

**CITY BOARD OF ADJUSTMENT**  
**MINUTES of Meeting No. 672**  
Tuesday, January 10, 1995, 1:00 p.m.  
Francis F. Campbell City Council Room  
Plaza Level of City Hall  
Tulsa Civic Center

<b>MEMBERS PRESENT</b>	<b>MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>	<b>OTHERS PRESENT</b>
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Abbott  
Bolzle  
Doverspike, Chairman  
Turnbo

Gardner  
Moore  
Russell

Jackere, Legal

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, January 9, 1995, at 11:16 a.m., as well as in the Reception Area of the INCOG offices.

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

**MINUTES:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions; none "absent") to **APPROVE** the Minutes of December 27, 1994 (No. 671).

**Comments and Questions:**

Ms. Russell informed that, in regard to Case No. 16917, she received a letter from Mr. Norton on January 5, 1995 requesting a two week continuance; however, a letter (Exhibit K-1) received this morning requested that the case be heard today as scheduled. Ms. Russell advised that staff has received numerous calls regarding the case, and these callers were told that the continuance request was timely and would probably be honored by the Board.

**Bill Packard**, agent for the YMCA, requested that the case be heard as it appears on the agenda.

Due to Mr. Doverspike's need to abstain, acting chairman Bolzle advised that the request for a continuance has been withdrawn and the case will be heard as it appears on the agenda.

## **UNFINISHED BUSINESS**

**Case No. 16896**

### **Action Requested:**

Special exception to permit a student community center in an RS-3 zoned district -  
**SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS**  
- Use Unit 2, located 1128 South College.

### **Presentation:**

The applicant, **Chief Boyd**, 4998 East 26th Street, submitted a site plan (Exhibit A-1) and explained that the property in question will be used as a student community center and parking will be installed at the rear of the existing dwelling. He informed that the property owner has met with neighborhood representatives, and they are concerned that the use will have a negative impact on the neighborhood. Photographs (Exhibit A-3) were submitted.

### **Comments and Questions:**

In response to Mr. Doverspike, the applicant stated that the garage at the rear of the property will be removed.

Mr. Doverspike asked if all activities will be inside the existing two-story dwelling and Mr. Boyd answered in the affirmative.

Mr. Doverspike inquired as to the number of parking spaces available, and the applicant stated that 11 spaces will be provided.

In reply to Mr. Doverspike, Mr. Boyd stated that the dwelling contains approximately 2400 sq ft of floor space.

Mr. Bolzle inquired about abutting uses, and the applicant stated that a vacant lot is to the north, with a two-story residence farther to the north, to the south is a rent house and single-family dwellings are located to the west.

Ms. Turnbo asked if any type of activity will be conducted outside the house, and the applicant stated that there will be no outside activities.

Mr. Bolzle asked the applicant if his client is proposing to use the vacant lot to the north in any way, and he replied that there are no such plans at this time.

### **Protestants:**

Ms. Russell informed that a letter of protest (Exhibit A-2) was received from Councilor Gary Watts.

Case No. 16896 (continued)

**Roxanna Chamberlin**, 1135 South Evanston, stated that she is representing several neighbors who oppose the application. She pointed out that the subject property is located in the middle of the block and is adjacent to single-family dwellings. Ms. Chamberlin voiced a concern that approval of the application would set a precedent and would result in other applications of this nature. Ms. Chamberlin pointed out that the proposed center is not compatible with the residential neighborhood. A petition of opposition (Exhibit A-4) was submitted.

**Jim Johnston**, 1135 South College, informed that he has met with a Mormon church representative, who advised him that the proposed use will be a city wide center. He pointed out that 11 parking spaces will not be adequate for a student community center. Mr. Johnston noted that he was also told by the church representative that the long-term goal for the property is to remove the building and use the property for a church. He asked the Board to deny the application.

**Sheila Swarengen**, 1131 South College, advised that she lives across the street from the subject property and is opposed to the application.

**Gary Phillips**, 1142 South College, stated that he lives approximately four houses to the south of the subject property, and purchased his house in this particular neighborhood because it is a unique area. He asked the Board to deny the request and preserve the integrity of the neighborhood.

**Fran Pace**, 1326 South Florence Avenue, stated that she attended the neighborhood meeting, and it was brought to her attention that the church plans to remove the dwelling and acquire one acre of land for the use. She pointed out that there is ample room for development in the TU development area, and approval of this request will cause other groups to also move outside the designated university area for these uses. Ms. Pace stated that she would like to hear from the university in regard to the matter before the Board considers the application.

**Applicant's Rebuttal:**

Mr. Boyd stated that the neighborhood is very nice and the long-term plan for the property is the construction of a church on the tract.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **DENY** a **Special exception** to permit a student community center in an RS-3 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2; finding that the use is not compatible with the residential neighborhood; and finding that a student community center is not in harmony with the spirit and intent of the Code or the Comprehensive Plan; on the following described property:

Case No. 16896 (continued)

South 25' of Lot 6, all of Lot 7, Block 3, Pilcher Summit Addition, City of Tulsa County, Oklahoma.

**Case No. 16862**

**Action Requested:**

Special exception to permit church use in an R District, and a variance of the maximum building height - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2, located west of the southwest corner of East 61st Street and South Yale Avenue.

**Comments and Questions:**

Ms. Russell advised that Mr. Coutant has requested by letter (Exhibit B-1) that Case No. 16862 be continued to January 24, 1995 to allow additional time to meet with the homeowners in the neighborhood.

**Presentation:**

The applicant, **Kevin Coutant**, 320 South Boston, was present.

**Board Action:**

On **MOTION** of **ABBOTT**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16862 to January 24, 1995.

**NEW APPLICATIONS**

**Case No. 16900**

**Action Requested:**

Variance of the required screening fence - **SECTION 212.C.a. and SECTION 212.C.4 - SCREENING FENCE REQUIRED** - Use Unit 13, located southwest corner of East 81st Street and South Lewis Avenue.

Ms. Russell stated that, in a conversation with Mr. Norman prior to the meeting, he informed that an interested party has requested that Case No. 16900 be continued.

**Interested Parties:**

**Tom Vogt**, 3800 First National Tower, stated that he is representing the landowner to the west of the subject property, and his client has requested a continuance to review the proposal.

Case No. 16900 (continued)

**Presentation:**

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, was present. and did not voice an objection to the continuance.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16900 to January 24, 1995.

**Case No 16901**

**Action Requested:**

Special exception to amend a previously approved plot plan to allow an addition to an existing school - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2, located East 19th Street and South 77th East Avenue.

**Presentation:**

The applicant, **Wallace Wozencraft**, 5801 East 41st Street, stated that he is the architect for this project, and requested that Case No. 16901 be continued to January 24, 1995 to permit further discussion with those protesting the case.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16901 to January 24, 1995.

**Case No. 16902**

**Action Requested:**

Variance of the required setback from the centerline of East 46th Street from 60' to 50' to permit an addition to an existing structure - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 3335 East 46th Street.

Case No. 16902 (continued)

**Presentation:**

The applicant, **Mark Fritz**, 3335 East 46th Street, submitted a plot plan (Exhibit C-1) and explained that he is proposing to construct an addition on the front portion of an existing dwelling, which was constructed on an irregular shaped lot. He submitted photographs (Exhibit C-2) and noted that the curvature of the street causes a small portion of the new addition to encroach into the required front setback. Mr. Fritz stated that existing trees and water drainage on the back portion of the lot hampers construction in that area.

**Interested Parties:**

**Jane Katz**, 4543 South Harvard, stated that that the hearing notice she received states that the setback variance will be from 60' to 50', instead of 65' to 55', as stated by the applicant. She asked for a clarification.

Ms. Russell informed that the required setback at this location is 65', and the applicant is requesting a 55' setback.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of East 46th Street from 65' to 55' to permit an addition to an existing structure - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding a hardship imposed on the applicant by the placement of the dwelling on the lot, the irregular shape of the tract and the curvature of the street; on the following described property:

Lot 11, Block 2, Villa Grove Heights 1, City of Tulsa, Tulsa County, Oklahoma.

**Case No. 16905**

**Action Requested:**

Variance of the required 30' of frontage on a public street - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6, located 6109 West 29th Street North.

**Presentation:**

The applicant, **Janet Nix**, Route 5, Box 287-D, Sand Springs, Oklahoma, was represented by **Jeff Nix**, who informed that he purchased a 20-acre tract that does not have 30' of access on a public street. He informed that the case map reflects that a County road provides access to North 53rd West Avenue; however, this is a 30' private driveway. Mr. Nix stated that a road easement was acquired, but this roadway has now been deeded to the property owners and filed of record.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required 30' of frontage on a public street - **SECTION 207. STREET FRONTAGE REQUIRED** - Use Unit 6; finding that the access road has been deeded to the property owners, and they now have 30' of frontage on a public street; on the following described property:

A tract of land situate in the South Half (S/2) of Section Nineteen (19), Township Twenty (20) North, Range Twelve (12) East of the Indian Base and Meridian, Osage County, Oklahoma, according to the U.S. Government Survey thereof, being more particularly described as follows:

Beginning at a point on the North line of said South Half (S/2) 3638.29 feet East of the Northwest corner of said South Half (S/2); Thence S89°22'39"E along said North line a distance of 368.77 feet to a point; Thence S0°32'29"W a distance of 2391.02 feet to the Centerline of a 60.00 feet Access and Utility Easement; Thence N89°00'00"W along said Centerline a distance of 116.04 feet; Thence along said Centerline on a curve to the Right, said curve having a radius of 300.00 feet and a central angle of 42°00'00", for an arc distance of 219.91 feet; Thence along said Centerline on a curve to the Left, said curve having a radius of 1154.47 feet and a central angle of 3°26'47", for an arc distance of 69.44 feet; Thence N0°32'29"E a distance of 2266.65 feet to the Point of Beginning, containing 20.00 Acres, more or less, subject to Easements and Rights-of-Way of record and statutes.

It is the intention of the above tract description to dedicate the Southerly thirty (30) feet of subject property as an Access & Utility Easement benefitting the record owners of the South Half (S/2) of Section Nineteen (19) and the North Half (N/2) of Section Thirty (30), all in Township Twenty (20) North, Range Twelve (12) East, I.B.M., Osage County, Oklahoma.

**Case No. 16906**

**Action Requested:**

Special exception to permit use units as permitted by right under CS zoning excluding Use Unit 12a - Adult Entertainment, and a variance of the required frontage - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** Use Unit 12, located southeast corner of East 41st Street and I-44.

**Presentation:**

The applicant, **Bellwether Investments, L. C.**, 3811 Turtle Creek, Suite 1310, Dallas, Texas, was represented by **Ted Sack**, who informed that this application involves the north end of a tract of land lying south of 41st Street and I-44. He stated that the proposed use is for a restaurant complex (Exhibit D-1) and noted that, although the site only has access from 41st Street and a small point of access on the service road, there is sufficient stacking space on the property. He informed that the tract will be split into four parcels, with a mutual access easement, and requested a variance of the required frontage. An architectural rendering (Exhibit D-2) was submitted.

**Comments and Questions:**

Mr. Doverspike asked if there will be one entrance from 41st Street, and Mr. Sack answered in the affirmative.

Mr. Doverspike asked if the entrance is far enough from the intersection to permit left turns from the site, and Mr. Sack stated that the entrance is beyond the center median. He added that 41st Street is to be widened to five lanes at this location.

**Protestants:**

None.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit use units as permitted by right under CS zoning excluding Use Unit 12a - Adult Entertainment, and a **variance** of the required frontage - **SECTION 901. PRINCIPAL USES PERMITTED IN THE INDUSTRIAL DISTRICTS** Use Unit 12; per plan submitted; finding the proposed uses to be appropriate for the area and in harmony with the spirit and intent of the Code; on the following described property:

North 855' of Lots 4, 5 and 6, Amended Plat of Tulsa View Addition, City of Tulsa, Tulsa County, Oklahoma.



**Case No. 16907**

**Action Requested:**

Variance of the required front and rear yards - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2851 East 28th Street.

**Presentation:**

The applicant, **David Short**, 1513 South Boston, submitted a plat of survey (Exhibit E-1) and stated that he is proposing to add a 6' by 6' addition to the front of his home. He informed that the existing garage will be converted to a family room and a new garage will be constructed, which will open to the south. Mr. Short noted that the required front setback is 60', and the house was previously constructed at 48'.

**Comments and Questions:**

Mr. Doverspike asked Mr. Short if the required rear yard will be reduced from 25' to 20', and he answered in the affirmative.

**Board Action:**

On **MOTION** of **ABBOTT**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required front yard from 60' TO 41.6' and the rear yard from 25' to 20' - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per survey submitted; finding a hardship demonstrated by the narrowness of the lot and the corner location with major building setbacks on two sides; on the following described property:

The west 200' of parts of Lots 3 and 4, Block 5, Woody Crest Addition, City of Tulsa, Tulsa County, Oklahoma as follows: Beginning at a point on the east line of Lot 3, said point being 4.72' northerly from the SW/c of said Lot 3 on a curve to the right, radius 525'; thence in a southerly direction along the west line of Block 5, 132.3' to a point; thence in an easterly direction to a point on the east line of Block 5, 393.3' to a point; thence north along the east line of said Block 5, a distance of 132.3' to a point 35.95' south of the NE/c of said Lot 4; thence west a distance of 400.19' to a POB less a 50' roadway dedication across the south 50' thereof.

**Case No. 16908**

**Action Requested:**

Variance of the required setback from the centerline of Charles Page Boulevard - Use Unit 11, located 2960 Charles Page Boulevard.

**Presentation:**

The applicant, **Wallace Wozencraft**, 5801 East 41st Street, stated that he is representing United Methodist Ministries and explained that the large metal building on the tract will be redesigned and used as a family counseling service center. He stated that it was determined that a 10' addition on the north side of the building will be needed to comply with required needs for the handicapped. Mr. Wozencraft stated that it was also determined by the Building Inspection Department that the existing building is encroaching into the required setback. A site plan (Exhibit F-1) was submitted.

**Interested Parties:**

**Christina Pickle**, 3101 Charles Page Boulevard, stated that she is representing CLP Corporation, which is operating nearby. She pointed out that the property owners should be aware that their business is a noisy manufacturing business, which is a 24-hour-a-day operation and could interfere with the proposed counseling use. Ms. Pickle stated that she is not opposed to the application.

**Comments and Questions:**

Mr. Bolzle noted that there are other buildings in the area that are much closer to the street than the building in question.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the required setback from the centerline of Charles Page Boulevard - Use Unit 11; per plan submitted; finding that there are other buildings in the area that are closer to the street than the one in question, and that approval of the request will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

A tract of land lying in the Southwest Quarter (SW/4) of Section Three (3), Township Nineteen (19) North, Range Twelve (12) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the U.S. Government Survey thereof, more particularly described as follows, to-wit:

Beginning at the Meander Corner of the left bank of the Arkansas River between Sections 3 and 4, Township 19 North, Range 12 East; thence North on and along the Section line between said Sections 3 and 4, a distance of 592.6 feet; thence Northeasterly on and along the center line of U.S. Highway No. 64; a distance of 1,285.46 feet; thence South and parallel to the West line of said Section 3, a distance of 25.198 feet to the South right-of-way line of said paved Highway to the true point of beginning; thence North 79 degrees 10' East on and along the South line of said paved Highway No. 64, a distance of 223.6 feet; thence South and parallel to the West line of said Section 3, a distance of 214.94 feet; thence South 78 degrees 54' West on and along the North Right-of-Way line of the Sand Springs Railway Company, a distance of 216.0 feet to the point of beginning, containing 47.554 square feet of 1.09 acres, more or less, LESS AND EXCEPT the Southerly 191.07 feet of the Westarly 46 feet and LESS AND EXCEPT the Northerly 25 feet of the Westarly 21 feet.

### **Case No. 16910**

#### **Action Requested:**

Special exception to permit a dance hall in an IL District, and a variance of the all-weather surface requirement for parking - **SECTION 901. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICT and SECTION 1303.D. DESIGN STANDARDS** - Use Unit 19, located 228 West Archer.

#### **Presentation:**

The applicant, **Chad Sandberg**, 1349 Riverside, #2, submitted a plot plan (Exhibit G-1) and requested permission to operate a dance hall on the subject property. He informed that his business will operate Thursday through Saturday, 8 p.m. to 2 a.m.

#### **Comments and Questions:**

Mr. Doverspike inquired as to the amount of gravel parking, and the applicant replied that approximately one-third is hard surface and the remaining portion is gravel.

In reply to Mr. Doverspike, Mr. Sandberg stated that he would prefer to use the lot as it exists, but could cover the gravel area in approximately one year, if that is a condition of approval.

Mr. Doverspike asked if alcohol will be served on the premises, and Mr. Sandberg stated that there will be no alcoholic beverages.

In reply to Mr. Doverspike, Mr. Gardner advised that all types of dance halls (adult/teen) are classified under Use Unit 19, because a distinction is not made in regard to age.

Mr. Doverspike asked the applicant if he is proposing to have 40 parking spaces, and he answered in the affirmative. Mr. Sandberg stated that an additional 80 parking spaces are available on the gravel portion of the lot.

Case No. 16910 (continued)

**Interested Parties:**

**Jim Norton**, Downtown Tulsa Unlimited, 201 West 5th Street, informed that he is District 1 planning chairman for this area, and stated that he is not familiar with the application, but would ask that any approval contain conditions specifying hours of operation and prohibit the serving of alcoholic beverages.

**Cherokee Pettis**, Planning District 2 chairperson, stated that she is in attendance to verify the location of the proposed use. She pointed out that there is a bar and 24-hour convenience store approximately one block away from the property in question. Ms. Pettis stated that she would like to have a clearer explanation of the proposed use.

**Applicant's Rebuttal:**

Mr. Sandberg stated that the dance hall will be for individuals of all ages.

Ms. Turnbo stated that the plot plan does not reflect 40 parking spaces on the property that has been advertised.

In reply to Mr. Jackere, Ms. Russell informed that 40 parking spaces are required for the 4,000 sq ft building.

Mr. Sandberg stated that he can acquire additional space for parking on the property if necessary.

Mr. Jackere asked if patrons will be permitted to bring beer or alcohol to this location, and he replied that alcoholic beverages will not be permitted on the premises.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16910 to January 24, 1994, to allow sufficient time for readvertising to include additional area for off-street parking.

**Case No. 16911**

Special Exception to permit a safety school in an RS-2 zoned district - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 2, located south of the SE/c of East 23rd Street and South 132nd East Avenue.

**Presentation:**

The applicant, **Ken Adams**, District 18 co-chairman and a representative for the Oklahoma Safety Council, submitted a packet (Exhibit H-1) containing drawings and an overview of the use. He informed that Safety City is proposed, which is a safety training project for children.

**Karen Niles**, 5127 South 95th East Avenue, explained that the project will be built one-third scale, and is designed to teach a wide realm of safety in a safe environment. She stated that Safety City will be open free of charge to the general public.

**Comments and Questions:**

Mr. Doverspike inquired as to the days and hours of operation, and Ms. Niles stated that the facility will be open Monday through Saturday, with hours of operation varying from 8 a.m. to 5 p.m. She added that only group tours will be offered.

Ms. Turnbo inquired as to the times for weekend operations, and Ms. Niles stated that the weekend hours will probably be 8 a.m. to 5 p.m.

In reply to Ms. Turnbo, Ms. Niles stated that the tours will be organized.

Mr. Doverspike inquired as to the total number of individuals that will be on the site at any given time, and Ms. Niles replied that she anticipates a maximum of 50 .

In regard to parking, Ms. Niles advised Mr. Doverspike that a parking area for cars and vans will be provided; however, a large portion of the parking will be reserved for school buses. Ms. Niles noted that approximately 50 parking spaces will be available.

Mr. Doverspike asked if the property is accessed from 129th East Avenue on to 24th Street, and Ms. Niles answered in the affirmative. She added that the facility will be fenced, and a 24-hour-a-day police substation for writing out reports, etc., will be located on the premises.

Mr. Doverspike inquired as to surrounding uses, and Ms. Niles stated that the subject tract is surrounded by residential use and vacant property. She stated that residential use is to the south, vacant property to the east, vacant property and a residence to the west and residential use to the north.

Mr. Bolzle asked why this site was chosen for the project, and Ms. Niles stated that the property was selected from a list of available sites provided by the Tulsa Public Schools.

Case No. 16911 (continued)

In reply to Ms. Turnbo, Ms. Niles advised that there will be a maximum of three staff members on the premises at any given time.

Ms. Turnbo inquired as to the number of tours that will be conducted each day, and Ms. Niles replied that a maximum of four tours will be scheduled.

**Don Meyers**, Safety Coordinator for Tulsa Public Schools, 3042 South New Haven, stated that the school district is supportive of the project. He informed that a lifetime lease is waiting to be finalized.

Mr. Doverspike asked Mr. Meyers if it is his opinion that 24th Street would have been adequate to carry school traffic if a school had been constructed at this site, and he answered in the affirmative.

**Protestants:**

**Ed Brown**, 13502 East 24th Street, stated that he is not necessarily opposed to the application, but would like to know more about the use. He stated that plans were not available for review, and he voiced a concern that buses may not be able to negotiate the turn on to 24th Street.

**Interested Parties:**

**Mike Garner**, Tulsa Police Department, stated that he is supportive of the application.

**Jack Holt** stated that he owns property at the corner of 133rd East Avenue and 23rd Street, and he is concerned with the possible abandonment of the project and if the property will be restored to its original state. He stated that he is not opposed to the application.

After discussion, it was the consensus of the Board that the case should be continued to permit the Board to site check the area, and allow sufficient time for the applicant to confer with Traffic Engineering regarding access, and prepare a detail site plan depicting the location of the buildings, parking and screening.

**Board Action:**

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Abbott, Bolzle, Doverspike, Turnbo, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16911 to January 24, 1995.

### Case No. 16913

#### Action Requested:

Special exception to expand the existing Use Unit 2 Transitional Living Center and Residential Treatment Center to include a convict pre-release center for residential and outpatient treatment of individuals - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 2, located 245 West 12th Street.

#### Comments and Questions:

Ms. Russell informed that she received a letter from Twenty-First Properties (Exhibit J-1) requesting a continuance of Case No. 16913 to January 24, 1995. She added that the applicant is not opposed to the continuance.

#### Presentation:

The applicant, **Kay Bridger-Riley**, 8908 South Yale Avenue, Suite 230, was present.

#### Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-0 (Abbott, Bolzle, Doverspike, , "aye"; no "nays"; Turnbo, "abstaining"; none "absent") to **CONTINUE** Case No. 16913 to January 24, 1994.

### Case No. 16917

#### Action Requested:

Appeal the decision of the administrative official in issuing an occupancy permit for a Use Unit 8 - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 8, located 515 South Denver.

#### Comments and Questions:

Mr. Doverspike advised that he will abstain from hearing Case No. 16917, and Mr. Bolzle, acting chairman, noted that only three Board members will be hearing the case and a unanimous vote will be required for approval.

#### Presentation:

The applicant, **James Norton**, 201 West 5th Street, informed that he is president of Downtown Tulsa Unlimited (DTU) and chairman of the District 1 Planning Team. He stated that the position of DTU is that the YMCA SRO homeless facility for mentally ill substance abuse individuals is classified under Use Unit 2 in the City Zoning Code. Mr. Norton noted that the YMCA has asked for and received a determination that this facility is a Use Unit 8 use, and DTU has appealed that decision. He informed that transitional living centers, residential treatment centers and homeless

Case No. 16917 (continued)

centers were previously listed under Use Unit 5 in the Zoning Code; however, the Code was amended and these uses are now classified under Use Unit 2, which requires a special exception. He pointed out that the public hearing process for a special exception allows the Board to establish certain conditions for these uses. Mr. Norton informed that it is the opinion of DTU that the application to the Department of Housing and Urban Development (HUD) for a facility for the homeless mentally ill substance abusers requires a special exception under Use Unit 2. Mr. Norton noted that the Board recently determined that a facility for homeless females (Case No. 16835) was a Use Unit 2. In conclusion, the applicant emphasized that the services being provided for at least half of the YMCA residents clearly proves that the facility is at least a homeless center, as defined by the Code, and is probably a residential treatment center. Mr. Norton stated that DTU is supportive of the YMCA facility in providing a tremendous service to the community, but requested that the Board find the use to be a Use Unit 2. A presentation letter and supporting information (Exhibit K-2) were submitted.

**Interested Parties:**

**Bill Packard**, 752 North Denver, submitted a memo (Exhibit K-3) concerning the appeal, and noted that the appeal was not filed in a timely fashion. He stated that the zoning clearance permit was completed on November 10, 1994 and the appeal was not filed within the required 10-day period from that date. Mr. Packard stated that the YMCA has employed an architect and moved forward with renovation plans. He asked that the Board find that the appeal was not filed in a timely manner.

**Comments and Questions:**

Mr. Bolzle asked Mr. Jackere to comment on the appeal process, and he advised that the Code states that the appeal must be filed within 10 days of the issuance of the zoning clearance permit. He stated that, in his opinion, the ordinance was written for situations involving the denial of an application when the applicant is present and has 10 days to appeal the decision. Mr. Jackere stated that his interpretation has been that the appeal must be filed within 10 days of the building officials action, or within 10 days of that action manifesting itself to the neighborhood. He pointed out that DTU would not have known when the application was filed or approved, except by word of mouth or notice of construction.

Mr. Bolzle asked Mr. Norton to explain his appeal filing process, and he stated that he became aware of the project when meeting with Mr. Medeck, executive director of the YMCA, on December 2, 1994. Mr. Norton noted that he spoke with Mr. Gardner and Mr. Jackere regarding the issue, and was advised of the policy for filing an appeal, which was previously referred to by Mr. Jackere. The applicant stated that his filing was within the 10-day period after he was made aware of the issuance of the zoning clearance permit.



Case No. 16917 (continued)

Mr. Packard stated that a public notice was published in the Tulsa World on November 27, 1994.

Mr. Jackere stated that it is necessary for the Board to determine if Mr. Norton filed the appeal within 10 days from the time he became aware of the project.

**Board Action:**

On **MOTION** of **TURNBO**, the Board voted 3-0-1 (Abbott, Bolzle, Turnbo, "aye"; no "nays"; Doverspike, "abstaining"; none "absent") to **DETERMINE** that appeal of the administrative official's decision was filed in a timely manner (10 days from the time the applicant was or had a reasonable opportunity to become aware of the action).

Mr. Packard stated that the application the YMCA submitted for the zoning clearance permit was correct, and noted that the uses at the Downtown YMCA will not change as a result of this project. He pointed out that the "Y" has been operating as a residence facility since 1953 and has provided services to its tenants. Mr. Packard noted that, if the Board finds the use is not classified under Use Unit 8, then it must be nonconforming, because the same services will continue to be offered and the use is not expanding. He reiterated that the application was correct, because 60 existing units will be refurbished, the length of stay will be in excess of 30 days and the services provided will not be personal services. He pointed out that the residents that choose to live in the 60 units will not be under supervision in their method of living. Mr. Packard stated that the services provided by the YMCA on site will not be available to nonresidents. He pointed out that people with mental and physical disabilities cannot be discriminated against in their choice of housing. Mr. Packard stated that their mental illness and their choice of housing does not make this facility a transitional living center or a residential treatment center. He pointed out that no one is requiring tenants to live at the YMCA, and treatment will not be available on site, but will be available at other locations.

**Comments and Questions:**

Ms. Turnbo inquired as to the method of acquiring mentally ill occupants for the 60 living units, and Mr. Packard stated that Parkside case workers will explain the program to their clients.

In response to Ms. Turnbo, Mr. Packard stated that the mentally ill will be encourage to accept treatment, but will not be required to do so. He added that the residents can remain at the "y" without treatment if they comply with the tenant house rules.

Ms. Abbott asked if the HUD grant requires that the units be used for the homeless mentally ill, and Mr. Packard stated that the target people that are eligible will be the homeless mentally ill, whether or not they have a drug abuse problem. He pointed out that other homeless individuals may use the rooms if they are not all utilized by the homeless mentally ill.

Case No. 16917 (continued)

Ms. Abbott asked if this was a traditional use prior to the HUD application, and Mr. Packard answered in the affirmative. He noted that mentally ill individuals have lived at the YMCA for more than 30 years.

Ms. Abbott inquired if the "Y" previously offered any services other than room and board, and Mr. Packard stated that since 1953 greater and lesser levels of service have been available to all residents of the "Y".

In reply to Mr. Bolzle, Mr. Jackere noted that the administrative official who issued the zoning clearance permit stated that there has been no change of use. Mr. Jackere advised that a nonconforming use that was made unlawful by a change in the Code could continue.

Mr. Bolzle voiced a concern with making the determination that this use should be classified under Use Unit 8.

**Interested Parties:**

**Councilor Joe Williams** stated that he is supportive of the YMCA project. He noted that the City has a homeless problem and the "Y" has proved to be a very important player in this issue. He pointed out that time is of the essence in acquiring the HUD grant.

**Bill Byrne** informed that he is chairman of the Board of Directors for the YMCA, and noted that the project in question was unanimously endorsed by the Board. He pointed out that the Tulsa City/County Homeless Task Force publication (Exhibit K-4) states that their recommendation was to investigate the feasibility of converting the top two floors of the Downtown YMCA into a facility for the mentally ill. Mr. Byrne pointed out that they are attempting to carry out that recommendation.

In reply to Ms. Abbott, Mr. Packard reiterated that traditional services provided by the "Y" include all the services that will be provided to these homeless mentally ill individuals.

In reply to Ms. Turnbo, Mr. Packard stated that 24-hour staffing is provided now and will continue when the 60 units are filled.

**John Swift**, 2605 East 74th Place, stated that his office is at the Downtown YMCA and he has had no problem with the residents. He noted that the proposed use is a long term residential facility for the mentally ill, and was never intended to be an emergency shelter, with citizens being dropped off by the police. Mr. Swift stated that it is his opinion that DTU does not support the project.

Case No. 16917 (continued)

**Michael Brose**, Executive Director of the Mental Health Association, noted that there is a lot of stigma attached to mental illness and it is the mission of the Association to improve the quality of life for people with this disease. He asked the Board to consider that mental illness is just an illness, and the rate of violence among the mentally ill is essentially the same as that of the general population.

**Jim Neal**, 5709 East 106th Street, stated that he is a member of the YMCA and DTU Boards. Mr. Neal advised that he has been involved in researching ways to take advantage of the "Y" facility and help improve the quality of life for the mentally ill in Tulsa. He stated that the services requested on the application are the services that are currently being provided at the YMCA. Mr. Neal informed that "Y" membership has increased to 1000 and these members are not concerned about security at the facility. He stated that it is his opinion that the use should be classified under Use Unit 8.

In reply to Ms. Turnbo, Mr. Packard stated that he was retained by the Mental Health Association because of his knowledge of the Zoning Code and ability to assist in designing these programs.

Ms. Turnbo asked if it is true that the occupants of the 60 units will be permitted come and go as they please and will not be required to seek help for their problems, and Mr. Packard answered in the affirmative.

**Roy Hancock** stated that HUD has agreed to provide \$1,792, 000 for a ten-year period, with renovation being completed by October 1, 1994. He pointed out that there is a need to house the homeless mentally ill individuals in this community, and asked the Board to allow the project to go forward.

**Applicant's Rebuttal:**

Mr. Norton stated that DTU is supportive of the proposed use, but asked that it comply with the existing Zoning Code. He noted that this is a zoning issue.

**Additional Comments:**

Mr. Bolzle inquired as to the prior use of the 60 vacant rooms, and Mr. Packard advised that they were used in the same way as the other rooms that are currently occupied.

Ms. Abbott inquired as to the total number of rooms at the "Y", and Mr. Packard stated that there are 164 rooms.

Ms. Turnbo asked if the YMCA is required to keep any type of record on the individuals living in the facility, and Mr. Packard stated that the HUD grant does not require any type of record keeping.

Case No. 16917 (continued)

Mr. Bolzle emphasized that finding the use to be classified under Use Unit 8 could have ramifications that are broader than this individual case, and could have a detrimental impact on the community.

**Board Action:**

On **MOTION** of **ABBOTT**, the Board voted 3-0-1 (Abbott, Bolzle, Turnbo, "aye"; no "nays"; Doverspike, "abstaining"; none "absent") to **DETERMINE** that the building inspector should have issued an occupancy permit based on the fact the use is a nonconforming use and there is no expansion of the use, or any change in the type of use, including services to be provided on site; and to **DETERMINE** that the building inspector's issuance of the zoning clearance permit was proper, not on the basis of a Use Unit 8, but on the basis that the use of the YMCA, as relates to the building permit, is a nonconforming use and the building permit was not an expansion of the use; finding that mentally ill individuals have lived at this location over the years since it began operation and the use will not change; and finding that the interior renovation of the 60 rooms does not constitute an expansion of the use; on the following described property:

Lots 4 and 5, Block 151, Original Town of Tulsa, Tulsa County, Oklahoma.

Date Approved

February 14, 1995

  
Chairman