solution, if this is feasible.

Mr. Doverspike pointed out that the existing tower can accommodate the City's needs for two or three years if the private use is removed, and technology could reduce the need by the end of that period.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 4-1-0 (Chappelle, Doverspike, S. White, T. White, "aye"; Bolzle "nay"; no "abstentions"; none "absent") to **DENY** a **Special Exception** to permit a transmitting tower in an AG zoned district - **Section 1204.C.1. - Use Conditions - Use Unit 4**; finding that the requested use is not in harmony with the spirit and intent of the Code; and finding that an additional tower on the property would be incompatible with the surrounding residential area; on following described property:

Government Lot 4 and N/2, SW/4, NW/4, less west 354.75', north 684.75' thereof, and less east 40', west 394.75', south 634.75', north 684.75' thereof, Section 2, T-18-N, R-13-E, containing 54.02 acres, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16124

Action Requested:

Special Exception to permit a sand operation in an AG District - **Section 201. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** - Use Unit 24, located 131st Street South and Arkansas River.

Presentation:

The applicant, **Philip Haney**, 1218 East 33rd Street, Suite 200, was not present.

Comments and Questions:

Mr. Jones informed that the applicant has requested by letter (Exhibit C-1) that Case No. 16124 be continued to October 27, 1992, to permit further negotiations concerning sale of the property.

Protestants:

None.

Case No. 16124 (continued)

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16124 to October 27, 1992.

Case No. 16134

Action Requested:

Variance of the required setback from abutting R and O Districts from 75' to 5' to permit construction of a building - **Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 11, located south of the SE/c of East Pine and Garnett Road.

Presentation:

The applicant, **Cramer Construction Company**, 1303 North Garnett, was represented by **Jake Floyd**, 2909 East 29th Street, who informed that the case was continued from the last meeting to permit additional advertising. Mr. Floyd stated that the land to the south is zoned IL, with OL to the north, and a portion of the lot in question abutting RS-3 property on the northeast corner. He informed that the building will be approximately 7.5' from the OL and RS boundary. Mr. Floyd noted that the building was constructed on the wrong lot, due to an error. A plat of survey (Exhibit D-1) was submitted.

Protestants:

Rob Kirby stated that he is representing his parents, who live at 11316 East Newton Place. He submitted photographs (Exhibit D-2) and a letter of opposition (Exhibit D-3) to the request. Mr. Kirby informed that the building is being constructed on the wrong lot, with insufficient drainage and improper setbacks. He stated that many loads of dirt have been placed on the lot, and requested that the Board require the applicant to move the structure to the proper lot and away from his parents property line.

Comments and Questions:

Mr. Chappelle asked the applicant if a site plan is available, and he replied that it is on file in Ms. Hubbard's office.

Case No. 16134 (continued)

Applicant's Rebuttal:

Mr. Floyd pointed out that there are multiple zoning classifications in the area. He informed that a building permit was issued to construct the building on the lot zoned OL; however, it was constructed on the wrong lot. He pointed out that the building will not have windows on the side facing the protestant's property.

Board Action:

On **MOTION** of **CHAPPELLE**, the Board voted 3-0-0 (Bolzle, Chappelle, T. White, "aye"; no "nays"; no "abstentions"; Doverspike, S. White "absent") to **DENY** a Variance of the required setback from abutting R and O Districts from 75' to 5' to permit construction of a building - **Section 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 11; finding that the construction of the building at the proposed location would be detrimental to the abutting residential area; and finding that the applicant failed to present a hardship that would warrant the granting of the variance request; on the following described property:

North 100' and west 200' of Lot 1, Cooley's Subdivision, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16135

Action Requested:

Special exception to permit Christmas tree sales in an R and CS district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS and SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 2.

Variance of the thirty day time limitation to allow sales from November 15 through Christmas for a period of three years - **SECTION 1202.C.1. Use Conditions** - Use Unit 2, located SE/c of East 41st Street and South Harvard Avenue.

Presentation:

The applicant, **Southwest Nursery**, 5401 West Skelly Drive, Tulsa, Oklahoma, was represented by **Roy Johnsen**, 201 West 5th Street. He informed that the Christmas tree sales lot has been in existence at this location since 1954, and has acquired permission to operate from year to year, until 1989, at which time the board approved the sales operation for three years. Mr. Johnsen stated that his services were not acquired until after the last Board meeting; however, his client informed him that Ms. Claxton, a nearby neighbor, was present to protest the application. A plot plan (Exhibit E-2) was submitted.

Case No. 16135 (continued)

Mr. Johnsen explained the sales operation, and stated that there is a 100' strip of land and two stockade fences between the protestants property and the property used for the business in question. He stated that his client has stated that there have been no changes in his operation in recent years, except for the addition of four floodlights, which have been redirected to shine away from the residential neighborhood. Development standards (Exhibit E-1) were submitted.

Protestants:

Kay Claxton, 4122 South Jamestown, Tulsa, Oklahoma, pointed out that there are 33 light poles that are not shown on the site plan. She stated that the Christmas tree sales business is a "major production" and has outgrown the neighborhood. Ms. Claxton pointed out that the business operates 14 or 15 hours each day, and there is not much quiet time for the neighborhood. She stated that the tents extend above the fence approximately 5', and they have not been at this location until last year. Ms. Claxton requested that, if approved, the approval be for one year only, with hours of operation being controlled. A petition (Exhibit E-3) of opposition was submitted.

Applicant's Rebuttal:

Mr. Johnsen pointed out that the Christmas tree lot has been operating in harmony with the neighborhood for many years and is compatible with the area. He added that the construction and set up time for the lot could be limited to daylight hours only, and this condition would be added to the development standards.

Comments and Questions:

Mr. Doverspike asked Mr. Johnsen if his client would be amenable to amending his request from three years to a one-year approval, and he replied that Mr. Manley would prefer a three- year approval, but would accept one year.

Mr. Doverspike pointed out that a one-year approval is consistent with the approvals granted to other Christmas trees sales operators in the City.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 4-0-0 (Bolzle, Chappelle, Doverspike, , T. White, "aye"; no "nays"; no "abstentions"; S. White, "absent") to **APPROVE** a Special Exception to permit Christmas tree sales in an R and CS district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS and SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 2; and **APPROVE** a Variance of the thirty day time limitation to allow sales from November 15 through Christmas for a

Case No. 16135 (continued)

period of one year - **SECTION 1202.C.1. Use Conditions** - Use Unit 2; per site plan submitted and the following development standards; finding that the temporary use, per the submitted development standards, is compatible with the surrounding area, and in harmony with the spirit and intent of the Code:

Development Standards

1. Development and use of the site shall be in substantial accord with the submitted plot plan entitled "41st and Harvard Christmas Tree Lot".
2. Sales activities shall be limited to the period commencing Thanksgiving Day and ending Christmas Eve.
3. Sales activities shall be limited to the hours from 8:00 a.m. to 10:00 p.m. on Sunday through Wednesday, and 8:00 a.m. to 11:00 p.m. on Thursday through Saturday.
4. Construction (during daylight hours only) of sheds, tents and other temporary facilities shall not commence prior to November 1, 1991 and such temporary facilities shall be removed before January 1, 1993, provided however, the on-site storage of 2 cashier buildings and the drill shed shall be permitted.
5. Tree unloading activities shall be limited to daylight hours.
6. A stockade fence as depicted on the site plan shall be maintained along the east boundary of the easternmost tree storage area.
7. Flood lighting shall be limited to two lights along 41st Street and two lights along Harvard, and the fixtures shall be directed downwardly.
8. Pole lights, other than flood lighting, shall be limited to 175 watt mercury vapor (ready lights) on standards not exceeding 25' in height and shall not be located within 75' of the east boundary of the site and pole lights located within 120' of the east boundary of the site shall be turned off not later than 9:00 p.m.
9. Customer off-street parking shall be provided as follows:
 - a. 12 spaces long the north boundary of the principal sales area

- b. 7 spaces along the east boundary of the principal sales area
 - c. 14 spaces along the south boundary of the principal sales area
 - d. 20 spaces along the north boundary of the flocked tree sales area
10. Employee parking of not less than 40 spaces shall be provided on the off-site tract abutting the south boundary of the site.

Lots 1 and 2, and the west 100' of Lots 25 and 26, and the east 100' of Lot 3, Block 1, Villa Grove Heights One Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16136

Action Requested:

Special exception to permit a day care in an RS-3 district - **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 5.

Variance of the maximum floor area ratio of .5, variance of the minimum lot size of 12,000 SF, variance of the minimum frontage of 100 feet, and a variance of the minimum building setback of 25' from abutting properties located within an R district - **SECTION 404.F.1-4. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS** - Use Unit 5, located 552 East 55th Place North.

Presentation:

The applicant, **Mount Duffy**, 2104 East 50th Place, Tulsa, Oklahoma, was not present.

Comments and Questions:

Mr. Jones stated that the case was continued from the September 22nd meeting to allow sufficient time to advertise for additional relief. He informed that the case was readvertised; however, the applicant has not contacted Staff regarding the application.

Board Action:

On **MOTION** of **T. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **STRIKE** without prejudice Case No. 16136.

Case No. 16139

Action Requested:

Special exception to permit a children's nursery in an RM-1 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICT - Use Unit 5.**

Variance of the maximum floor area ratio of .5, variance of the minimum lot size of 12,000 SF, variance of the minimum frontage of 100 feet, and a variance of the minimum building setback of 25' from abutting properties located within an R district - **SECTION 404.F.1-4. SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS - Use Unit 5, located 1834 North Owasso.**

Comments and Questions:

Mr. Jones stated that the case was continued from the September 22nd meeting to allow sufficient time to advertise for additional relief. He informed that the case was readvertised; however, the applicant has not contacted Staff regarding the application.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **STRIKE** without prejudice Case No. 16139.

NEW APPLICATIONS

Case No. 16141

Action Requested:

Variance of the required 75' of frontage in an OL zoned district to 45' to permit a lot split which will create 3 lots from 4 existing lots - **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS - Use Unit 11, located SW/c of 15th St. and Denver.**

Presentation:

The applicant, **Keith Franklin**, was represented by **Bruce Robson**, 1525 East 27th Street, who stated that he owns the property in question. Mr. Robson informed the purpose for splitting the lots is to meet the parking requirements for the buildings in order to sell them (offices) individually. As a group, the lots meet the parking requirements.

Case No. 16141 (continued)

Comments and Questions:

Mr. Bolzle asked if the lots are platted and if the lots could be sold individually. Mr. Jones informed the lots could be sold individually, but they would not meet the off-street parking requirements. Mr. Jones further stated that with the new lot split and tie contracts, which will tie pieces of lots together, the buildings would meet the off-street parking requirements, and an occupancy permit could be issued.

Protestants: None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a **Variance** of the required 75' of frontage in an OL zoned district to 45' to permit a lot split which will create 3 lots from 4 existing lots - **SECTION 603. BULK AND AREA REQUIREMENTS IN THE OFFICE DISTRICTS - Use Unit 11**, subject to obtaining TMAPC approval of the Lot Split, and subject to tie-contract; finding that the existing lots do not meet Code requirements and the variance will improve the present situation; on the following described property:

Lots 1, 2, 3 and 4, Block 4, Stonebraker Heights.

Case No. 16143

Action Requested:

Appeal from the decision of the Code Enforcement Official in requiring off-street parking to be an all-weather surface and a screening fence other than chain link - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL - Use Unit 17.**

Variance of the all-weather surface parking requirement - **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS - Use Unit 17.**

Variance of the solid screening fence requirement - **SECTION 212.A.1. SCREENING WALL OR FENCE - Specifications - Use Unit 17**, located E of NE/c E. 11th St. and S. 73rd E. Ave.

Presentation:

The applicant, Tom Baker, requested that this case be continued to the October 27, 1992, meeting due to the long agenda and conflicting commitments.

Case No. 16143 (continued)

Board Action:

On MOTION of T. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16143 to the October 27, 1992 meeting.

Case No. 16144

Action Requested:

Variance of the setback requirement from the centerline of E. Independence to 31' - **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS - Use Unit 23**, located SE/c N. Madison and E. Independence.

Presentation:

Charles Norman, 2900 Mid Continent Tower, represented the applicant, Richard Morgan, and Aircraft Cylinder Corporation. Mr. Norman submitted photographs (Exhibit F-1) and described previous actions by the Board on the subject property. They would like to construct a 3600 sq. ft. addition immediately to the east of, and aligning with, the existing structure fronting Independence Street. The owner of the business owns all of the property to the north, south, and southeast.

Protestants: None.

Board Action:

On MOTION of T. WHITE, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a Variance of the setback requirement from the centerline of E. Independence to 31' - **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS - Use Unit 23**, per plan submitted; finding the proposed extension would align with the present building on East Independence; on the following described property:

Lots 15, 16, and 17, Block 2, Frisco Addition.

Case No. 16145

Action Requested:

Special exception to permit a dry cleaners in a CS district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 15.**

Variance of the maximum square footage permitted from 3000 SF to 3750 SF - **SECTION 1215.B.3. Other Services - Use Unit 15**, located 4942 E. 91st.

Case No. 16145 (continued)

Presentation:

The applicant, **William Rothrock**, was represented by **Dana Hudson** of **B.R. Hudson, Inc.**, the contractor on this project.

Comments and Questions:

Mr. Doverspike asked if the subject property abutted any residential areas, and Mr. Rothrock informed there is residential to the east across Braden.

Mr. Jones informed the applicant's plot plan (Exhibit G-1) shows the building to be located on the west side of the property away from the residential district.

Mr. Gardner informed that the two concerns in a case such as this are that the size of the facility be considered compatible with a commercial area (not considered an industrial size laundry), and whether the facility is located in a shopping center building where there could be concerns (odors) for other abutting tenants. The building in question is a free-standing building.

Ms. Hubbard suggested if the drop-off/pick-up area were subtracted, the square footage would not be much over the 3,000 sq. ft. limit.

There was discussion about the size of other laundry facilities owned by the applicant.

Protestants: None.

Board Action:

On MOTION of **DOVERSPIKE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a **Special Exception** to permit a dry cleaners in a CS district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 15**, and to **APPROVE** a **Variance** of the maximum square footage permitted from 3000 SF to 3750 SF - **SECTION 1215.B.3. Other Services - Use Unit 15**, per plan submitted; finding the use to be a commercial sized laundry in a detached building, which would not be injurious to the area: on the following described property:

Lot 1, Block 1, Hunter's Glen.

Case No. 16146

Action Requested:

Special exception to permit church use in an IL zoned district - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS - Use Unit 5**, located 7727 E. 41st St. S.

Presentation:

Bill Scheer, 9062 East 95th, represented **Guts Ministries**. He informed they have secured a lease on the back half of the subject property.

Comments and Questions:

Mr. Doverspike asked what the expected days and hours of operation will be, and Mr. Scheer informed they will have regular church services a couple of nights a week. They will also tutor young people and have recreational activities with music about 5 nights a week.

The Board members asked what the hours of operation would be for the music activities, and Mr. Scheer informed they would operate until midnight or 1 a.m. on Friday and Saturday. The remainder of the week they would operate until approximately 10 p.m.

There was discussion about the type of ministries which would be conducted from this facility.

There was discussion about the types of bands and music which would be conducted on the property.

Mr. Jones questioned whether the activities conducted on the subject property were considered customary and accessory uses for a church.

Mr. Bolzle stated that the Board's concern relates to the intensity of the use. He suggested that the applicant be very specific about what he wants to do so that the Board can possibly give the relief they need.

Ms. Hubbard informed she had asked the applicant for a site plan, but has not yet received one. She is concerned that the applicant may need additional relief.

There was discussion about how much parking would be required for the size of the facility.

Mr. Bolzle suggested that the case be continued so the applicant can determine exactly what relief is needed.

Case No. 16146 (continued)

Interested Parties:

The owner of the subject property, Ms. Ray E. Dotson, informed the subject property is fenced. She informed there are four acres available for parking.

Protestants:

Robert Floyd, 6117 Sudbury Drive, Oklahoma City, informed he is leasing a building at 7925 East 41st and wondered how this will affect his business, which is required to be located 500' from a church. He stated he has no objection to the church.

Jack Wraughton informed he owns the property to the east of the subject property. He is concerned about the outdoor concerts proposed by the applicant. He is also concerned about the traffic which the proposed use could generate.

Board Action:

On MOTION of T. WHITE, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **CONTINUE** Case No. 16146 to the October 27, 1992 meeting.

Case No. 16148

Action Requested:

Variance to permit two dwelling units per one lot of record - **SECTION 207. ONE SINGLE-FAMILY RESIDENCE PER LOT OF RECORD - Use Unit 6.**

Variance of the required 5 feet side yard to 2 feet, a variance of the required rear yard, a variance of the required 4000 square feet livability space per dwelling unit and a variance of the required 8400 square feet land area per dwelling unit.- **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL ZONED DISTRICTS - Use Unit 6, located 1714 S. Madison.**

Comments and Questions:

Staff informed that additional advertisement was needed in order to consider all the types of relief needed to accomplish the applicants intended purpose.

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16148 to the October 27, 1992, meeting.

Case No. 16149

Action Requested:

Variance of the maximum square footage permitted for a sign to permit an 80 SF sign - **SECTION 602.B.4. Signs - Use Unit 12**, located 6827 S. Memorial Dr.

Presentation:

Oklahoma Neon was represented by Glen Tucker, who informed that the signs in the area of the subject tract are being lowered to 15 feet. The new sign will be half the square footage of the current sign on the property and will be at half the height. Mr. Tucker submitted a plot plan (Exhibit J-1).

Comments and Questions:

Mr. Gardner informed that what is unique about this application is that the applicant has three different zoning classifications on the same piece of property (AG, CS, and OL). He discussed how this odd zoning pattern came about.

Protestants: None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a **Variance** of the maximum square footage permitted for a sign to permit an 80 SF sign - **SECTION 602.B.4. Signs - Use Unit 12**, subject to removing the existing signage on the property, and per the plan submitted; finding a hardship imposed on the applicant by multiple zoning classifications on the property; and finding the CS property would permit the sign, but for the fact that the sign is to be located in the OL zoned portion; on the following described property:

Prt. Lot 1, Beg. 263.79' N SW/c th. N 182' E 276' SE 76.22' th on crv Lf 47.75' SW 31.39' th on crv Lf 81' NW 8.92' W 218.51' POB Blk 2, Woodland Hills Mall

Case No. 16150

Action Requested:

Variance of the permitted sign height from 50' to 70' -
**SECTION 1221.D.1. CS District Use Conditions for Business
Signs - Use Unit 12**, located 16415 East Admiral Place.

Presentation:

Oklahoma Neon was represented by Glen Tucker, who informed they have a problem with visibility of their existing sign, because the restaurant on the subject property is built in a depression. He submitted photographs (Exhibit K-1) and explained them. The sign is approximately 15 feet lower in height because of the topography of the area. There is limited visibility from west to east and no visibility from east to west. He would like to raise the sign 20 feet higher at the same location. Mr. Tucker informed that the subject tract is located in the lowest elevation within a two mile section.

Comments and Questions:

Mr. Gardner explained that the subject property is next to an elevated expressway, and the Zoning Code allows a 60' sign on properties located next to elevated expressways. He stated that the elevation of the property in question, which is much lower than the abutting properties, could be a unique physical hardship.

Mr. Doverspike asked about the staff comment that this approval could set a precedent for additional signage, and Mr. Gardner informed that would be true only if there is not a legitimate hardship.

Mr. Doverspike asked if raising the sign 60 feet would be enough relief, and Mr. Tucker informed it would not be.

Mr. Bolzle informed he is not sure that relief of 20 feet is necessary. Mr. Tucker suggested that the Board approval require that the sign be no taller than any sign within 300 yards. Mr. Tucker described other signs in the area.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a **Variance** of the permitted sign height from 50' to the lesser of 70' or the highest elevation above sea level of the top of the Quik Trip sign to the east as it presently exists - **SECTION 1221.D.1. CS District Use Conditions for Business Signs - Use Unit 12**; finding the hardship to be the

Case No. 16150 (continued)

topography and elevated expressway; on the following described property:

Beginning 501.5' E and 40' N SW/c of Lot 4, the N 313.89' SE 162.85' curve length 122' E 85.66' to West R.W. of 164th E. Avenue, then S 242.50' to North R.W. Admiral Place then West 358.01' to the Point of Beginning less S 10' for Street, Section 2, Township 19 North, Range 14 East.

Case No. 16151

Action Requested:

Variance of the required front yard setback from 35' to 25' to permit the replacement of an existing carport - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6**, located 2855 East 36th Place.

Presentation:

The applicant, **Peter Rommel**, 2855 East 36th Place, submitted some photographs (Exhibit L-1) and informed that he does not want to build any further out than the existing building. The footprint of the new carport will be the same as the existing footprint except that it will be 2 feet wider. Mr. Rommel submitted a petition (Exhibit L-2) with 10 signatures of the immediate neighbors which indicates their support of this application.

Comments and Questions:

Mr. Doverspike asked the applicant if the west line of the carport lines up with the west side of the house, and Mr. Rommel informed it is approximately one foot in.

There was discussion about the type of building materials which will be used on the carport.

Mr. Doverspike asked if there are other carports in this neighborhood, and Mr. Rommel informed there are no others on this street, but there is one on Florence and one on 35th Place.

Mr. Doverspike asked how long the existing carport had been there, and Mr. Rommel informed they have lived at this location for five years and the carport was there when they moved in.

Mr. Bolzle stated they do not know if the existing carport is nonconforming or just an illegal carport.

Case No. 16151 (continued)

Mr. Rommel described the houses in the neighborhood and previous Board actions in this area.

Protestants: None.

Board Action:

On MOTION of WHITE, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a Variance of the required front yard setback from 35' to 25' to permit the replacement of an existing carport - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6**, subject to the plans submitted; finding that the carport existed and was not injurious to the neighborhood; on the following described property:

Lot 4, Block 2, Indian Meadows.

Case No. 16152

Action Requested:

Special exception to permit church use in an R district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS - Use Unit 5.**

Variances of the maximum floor area ratio of .5, minimum lot size of 12,000 SF, minimum frontage of 100' and a minimum building setback of 25' from abutting properties within an R District - **SECTION 404.F.1-4 SPECIAL EXCEPTION USES IN RESIDENTIAL DISTRICTS, REQUIREMENTS - Use Unit 5**, located N of the NW/c of Xyler and Quaker.

Presentation:

Staff informed that not all residents within 300 feet were notified by letter of this application, and requested that this item be continued to the October 27, 1992 meeting in order to meet notice requirements.

Board Action:

On MOTION of S. WHITE, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16152 to the October 27, 1992 meeting.

Case No. 16153

Action Requested:

Variance of the maximum number of signs per street frontage to allow a second sign - **SECTION 602.B.4. Signs - Use Unit 11**, located 4920 S. Lewis.

Presentation:

A-Max Sign Company was represented by **Brian Ward**, 4922 East 26th Terrace. He submitted photographs of the existing sign on the west elevation of the building (Exhibit M-1), and informed they would like to put an identical sign on the east elevation of the building parallel with the Lewis frontage. They will not be going over the maximum allowable sign square footage for the lot. Mr. Ward submitted a plot plan (Exhibit M-2) and showed where the second sign would be located.

Comments and Questions:

Mr. Gardner informed the ordinance would allow one sign per street frontage, and this lot has three street frontages. The applicant must demonstrate a hardship or something unique, and then the Board must weigh potentially what could be there versus what the applicant is requesting and determine if it is appropriate.

There was discussion about where the existing sign is located.

Mr. Ward informed if they wished to put the sign on top of the existing monument sign, they could do that by right. They feel it would look nicer on the building parapet.

There was discussion as to what would be allowed on the property by right.

Protestants: None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a **Variance** of the maximum number of signs per street frontage to allow a second sign on the Lewis frontage wall of the building, subject to no other signs on the other street frontages - **SECTION 602.B.4. Signs - Use Unit 11**; per plan submitted; finding the office has 3 street frontages and the proposed signage display area is within Code; and finding that the use will not be injurious to the neighborhood; on the following described property:

Lot 4, Block 1, Lewis Square.

Case No. 16154

Action Requested:

Special exception to permit a sign shop (Use Unit 15) in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 15,** located 5940 S. Lewis.

Presentation:

Fastsigns was represented by **Brian Huddleston**, 6 East 5th, who informed the proposed location is in the London South Shopping Center. He described the nature of the business and informed it is a retail business and not a manufacturing operation. He informed that no type of metal fabrication processes go on in this business. He submitted a letter and brochure (Exhibit N-1) and letters of support (Exhibit N-2).

Comments and Questions:

Mr. Jones asked if the business uses any kind of aerosol paint, and Mr. Huddleston informed they use aerosol paint for touch up purposes only.

Protestants: None.

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **APPROVE** a **Special Exception** to permit a computerized stick-on type sign shop (Use Unit 15) in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS - Use Unit 15**, per the description presented as to the type of sign company; finding the use compatible with the shopping center and not injurious to the area; on the following described property:

E 253' of the S550' N725' SE/4 Section 31-19-13.

Case No. 16155

Action Requested:

Special exception to permit private club as an accessory use in an OM district or alternatively to vary the accessory use provisions of an OM district to permit the use of a historic structure for community service, educational and cultural activities including but not limited to weddings, receptions, fund raisers, and business and non-business seminars - **SECTION 602. ACCESSORY USES PERMITTED IN THE OFFICE DISTRICTS - Use Units 5 and 11.**

Case No. 16155 (continued)

Variance of the off-street parking requirements - **SECTION 1205.D. and SECTION 1211.D. Off-Street Parking and Loading Requirements - Use Units 5 and 11**, located 1645 S. Cheyenne.

Presentation:

Roy Johnsen, 201 West 5th Street, attorney for the applicant, was not present.

Protestants:

Norma Turnbo, co-chair for District 7, advised that she did not receive notice of the proposal from INCOG, as is the policy of TMAPC. She requested that the application be continued.

Board Action:

On **MOTION** of **T. WHITE**, the Board voted 5-0-0 (Bolzle, Chappelle, Doverspike, S. White, T. White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16155 to the October 27, 1992 meeting.

Case No. 16168

Action Requested:

Variance of the required setback from an R district from 75' to 30' - **SECTION 903. BULK AND AREA REQUIREMENTS FOR THE INDUSTRIAL DISTRICTS - Use Unit 23**, located 1504 W. 37th Pl.

Presentation:

The applicant, **Dave Wheeler**, 11119 S. Fulton, informed they would like approval to build a storage shed to house some materials they use in the business. He informed there is a major building next to them, which is approximately 20 feet off the lot line. This is an open shed, and they did not realize they needed a building permit before constructing it. The shed consists of 6 steel beams and a roof. He showed the Board a plot plan and explained what exists on the property. He stated there is a lot of land between them and their neighbors.

Protestants:

Tim Null, 3751 S. Tacoma, informed he is co-chairman of District 9 Planning District. His home is on the west property line of the subject property. He spoke on behalf of the residents of the area surrounding the subject tract. He submitted a petition in opposition of the case (Exhibit P-1) consisting of signatures from all 18 occupied residential houses in the area, photographs of the business taken from the residential lots

Case No. 16168

surrounding the tract (Exhibit P-2), and a color coded map of the area (Exhibit P-3). He is concerned that

approval of the variance will increase the noise, stormwater, and fencing problems in the area. He is also concerned that approval of the variance will set a precedent for future buildings in the area. Mr. Null described the surrounding property and businesses, and the problems they have had with the business on the subject tract in the past.

John Seville, 1337 West 39th, informed they are having problems with water run-off in the area.

Gloria Kuhlensmidt, 1339 West 39th, informed she is concerned about the noise and the outdoor welding which occur on the property.

Dorothy L. Blake, 3735 South Tacoma, is concerned about the noise on the property and about the precedent approval would set for this area.

Applicant's Rebuttal:

Mr. Wheeler informed they are going to finish the privacy fence along the property line. He stated that their business did not create the water problems in the area--their building is on the exact elevation that the property was before they bought it. He stated that the water problems are basically caused by the building next door to them. They are involved in trying to improve the water situation. Mr. Wheeler informed they will no longer do any work at night, and the welding is done in the building.

Comments and Questions:

Mr. Jackere asked what action they had applied for in 1989 which was withdrawn, and Mr. Wheeler informed that relief was for their original building.

Mr. Jackere informed that under the Zoning Code their storage shed is considered a building. He asked what type of materials are stored in the building, and Mr. Wheeler informed it is special metal bar. It is moved to the shed by forklifts. Mr. Jackere informed this use has brought the noise closer to the residential areas.

Mr. Bolzle informed a letter of protest had been received from Mr. Harry M. Baker, 1505 West 39th, asking that the Board deny the variance due to the fact that the proximity of the building has changed the quietness of the neighborhood. The building is located too close to the property line in his opinion.

Case No. 16168 (continued)

Board Action:

On MOTION of DOVERSPIKE, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to DENY a Variance of the required setback from an R district from 75' to 30' - SECTION 903. BULK AND AREA REQUIREMENTS FOR THE INDUSTRIAL DISTRICTS - Use Unit 23, due to lack of a hardship; finding the noise from the use to be injurious to the residential area; on the following described property:

Lot 5, Block 4, Interurban.

OTHER BUSINESS

Case No. 16167

Action Requested:

Consider approval of amended site plan, located SW/c of 31st & S. 129th East Avenue, and refund of fees in the amount of \$100.

Presentation:

Mr. Joe Westervelt, representing QuikTrip Corporation, requested that this case be continued.

Protestants: None.

Board Action:

On MOTION of DOVERSPIKE, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to CONTINUE Case No. 16167 to the October 27, 1992 meeting.

Case No. 16169

Action Requested:

Request refund of \$180 filing fees.

Comments and Questions:

Mr. Jones informed this application should not have been taken, and there was no work done on the processing of the application. Staff recommends a refund of the entire \$180 filing fee.

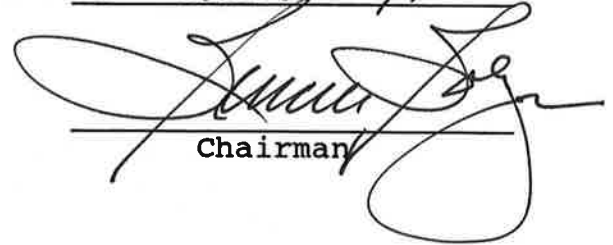
Case No. 16169 (continued)

Board Action:

On **MOTION** of **DOVERSPIKE**, the Board voted 3-0-0 (Bolzle, Doverspike, T. White, "aye"; no "nays"; no "abstentions"; Chappelle, S. White, "absent") to **REFUND** \$180 filing fees to the applicant, Craig Mondy.

There being no further business, the meeting was adjourned at 5:24 p.m.

Date approved: December 8, 1992


Chairman