

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 675
Tuesday, February 28, 1995, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT

Abbott
Bolzle
Doverspike, Chairman
Turnbo
White

MEMBERS ABSENT

Gardner
Jones

STAFF PRESENT

OTHERS PRESENT

Jackere, Linker,
Legal Department
Parnell, Code
Enforcement

The notice and agenda of said meeting were posted in the Office of the City Clerk on Monday, February 27, 1995, at 11:55 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 **WHITE**, the Board voted 3-0-1 (Doverspike, Turnbo, White, "aye"; no "nays"; Abbott, "abstaining"; Bolzle, "absent") to **CONTINUE** consideration of the Minutes of February 14, 1995 (No. 674) to allow requested changes.

Mr. Jones advised that the applicant for Case No. 16956 has requested that this item be moved to the end of the agenda.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the hearing of Case No. 16956 as the last item on the agenda.

UNFINISHED BUSINESS

Case No. 16922

Action Requested:

Appeal the decision of the administrative official that the use is a nonconforming use -
SECTION 1605 APPEALS FROM AN ADMINISTRATIVE OFFICIAL - Use Unit 12,
located 1344 East 15th Street.

Presentation:

The applicant, **Michael Hilsabeck**, 2524 East 71st Street, advised the Board that the new business is a restaurant (Use Unit 12) and not a food specialty establishment as listed in Use Unit 13. He advised that the bakery was open in the morning to serve coffee and pastries (principal use) and later began serving sandwiches for lunch (accessory use). The pastry shop had tables and chairs, as do most of these types of food specialty businesses listed in Use Unit 13. The new business has expanded its menu and hours of operation and is now serving pizza and beer, as well as closing at a later hour. The new business has become a full fledged restaurant (Use Unit 12) and, therefore, a change of use to another use unit, which requires meeting the off-street parking. He stated that the business does not have any land for parking and, therefore, the customers will begin using the parking of the neighboring businesses.

Photographs (Exhibit A-3), a letter requesting a continuance (Exhibit A-1), parking areas (Exhibit A-4) and letters of support (Exhibit A-5) were submitted.

Comments and Questions:

Mr. Gardner advised that, if the Board determines that the use has changed from Use Unit 13 to Use Unit 12, parking is required; however, if the Board finds the new use to be the same as Use Unit 13, the use is nonconforming and there is no requirement for additional parking.

Joe Hull informed that he is representing the operators of the business, and pointed out that the zoning clearance permit issued in 1982 (Exhibit A-2) designates the use as a bakery and coffee shop. He emphasized that lunch was served at this location and there is no doubt that this business operated as a restaurant, as well as a bakery. Mr. Hull pointed out that the current floor plan and kitchen is the same as that of the previous business. He submitted a letter (Exhibit A-6) from Candy Parnell, which stated that she found the use to be nonconforming. He stated that beer will only be sold with food orders. In regard to parking, Mr. Hull stated that there is sufficient space provided for employee parking and the remainder of the parking will be on the street.

Mr. White inquired as to the number of parking spaces available during the week, and **Zachary Matthews**, owner of the business, informed that the individuals parking on the street visit the various shops and leave within 20 minutes.

In response to Ms. Turnbo, Mr. Matthews stated that the business has not experienced a traffic problem on Friday night. He pointed out that there are no other restaurants in the immediate vicinity.

Mr. Hull noted that the previous bakery/coffee shop was open in the evening for a time, but did not find it financially feasible to continue.

Case No. 16922 (continued)

Protestants:

Don Greer, owner of the Sound Warehouse, stated that he has 16 parking spaces for his customers and 14 spaces in the rear for employees. He pointed out that this business cannot be compared to the bakery, because it closed at 2 p.m.; however, it can be compared to the Hideaway pizza restaurant. He pointed out that there would be insufficient parking for the business in question if it proved to be successful.

Mark McCafferty, 1315 East 15th Street, stated that he owns the property to the east and, if the business is permitted to continue, it will choke the livelihood of his tenants.

Cheryl Bisbee, 1312 East 16th Street, stated that she is representing the members of Swan Lake Neighborhood Association, and it is their determination that the business would not have a negative impact on the surrounding neighborhood.

Applicant's Rebuttal:

Mr. Hilsabeck informed that the 1982 application filed by the Cherry Street Bakery states that there is no off-street parking. He pointed out that a bakery is different from a restaurant. Mr. Hilsabeck emphasized that this business is open during the evening hours and is an expansion and change of use from the previous use.

In reply to Mr. Doverspike, Mr. Linker advised that an expansion of a use would be enlarging the building and not a different amount of customers.

Ms. Parnell stated that she and Ms. Hubbard viewed the property and, although there is a parking problem, there has been no change in the use.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **UPHOLD** the decision of the administrative official and **DENY** the appeal of the decision of the administrative official that the use is a nonconforming use - **SECTION 1605 APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 12; finding the that the previous use was a bakery and coffee shop that served lunches, and that the proposed restaurant would not be a change of use and therefore is a nonconforming use and does not require additional off-street parking; on the following described property:

West 40' of Lot 1 and 2, and the east 10' of vacated alley on the west of described property in Block 7, Orcutt Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16929

Action Requested:

Variance of the required setback from the centerline of East 11th Street to permit an addition to an existing sign - Use Unit 21, located 2204 East 11th Street.

Comments and Questions:

Mr. Jones informed that this case was continued to this date in order to determine if the necessary relief had been previously granted.

Presentation:

The applicant, **Ken Smith**, 2517 West Kent, Broken Arrow, Oklahoma, stated that the sign inspector does not have a record of the variance approved in 1989. A plot plan (Exhibit B-1) and a letter from the sign inspector (Exhibit B-2) were submitted.

Additional Comments:

Mr. Jones conferred with Mr. Garriott, Sign Inspector, who informed that the applicant does need Board of Adjustment approval. He explained that the applicant is proposing to change a 1' by 4' panel beneath the main sign to a 4' by 4' panel, which causes it to lose its nonconformity and require Board approval.

In reply to Mr. Doverspike, Mr. Jones stated that it appears that the signage is on the side of the pole away from the street and does not encroach farther into the setback than the previous sign.

Protestants: None.

Board Action:

On **MOTION** of **ABBOTT**, the Board voted 4-0-0 (Abbott, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **APPROVE** a **Variance** of the required setback from the centerline of East 11th Street to permit an addition to an existing sign - Use Unit 21; per plan submitted; finding that the pole will remain at the current location and the proposed signage (4' by 4') will not encroach farther into the required setback than the existing sign (1' by 4'); 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 part of Lots 1, 2 and 3, Block 1, M. E. Bailey Subdivision of Block 1, Terrace Drive Addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof, being more particularly described as follows, to-wit: Beginning at a point on the west line of said Lot 1, 5.0' south of the NW/c thereof; thence south along the west line of said Lots, 1, 2 and 3, a distance of 132.98'; thence easterly a distance of 127.88' to a point on the easterly line of Block 1; thence northwesterly along the easterly line of said Block 1, a distance of 156.05'; thence westerly a distance of 45.69' to the POB, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 16944

Action Requested:

Variance of the required setback from the centerline of East 29th Street from 50' to 25' to permit the renovation of an existing building and a variance of the required side yard - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 225 East 29th Street.

Presentation:

The applicant, **Anthony Vaclavicek**, 225 East 29th Street, submitted a plot plan (Exhibit T-1) and informed that the underground structure was constructed in 1927 and has deteriorated to the point that it can no longer be used as a garage. Mr. Vaclavicek requested that he be permitted to remove the brick fascia and widen the existing garage to accommodate two vehicles.

Comments and Questions:

Mr. Doverspike asked if the structure is completely underground, and the applicant answered in the affirmative.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **APPROVE** a **Variance** of the required setback from the centerline of East 29th Street from 50' to 25' to permit the renovation of an existing building and a **variance** of the required side yard - **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding that an existing one-car underground garage will be reconstructed to accommodate two cars; and finding that the existing garage was constructed prior to current setback requirements; on the following described property:

Lot 21, Block 21, Sunset Terrace, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16945

Action Requested:

Variance of the required 200' setback from an abutting R District to permit a 420 sq ft sign - **Section 1221.C.1.b. Sign Setbacks** - Use Unit 21, located southwest corner of East 61st Street and U. S. Highway 169.

Case No. 16945 (continued)

Presentation:

The applicant, **John Moody**, 5555 East 71st Street, Suite 6230, submitted a plot plan (Exhibit C-2) and stated that he is representing the owner of Tulsa Motors, who has purchased the existing car sales lot. He informed that his client is renovating the facility and replacing the existing sign. Mr. Moody explained that a 429 sq ft business sign is permitted by right in an industrial area; however, in this case the signage is decreased to 300 sq ft because of its location within 200 ' of a residential district. The applicant pointed out that a sports complex is located to the north of the subject property, with a 672 sq ft sign in place. Mr. Moody noted that the area is in transition from residential to other uses, and it is unlikely that the residential property abutting the subject tract will ever be utilized for residential purposes. A plat of survey (Exhibit C-1) and photographs (Exhibit C-3) were submitted.

Comments and Questions:

Mr. Doverspike inquired as to the distance from the new sign location to the north and east property lines, and Mr. Moody replied that the sign will comply with Code requirements.

In reply to Mr. Doverspike, the applicant stated that all lighting will reflect only on the sign.

Protestants:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 4-0-0 (Abbott, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **APPROVE** a **Variance** of the required 200' setback from an abutting R District to permit a 420 sq ft sign - **Section 1221.C.1.b. Sign Setbacks** - Use Unit 21; per plan submitted; finding that the residential property abutting the subject tract is in transition to industrial uses and is not used for residential purposes; and finding that approval of the request will not cause substantial detriment to the public good or violate the spirit, purpose or intent of the Code; on the following described property:

N/2, Lot 4, Block 1, Union Gardens Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16946

Action Requested:

Variance of the required screening fence - **SECTION 1303.E. Design Standards for Off-Street Parking Areas** - Use Unit 10, located 9933 East 16th Street.

Presentation:

The applicant, **Tulsa Properties**, 10810 East 45th Street, Suite 400, was represented by **Paul Williams**, 10810 East 45th Street, Suite 400, who submitted a packet (Exhibit D-1) containing a plot plan, photographs and a building permit. He stated that an additional lot has been purchased to provide parking for the existing office building, and requested that the required screening fence be replaced with a berm and shrubs. Mr. Williams informed that there is a 25' green space between the parking area and the street.

Comments and Questions:

In reply to Mr. Doverspike, Mr. Williams stated that the berm is proposed to protect the neighborhood from car lights and provide additional visual separation from the residential area.

In response to Mr. Doverspike, Mr. Gardner advised that the request can be heard as a special exception (Section 212.C.2).

Mr. Doverspike inquired as to the type of shrubs that will be planted, and Mr. Williams replied that red-tipped photinia will be planted (2' apart) on top of the berm.

Protestants:

Susan Campbell, 9739 East 15th Street, informed that she lives to the north of the subject property, and noted that the information circulated in the neighborhood showed the berm ending at the edge of the proposed parking lot. She voiced a concern that the parking lot might be extended in the future and there would be no protection for the neighborhood.

Mr. Gardner advised that the Board could make the installation of the berm a condition of approval for any extension of the parking lot. He informed Ms. Campbell that the use of the property triggers the screening requirement, and not the zoning of the tract.

Ms. Campbell stated that privacy is an issue and she was told that the berm could not be extended because it would cause a drainage problem.

Mr. Doverspike noted that the variance request is only for the north boundary line of the property and advised that the request should be heard as a special exception, which does not require a hardship finding.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **APPROVE** a **Special Exception** to modify the screening requirements - **SECTION 1303.E. Design Standards for Off-Street Parking Areas** - Use Unit 10; per plan submitted; subject to the continuation of the 3' high berm and shrubs along the entire north boundary of the lot to protect the residential area; and subject to a sufficient number of shrubs (red-tipped photinia) being planted 2' (or less) apart to provide effective screening; finding 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 in Government Lot 3, Section 7, T-19-N, R-14-E, of the IBM, Tulsa County, State of Oklahoma, according to the U. S. Government survey thereof, being more particularly described as follows: Beginning at the Northwest corner of Professional Office Park Addition; thence S 0°03'46.5" E on the West line of Lot 1, Block 1 a distance of 271.05' to the Southwest corner of said Lot 1, Block 1; thence S 89°56'13.5" W a distance of 0.00'; thence on a curve to the right having a radius of 13' a distance of 12.00'; thence on a curve to the left having a radius of 50' a distance of 124.71' to the projection of the centerline of East 16th Street South; thence continuing on said projection S 89°56'13.5" W a distance of 307.74' to a point 260.00' East of the West line of said Government Lot 3; thence N 0°08'44" W on a line parallel with and 260.00' East of the West line of said Government Lot 3 a distance of 296.83' to a point on the North line of said Government Lot 3; thence S 89°57'13" E on the North line of said Government Lot 3 a distance of 408.41' to the Point of Beginning, less and except the north 25' thereof, and located west of the southwest corner of 101st East Avenue and South 15th Street.

Case No. 16947

Action Requested:

Variance of the all weather surface requirement for off-street parking and a variance to permit landscaping installation until parking is paved - **SECTION 1303.C. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 15, located 3916 South Sheridan.

Case No. 16947 (continued)

Presentation:

The applicant, **Kurt Lewis**, 14704 East Marshall Street, submitted a plot plan (Exhibit E-1) and requested that the parking area for the new commercial property remain unpaved until landscaping is installed. Photographs (Exhibit E-2) were submitted.

Comments and Questions:

Mr. Doverspike asked if asphalt will also be installed on the east, and the applicant answered in the affirmative. He added that dirt work is still in progress and the heavy equipment would damage the asphalt if it is installed at this time.

In response to Mr. White, Mr. Lewis stated that he anticipates all asphalt being installed by August 1995.

Protestants:

None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Abbott, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; Bolzle, "absent") to **APPROVE** a **Variance** of the all weather surface requirement for off-street parking and a **variance** to permit landscaping installation when parking lot is paved - **SECTION 1303.C. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 15; subject to approval being for 6 months only; finding that the temporary use of gravel parking will not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

Part of the SE/4, SE/4, Section 22, T-19-N, R-13-E of the IBM, Tulsa County, Oklahoma, according to the US Government Survey thereof, described as follows, to-wit: Commencing at a point 528.18' north of the SE/C of the SE/4, SE/4, Section 22, being the SE/c of the north 24 acres of the SE/4, SE/4, Section 22; thence westerly along the south line of the north 24 acres of the SE/4, SE/4 of said Section 22, a distance of 35' to the POB; thence westerly along the south line of the north 24 acres of the SE/4, SE/4, of said Section 22, a distance of 320'; thence north and parallel to the east line of said Section 22, a distance of 220'; thence east and parallel to the south line thereof, a distance of 320'; thence south and parallel to the east line of said Section 22, a distance of 220' to the POB, containing 1.58 acres more or less, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16948

Action Requested:

Special exception to permit Use Unit 15 in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15, located 7030 South Lewis Avenue.

Presentation:

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, submitted photographs (Exhibit F-1) and explained that his client is proposing to lease the existing building for retail sales, printing, packaging and mailing of computer software. He stated that the assembly and storage portion of the business will occupy more than half of the building; therefore, the building inspector has determined that the use would be classified under Use Unit 15 as printing and publishing. Mr. Norman noted that the manager of the property to the west is not opposed to the proposed business. He pointed out that there are no windows on the north, south or west sides of the structure.

Protestants:

None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special exception** to permit Use Unit 15 in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 15; subject to the use being limited to retail sales, publishing and printing; finding the use to be compatible with the area and in harmony with the spirit and intent of the Code; on the following described property:

The west 200' of a tract of land in the southerly 195' of the northerly 390' of the SE/4, SE/4, Section 6, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16949

Action Requested:

Variance of the number of required parking spaces to permit the parking areas to remain as presently striped - **SECTION 1208.D. Off-Street Parking and Loading Requirements** - Use Unit 8, located southwest corner and southeast corner of East 71st Street and South Granite Avenue.

Presentation:

The applicant, **Charles Norman**, 2900 Mid-Continent Tower, informed that this application is before the Board as a result of the sale and refinancing of the subject property. He informed that the apartment complex is comprised of 544 dwelling units, with a net deficit of 67 spaces. Mr. Norman stated that the apartment complex complied with parking requirements at the time of approval and it has not been determined how the deficiency occurred, but it could have been the result of a change in the Code concerning the width of parking spaces. He informed that all parking spaces are currently striped at 9'; however, if striped at 8½', the complex would have an excess of the required 872 spaces. The applicant submitted inspection reports (Exhibit G-2), which indicate a large number of vacant parking spaces (235 vacant) during the time that most tenants are at home (5 a.m. and 11 p.m.). Mr. Norman pointed out that there is green area that could be converted to parking; however, the inspection report does not show a need for additional parking spaces. The applicant pointed out that numerous two-bedroom apartments only have one occupant. Mr. Norman requested that the parking lot remain as presently striped. Photographs (Exhibit G-1) and a plat of survey (Exhibit G-3) were submitted.

Comments and Questions:

In reply to Mr. Doverspike, the applicant stated that one hardship is the elimination of existing open space, which is in excess of requirements, and the parking lot could be restriped to comply with the Code requirements.

Mr. Gardner noted that the complex is apparently meeting the parking demand, and could meet Code requirements by restriping the parking lot, or converting additional green space to parking.

Mr. Bolzle pointed out that one-bedroom units are sometimes occupied by two individuals.

Mr. Norman stated that there are no abutting properties that would receive overflow if parking became an issue.

Interested Parties:

Lloyd Hobbs, planning chairman for District 18, stated that he is not opposed to the request, but suggested that a Code revision regarding parking requirements may be in order.

Additional Comments:

Mr. White stated that he is unable to identify a hardship in this case.

Mr. Jones advised that a comprehensive review of the standard parking requirement was conducted approximately two years ago, and it was determined that a Code revision was not needed at that time.

Case No. 16949 (continued)

Mr. Norman noted that this application was not filed because of a complaint, but is a self-compliance effort on the part of his client to ensure compliance with the Code.

In reply to Mr. Gardner, Mr. Norman informed that one portion of the complex is in compliance with the parking requirements; however, the entire complex has a 7.7% shortage.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Variance** of the number of required parking spaces to permit the parking areas to remain as presently striped - **SECTION 1208.D. Off-Street Parking and Loading Requirements** - Use Unit 8; per survey submitted; finding that the required number of parking spaces could be acquired by restriping the existing lot, or using green space to create additional parking spaces; and finding that adequate parking is currently available and 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:

Lot 1, Block 1 and Lot 1, Block 2, Minshall Park II, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16950

Action Requested:

Special Exception to permit off-street parking in an RM-2 zoned district, special exception to modify and/or remove screening requirement and a variance to permit parking on a lot other than the lot containing the principal use - Use Unit 14, located northeast corner of East 41st Street and South Yale Avenue.

Presentation:

The applicant, **Roy Johnsen**, 201 West 5th Street, submitted a site plan (Exhibit H-2) and informed that his client is proposing to purchase the subject property. He explained that the entire purchase consists of two tracts, one of which is Southroads Mall (zoned CH), and the other is an 8.1-acre tract to the north (zoned RM-2), which will be utilized for parking. An aerial photograph (Exhibit H-1) was submitted. He pointed out that 270 apartment units could be constructed on the 8.1-acre tract as presently zoned. Mr. Johnsen submitted photographs (Exhibit H-3) and noted that the property is low on the north boundary and rises steeply to the south (approximately 10'). He stated that the north boundary has a substantial number of trees, with single-family homes farther to the north, many of which are two-story. Mr. Johnsen noted that the east boundary, which also abuts the rear yards of single-family dwellings, is heavily treed (evergreens), but does not have the same elevation change. The applicant stated that the new owner is proposing to refurbish the mall

Case No. 16950 (continued)

and any future expansion will require additional parking, which can be provided on the 8.1-acre tract. Mr. Johnsen stated that a screening fence is proposed on the ridge of the property, with a 60' greenbelt area extending from the north property line to the south and up the hill to the fence, with all parking being confined to the area south of the fence. He pointed out that the Code requires that a screening fence be constructed on the boundary of the property, which would place the fence in the low area behind the dwellings. Mr. Johnsen informed that screening is also required between the RM-2 and CH zoned property belonging to his client, which would result in a screening fence being constructed between the building and the parking lot serving that building. He stated that on-site detention (dry pond) will be installed, as required by the City and the area north and east of the fence will be maintained in its natural condition. Development standards (Exhibit H-5) were submitted.

Comments and Questions:

Mr. Doverspike asked the applicant if his client would be amenable to the execution of a tie contract between the two properties, and he replied that a tie contract is acceptable.

Ms. Turnbo asked Mr. Johnsen if the area that remains in a natural state will be mowed and maintained by his client, and he answered in the affirmative.

Protestants:

David Abraham, 3750 South Braden, asked if there will be a movie theater constructed on the north side of the mall, and if there will be a need for additional parking. He pointed out that several incidents on the mall property have resulted in a security problem for neighborhood residents. Mr. Abraham voiced a concern with the parking lot being moved closer to the residential area; however, if the application is approved, requested that a masonry wall be constructed to protect the privacy of the abutting property owners.

Frank Turner, 5132 East 38th Place, pointed out that the parking area was sufficient when the mall was thriving and questioned the need for additional parking now. He asked if additional buildings will be constructed in the existing parking area.

Jim Scheel, 5108 East 38th Place, submitted a petition of opposition (Exhibit H-4) and informed that his property abuts the mall property. He requested that Canton not be opened, which would permit commercial activity to back up into the residential area. He requested that the case be continued for two weeks to permit a neighborhood meeting with the mall developer.

In reply to Mr. Doverspike, Mr. Gardner advised that RM-2 zoning permits approximately 33 dwelling units per acre.

Case No. 16950 (continued)

Mr. Doverspike advised the protestants that a 35' apartment building could be constructed by right on the subject property.

Mr. Turner noted that the previous approval restricted the apartments near the single-family dwellings to one-story only.

Mike Stewart, 3775 South Canton, requested that the application be continued for two weeks to allow the neighborhood to analyze the proposal.

Norman Tracy, 5102 East 38th Place, informed that his home backs up to the property in question, and the RM-2 property acts as a buffer between the residences and the mall. He stated that the applicant has not conferred with him concerning the proposal, and asked that the application be continued, or that the application be denied.

Richard McCutchen, 4928 East 38th Place, requested that the buffer zone be maintained and the application be denied. He pointed out that moving the mall closer to the residential area will infringe on the tranquillity of the neighborhood and increase vandalism. Mr. McCutchen voiced a concern with drainage in the area.

Mel Whittington, 5114 East 38th Place, stated that he endorses the previously mentioned concerns, and noted that the use of the subject property impacts the abutting neighborhood.

In response to Mr. Bolzle, Mr. Whittington stated that he was told, at the time he purchased his home, that the area between the mall and the single-family dwellings would remain residential

George Richins, 5120 East 38th Place, stated that crime is attracted by the mall, with the police being called out on numerous occasions, and the proposed plans will not alleviate this problem. He stated that his major concern is the fact that the neighborhood has not been informed of the proposal.

Don Hudson, 5107 East 38th Place, requested that the application be continued or denied.

Joe Kenworthy, 5126 East 38th Place, informed that the mall had sufficient parking when it was operating at full capacity and asked the Board to deny the request.

Lyle Young, 3801 South Canton, stated that the mall operated successfully with the existing parking and requested that the application be denied. He stated that the parking lot would add to the flooding problem in the neighborhood.

Applicant's Rebuttal:

Mr. Johnsen stated that he has spoken with three neighborhood residents and was not aware there was opposition to the request until 7 p.m. on February 27th when counsel for the neighborhood requested a continuance. Mr. Johnsen informed that he contacted his client and was advised that there is a substantial financial penalty for each day of delay. He stated that he then suggested that the concerned residents, along with their attorney, meet in his office to discuss the application. Mr. Johnsen stated that this suggestion was not acceptable. He pointed out that, under current zoning, a three-story apartment building can be constructed 10' from the north property line; however, because of the existing drainage it would probably be moved back to the crest of the elevation. Mr. Johnsen stated that two of the residents he spoke with voiced a concern with apartments being constructed on the tract. He noted that PK parking zoning is recognized as a transitional use between commercial and residential areas, and a security fence, security lighting and mall security should prevent trespassing in the neighborhood. The applicant pointed out that drainage is addressed by Stormwater Management, and on-site detention will be required. Mr. Johnsen stated that the lighting will be 90' from the boundary, or 30' inside the screening fence. He emphasized that the old covenant is not enforceable, and in 1984 the Board approved parking on the subject property and district court upheld the decision.

Additional Comments:

In reply to Mr. Doverspike, Mr. Johnsen informed that the new addition could extend approximately 170' north of the existing building, and the main entrance to the mall will remain in the same location.

Mr. Doverspike asked if the entire RM-2 tract was previously approved for parking in 1984, and the applicant answered in the affirmative. He added that the conditions at that time limited the lighting to one candlepower, and stated that proposed lighting for the new facility is two candlepower.

Mr. Gardner advised that the two pieces of property should be considered together, and if approved per plan, the 8-acre tract can only be used for mall parking and buildings cannot be constructed. He added that the screening fence on top of the ridge will provide the equivalent of 16' of screening at the property line between the mall and the residential area. In addition, the 60' green space buffer will provide a good separation of land uses.

Mr. Doverspike asked Mr. Gardner if it is his opinion that the proposed use, with development standards, would be more in harmony with the Code and less injurious to the neighborhood than the permitted RM-2 use, and he answered in the affirmative. He advised that the applicant would be required to comply with current parking requirements.

Case No. 16950 (continued)

Mr. White stated that he is supportive of the project, but voiced a concern that the residents of the abutting neighborhood were not notified of the project at an earlier date.

Mr. Doverspike noted that the request for a continuance was not timely.

Mr. Jackere advised that there is no way the Board can push the two groups together; and Mr. Doverspike replied that the Board has previously continued a case to allow a meeting with the applicant and protestants, if there is any indication the parties could work things out..

Mr. Bolzle stated that the Board has approved the use at this location on two other occasions and the application seems to be uncomplicated and straightforward.

Mr. Doverspike stated that the application has a number of features to take into consideration; however, the application has been clearly set forth and does not involve construction of buildings. He stated that, although he is not opposed to a continuance, sufficient information has probably been provided to analyze the land planning issues.

In response to Mr. Bolzle, Mr. Johnsen stated that the installation of the fence on the high point of the tract would provide greater visual separation between the neighborhood and the parking area.

Mr. Bolzle stated that the parking lot seems to be a logical buffer, and pointed out that office use is sometimes used as a buffer and a parking lot would be permitted by right with OL zoning.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit off-street parking in an RM-2 zoned district, **special exception** to modify and/or remove screening requirement and a **variance** to permit parking on a lot other than the lot containing the principal use - Use Unit 14; per plan submitted; subject to the following development standards:

1. A screening fence not less than 6' in height shall be erected and maintained generally parallel to the northerly boundary and located on the ridge line as depicted on the site plan.
2. A screening fence not less than 6' in height shall be erected and maintained generally parallel to the easterly boundary and located 20' west of the easterly boundary as depicted on the site plan.
3. Required screening fences shall have masonry columns at intervals not greater than 30' on center.

Case No. 16950 (continued)

4. Landscaping located north and east of required screening fences shall be maintained (mowed) substantially as existing.
5. Within the parking area, landscaping shall meet the requirements of the Tulsa Zoning Code, Sections 1000 through 1003.
6. No light standard shall be located north of or east of a required screening fence..
7. Light standards within 100' of an adjoining RS boundary shall not exceed 20' in height.
8. Light fixtures shall be shielded and designed to direct light away from adjoining single-family residential areas.
9. Within 100' of an adjoining RS boundary, lighting shall not exceed an average of 2 footcandles.
10. No light standard being installed within 90' of abutting residential property lines.
11. Stormwater runoff within the paved area shall be directed away from the northerly and easterly boundaries.
12. On-site detention shall be provided as required by the City of Tulsa Department of Public Works.
13. Canton Avenue shall not be opened;

subject to a tie contract; and subject to green area being properly mowed and maintained; finding that approval of the application will not be detrimental to the area, and finding the parking lot to be an appropriate buffer between the mall and the residential neighborhood; on the following described property:

TRACT A-1 . (CH) .

ALL OF LOTS ONE (1), TWO (2), THREE (3), AND FOUR (4), ALL BEING IN BLOCK ONE (1), SOUTHROADS MALL, A SUBDIVISION OF PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 19 NORTH, RANGE 13 EAST, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

AND

TRACT A-2 (RM-2)

THE NORTH FIFTY-NINE (59) FEET OF THE SOUTH TWO HUNDRED SIXTY-EIGHT AND FIVE-TENTHS (268.5) FEET OF NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER (N/2 SW/4 SW/4) OF SECTION TWENTY-TWO (22), TOWNSHIP NINETEEN (19) NORTH, RANGE THIRTEEN (13) EAST, TULSA COUNTY, STATE OF OKLAHOMA, LESS THE WEST 50 FEET THEREOF FOR STREET PURPOSES, BEING A TRACT 59 FEET WIDE JUST NORTH OF LOT 2, BLOCK 1, AND -EXTENDING THE FULL LENGTH OF SAID LOT 2, BLOCK 1, SOUTHROADS MALL, TULSA COUNTY, STATE OF OKLAHOMA.

Case No. 16950 (continued)

TRACT B (RM-2)

AND

A tract of land in the West Half of the Southwest Quarter (W/2 SW/4) of Section Twenty-two (22), Township Nineteen (19) North, Range Thirteen (13) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, to-wit:

BEGINNING at a point that is 50 feet East of the West line of Section 22, said point also being the Southwesterly corner of Lot 1, in Block 3 of Max Campbell's 6th Addition; thence Easterly along the Southerly line of Block 3 for 155.99 feet; thence Easterly continuing along the Southerly line of the said Block 3 for a distance of 814.25 feet; thence Easterly continuing along the Southerly line of Block 3 for a distance of 189.01 feet to the Southeasterly corner of Lot 16 in said Block 3; thence Southerly along the Westerly right-of-way line of South Canton Avenue and also parallel to the Easterly line of said W/2 of the SW/4 for a distance of 50 feet; thence Easterly along the Southerly right-of-way line of East 39th Street for a distance of 170 feet to the Easterly line of said W/2 of the SW/4; thence Southerly along the said Easterly line of said W/2 of the SW/4 for 366.63 feet to a point that is 59 feet Northerly of the Northeasterly corner of Lot 2, in Block 1 of Southroads Mall Subdivision; thence Westerly and parallel to the Northerly line of said Lot 2 for a distance of 1266.91 feet to a point that is 50 feet East of the West line of said Section 22, said point also being 59 feet Northerly of the Northwest corner of said Lot 2 of Southroads Mall Subdivision; thence Northerly and parallel to the West line of said Section 22 for a distance of 104.24 feet to the Point of Beginning.

Case No. 16951

Action Requested:

Appeal the decision of the administrative official that the use is a Use Unit 17 and/or for a special exception to permit a Use Unit 17 (auto alarms and window tinting) in a CS zoned district - Use Unit 17, located east of the northeast corner of East 51st Street South and South Harvard Avenue.

Presentation:

The applicant, **Rod Smith**, 5424-B South Memorial Drive, Suite 2, submitted a plat of survey (Exhibit J-1) and informed that the building inspector has determined that the intended use is not permitted at the proposed location. He stated that the proposed business is the installation of car alarms and window tinting.

Comments and Questions:

Mr. Gardner advised that a music sound system could be installed in a car by right, and the proposed use is virtually the same process. He stated that a Code revision may be necessary in the future.

Case No. 16951 (continued)

Mr. Jackere advised that the Board should evaluate the use and determine its likeness to other uses under a specific use unit.

In response to Mr. Bolzle, Mr. Gardner advised that the use is similar to uses in Use Unit 14.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** the **Appeal** and **OVERTURN** the decision of the administrative official that the use (installation of auto alarms and window tinting) is a Use Unit 17; finding the use to be similar to those uses classified under Use Unit 14.

West 365' of Lot 1, Moreland Addition and a 1' strip on the west side in Section 28, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16952

Action Requested:

Special Exception to permit open air activities (bedding plants) - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 2, located 3308 East 51st Street.

Presentation:

The applicant, **C. J. Emerson**, 3309 East 51st Street, was represented by **Sieutang Tung**, 2424 Woodward Boulevard, who submitted a plot plan (Exhibit K-1) and requested permission to erect a 20' by 30' tent for the sale of bedding plants from April 1, 1995 to July 10, 1995.

Comments and Questions:

Mr. Doverspike asked if the existing garage is the only building on the tract, and Mr. Tung answered in the affirmative.

Mr. Bolzle asked if Mr. Emerson operates a rental truck business, and Mr. Tung stated that rental trucks are serviced at this location.

In reply to Mr. Bolzle, Mr. Tung stated that all trucks will be moved to the east of the building and the front parking spaces will be available for customers. He advised that the days and hours of operation will be seven days a week, 8:30 a.m. to 7 p.m.

Case No. 16952 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit open air activities (sale of bedding plants) - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 2; subject to the operation being limited to 120 consecutive days during 1995; with days and hours of operation being seven days a week, 8:30 a.m. to 7 p.m.; subject to parking spaces south and west of the tent being reserved for customers and employees only; finding the temporary use to be compatible with the area; on the following described property:

Beginning 100.55' north and 55.85' east, SW/c, SW/4, thence NE 279.02, south 77.15, east 25', south 25', west 300.22', north 50.55' to POB, Section 28, T-19-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16953

Action Requested:

Special exception to permit automobile sales in a CS District, and a variance of the all-weather surface requirement for parking - Use Unit 17, located 950 South 129th East Avenue.

Presentation:

The applicant, **John Sharp**, 12845 East 11th Street, informed that he has operated a car sales lot on the corner of 11th Street and 129th East Avenue for approximately five years and requested permission for the business to remain. Photographs (Exhibit L-1) were submitted. He stated that there is a retail business located on the north two-thirds of the tract.

Comments and Questions:

Mr. Doverspike asked if the lot is paved, and the applicant stated that the lot is asphalt, gravel and grass.

In reply to Mr. Doverspike, the applicant stated that he will display no more than 20 automobiles on the lot.

Mr. White inquired as to the hardship, and Mr. Sharp stated that there are other businesses in the area with gravel parking.

Mr. Doverspike asked the applicant to state the hours of operation, and Mr. Sharp informed that the hours of operation have been from 10 a.m. to 6 p.m., Monday through Saturday.

In reply to Mr. Doverspike, the applicant stated that repair work is not done at this location.

Interested Parties:

Neil Paulson, 950 South 129 East Avenue, stated that his wife operates a flower shop on a portion of the property, and the total frontage on 129th East Avenue is approximately 200'. He informed that he is the property owner and is supportive of the application. Mr. Paulson pointed out that there are numerous businesses in the area with gravel parking lots. He noted that the auction generates much more traffic than the car sales lot.

Protestants:

Steven Turney, 12835 East 11th Street, stated that he is not opposed to the car lot, but is not supportive of the cars being parked on the grass. He informed that the trucks bringing cars to the sales lot use his property for access and have ignored warnings to cease.

Applicant's Rebuttal:

Mr. Sharp requested that he be permitted to display 20 vehicles on the gravel area and operate Monday through Saturday, 10 a.m. to 6 p.m.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special exception** to permit automobile sales in a CS zoned area, and a **variance** of the all-weather surface requirement for parking - Use Unit 17; subject to the use being limited to the south one-third of the subject property (70'); subject to gravel parking being permitted for **one year only**; subject to days and hours of operation being Monday through Saturday, 10 a.m. to 6 p.m.; subject to the number of cars be limited to 20; and subject to no storage of inoperable vehicles or materials on the property; finding that there are numerous automotive related businesses in the area; and finding that approval of the application would not be detrimental to the area, or violate the spirit and intent of the Code; on the following described property:

South 70', South 155', east 215.23', NE/4, SE/4, SE/4, SE/4 and north 180', SE/4, SE/4, SE/4, SE/4, less west 130' and less east 58' for street, Section 5, T-19-E, R-14-E, City of Tulsa, Tulsa County, Oklahoma.

Additional Comments:

Mr. Jackere advised the applicant that the area where the cars are parked must be mowed and maintained during the one-year approval period.

Case No. 16954

Action Requested:

Special Exception to permit a tent revival in a CBD District annually for the years 1995, 1996 and 1997, and for a variance to permit parking on a lot other than the lot containing the principal use - Use Unit 2, located 105 West Easton.

Presentation:

The applicant, **Jeffrey Lewis**, 1725 South Date, Broken Arrow, Oklahoma, submitted a plot plan (Exhibit M-1) and stated that he has been a volunteer minister for the John 3:16 Mission for several years, and a tent revival has been previously approved by the Board. He asked that the revival be permitted to continue for the next five years.

Comments and Questions:

Mr. Doverspike asked if the size of the tent is the same as last year, and the applicant answered in the affirmative.

In reply to Mr. Doverspike, the applicant replied that two annual revivals are proposed, each of which will be two weeks. He added that the hours of operation will be from 7 p.m. to 10:30 p.m.

Protestants:

None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a tent revival in a CBD District annually for the years 1995, 1996 and 1997, and for a **variance** to permit parking on a lot other than the lot containing the principal use; per plan submitted; subject to the revival be conducted no more than four weeks each year, subject to hours of operation being 12 noon to 3 p.m. and 7 p.m. to 10:30 p.m. on Saturday, and Sunday through Friday, 7 p.m. to 10:30 p.m.; finding the temporary use to be compatible with the area; on the following described property:

Lot 3, Block 4, Original Townsite of Tulsa, Tulsa County, Oklahoma.

Case No. 16955

Action Requested:

Special Exception to eliminate the April 14, 1995 expiration date on the special exception granted for Use Unit 2 (convict pre-release center) - Use Unit 2, located 1214 South Baltimore.

Presentation:

The applicant, **Kevin Coutant**, 1214 South Baltimore, stated that he is representing 12 and 12, which is a convict pre-release center previously approved by the Board for three-years.. He informed that it was the intent of the organization to relocate; however, due to neighborhood opposition at the new location, the proposal was abandoned. Mr. Coutant stated that the three-year approval has expired. He explained that 12 and 12 has 35 residents, which are required to work and attend some type of rehabilitation program. He informed that the men are supervised and have a curfew. Mr. Coutant pointed out that the clients have not been convicted of violent or sexual crimes and have proved to be good neighbors (Exhibit N-1) at this location. He requested that the Board approve the request.

Comments and Questions:

Mr. Doverspike asked if an additional three-year approval would be acceptable, and Mr. Coutant pointed out that the use has proved to be compatible with the area and requested a permanent approval.

Mr. Doverspike stated that he finds the time limitation to serve as a way of monitoring the use. He pointed out that the operator of the center could change, and this new operator may not have the same standards as the current owner.

Mr. Bolzle noted that a transitional living center is operating at the previous location of 12 and 12, and there are two of these types of uses side by side. He pointed out that, at the time of the previous approval, both centers were under the same operators and the use in question was temporary.

Mr. Coutant stated that the lease on the 12 East 12th property expires on April 14, 1995.

Mr. Jackere advised that the previous spacing requirements applied primarily to those residential treatment centers and transitional living centers that were permitted by right in the downtown area; however, convict pre-release centers required the approval by special exception.

Interested Parties:

Jim Norton, president of Downtown Tulsa Unlimited and chairman of Planning District 1, stated that 12 and 12 provides a needed service in the area, and a time limit can be imposed on the use that would be acceptable to all interested parties. He pointed out that a limit of 35 beds was previously imposed and requested that this same condition be imposed again. Mr. Norton stated that District 1 could support the application with the same restrictions as previously imposed.

Case No. 16955 (continued)

Protestants:

Ann Brackett, 1009 South Main, stated that her family has been in business in the area for many years, and pointed out that the master plan designates this area as residential. She noted that the previous approval was given to allow the organization sufficient time to find permanent quarters for its program. Ms. Brackett pointed out that the new Avalon Center (285 beds) that was recently approved by the Board will adequately serve the downtown area. She requested that the use be denied.

Jim Brackett, 1009 South Main, commended the 12 and 12 operators, but suggested that the entire operation be moved to the Skyline East facility.

Letters of opposition (Exhibit N-2), a drawing depicting similar facilities (Exhibit N-3) and a location map (Exhibit N-4) were submitted.

Applicant's Rebuttal:

Mr. Coutant stated that all clients cannot be directed to the Avalon Center, because they do not offer services for the 12 and 12 residents. He stated that the use is not inconsistent with the Comprehensive Plan, because institutional facilities are listed as appropriate uses for the area. Mr. Coutant noted that the area is not designated for residential uses only.

In reply to Ms. Abbott, Mr. Jackere stated that anyone can use the property for the same purpose if the use is approved

Mr. Bolzle asked if both facilities were permitted to be used as pre-release centers, and Mr. Coutant answered in the affirmative.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-1-0 (Abbott, Doverspike, Turnbo, White, "aye"; Bolzle, "nay"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit the operation of a convict pre-release center for a period of 5 years from this date - Use Unit 2; subject to the number of beds (convict pre-release clients) being limited to 35; subject to a contract being signed with the Department of Corrections that will allow 12 and 12 to refuse admission to any individual being convicted of sex crimes, assault and battery or any violent criminal activities; finding that the use is currently in operation and is compatible with the area; on the following described property:

Case No. 16955 (continued)

South 35' Lot 1, all of Lot 2, Block 3, Oak Grove Addition, City of Tulsa, Tulsa County, Oklahoma.

Mr. Coutant asked if it was the intent of the Board that the extension of the special exception for five years was without prejudice to 12 and 12's ability to seek a further extension prior to the expiration of the five-year term, and Mr. Doverspike answered in the affirmative.

Case No. 16956

Action Requested:

Special Exception to permit experimentation and testing of RF Telemetry Digital Seismic Recording Systems - **SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 24, located 16101-16811 East 31st Street.

Presentation:

The applicant, **RASH Investments**, 7700 East 38th Street, was represented by **Steve Schuller**, who informed that the proposed use has been classified under Use Unit 24 by the building inspector, which is permitted in an AG zoned district by special exception, but is not permitted in a residential district. He informed that the eastern part of the tract is zoned AG, and AG zoning is pending on the western portion. Mr. Schuller explained that the use consists of drilling a small hole and inserting dynamite to be discharged for testing purposes. He stated that a vibrator truck is also used for testing. Mr. Schuller informed that days and hours of operation will be Monday through Friday, 8 a.m. to 6 p.m., and the testing will not be conducted within 300' of exterior property lines.

Comments and Questions:

Mr. Doverspike asked if the use will be 300' from the residential property line, and Mr. Schuller answered in the affirmative.

Mr. Doverspike asked if the soil of the RM-1 District will be affected in any way by the testing, and Mr. Schuller replied that any test would not be detectable at this distance.

Ken Rigdon, 7700 East 38th Street, stated that he manufactures geophysical acquisition equipment for oil exploration and the testing involves a 10 to 20 pound charge of dynamite approximately 200' deep; however, he will be using a one-eighth to one-quarter pound charge at a 10' to 15' depth. He noted that the detonation would not be detected 300' away.

Mr. Doverspike inquired as to the number of charges set off each day, and Mr. Rigdon stated that during a testing phase (10 to 20 days each year) a charge would go off once every hour. He stated that the vibrator truck is the main energy source.

Case No. 16956 (continued)

Mr. Jackere inquired as to other uses on the property, and Mr. Rigdon stated that other testing is done at this location. He stated that there will be no construction on the property and only one hole is used for testing. Mr. Rigdon stated that one truck and three or four people are used in the testing.

In reply to Mr. White, Mr. Rigdon stated that the previous owner operated a horse ranch on the property. Mr. White noted that the area is very remote, and the abutting residential property is not developed.

Protestants:

None.

Board Action:

On **MOTION** of **WHITE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit experimentation and testing of RF Telemetry Digital Seismic Recording Systems for **5 years only - SECTION 301. PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICTS** - Use Unit 24; subject to City Council approval of AG zoning on the RM-1 zoned portion; subject to days and hours of operation being Monday through Friday, 8 a.m. to 6 p.m.; subject to a maximum dynamite charge of one-quarter pound, being detonated no more than once per hour, subject to the test site being 300' or more from abutting boundary lines; finding that the area is sparsely developed and approval of the request, per conditions, will not be detrimental to surrounding properties, or violate the spirit and intent of the Code; on the following described property:

S/2, SW/4 of Section 14, T-19-N, R-14-E, less a 100' by 100' parcel located 500' north and 70' east of the SW/c thereof, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16957

Action Requested:

Special Exception to permit Use Unit 17 in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17, located 1929 East Pine.

Presentation:

The applicant, **Mickey Cheatham**, 405 South Wheeling, submitted photographs (Exhibit P-1) and a plot plan (Exhibit P-2), and requested permission to add a 30' b' 30' garage on an existing slab. He informed that the tire sales business has been at this location for approximately 15 years.

Case No. 16957 (continued)

Protestants:

None.

Board Action:

On **MOTION** of **ABBOTT**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a Special Exception to permit Use Unit 17 (tire sales business) in a CS zoned district - **SECTION 701. PRINCIPAL USES PERMITTED IN THE COMMERCIAL DISTRICTS** - Use Unit 17; per plan submitted; finding that the tire sales business has been at this location for 15 years and is compatible with the surrounding uses; on the following described property:

South 50' of east 100' of Lot 12 and the East 100' of Lot 13, Block 3, Kinloch Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16958

Action Requested:

Variance of the number of required parking spaces and a variance to permit parking on a lot other than the lot with the principal use - **Section 1208.D. OFF-STREET PARKING AND LOADING REQUIREMENTS** - Use Unit 8, located 1612 East 15th Street.

Comments and Questions:

Mr. Jones informed that the applicant's check for the fees was returned for insufficient funds, and it is INCOG policy that a cashier's check be required for payment. He stated that the Board should determine if the business check supplied by the applicant is adequate.

Mr. Dean stated that the check was prepared by the credit union and, although it is not called a cashier's check, it is a bank draft and essentially the same.

Mr. Jones further advised that the INCOG office received a call from the owner of the abutting lot to the south (Lot 14) and the applicant does not have permission to park on this lot.

Mr. White stated that the application only involves the east 40' of Lots 15 and 16, and the case map is in error.

Case No. 16958 (continued)

Presentation:

The applicant, **Ronald Dean**, 1335 South Harvard, submitted a plot plan (Exhibit R-1) stated that he is proposing to renovate the apartment building and the building permit was denied, due to the lack of required parking. He informed that parking is available on a lot across the street.

Comments and Questions:

Mr. Jackere inquired as to the number of required parking spaces, and the applicant stated that 16 spaces are required and 8 will be available.

Mr. White asked if three designated parking spaces are in the alley, and the applicant answered in the affirmative.

In reply to Ms. Turnbo, the applicant stated that the garage is accessed from the alley.

Protestants:

Bob Bernard, stated that his property is to the south of the subject property. He advised that parking in the alley has been a problem and delivery trucks were unable to travel in that area. Mr. Bernard stated that he does not use the alley to access his parking lot. He asked that adequate parking be provided for the use.

Bruce Schultz, 1602 East 15th Street, stated that he is not opposed to the business, but requested that the variance of the required parking be denied.

Applicant's Rebuttal:

The applicant submitted a sales origin analysis (Exhibit R-2) and noted that he had only 1100 walk-in customers in one year. He requested that the nature of his business be considered when determining parking, and pointed out that 95% of his business is conducted over the phone.

Additional Comments:

Mr. White noted that the 3600 sq ft building has only four parking spaces, and a hardship has not been presented.

Ms. Abbott pointed out that an apartment building could be operated by right at this location.

After discussion, it was the consensus of the Board that the case should be continued to permit the applicant to secure additional parking.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo White, "aye"; no "nays"; no "abstentions"; none "absent") to **CONTINUE** Case No. 16958 to March 14, 1995.

Case No. 16965

Action Requested:

Appeal the decision of the administrative official that the use is a Use Unit 11 (day care) instead of Use Unit 2 (school) and for a special exception to permit a head start in an RM-O District - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 2, located northwest corner of East Admiral Court and North 123rd East Avenue.

Presentation:

The applicant, **Tulsa County Head Start**, was represented by **Sylvia Wilson**, 3348 North Garrison Place, who informed that she is the education coordinator for the Tulsa County Head Start Program. She stated that head start programs are proposed in apartment complexes at three locations. A lesson plan (Exhibit S-2) and a letter of support (Exhibit S-2) were submitted. She informed that the reason for Board approval is the fact that the use is in an apartment complex and not in a school.

Ms. Johnson, 6723 East 99th Street South, stated that they are here to show that developmental curriculum is used and that this is not a day care operation.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** an **Appeal** of the decision of the administrative official that the use is a Use Unit 11 (day care) instead of Use Unit 2 (school) and to **APPROVE** a **special exception** to permit a head start in an RM-O District - **SECTION 1605. APPEALS FROM AN ADMINISTRATIVE OFFICIAL** - Use Unit 2; finding that developmental curriculum is used in teaching; and finding the use to be a school and a Use Unit 2 use; on the following described property:

Lot 1, Block 1, East Central Park, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16966

Action Requested:

Special Exception to permit a head start program in an RM-1 District - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 11, located 1663 West 59th Street.

Case No. 16966 (continued)

Presentation:

The applicant, **Tulsa Community Action**, was represented by **Sylvia Wilson**, 3348 North Garrison Place, who informed that she is the education coordinator for the Tulsa County Head Start Program. She stated that head start programs are proposed in apartment complexes at three locations. She informed that the reason for Board approval is the fact that the use is in an apartment complex and not in a school.

Ms. Johnson, 6723 East 99th Street South, stated that they are here to show that developmental curriculum is used and that this is not a day care operation.

Protestants:

None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a head start program in an RM-1 District - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 11; finding that developmental curriculum is used in teaching; and finding the use to be compatible with the residential neighborhood; on the following described property:

Lot 2, Block 2, Parkview Terrace, City of Tulsa, Tulsa County, Oklahoma.

Case No. 16967

Action Requested:

Special Exception to permit a head start program in an RM-1 District - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 11, located 6102 West 11th Street.

Presentation:

The applicant, **Tulsa Community Action**, was represented by **Sylvia Wilson**, 3348 North Garrison Place, who informed that she is the education coordinator for the Tulsa County Head Start Program. She stated that head start programs are proposed in apartment complexes at three locations. She informed that the reason for Board approval is the fact that the use is in an apartment complex and not in a school.

Ms. Johnson, 6723 East 99th Street South, stated that they are here to show that developmental curriculum is used and that this is not a day care operation.

Protestants:

None.

Case No. 16967 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a **Special Exception** to permit a head start program in an RM-1 District - **SECTION 401. PRINCIPAL USES PERMITTED IN THE RESIDENTIAL DISTRICTS** - Use Unit 11; finding that developmental curriculum is used in teaching; and finding the use to be compatible with the residential neighborhood; on the following described property:

Lot 1, Block 1, Sandy Park, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 16938

Action Requested:

The applicant, **Larry Jenkins**, 9202 South Darlington, requests a refund of fees.

Comments and Questions:

Mr. Jones stated that this case was scheduled for hearing on February 14, 1995, and it was determined by the Board at that time that rezoning would be more appropriate and that fees paid for the Board application should be refunded and applied to the zoning application.

Board Action:

On **MOTION** of **BOLZLE** the Board voted 5-0-0 (Abbott, Bolzle, Doverspike, Turnbo, White, "aye"; no "nays"; no "abstentions"; none "absent") to **APPROVE** a refund of fees in the amount of \$232.00.

There being no further business, the meeting was adjourned at 7:15 p.m.

Date Approved March 14, 1995


Chairman

