

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 720
Tuesday, February 11, 1997, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bolzle	Abbott, Chair	Gardner	Ballentine, Code
Dunham		Beach	Enforcement
Turnbo		Huntsinger	Parnell, Code
White		Matthews	Enforcement
			Romig, Legal
			Department

The notice and agenda of said meeting were posted in the Office of the City Clerk on Friday, February 7, 1997, at 1:32 p.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Vice Chair White called the meeting to order at 1:00 p.m.

MINUTES:

On **MOTION** of **BOLZLE**, the Board voted 3-0-1 (Bolzle, Dunham, White, "aye"; no "nays" Turnbo "abstention"; Abbott "absent") to **APPROVE** the minutes of January 14, 1997 (No. 718).

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** the minutes of January 28, 1997 (719).

UNFINISHED BUSINESS

Case No. 17580

Action Requested:

Special Exception to allow a bar in an IL district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** and a Variance of off-street loading and parking requirements for a bar. **SECTION 1212a.D. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS;** Off-Street Parking and Loading Requirements, located 25 North Cheyenne Avenue.

Presentation:

The applicant, **Andi Bahlinger**, represented by Milton L. Jones, 1341 East 45th Street, submitted a site plan (Exhibit A-1) and stated he is asking for a variance on parking to establish a club at the corner of Cheyenne and Archer. Mr. Jones explained that all of the buildings in the area are built to the property line and therefore there is no way to conform with the parking requirements of the Code. Mr. Jones reported that he has signed an agreement with Mr. Norton of Downtown Tulsa Unlimited ("DTU") to lease parking from DTU directly across the street in a large parking lot, which is served by the Brady Theater. Mr. Jones stated he is agreeable to meeting all of the other zoning requirements and is only asking for the parking variance.

Interested Parties:

Jim Norton/Downtown Tulsa Unlimited ("DTU"), 320 South Boston, Suite 101, stated he would like to enter a copy of the letter of agreement (Exhibit A-2) with AAA Vending that allows the use of parking spaces directly across Archer Street. Mr. Norton pointed out that DTU has conditioned the continued use of the parking spaces. He detailed the conditions as follows: there is to be no trash or broken bottles on the lot and, at DTU's discretion, the patrons of 25 North Cheyenne are not to be a nuisance to the neighborhood. Mr. Norton commented that he believes that Mr. Jones and his business partners will honor the agreement and will operate the facility in a manner that DTU can support.

Comments and Questions:

Ms. Turnbo asked the applicant if he has designated a staff member or hired someone who will go out at closing and clean up the parking lot? Mr. Jones answered affirmatively.

In response to Mr. Dunham, Mr. Jones stated the parking contract is for 3 years.

Mr. Romig informed the Board that they could make the motion subject to the parking lease staying in effect.

In response to Mr. Bolzle, Mr. Jones stated the days and hours of operation will be Monday through Saturday, 11:00 a.m. to 2:00 a.m.

Case No. 17580 (continued)

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Special Exception** to allow a bar in an IL district. **SECTION 901. PRINCIPAL USES PERMITTED IN INDUSTRIAL DISTRICTS** and a **Variance** of off-street loading and parking requirements for a bar. **SECTION 1212a.D. USE UNIT 12a. ADULT ENTERTAINMENT ESTABLISHMENTS**; Off-Street Parking and Loading Requirements; subject to days and hours of operation being Monday through Saturday, 11:00 a.m. to 2:00 a.m.; subject to the continued availability of parking on the adjacent Boulder and Brady parking facility (DTU Lot No. 30) per attached agreement; finding that the buildings in this area are built to the property line and cannot conform to the parking requirements of the Code; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

N 5' of Lot 6, all of Lot 7, Block 61, Tulsa Original Townsite, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17602

Action Requested:

Special Exception to waive the screening requirements along an expressway zoned RS-3 **SECTION 212.C. SCREENING WALL OR FENCE** - Use Unit 17, located 8561 East Admiral Place.

Presentation:

The applicant, **Steve J. Melton**, not present.

Comments and Questions:

Mr. Beach reminded the Board that this Case has already been heard and approved for car sales, but at the hearing it was determined that the applicant also needed relief of the screening from the R district.

Mr. Bolzle stated the Board is waiving the screening fence because the R district is the freeway.

Case No. 17602 (continued)

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolze, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Special Exception** to waive the screening requirements along an expressway zoned RS-3 **SECTION 212.C. SCREENING WALL OR FENCE** - Use Unit 17; per plan submitted; finding that the R district is an expressway and screening is not needed; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Part Lots 20 & 21, Beg. SE/c, Lot 21, thence N 138.45, SW 162.51, S 76.73, E 150, POB Less Beg. SE/c, Lot 21, thence N 18.6, W 150, S 18.7, E 150, POB, Block 7, Mingo Terrace, City of Tulsa, Tulsa County, Oklahoma.

NEW APPLICATIONS

Case No. 17562a

Action Requested:

Variance of the required side yards from 10' & 5' to 6.5' & 4.8' to permit expansion of existing residence & to permit existing encroachments. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6, located 2534 South Birmingham Place.

Comments and Questions:

Mr. Beach advised the Board that this case was heard on November 12, 1996, and the Board approved the request. He explained that it was later determined that staff made an error in the advertising and not all of the parties within the 300' abutting properties were notified. He informed the Board that the request has been re-advertised and the case is once again before the Board.

Presentation:

The applicant, **Sherri M. Duvall**, represented by Robert A. Huffman, Jr., 5100 East Skelly Drive, Suite 645, stated he represents the homeowners, the Johnsons. He announced that Kathleen Page, the Architect on the project, will explain the application. Mr. Huffman commented he would like to reserve the right to address any legal arguments that may be brought up by the protester.

Kathleen Page, of Page & Zabrowski Architects, representing the owners of the property, stated that early in November this application came before the Board for a variance for the property at 2534 South Birmingham Place. She explained that the subject property is a one story residence that was built in 1939, prior to the City establishing the current side yard setbacks. She stated that when she was asked to look at adding on and improving this property it was noted that the existing structure did not meet current City of Tulsa setback requirements. The south side of the property where the setbacks should have been 10' the survey distance was 6.5' and on the north property line where the required setback should have been 5' the survey distance was 4.8'. She explained that she requested a variance for both the existing structure, to bring into compliance, and the north property line to extend the garage both to the east and to the west along the line of the existing garage. Ms. Page indicated the front elevation replicates what was existing before the garage was moved forward and the structure to the west is one story, which is based on the variance received in November 1996. She stated after receiving the variance in November she proceeded with design and construction. Ms. Page submitted photographs (Exhibit B-4) and elevation plans (Exhibit B-2).

Comments and Questions:

Mr. Dunham asked the applicant if the addition is actually on the north end of the property? Mr. Gardner stated the addition is on both the east and west sides of the garage (north side).

In response to Mr. Dunham, Ms. Page stated the addition extends to the east and the west along the north property line.

Protestants:

Steve Schuller, 320 South Boston, representing Dan and Kathy Keating, stated the Keatings live next door to the subject property. Mr. Schuller expressed concerns regarding the variance request on the north side of the subject property. Mr. Schuller read the Zoning Code requirements for the Board to grant a variance. Mr. Schuller affirmed that the subject property has no exceptional narrowness because it is 100' wide and there is no exceptional shallowness because the property is 140' deep. He explained that there is no exceptional shape because the property is rectangular, which comprises almost a 1/3 of an acre. Mr. Schuller stated the subject property has no exceptional topography because it is generally flat and somewhat sloping. Mr. Schuller further stated the subject property does not have any other exceptional or extraordinary condition or circumstance (peculiar to this property) to justify the granting of a variance. Mr. Schuller explained to the Board that the subject property does have an encroachment into the side yard setback and came to the Board to expand the encroachment by doubling the size of the encroachment. He argued that the applicant came before the Board in November without a hardship, no notice was given to the neighbors or his clients. He cited that his clients did not find out about the

grant of the variance until after the owners of the property commenced construction. Mr. Schuller stated that when the problem was discovered he talked with Kathleen Page and informed her the variance was therefore void under the law. He informed the Board that they kept on building the encroaching structure as fast as possible. He stated they worked weekends to finish the structure as much as possible before anyone could halt construction. Mr. Schuller explained that they wanted to enlarge an encroaching structure and they cited the existing structure to this Board for the granting of the variance, but then they tore the existing building down. He further explained that they did leave the foundation, but built an entirely new garage and addition on the existing concrete base. Mr. Schuller stated he was told that the new garage could not be moved over, out of the side yard setback, because of the existing base and then two weekends ago they tore the base out. Mr. Schuller commented he did not know how slight the encroachment really is and when he sent a surveyor over to measure the encroachment, he was run off. Mr. Schuller read INCOG's instructions regarding notice requirements. He described the hardship as a self-imposed hardship and the structure causes substantial injury or detriment to the Keating's property. He requested the Board to deny this variance.

Dan Keating, 2522 South Birmingham Place, submitted letters of protest (Exhibit B-3) and stated the issue before the Board today is really that everyone has to follow the law. He further stated the Johnsons did not follow the law and compliance with the law was not followed through proper notification of the neighbors. Mr. Keating feels that the proposed addition will have a significant detrimental impact on his home. After having a real estate agent look at the new addition, Mr. Keating estimated that he would lose \$20,000 to \$30,000 because of the encroachment. Mr. Keating stated he is not asking the Board to make the Johnsons cut the addition in half, but the plans do need to be modified. Mr. Keating requested the Board to deny this variance.

Applicant's Rebuttal:

Robert Huffman stated that this is an unfortunate situation, but the Johnsons have done everything they were required to do to build this addition. He explained the application came before the Board in November, 1996, and was granted a variance. He stated they began construction and it is first class construction designed by an architect, which was built by a reputable construction company. He related the addition was designed to enhance the subject property value and to be in harmony with the surrounding homes. He stated the owners did not build an addition that would de-value their own property or the neighbors property. Mr. Huffman expressed the unique situation and unnecessary hardship is that the house was built in 1939 before the Zoning Code was enacted. He described the house as having a setback encroachment on the southside as well as the north side. He stated that if the Zoning Code is strictly enforced the house cannot exist on this lot. Mr. Huffman commented that this type of hardship is what this Board has the ability to remedy. He further commented that substantial justice will not be served by forcing the Johnsons to bear

the expense of removing these encroachments (2 1/2 inches brick veneer). Mr. Huffman stated the Johnsons are operating under what they believed to be a valid variance. Mr. Huffman explained that the relief requested for the north side is 2'-4". He stated that there is no way that the requested relief for the north side can cause the harm to Mr. Keating that he claims. Mr. Huffman explained that there was a hearing before the District Court on the Keating's temporary injunction. He informed the Board that the real estate agent who claimed the potential loss Mr. Keating is stating was not presented and he could not be cross examined so this is not evidence, but merely an opinion. He stated Ms. Page can show the Board that what the Johnsons did build is well within the allowed size of the addition and in fact their addition can be somewhere twice the size of what it is currently.

Ms. Page indicated on a site plan the setbacks for the City of Tulsa and how the proposed addition could have been built to a two story height versus the one story height.

Comments and Questions:

Mr. Bolzle asked Ms. Page if she knew how far Mr. Keating's house sits from his south property line? Mr. Huffman stated that he does know that the fence separating the Keating and Johnson property is approximately 7'-4" from the Johnson's addition. Mr. Huffman evaluated the Keating property is maybe 10' from the fence line.

Mr. Schuller stated he had some photographs that might show how far away the house is from the fence and the existing construction of the new addition on the Johnson's home.

Mr. Schuller stated the Keating home is approximately 6' from the property line.

Mr. Dunham asked if he is correct in understanding that the existing garage was torn down and has been replaced with a new structure? Mr. Huffman answered negatively. He stated that during construction it was determined that parts of the wall was rotted out due to a water leak. He further stated that the stem wall and foundation remain from the original structure.

Mr. White asked Mr. Huffman if the north side of the former garage is still present, as far as the foundation and stem wall is concerned? He answered affirmatively.

Mr. Dunham stated he was under the impression from Mr. Schuller that the old structure had been removed and replaced with a new structure.

Ms. Page stated that anything that was concrete is still existing, however the wood framing was rotting and therefore all of the wood framing was removed.

Ms. Turnbo asked Mr. Huffman how the mix-up on notifying the neighbors occurred? Mr. Huffman stated that INCOG, for a fee of approximately \$300.00, will notify the proper people.

Ms. Turnbo asked Mr. Huffman if the applicant is suppose to supply the names and address of the people? Mr. Huffman answered negatively.

Mr. Beach stated that the notification fees were \$103.00 in this case. Mr. Beach explained that the applicant is generally regarded to be responsible for the names and addresses, but they have the opportunity to pay and assign INCOG that task. Mr. Beach commented that in this particular case it was a staff error that the proper notices were not sent to some of the neighbors within the 300' range.

Ms. Turnbo stated the house was built in 1939 and is non-conforming as to today's Codes. She further stated the homeowner would have to tear down part of the house on the other side to meet the Code and the applicant had no livability problems that had to have a variance.

Mr. Bolzle stated that it looks like there is adequate spacing between the two structures.

Mr. Gardner stated the ordinance is not specific as to which side should be 5' and which side should be 10'. He explained that this application is simply a variance from a 5' requirement to a 4.8" setback to align with the existing structure. He further explained that the 6'-5" is non-conforming and nothing is changing on this side. He commented the only issue is the north boundary from 5' to 4.8'.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Variance** of the required side yards from 10' & 5' to 6.5' & 4.8' to permit expansion of existing residence & to permit existing encroachments. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; per plan submitted; finding the house was built in 1939 before the current regulations were adopted and the new addition is not going closer than the existing structure; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

S/2, Lot 5, N 63.5', Lot 6, Block 2, Peragen Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17629

Action Requested:

Variance of the front setback from 35' to 30' for all lots in the proposed subdivision.

SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS - Use Unit 6, located 116th and South Hudson.

Presentation:

The applicant, **Greg Breedlove**, represented by Jeff Levinson, 35 East 18th Street, stated he is representing Forest Hills Land Company, L.L.C. Mr. Levinson stated his client is asking for a reduction on the front setback line from 35' to 30' in a proposed RS-1 subdivision, which is now in the final platting process. He detailed steep grades and topography as the reason for the relief. Mr. Levinson explained that during the street grades it was discovered that many of the grades are in the 14% range and some of the lots that will be effected have grades up to 20%. He pointed out that even though the application appears to request a variance, the client is eligible to apply for a special exception since he is seeking a 5' reduction in the front setback. He requested that this application be considered as a special exception. He informed the Board that this is a contiguous tract to Hampton Oaks and the Board granted a similar relief for that tract. Mr. Levinson stated that the subject property will be a subdivision with large lots and consists of approximately 28 acres with 41 lots planned.

Comments and Questions:

Mr. White stated he did not have any problem with this request since the Board ruled on the Hampton Oaks to the south of the subject property with the same type of relief.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 3-1-0 (Dunham, Turnbo, White, "aye"; Bolzle "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Special Exception** of the front setback from 35' to 30' for all lots in proposed subdivision. **SECTION 403. BULK AND AREA REQUIREMENTS IN THE RESIDENTIAL DISTRICTS** - Use Unit 6; finding that the relief of 5' can be granted under a special exception; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Part of the NE/4, SW/4, Sec. 34, T-18-N, R-13-E, I.B.M., Tulsa County, Oklahoma according to the U.S. Government Survey thereof more particularly described as follows: Beg. at the SE/c of said NE/4, SW/4; thence N89°52'09"W along the S line for 1154.77' to a point on the E line of Hunter's Hills addition to the City of Tulsa, Tulsa County, Oklahoma; thence N00°05'48"E for 1320.67' to the NE/c; thence S89°53'15"E along the N line for 199.75'; thence S11°53'15"E for 76.68'; thence S89°53'15"E for 150'; thence N14°22'13"E for 77.38'; thence S89°53'15"E for 428.89'; thence S 827.95'; thence S14°22'32"E for 167.68'; thence S89°47'34"E for 298.37'; thence S00°11'26"W for 330.25' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17630

Action Requested:

Special Exception to allow special events to be held in Hunter Park. **SECTIONS 301 PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** and a Variance to allow parking in grassy areas during this event. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 2, located 5804 East 91st Street South.

Presentation:

The applicant, **Ross Weller/City of Tulsa Parks and Recreation**, 1710 Charles Page Boulevard, submitted a site plan (Exhibit C-1) and a permit application (Exhibit C-2). Mr. Weller stated the special event is for Corporate Challenge. He explained the event is a clinic in preparation for the Corporate Challenge and this is the first time for the event to be held in Hunter Park. Mr. Weller gave a detailed listing of events that will be taking place for this one day event. He stated the clinic expects approximately 1200 people to attend this event. Mr. Weller informed the Board that he expects parking up close to Sheridan between the fire station and the main park entrance, therefore there will be three (3) police officers throughout the entire event to direct traffic. Mr. Weller explained that the park will be opened to the public, however the special event is specifically for Corporate Challenge Coaches and their families.

Protestants:

Jane Montero, 9029 South Joplin, representing the Woodhill Estates Homeowner's Association, stated the Homeowner's Association has concerns with 91st Street because it is still a farm to market road and is heavily traveled. Ms. Montero explained that there are frequent accidents on 91st Street and recently two cars have landed in the creek bed, which is across the street from Hunter Park. Ms. Montero expressed concerns regarding parking on the grass and the number of people attending the special event. She indicated that the park would not be able to accommodate the number of people the special event is expecting. Ms. Montero stated that other concerns deal with over flow parking in the neighborhood, cleaning up after the event and damage repair to the common property. Ms. Montero concluded that the Homeowner's Association does not feel that Hunter Park has the facilities to handle this special event.

Interested Parties:

Jeannie McDaniel, Office for Neighborhoods, representing James Smith/Corporate Challenge, stated that this is a first time event that has never been held before. She explained that this is not a competitive event. She reiterated that there will be three (3) police officers on 91st Street throughout the event to control traffic and the DuCat Services, Inc. has been hired to assist in parking. Ms. McDaniel stated that if any damage is done along Woodhill Estates, it will be restored to its original integrity and she will give the neighborhoods Mr. James Smith's phone number to contact if damage does occur. She explained that Hunter Park was chosen for this event

Case No. 17630 (continued)

because of the Creek Turnpike Trail and to introduce the trail to more bicyclist. Ms. McDaniel stated that since this is the first time for this event she really does not know how many people to expect. Ms. McDaniel state she anticipates the hours of operation to begin at 6:45 a.m. to 5:00 p.m. and the event will not go into the night. Ms. McDaniel reiterated that this will be a one day event.

Comments and Questions:

Ms. Turnbo asked Mr. Weller if there will be a clean-up crew to make sure the park is cleaned and across the street? Mr. Weller stated that it is his understanding that the Corporate Challenge sponsors will be responsible for the clean-up.

Ms. Turnbo asked Mr. Weller if the three officers will be present from 6:45 a.m. to 5:00 p.m.? He stated he anticipates that the officers will be present throughout the entire event.

Mr. White asked Mr. Weller if the special event is for Friday and Saturday? He stated the special event is for Saturday only, March 8, 1997.

Mr. White asked Mr. Weller if Sunday will be a rain day? He answered affirmatively.

Board Action:

On **MOTION** of **DUNHAM**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Special Exception** to allow a special event to be held in Hunter Park. **SECTIONS 301 PRINCIPAL USES PERMITTED IN THE AGRICULTURE DISTRICT** and a **Variance** to allow parking in grassy areas during this event. **SECTION 1303.D. DESIGN STANDARDS FOR OFF-STREET PARKING AREAS** - Use Unit 2; per plan submitted; subject to three Tulsa Police Officers being present to direct traffic; subject to a clean-up crew; subject to Saturday March 8, 1997 or a rain day for March 9, 1997; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

W 2', NE, Sec. 22, T-18-N, R-13-E, I.B.M., City of Tulsa, Tulsa County, Oklahoma.

Case No. 17631

Action Requested:

Variance of the required 100' setback to 97'. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 17 and a Variance of Chapter 10 Landscape Requirements to waive required landscaping. **CHAPTER 10; LANDSCAPE REQUIREMENTS**, located 5915 East Admiral.

Presentation:

The applicant, **Jack LaFevers**, 3215 East 69th Street, submitted a site plan (Exhibit D-1) and stated he owns two lots on 5907 and 5915 East Admiral Place between Yale and Sheridan. He described the lots as being 270' deep and 100' in width for a total of 200' with the two lots. He explained that twelve (12) years ago he built a building on the Lot at 5709 East Admiral Place with a front on the property line. He proposes to build another building as a mirror image of the existing building. He explained that the request for a variance on the depth unnecessary because he will actually be setting back 152'. Mr. LaFevers stated that the new building will match up with the existing building regarding to elevations and the frontage.

Comments and Questions:

Ms. Turnbo asked the applicant why he did not want to landscape the area? Mr. LaFevers explained that the zoning in the subject area is IL and the majority of the tenants are automotive repair, maintenance, detail and painting. He submitted photographs (Exhibit D-2) and stated the pictures indicate that there is no landscaping on Admiral in this area.

Mr. White reiterated that there is no landscaping along the north side of Admiral Place in the subject area.

Protestants: None.

Board Action:

On **MOTION** of **TURNBO**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Variance** of the required 100' setback to 97'. **SECTION 903. BULK AND AREA REQUIREMENTS IN THE INDUSTRIAL DISTRICTS** - Use Unit 17 and a **Variance** of Chapter 10 Landscape Requirements to waive required landscaping. **CHAPTER 10; LANDSCAPE REQUIREMENTS**; per plan submitted; subject to the new building being in line with the front face of the adjoining building to the west; finding that this area is void of landscaping and that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

Lot 9, Block 1, Greenlawn Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 17632

Action Requested:

Special Exception to allow a greenhouse retail sales in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15, located 4516 East 31st Street South.

Presentation:

The applicant, **Alejandro Portillo**, 3509 East 47th Place, submitted a plat of survey (Exhibit E-1) and a site plan (Exhibit E-2). Mr. Portillo requested permission to open a retail flower shop. He explained he has been in business for five (5) years but his current shop location has been sold to a library. He stated he would like to relocate to the subject property and open a retail flower shop.

Protestants: None.

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Special Exception** to allow a greenhouse retail sales in a CS district. **SECTION 701. PRINCIPAL USES PERMITTED IN COMMERCIAL DISTRICTS** - Use Unit 15; per plan submitted as modified by the applicant during the hearing; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

A tract of land in the NW/4, NE/4, NE/4, Sec. 21, T-19-N, R-13-E, I.B.M., Tulsa County, Oklahoma, according to the United States Government Survey thereof, being more particularly described as follows, to wit: Commencing at the NW/c, NW/4, NE/4, NE/4, of said Sec. 21; thence due E. for 305.00'; thence S0°07'40"E for 50.00' to the POB; thence due E and parallel with the N line of Sec. 21 for 125.00'; thence S0°07'40"E, along the W right-of-away line of South Urbana Avenue for 175.00'; thence due W 125.00'; thence N0°07'40"W for 175.00' to the POB, City of Tulsa, Tulsa County, Oklahoma.

Additional Comments:

Mr. Beach informed the Board that the next two items on the Agenda are presented as separate applications but in fact are dealing with two adjacent sites that will be combined to include a public school and a public park. Mr. Beach asked the Board's permission to hear both cases at the same time since there will be similar interested parties, issues, etc.

Mr. White stated that hearing both cases at the same time will be fine if Mr. Romig, Legal Department, will allow Ms. Turnbo to abstain from the school application and vote on the park application.

Mr. Romig stated that there is no problem with Ms. Turnbo abstaining from the school application and voting on the park application.

Case No. 17633

Action Requested:

Special Exception to permit school use in an RM-2 district. **SECTION 401.**

PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS - Use Unit 2, located North of 5th Place and Birmingham Avenue.

AND

Case No. 17634

Action Requested:

Special Exception to permit park use in an RM-2 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, located NW/c of 5th Place & Columbia Avenue.

Presentation:

The applicant, **Greg Warren/City of Tulsa**, represented by Brenda Miller, Director of the Urban Development Department, submitted a site plan for the school (Exhibit F-1) and a site plan for the park (Exhibit G-1). Ms. Miller stated the purpose of this application is to seek approval of a special exception to the Zoning Code in order to implement the Kendall/Whittier Neighborhood Master Plan and the Kendall/Whittier Neighborhood Urban Renewal Plan. She explained that the plans have been developed in cooperation between the City and the residents to construct a new elementary school (to replace existing Kendall and Whittier Schools) and to construct a new park replacing Reed Park in association with the new school. Ms. Miller stated that in preparation of this hearing owners of property within the school/park site were surveyed as part of the Kendall/Whittier Neighborhood Urban Renewal Plan. Ms. Miller indicated that the owners of property within the school/park site was contacted prior to this hearing, by letters from the Tulsa Development Authority ("TDA"), informing the property owners of this application process and asked that they call if they had any questions. Ms. Miller stated that owners of property within the 300' exterior boundary of the school/park site were also notified by mail of the application and asked to call if they had any questions. She further stated that it is important to remember that only the property that is currently owned by the TDA will be utilized for construction for the school and park. Currently all parcels in the school site have either been acquired or are under negotiations to be acquired. She indicated that over half of the parcels located within the park site have been acquired. Ms. Miller stated that as funds become available the remainder of the park site will be acquired. She commented that the new replacement elementary school is the most important aspect of the project at this point and the construction for the new school was funded in the recently approved school bond issue. Ms. Miller indicated that if the special exception is granted she understands that the approval applies to the site, the City and Tulsa Public Schools ("TPS") for the purposes requested and granted. Ms. Miller further indicated the approval cannot be transferred to another owner. Ms. Miller stated that

the zoning of the property is not being changed and residential uses presently existing upon some of the property within the site will be changed. She explained that only upon the acquisition of the property will the City seek to utilize the property for park purposes or the school system for a new elementary school. She stated the TDA has requested that the platting requirement be waived in lieu of a site plan. Ms. Miller set forth that they would like to be allowed to construct the new elementary school and a new public park within the area defined by the application. She stated that TDA's role in this application has been to coordinate the activities and acquire/assemble the new site for the school/park. Ms. Miller indicated that the TPS will actually construct the new school based upon a designed effort that has involved many of the local residents, as well as, the TPS staff and consultants. She stated the new City Park will be constructed by the City utilizing designed details and consideration of both City staff and consultants.

Dr. Thompson, Superintendent of Tulsa Public Schools, stated that this is the first time in 30 years that TPS has designed and built an educational arena. He explained this project has been a joint effort by TDA, TPS, TU and the City of Tulsa. He indicated the proposed school will serve as a community school, which will be utilized almost seven (7) days a week and all year round. Mr. Thompson stated there will be several community facilities that can be used by the community. He commented the important issue regarding this application is that TPS will be able to remove approximately 1000 students from dilapidated buildings. He explained the reason for closing the subject area off is for safety factors. He indicated TPS does not want a main thoroughfare running in and around school property, which will have children outside playing. Mr. Thompson stated the design of the school will enhance the community. He commented that this proposal will be a world class facility for not only the City of Tulsa but for the State of Oklahoma as well. He stated the proposal will be a show case for the future of public education facilities.

Hugh McKnight, Director of Park and Recreations Department, City of Tulsa, commented that this area of Tulsa has been under served by the parks system. He indicated the City has never had adequate park land in this particular square mile to serve the neighborhood. He stated that this process started approximately 10 years ago in order to re-develop the community. Mr. McKnight commented that he fully supports this project and requested the Board to approve the applications. Mr. McKnight informed the board that this is the first time a school and park has been designed together where there will be common parking areas and portions of the building can be opened after hours for use by the community for recreational purposes.

Harold Stairs, Business Manager for the University of Tulsa, stated the University has been regularly involved in the planning of the this development. He indicated the University is in full support of the applications. He requested the Board to approve the applications.

Comments and Questions:

Mr. White indicated that the Board has received several letters of support (Exhibit F-3 and Exhibit G-3). Mr. White stated that there were two (2) letters of protest submitted (Exhibit F-2 and G-2) which state that the reason for their protest is because the properties have not be acquired.

Protestants:

Mary Ann Koepp, no address given, stated her main objection is not to see the same thing happen that happened on Riverside Drive, which is where the City acquired properties in the 4100 Block and then never constructed or widened the road. Ms. Koepp further stated that according to the map and layout, the property that is owned by Mr. Nash is very pertinent to the proposal. Ms. Koepp commented that the meetings by the Kendall/Whittier Association were never opened meetings and she was refused on six (6) different occasions to be allowed to attend the meetings. Ms. Koepp stated neither the City of Tulsa nor TDA owns Mr. Nash's property and they shouldn't be able to make any improvements to the property unless they own the property.

Applicant's Rebuttal:

Ms. Miller stated that the Kendall/Whittier meetings are open meetings, which meet twice a month.

Comments and Questions:

Mr. Dunham asked Ms. Miller if there are any properties proposed in this project that are not acquired? She stated that all of the properties on the school site are either owned or in negotiations for ownership by the school. She explained that there are two properties owned by Mr. Nash and they are currently in negotiation. She further explained that to the best of her knowledge the negotiations have been resolved. She stated that they cannot build on land they do not own and will not try to do so. Ms. Miller informed the Board that the other property Ms. Koepp referred to is the Mosque and it has not been acquired, but it has been negotiated. Ms. Miller explained that TPS and the Mosque have come to an agreement in order to give the Mosque more time to renovate the Stevenson School, which they have acquired. She further explained that the Mosque will also need time to build a prayer center adjacent to their newly acquired property. She stated the Mosque predicts that they will be able to move in August and both TDA & TPS are willing to accommodate the Mosque. She further stated that this will not impede the construction and the construction will occur around the Mosque until it is owned. She informed the Board that there is enough

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money to acquire the properties on 4th and the offers have been made. The TDA does not have enough money to acquire two apartment complexes and a sixplex that is adjacent to the apartments. She explained that the money is expected and commented that TDA has never had all of the money at any one time. She further explained that the apartments and sixplex does not infringe on the school site.

Comments and Questions:

Mr. Bolzle asked Ms. Miller if she has permission to represent the owners of the properties that TDA does not currently own and have their permission to make this application on their behalf? She answered affirmatively. She stated she does not claim to be representing the apartment complexes and she does not have permission to present this application in their behalf. Ms. Miller stated the apartments do not affect the school application, but it will affect the park application. She reiterated that there will not be any construction until the property is acquired.

Mr. Bolzle stated the Board should vote on the two applications individually.

Mr. Bolzle stated that he is not sure that the park application is properly before the Board as it is applied for. He commented that the school is properly before the Board.

Mr. Bolzle stated the TDA, or whoever the applicant is, has made an application to rezone a piece of property that they do not own or have permission of the owners to make the application.

Mr. Romig suggested the special exception be approved with a condition that TDA acquire the properties in order to develop the park plan.

Mr. Beach asked for clarification whether the park application is properly before the Board? He stated anyone can apply for a special exception, whether they own the property or not, but it is the Board's preference that they not hear a case unless the applicant has the owner's permission to present the application. Mr. Romig agreed with this statement. He stated the question then becomes what kind of problems will you be creating related to title problems, use problems, etc.

Case No. 17633

Board Action:

On **MOTION** of **BOLZLE**, the Board voted 3-0-1 (Bolzle, Dunham, White, "aye"; no "nays" Turnbo "abstention"; Abbott "absent") to **APPROVE a Special Exception** to permit school use in an RM-2 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, per plan submitted; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:

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A tract of land that is part of Blocks 3-4, Highlands 2nd Addition, City of Tulsa, Tulsa County, Oklahoma, and also a part of Blocks 4-5, Amended Plat of College View Addition, City of Tulsa, Tulsa County, Oklahoma, and also part of S. Birmingham Avenue, E 5th Street S. and the alleyways within said Blocks 4-5, and Blocks 3-4, said tract of land being more particularly described as follows, to-wit: SE/c, Block 3, Highlands 2nd Addition; thence S89°40'28"W along the Sly line for 205.00' to the POB, said point being the SE/c of Lot 17, Block 3; thence continuing S89°40'28"W along Sly line of said Block 3 and the Sly line of Block 5, Amended Plat of College View Addition for 855.80', SW/c, Lot 47, said Block 5; thence N00°02'02"W for 300.00', Nly of said Block 5, NW/c, Lot 8, Block 5; thence N89°40'28"E, Nly line Block 5 for 75.00'; thence N00°02'02"W for 130.00', Wly line, Lot 54, Block 4, Amended Plat of College View Addition, 80' Nly of the SW/c thereof; thence N42°58'56"E for 109.94', SW/c, Lot 32, Block 4, Amended Plat of College View Addition; thence N68°49'28"E for 275.21', Ely line, Lot 1, Block 4, Amended Plat of College View Addition, said point being 42.04' Sly, NE/c thereof; thence N89°40'28"E for 50.00', Wly line, Lot 1, Block 4, Highlands 2nd Addition, 42.04' Sly, NW/c thereof; thence S68°52'43"E for 267.91', SE/c, Lot 5, Block 4, Highland 2nd Addition; thence S43°16'41"E for 218.60', Nly right-of-way line of E. 5th St. S., SE/c, Lot 17, Block 4, Highlands 2nd Addition; thence S00°03'00"W for 350.00' to the POB.

AND

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Additional Comments:

Mr. Bolzle stated that some of the uses and activities in this park abut existing residential areas and the Board has not focused on the specifics of the park plan, such as lighting, backstops, noise, etc.

Mr. Bolzle asked Ms. Miller to explain the co-use of the school/park site. She stated that blending the 20 acre site was necessary for the school to receive their accreditation. She explained that the combination of the park and school site is not for an esthetic reason, but is necessary in order to receive the State's designation for the school. In terms of specific design on the site plan, if the Board needs more detail, the money is in place to do the majority of the improvements. She explained that TDA will simply go down the list or priorities that the Parks Department has set forth and implement the improvements. Initially this will be open space and then TDA will begin to implement some of the play areas as money comes available.

Case No. 17634 Discussion (continued)

Mr. Bolzle asked Ms. Miller to explain the acquisition of the properties on the south side of 4th Street, which would abut this park on the north. Ms. Miller stated that there is no intent at this point and time to acquire the properties that are across the street. She further stated that the properties north and east of the park will remain residential and they are not a part of the project at this time.

Mr. Bolzle informed Ms. Miller that the Board has two options for approving this application. He stated the Board can look carefully at this plan and have it described in detail regarding the use, hours of operation, etc. or the Board could approve the application subject to the TDA returning with a detailed site plan for approval.

Mr. McKnight stated he has no objection to returning with a detailed site plan.

Board Action:

On **MOTION of BOLZLE**, the Board voted 4-0-0 (Bolzle, Dunham, Turnbo, White, "aye"; no "nays" no "abstentions"; Abbott "absent") to **APPROVE** a **Special Exception** to permit park use in an RM-2 district. **SECTION 401. PRINCIPAL USES PERMITTED IN RESIDENTIAL DISTRICTS** - Use Unit 2, subject to the acquisition of all the properties indicated in the plan; subject to the applicant return for this Board's approval of a detailed site plan; finding that the approval of this application will not be injurious to the neighborhood, nor harmful to the spirit and intent of the Code, on the following described property:


A tract of land, Blocks 3-5, Highlands 2nd Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, and also part of Blocks 1-5 of the Amended Plat of College View Addition, an addition to the City of Tulsa, Tulsa County, Oklahoma, also being part of E 4th Pl. S., E 5th St. S., and S Birmingham Ave., also part of the alleyways within Blocks 3-4 of Highlands 2nd Addition and Blocks 4-5 of the Amended Plat of College View Addition, said tract of land being more particularly described as follows to-wit: Beginning at a Point that is the SE/c, Block 3, Highland 2nd Addition; thence S89°40'28"W along Sly line for 205.00', said point being the SW/c of Lot 16, Block 3; thence N00°03'00"E for 350.00' to a point on the Nly right-of-way line of E 5th St. S., said point also being the SW/c of Lot 16 in Block 4, Highlands 2nd Addition; thence N43°16'41"W for 218.60', said point being the SW/c of Lot 6, Block 4, Highland 2nd Addition; thence N68°52'43"W for 267.91' to a point on the Wly line of Lot 1, Block 4, Highlands 2nd Addition, 42.04' Sly, NW/c thereof; thence S89°40'28"W for 50.00' to a point on the Wly right-of-way line of S. Birmingham Ave., said point also being on the Ely line of Lot 1, Block 4, Amended Plat of College View Addition; thence S68°49'28"W for 275.21' to a point that is the SE/c, Lot 33, Block 4; thence S42°58'56"W for 109.94' to a point on the Ely Line, Lot 53, Block 4; thence S00°02'02"E for 130.00' to a

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point on the Nly line of Block 5, Amended Plat of College View Addition; thence S89°40'28"W along the Nly line, Block 5 for 75.00' to the NE/c of Lot 35, Amended Plat of College View Addition; thence S00°02'02"E for 300.00' to the SE/c of Lot 46, Block 5; thence S89°40'28"W along the Sly line for 200.00' to the SW/c, Block 5; thence N00°02'02"W along the Ely lines of Block 5, 4 and 1, Amended Plat of College View Addition, for 820.40' to a point that is the NW/c of said Block 1, Amended Plat of College View Addition; thence N89°40'28"E along the Nly lines of Block 1, Amended Plat of College View Addition, and Block 5, Highlands 2nd Addition, for 1262.00', NE/c, Lot 10, Block 5, Highlands 2nd Addition; thence S00°03'00"W along Ely line, Lot 10 and along the Ely lines of Blocks 4 and 3, Highlands 2nd Addition, for 820.40' to the POB.

There being no further business, the meeting was adjourned at 2:48 p.m.

Date approved FEBRUARY 25, 1997



Chair