

CITY PLANNING COMMISSION
Austin, Texas

Regular Meeting -- March 14, 1961

The meeting of the Commission was called to order at 7:30 p.m. in the Council Room Municipal Building.

Present

D. B. Barrow, Chairman
Doyle M. Baldrige
Fred C. Barkley
Howard E. Brunson
Pericles Chriss
S. P. Kinser
Emil Spillmann

Absent

A. C. Bryant
W. Sale Lewis

Also Present

Hoyle M. Osborne, Director of Planning
E. N. Stevens, Chief, Plan Administration
Dudley Fowler, Assistant City Attorney

MINUTES

Minutes of the following meetings were approved as submitted:

January 17, 1961
February 14, 1961

The following zoning change requests and Special Permit were considered by the Zoning Committee at a meeting March 7, 1961:

ZONING

C14-61-12 Austin Newmark Company: C-1 to C-2
1201 South Congress Ave.

DIRECTOR'S REPORT: The purpose of the application is to permit the sale of liquor for off-premise consumption. The present zoning permits only the sale of beer in connection with a restaurant. This is an area located well within the area of the Terrace Motel and is for the purpose of selling liquor in connection with the Terrace Club. Since this conforms to the policy of the Commission and will be a part of the Motel operation, I recommend that the request be granted.

No one appeared to represent the applicant. Mr. Sam Alton Brooks (1400 Drake Avenue) appeared but presented no statements. Three replies to notice were received favoring the request.

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C14-61-12 Austin Newmark Company--contd.

The Commission concluded that the request should be granted since this is in connection with the operation of the Terrace Motel and the site is located well within this operation, being surrounded by commercial zoning and uses and conforming with the policy of the Commission regarding "C-2" zoning requests. It was therefore unanimously

VOTED: To recommend that the request of Austin Newmark Company for a change of zoning from "C-1" Commercial to "C-2" Commercial for property located at 1201 South Congress Avenue be GRANTED.

C14-61-13 P. E. Worsham: A to C
Middle Fiskville Rd. and Tirado St.

DIRECTOR'S REPORT: This is located just west of the Interregional Highway and north of State Highway 20. It consists of a series of lots along the north side of Tirado Street. On the south side of Tirado there are some residences which were recently built and several other dwellings along Brooks Street and to the southeast of this property there are other residences. The request is for the purpose of using it for a Mid-Tex Milk Producers' office. I believe there would be some truck movement in and out of this place. A similar request was recently brought up on the south side of Tirado and at that time the recommendation was to deny the change because the residences were being developed there and apparently would be retained for a period of years; however, in the past few months there has been a change to "C" Commercial in the area. This leaves this small residential area entirely surrounded by commercial and I recommend the change.

Mr. Worsham appeared and explained that the only reason he wants the zoning changed is for the Mid-Tex Milk Producers' office, while at the hearing on a previous request he had no definite plans for this property.

Mr. David G. Gault represented the Mid-Tex Milk Producers Association and stated: We are negotiating with Mr. Worsham for the purchase of this property. Our offices at the present are at 5619 Airport Boulevard, in the Allied Supply building. We plan to build offices and a truck depot. We have four transport trucks by which we transport milk. They will be based here. Also, we have storage tanks here and facilities where we will move bulk milk into and out of the property. There will be no bottling work here. Our office building will face Tirado with a setback of 31 feet and with a setback of 50 feet from Middle Fiskville Road. The truck garage will be immediately behind that and also 50 feet from Middle Fiskville Road. We will pave the parking area for these trucks. To the east of the building we have planned for parking spaces for employees, for the visitors and for any other cars. We have no plans to use the houses across the street but some of our employees might want to live there. There will be an exit into Middle Fiskville Road.

C14-61-13 P. E. Worsham--contd.

Mr. and Mrs. Fred Coffey (810 Park Boulevard) appeared favoring the request.

The Commission reviewed the zoning in this area and the fact that the present owner is also the owner of residential property across the street. It concluded that the zoning proposed would be in harmony with the area, including the additional area listed for hearing, and that the request should be granted, especially since the property is completely surrounded by commercial zoning. Therefore, it was unanimously

VOTED: To recommend that the request of P. E. Worsham for a zoning plan change from "A" Residence to "C" Commercial for property located at 6101-6105 Middle Fiskville Road and 800-822 Tirado Street be GRANTED, and that the property located at 6100-6104 Brooks Street and 824-826 Tirado Street be included in the change.

C14-61-14 Jay Lynn Johnson, Jr.: C to C-1
S. Lamar Blvd. and Manchaca Rd.

CIRECTOR'S REPORT: The purpose of the application is for the sale of beer for off-premise consumption. This is a triangular tract at this intersection and is presently developed as a cafe. I understand that the cafe is to be removed from the premises and a drive-in grocery built here in which the beer will be sold. The area along Lamar Boulevard is commercial or General Retail and there is a "C-1" area across to the northwest where there is an existing drive-in grocery. The area is partly developed as commercial. There is a residential area to the southwest and another almost due south. The City is presently acquiring and has very definite plans for the widening and improvement of Manchaca Road. I believe the Highway Department is going to improve South Lamar. In addition, it is proposed for a thoroughfare to be connected with Barton Skyway and extend to the east to the Interregional Highway. There is some right-of-way involved in the widening of Manchaca Road. In that this is in a well established commercial area and this conforms to the policy of the Commission concerning "C-1" zoning, I would recommend the change.

LEGAL DEPARTMENT REPORT: Mr. Fowler stated, as a representative of the City: Mr. Charles Trenckmann, who is Mr. Johnson's attorney, and I as well as Mr. Johnson, have been in discussion about a county roadway that is located along the southeast line of Lamar Boulevard and is included in this zoning request. This is a strip of land about 40 feet in width, and was included in the field notes, which is actually at the present time in City right-of-way since it has been taken into the City. Mr. Trenckmann and I have discussed it and we feel that this zoning application has no effect on the title of this strip of land and for that reason we have no objections to make to the field notes that were presented in making this application, although they do include a portion of this land in the zoning change. This strip of land is in addition to the additional right-of-way of Lamar Boulevard. Mr. Trenckmann and I have not reached any solution to this but the zoning change base on these field notes cannot affect the title to this land.

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C14-61-14 Jay Lynn Johnson, Dr.--contd.

Mr. Johnson stated that the cafe will remain where it is at the present time and the grocery store will be located in front of the cafe and will be toward the town side on South Lamar. Two replies to notice were received favoring the request.

Written objection was filed by Harrel Linder (2907 Pecan Circle) for the reason that there is no need for another rezoning here since there is already ample zoning that will allow the sale of beer in this immediate area.

Upon review of the surrounding zoning and uses, the Commission concluded that this would be a logical change which would conform to the policy of the Commission regarding "C-1" zoning requests since the property is in the midst of a well developed commercial area. It was therefore unanimously

VOTED: To recommend that the request of Jay Lynn Johnson for a change in the zoning plan from "C" Commercial to "C-1" Commercial for property located at the south corner of the Intersection of South Lamar Boulevard and Manchaca Road be GRANTED.

C14-61-15 Miss Loraine Stolle: A to LR
Holly St. and Chalmers Ave.

DIRECTOR'S REPORT: This is a single lot and the request is to permit the operation of a gasoline service station. The surrounding area is developed principally for single-family residences along Holly and Chalmers. There is a church across the street. There are commercial zones at Chicon and Haskell and at Comal and Holly where there is a grocery store selling beer for off-premise consumption. Holly Street is currently designated as a collector street and has a right-of-way of 60 feet with 40 feet of paving. Chalmers Avenue is a residential street but it has a right-of-way of 80 feet extending south to Riverview where it jogs to the east and is reduced in width. In view of the fact that this is spot zoning and there is commercial zoning one block to the west, another one further to the east and commercial zoning existing along East 1st Street, I would recommend that the change be denied.

Mr. Arthur E. Pihlgren (agent) represented the applicant and stated the following: Miss Stolle has sold this property subject to this zoning, to a man who proposes to operate a gasoline service station on this property. This is commercial along Holly Street. I appreciate that this is spot zoning but there are several commercial zones along Holly Street. I don't think therefore, that this would come strictly within the terms of spot zoning. This is becoming a very heavily traveled thoroughfare.

Two persons appeared and one reply to notice was received, all favoring the requested change. One reply to notice was received opposing the change but no reasons were given.

C14-61-15 Miss Loraine Stolle--contd.

The Zoning Committee reported the following action: Mr. Kinser noted that this is a spot zone in a sense of the word but it is in a transition area which will be developed commercially in the near future. He reported that there is a non-conforming warehouse operated for the past 15 years immediately back of this property. He felt that this is a fast developing commercial area, being speeded up by the new City power plant, and that the request should be granted. Mr. Spillmann said he considered this spot zoning which he does not approve and he would vote against the change. Mr. Brunson said he would be willing to go back over the area although he opposes spot zoning. It was then unanimously voted to refer this request to the Commission without a recommendation pending further study and inspection of the area.

At the Commission meeting Mr. Pihlgren presented additional information ascertained from the Traffic Department that the traffic figures for 1957 showed 3324 cars each 24 hours using Holly Street while in 1960 it showed an increase of over 33-1/3 per cent to 4358 cars every 24 hours.

Mr. Kinser expressed his opinion that in our Plan we are determining that most of the area will be zoned for some form of commercial, possibly "LR", "GR", or "C"; that the Commission made a study at one time not too long ago on rezoning everything from Holly to Waller and to the Interregional Highway, then in the Development Plan we have had numerous occasions to think of what would be best suited for this area, including some apartment houses. He noted that there is a sketch on display that more or less indicates that it would be an area of other than residential development. He also called attention to the various four-corner intersections in the area already zoned commercial. He said he opposes spot zoning but feels that this would not be spot zoning in a sense, as explained at the Committee meeting. Mr. Baldridge expressed his opinion that this area and along Holly Street is rapidly developing with a trend toward commercial uses and in view of this trend he thought that the expansion here would be in order.

Mr. Barrow stated that this gets into an area where some members seem to disagree, though not in principle. He felt that the best zoning principle to follow is that when we decide an area is changing and think part of it should be zoned for business, to zone the area and that this is what zoning basically is. He said he has been consistent against zoning on a one-lot basis. He stated his opinion that if the Commission makes a study of the area and feels it should be changed, then that should be done instead of zoning one lot on the assumption that the area is going to change. He asked the attorney if that would be a sound legal basis for zoning one lot.

Mr. Fowler replied that this is an area which he felt is somewhat unclear. As he understood it, the basis of zoning in this situation is the fact that when the Commission determines that an area is properly to be zoned commercial or to a heavier zoning, then the spot zone stigma will not attach if they zone the area lot by lot. He further said he does not know that any of

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C14-61-15 Miss Loraine Stolle--contd.

those cases would justify the Commission zoning one lot because they think an area might go commercial but that the Commission will have to make the determination that the entire area should be commercial and then it can properly zone one lot, but without making that determination first, he would say it would be an improper action. Mr. Fowler further stated that even this answer is in a questionable area; that the purpose of zoning is about as Mr. Barrow expressed it and the idea is to zone a large area in one way in order to preserve its integrity and use within the city, and any time that zoning is done on a one-lot basis he felt that the action is subject to criticism and possibly reversal.

The Director presented the following statements in addition to his report to the Zoning Committee: This has been an area of mixed opinions with regard to planning. First it was proposed as an industrial area on the Development Plan and there was considerable discussion at that time. We have made three studies of this area and finally we have concluded that we should stay with the pre-eminent use in the area which is residential; secondly that we should treat it, as far as practical, the same way we would treat a new subdivision in designating commercial zoning in a home area. There is presently being considered a commercial area along the Interregional Highway for a depth of one or two blocks back from the Interregional, essentially between Waller Street and the Highway. In addition, the original zoning plan of 1931 designated the four-corner commercial zones in this area. Only three out of the 16 corners now zoned commercial in this area are developed commercially.

Mr. Brunson felt that, in an area where you have houses and people are trying to keep them up in good condition, if this change is granted within the next few months someone else would request a zoning change, and as long as families live in the neighborhood he did not feel there should be a change that would disrupt the family situation. He said that, while he realized that sooner or later the area very well may all be commercial, the question is whether we should zone this property at this time, and if we zone part of it we should zone more of it, except that this does have a family atmosphere now.

After considerable discussion and study, the Commission then

VOTED: To recommend that the request of Miss Loraine Stolle for a change of zoning from "A" Residence to "LR" Local Retail for property located at the southwest corner of Holly Street and Chalmers Avenue be DENIED.

AYE: Messrs. Barrow, Brunson, Chriss and Spillmann

NAY: Messrs. Baldridge, Barkley and Kinser

ABSENT: Messrs. Bryant and Lewis

C14-61-16 George H. Walker: B to LR
1804-1808 West 35th St.

DIRECTOR'S REPORT: This requested change is for three lots approximately one and one-half blocks west of Jefferson Street. The applicant proposes to erect retail stores. The site is generally level and is currently undeveloped. It formerly had a church building which has been removed. The surrounding property, especially to the west and north and on the south side of 35th Street is residential. Most of this is developed with single-family residences. Directly across the street to the southeast there are several apartments. To the east at Jefferson and 35th Streets there is a shopping center with other commercial operations and "C" Commercial zones. The corner property between this and Lawton Avenue was granted Local Retail about a year or more ago and this has brought up the question very definitely of the status of zoning of the balance of this block. In view of the fact that any additional zoning would constitute strip zoning and intrusion into a residential area, and the operation would be on a very heavily traveled street with a narrow right-of-way, where it would be extremely difficult to obtain additional right-of-way on a street that is presently carrying 3500 cars per day, I would have to recommend against the zoning as strip zoning which is not suitable for this area.

Mr. Walker appeared in behalf of his request and presented the following information:

1. With respect to the use of the land, while our plans are not as yet completed, we have in mind the possible development of a doctors' clinic, with a drug store and possibly a jewelry and gift store, on a lot with an area of 21,000 square feet.
2. We feel that the extension of commercial or retail uses in the area must come in this direction. We feel that it is needed and we don't feel that the type of building we have under consideration would detract in any way from the neighborhood. As a matter of fact, we feel that it would be a considerable improvement over what has been there.
3. I participated in the purchase of the property about a year ago and after the prior zoning was placed on it and I am innocent of that zoning deal.
4. While I am not a real estate man, I don't feel that the property as it is or has been for the past ten years could be considered the highest and best use of the land, and I think something needs to be done. Even the people in the neighborhood would benefit from an improvement on the property.

Reply to notice was received from Mr. Horace Wm. Netherton, Jr. (3933 Balcones Drive) favoring the change.

C14-61-16 George H. Walker--contd.

Mrs. Carl Beard (1717 West 35th Street) and Mr. Steve Conradt (1810 West 35th Street) appeared but offered no statements in support or in opposition to the request.

Six persons appeared at the hearing opposing the request and written objections were filed by five nearby owners for the following reasons:

1. This is the seventh time we have been down here to discuss these five lots on this corner. If this goes on to the City Council that will make the eighth trip. I (Mr. J. C. Tittle, 1811 West 36th Street) previously made a statement opposing this for my neighbors, which total about 40 on one petition. You will notice that there are only four or five here tonight but the reason they are not here is that they will state to you that they are now whipped and it makes no difference whether we oppose it or not. I have my home and it is paid for. At the back of my home is this particular area in question.
2. We oppose it on this ground. On the past hearing when the gentleman came up and presented a drawing, he was going to put a \$250,000 apartment house there. They granted him that privilege and in about three weeks he disappeared, and in about six weeks Mr. Walker and Mr. Braswell, who was then a member of the Planning Commission, put a deed on record as owning it. That has been over a year ago and we have been waiting for that apartment house, and now this application has been made. When we attended the City Council meeting last year it was definitely recommended contingent, and the word "contingent" was definitely in there, on this apartment house being built there. Mr. Palmer made the recommendation that that be done. (Mr. Osborne explained that this is a matter of good faith at that time but the Council cannot grant it contingent upon certain things as a legal matter. He said he thought the intention was that if they built an apartment house they would have to build it according to the plans they presented.) There is a "For Sale" sign on this property at this time. We don't know what Mr. Walker's intentions are but if he has planned to build anything he should take his sign down.
3. We opposed this before on two points -- there is an alleyway back of this which would be used as a thoroughfare; it depreciates the value of our property. That was a personal objection but that was not honored by the City Council. I am coming back with what I consider a legal question on this.
4. When this notice came out I checked further but have not investigated the two lots on the corner. They may have been bought before Mr. Smith put this addition on, but with regard to these lots under petition, deed restrictions were placed on them as residential lots in Oakmont Heights Addition by Noyes D. Smith and Irene H. Smith as follows: "... that

CL4-61-16 George H. Walker--contd.

this conveyance is made upon and subject to certain conditions and restrictions which shall run with the land, and shall be observed strictly by the grantee herein, and his heirs and assigns as follows:

"No business house shall be constructed on any lot in said Addition, and no residence shall be constructed on any lot in said Addition at a cost of less than \$2,500.00. The dwelling house, as distinguished from outhouses and servant's quarters, shall face the street upon which the lots front, and no part thereof shall be nearer than 25 feet to the front property line. All other structures shall be in the rear of the dwelling house. No garage or outhouse shall be used or occupied by the owner of the premises for residence except by written consent of the Company . . . All the conditions and covenants contained in this instrument are imposed upon each parcel or tract of land in said Addition . . . and shall constitute covenants running with the land, but shall terminate and cease to exist from and after August 1, 1979."

There was a community center set aside and the resr of the property is residential. The man who proposed to build his apartment house development found out that he could get no backers because of the deed restriction. Mr. Quist specifically asked for a change on his property for a filling station.

5. This will further increase the hazard to school children from Brykerwoods School. There are a goodly number of school children in this area. It would appear such zoning would also lessen residential property values in this district. There is no need for such classification in this area.

Mr. Carlton Johnson (1801 West 30th Street) stated in writing: I certainly object to the rezoning. I tried to get my property rezoned 3 years ago and was turned down. I since invested in an apartment across the street. Let Walker and Brockford do as I did, put up apartments as they asked for that zoning when they bought the property from the church.

The Committee reported that it had discussed the information presented regarding deed restrictions on this property. Mr. Kinser said he had given serious thought to granting requests where there are deed restrictions after previous discussions by the Commission and he thought some policy should be established regarding consideration of these cases. Mr. Brunson agreed but felt that, exclusive of the deed restrictions, this would be poor zoning for the property. As a result of this discussion, the Committee had unanimously voted to refer the request to the Commission without a recommendation and to request the Director to work with the City Attorney and report back to the Commission a recommendation with regard to consideration of deed restrictions, especially where there is a time limitation specified and also where there is no limitation.

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The Director reported to the Commission that as far as he could ascertain upon checking the County records there is a deed restriction on this property. Mr. Walker showed a copy of the deed restrictions and stated that there were restrictions existing and it was his interpretation that they applied to all of Oakmont Heights, including the shopping center to the east, and that these restrictions have been circumvented or overruled at about 32 locations. Mr. Osborne explained that in certain cases subdividers have left out certain lots but he had not checked the commercial area to the east. Mr. Barrow explained that at the time the adjoining property to the east was zoned "LR" Local Retail, the question of deed restrictions was not raised. He stated that it is the opinion of some members that in cases like this where you want to use the property, the proper course to take is to get the restrictions removed and then come back for a zoning change so that the burden would be on the user to get them removed rather than zone against them, and if it is true that the subdivision in its entirety has the same deed restrictions and the shopping area has been located here in spite of them, this might be a basis for getting the restrictions removed. Mr. Kinser noted that the Commission and the applicant have been warned by Mr. Tittle that he would file an injunction against the applicant if he tried to build anything other than a residence. He felt that he would vote for the change if there were no restrictions. Mr. Spillmann suggested the possibility of a step-down zoning for this and adjoining property toward the residential zoning to the west. Some members were still of the opinion that the request should be denied as unsound zoning and that this is not the proper use for the property. For the reason that this would be unsound zoning and taking note that there are deed restrictions on the property, the Commission unanimously

VOTED: To recommend that the request of George H. Walker for a zoning plan change from "B" Residence to "LR" Local Retail for property located at 1804-1808 West 35th Street be DENIED.

C14-61-17 Roy B. Stewart: A to C, 1 to 5

Russell Dr., W. Ben White Blvd., and Merle Dr.

DIRECTOR'S REPORT: This application is for the purpose of operating a cafe on one lot and the retailing of nursery plants on the corner lot at Russell Drive. In addition to these two tracts, we have included three additional tracts between this and the Ford Village shopping center. This was done by the Department as a normal policy, otherwise these two lots would constitute strictly spot zoning. This would provide a consistent and coherent zoning pattern in the area. The lots included in the additional area are all residential. Ben White Boulevard constitutes a primary thoroughfare and Russell Drive is a residential street. There is a portion of a cul-de-sac remaining at the end of Merle Drive that was cut off by the development of Ben White Boulevard. In considering the case, the lots to the north along Fort View Road, backing up to the three lots included in the hearing, are zoned General Retail. The area to the north otherwise is zoned "A" Residence and

Cl4-61-17 Roy B. Stewart--contd.

developed for residential uses. The area east of Russell Drive is single-family development.

The question before the Zoning Committee is what would be the better zoning for this property and the remainder of the block that would constitute a good zoning pattern. As yet, I have not determined in my mind what would be sound zoning in this case. I think there is a very definite problem. I understand that Ford Village will be extended on Fort View Road in the General Retail area. There are several new residences in the block. There is no consistent pattern. I do not wish to recommend outright denial but would like to bring up some of these points for the Committee to consider. I think if you zone part of this you would have to zone the remainder of the block. We would recommend against the "C" Commercial since this permits some uses that could be objectionable. We think it should be restricted to either Local Retail or General Retail if this request is granted. We would like to keep the possibility open for considering Local Retail or General Retail and the services are primarily of a Local Retail type operation.

I cannot make a sound recommendation on "LR" or "GR". I think it should be based on what your recommendations would be on the remainder of this block. The lots around the cul-de-sac are on a questionable basis for a long-term plan since there are some pleasant and nice homes here now. The residences in the remainder of the block along Fort View Road and Russell Drive are in good shape, but subject to the over-all and long-term use. In addition to the regular outside operation of the nursery there would be fences and other equipment displayed and this would require "C" Commercial under the interpretation of the Building Inspector's office.

Mr. Stewart (applicant) presented the following statements in support of his request: Mr. Ford does not object to this and Mr. Lemon has a representative here. All of my neighbors that own lots here are in favor of what I am trying to do. The only question about the lots that are still residential is the tax situation. I do not think their objection would be so much to commercial as to the taxes. We did talk to the Planning Department and what we propose to do would require "C" Commercial. (Mr. Osborne said this question came up over the outside display of nursery plants in this small area. He thought that possibly a nursery going into this area should be of a Local Retail type so that it could be controlled.)

Mr. Russell Rowland also was present to represent Mr. James D. Lemon and stated: We now have General Retail and this would tie in all of this from the Ford Village shopping center, all the way to Russell Drive to give some nice commercial frontage there. On the south side is already beginning to show some commercial. This has very definitely become a prominent intersection at Manchaca Road and Ben White Boulevard. There will be lots of applications here for commercial zoning. We feel this is not a desire of a few people but is something of a necessity in order to concentrate commercial

C14-61-17 Roy B. Stewart--contd.

property in one immediate area rather than spacing spot zoning here and yonder. I have been interested in this particular area for quite some time and I think this is quite necessary.

We have an application requesting a change on Mr. Lemon's property ready for filing and I have been instructed by Mr. Lemon not to speak in disfavor of this because commercial has been expanding in this area and Ford Village is now being extended down Fort View Road behind Mr. Lemon's property, in particular on two sides of him.

Mr. F. R. Ford (4015 Manchaca Road and owner of property included in the additional area for hearing) stated in writing that he does not want his property zoned commercial at this time.

Mr. and Mrs. Thomas C. Wommack, Mr. David D. Ford, and Mr. J. B. Ford (joint owners of 4301 Merle Drive) also submitted written objections to the inclusion of their property in the zoning change.

Reply to notice was received from Mr. Chester H. Dorman (4601 Lasso Path) stating he has some property that is zoned residential, and while he has no plans for development, he has no objection to this zoning.

Mr. T. J. Nichols represented his sister, Miss Pansy Nichols (4310 Russell Drive) and presented a letter from her containing the following objections to the change:

1. When I bought my home at 4310 Russell Drive it was in the belief that this quiet little country neighborhood would remain a residential area. Mr. Stewart's request for re-zoning in order to build a horticultural center on the front of the lot immediately adjoining mine, and a hamburger and soft drink stand at the back, is therefore very disturbing. Since his property is only 51 front feet in width, his horticultural center would be within 15 or 20 feet, at the most, from my bedroom windows. However attractive it might be from the standpoint of a commercial establishment, it would ruin the value of my homestead to have sacks of fertilizer and other supplies and implements necessary to the operation of such a business just outside my bedrooms.
2. The other end of Mr. Stewart's property is so situated that the back of the hamburger and soft drink stand would, like the back of the horticultural center, adjoin my property. However clean it might be kept, flies (with which we are presently not troubled) would almost certainly be attracted by the garbage, no matter how well-covered and cared for. Furthermore, to sit in my back yard and look at garbage cans is not a pleasant prospect.

C14-61-17 Roy B. Stewart--contd.

3. I have every sympathy with Mr. Stewart's desire to realize some return on his investment in the property adjoining mine. I believe, however, that he bought it after it was determined that Ben White Boulevard would follow the route it does -- and he certainly bought it in the knowledge that it was a residential, not a commercial, zone. On the other hand, I bought a homestead in which I have a considerable investment -- having put in lawn, flowers, shrubs, fruit trees and made certain other improvements and repairs which have added a good deal to its original value.
4. I would have no objection to finding another place to live except that I cannot now find a home at a price I can afford, being past the age when I can obtain a long-term mortgage; and since I am planning to retire in 1963, my income -- while adequate for the maintenance of my present home -- would be inadequate for large monthly payments that would be required under a short-term mortgage.

The Commission reviewed the statements presented and the staff report. It was concluded that this would be a logical extension of the present commercial zoning which is established and has shown some need of enlargement. Mr. Barrow felt that this type of zoning is preferable to establishing a new zoning in another area. Therefore, it was unanimously

VOTED: To recommend that the request of Roy B. Stewart for a change in the zoning plan from "A" Residence and First Height and Area to "C" Commercial and Fifth Height and Area for property located at 4316 Russell Drive, 1800-1810 West Ben White Boulevard, and 4303 Merle Drive be GRANTED; and that the additional area located at 4301 and 4300-4302 Merle Drive be included in the change.

C14-61-18 Mrs. Daisy T. Gilbert et al: B to O

Tract 1: 2401 Red River and 600-602 E. 24th St.

Tract 2: 2407-2409 Red River and 601-603 E. 25th St.

DIRECTOR'S REPORT: This actually constitutes three applications in addition to an additional area which was included for hearing. The request is for a change to "O" Office for the five lots in question. Four of these lots are currently developed residentially and the fifth has an apartment house, one of the lots having two houses on it. These requests were instigated by the O. M. Rhea Estate whose request for a zoning change on one lot is pending. Mr. Boyd Rhea contacted people in this block and got them to file the requests. It is possible that one or two office uses will be developed but I think primarily it will be developed with dormitories or apartments. It would be necessary in order to have sound development that at least two lots be developed together for either offices or student housing. About 50 per cent of this area is already developed with student housing.

C14-61-118 Mrs. Daisy T. Gilbert et al--contd.

No one appeared to represent the applicants. One reply to notice was received by an owner in the 2300 block of Sabine Street opposing the request but no reasons were given.

The Commission considered the development in this area, the recommendation of the Director, the topography of the property and the possible development of combined lots, and the best possible use for the property. It was noted that there is a great amount of traffic on Red River, that the property is located across from the University campus, and that there is commercial zoning and development further to the north. It was concluded after considerable discussion that this would be spot zoning and that office development would not be the highest and best use for the property and it was therefore unanimously

VOTED: To recommend that the request of Mrs. Daisy T. Gilbert et al for a change of zoning from "B" Residence to "O" Office for property located at 2401 Red River and 600-602 East 24th Street (Tract 1) and at 2407-2409 Red River and 601-603 East 25th Street (Tract 2) be denied.

C14-61-19 Mrs. James R. Hamilton: A to C

E. 10 $\frac{1}{2}$ St., 1001-1005 Interregional Hwy., 810 E. 10th St.

DIRECTOR'S REPORT: This is a very narrow lot about 42 feet by 170 feet in depth and runs parallel to the Interregional Highway between 10th and 10 $\frac{1}{2}$ Streets. It is the remaining portion of a lot which was taken into the Interregional Highway right-of-way. There is a single-family dwelling on the front part of the lot. To the north, south and east is single-family development but there are many of the lots with more than one dwelling, one having 10 dwellings. This property is from 25 to 30 feet above the expressway service road where it has about a 30 per cent slope to the property. I would have to recommend against the change, not on the basis of the signboard but because this is an inappropriate area for commercial zoning. The commercial property along 11th Street backs up to this but it has access from Interregional Highway and from 11th Street. This property does not have that access since neither 10th nor 10 $\frac{1}{2}$ Streets were connected with the frontage road because of this steep bluff and are dead-end streets for all practical purposes. The surrounding property is also on this high bluff and has no potential use as commercial. I don't think the remainder of the property in this block would be susceptible to commercial development and neither would this lot except for a specified use.

Mr. Jack Sparks (attorney) appeared for the applicant and presented the following: We have a very unusual situation on this lot. It was an involuntary sale of a part of the lot. It was a larger lot but they took part of it for the Highway. It is now only 41 feet in width and as I understand from the Building Inspector, there is a 25-foot setback required from the Interregional and 5 feet from the opposite side, leaving only 11 feet for building purposes.

C14-61-19 Mrs. James R. Hamilton--contd.

There is, as I understand, two blocks of commercial property to the north and we have four or five letters in favor of the change. They do have a chance to use this property for a signboard. It is high on top of the hill and there is a graveled curtain of 30 or 40 feet in length between the applicant's lot and the western edge of this Highway. This is a run-down, small colored rent-property district and actually it seems that the sign would be a benefit to the property as it would cut off the west sun in the evening. The only way this could be used is something that would require a very narrow area. I don't think it is a valid objection that the people can't see the skyline.

Mr. John E. Harrison, Jr. (agent) also appeared for the applicant and presented the following information: This property is owned by an elderly lady who has willed this property to a respected and very loyal servant and, of course, the question that arises in my mind is what is the best use of the property. When you have a 41-foot width from the perimeter of the Highway and a 25-foot setback from one side and 5 feet from the other, I am wondering what could be done with the property. Mrs. Hamilton is searching a way to get some income to benefit this servant after her death. The gentleman whom Mr. Coffee represented approached me some time ago and wanted to buy this property but the lady did not wish to sell. This property in this area was proposed and considered as a distress area when Urban Renewal was considered, and I can't see what it would hurt to have this property changed to "C" Commercial. The house will remain there regardless of whether or not the zoning is changed.

Messrs. A. L. Moyer, John Joseph, J. H. "Harper" Street and C. R. Flournoy, all owners of property in this immediate area, filed written comments to the effect that this change should be made since the desirability of this block as a residential area has long ceased to exist, that nearly all of the houses in two or three square blocks neighboring the proposed change are sub-standard houses which should be removed and rebuilt elsewhere, and that the Interregional Highway has further changed this section to one other than desirable homesites. Some time ago this area was designated as a slum area.

Mr. Jon N. Coffee (representing an adjacent property owner) offered the following opposition at the hearing: They have been properly compensated for this property. I don't think it is right for the rest of the neighborhood to have their property confiscated. The owner of the property adjacent to this lot opposes this both on the aesthetic value of billboards on our Highway as well as damage to the adjacent property. He also owns property on 10th Street immediately back of this lot. He will be completely and effectively cut off from any view of the city or the skyline across the expressway. The use is restricted and he is completely zoned out of a residential area by this strip next to the right-of-way.

In a general discussion, Mr. Osborne noted that the Board of Adjustment had previously granted variances in cases similar to this so that a dwelling

C14-61-19 Mrs. James R. Hamilton--contd.

could be placed on a lot and they might consider this one. Mr. Kinser thought that the signboard would be the best use for this property since it is too small for residential uses and can only be used for such purposes as a sign. He also called attention to 10th and 10 $\frac{1}{2}$ Streets which are very narrow and felt that additional traffic should be kept from them since they serve mostly as alleys. He questioned the possibility of a car turning around in the narrow streets. Mr. Brunson brought up the policy the Commission has considered regarding the danger of signs along highways or boulevards, and when Mr. Kinser said this is 30 feet above the roadway and will not attract the attention of the motorists, Mr. Brunson then asked why they would want a signboard here. Mr. Barrow said he would be opposed to this for the reasons given by the Director, that it is not situated so as to be used commercially and is not a logical extension of a commercial zone, and it does not appear to be sound zoning. A motion to recommend granting the change failed to carry. It was then

VOTED: To recommend that the request of Mrs. James R. Hamilton for a zoning plan change from "A" Residence to "C" Commercial for property located on Interregional Highway between East 10th and East 10 $\frac{1}{2}$ Streets be DENIED.

AYE: Messrs. Barkley, Barrow, Brunson and Chriss

NAY: Messrs. Baldrige, Kinser and Spillmann

ABSENT: Messrs. Bryant and Lewis

C14-61-20 Emanuel Methodist Church: B to C
East 9th St. and East Ave.

DIRECTOR'S REPORT: This is for a lot which has 69 feet of frontage on East 9th Street with 128 feet along the west side of Interregional Highway, somewhat to the southwest of the previous applicant. The applicant proposes uses permitted under "C" Commercial zoning. The area to the south is zoned "C" Commercial and has an automotive repair shop; on the north are the School administrative offices; in this immediate block there are a number of houses, most of them in sub-standard condition; to the west about one block away is the drainageway of Waller Creek; further to the south are other commercial uses and the Police and Courts Building. The property and the block in question is zoned "B" Residence while the property on the west side of the Interregional is mostly zoned "C" Commercial. In view of the fact that the surrounding property to the north and south is "C" Commercial and this property is on grade with the Interregional frontage road, I would recommend the change of zoning and suggest that the Committee consider for future hearing the remainder of this block and the remainder of "B" zoning if this request is granted.

C14-61-20 Emanuel Methodist Church--contd.

Mr. Jim A. Frederick (agent) represented the applicant and said he did not have much to add to the Director's comments. He noted that the area is definitely commercial in nature and he couldn't visualize any other use for the property. He felt that commercial would be the highest and best use for the property.

Reply to notice was received from Mr. Forest S. Pearson (owner of nearby property) who favored the request. Also, Mr. E. W. Jackson as a trustee of this Church filed written comment requesting the granting of this request since the property has for a number of years been unsuited for residential purposes. He felt that by approving this change it will enable the Church to realize sufficient funds from the sale to erect on its property at the corner of 2nd and Brushy Streets a much needed educational building.

Mr. Jon N. Coffee (representing an adjacent property owner) said he came prepared to object on the same basis as the change at Interregional and 10th and 10½ Streets but in view of the recommendations of the Director and with no objectionable use, he would withdraw the objection and submit their property for rezoning.

In view of the existing zoning along the west side of the Interregional Highway and the fact that this small area is the only property remaining "B" Residence in the immediate frontage, it was felt that the entire block should be commercial since the general area already is established as commercial. Therefore, it was unanimously

VOTED: To recommend that the request of Emanuel Methodist Church for a change in the zoning plan from "B" Residence to "C" Commercial for property located at the northwest corner of East 9th Street and East Avenue (Interregional Highway) be GRANTED.

C14-61-21 Armand D. R. Smart: 0 and 1 to 0 and 2
 1701 West Ave. and 706-710 West 17th St.

DIRECTOR'S REPORT: This request is for a change in Height and Area for the purpose of erecting a combination office and efficiency apartment building. The lot is 60' x 128' fronting on West Avenue. The site is currently undeveloped and has been leveled. This is an area of apartment and single-family dwellings with the exception of a sorority and a fraternity house across the street to the northwest. The area along Rio Grande to the east is currently "O" Office and then along West Avenue and west to Lamar Boulevard as "A" Residence. I believe the principal purpose of this is to place an efficiency apartment use in addition to an office building. In view of the fact that I think this would be an increase in density on a very small lot, I would recommend against the change. In the immediate area there is no Second Height and Area District but is all First Height and Area.

C14-61-21 Armand D. R. Smart--contd.

Mr. Smart presented the following information in support of his request: In reference to Second Height and Area in the immediate area, the corner of 17th and Rio Grande across the alley is so zoned. Mr. Rountree of the Public Works Department has approved the off-street parking for this apartment development. As far as the density on this property, the size of the office is decreased and the apartment area increased and there would probably be less traffic with apartments than with an office where you have traffic in and out all day.

Mrs. George F. Shelly (1700 West Avenue) opposed the change for the following reasons: I am representing the neighbors in the neighborhood. We are older ladies who have lived here 40 years or more. West Avenue has become a race track. There is no west exit between 12th and 19th Streets. All west exits end in a cliff. Most of the high school students come up and down West Avenue. The five o'clock traffic comes up West Avenue because there are no west exits. It is not suitable for apartment and a doctors' clinic here on that 60-foot lot, which is a two-level lot, and there is no fraternity or sorority here. There is an old house but it is not a fraternity nor a sorority house. The building on Rio Grande is on a level lot and they have an office building there. This is in an "O" Office zone and I don't see why he would want to have a two-story building here on this small lot. West 17th from Rio Grande to West Avenue is a high incline and we have wrecks at this corner. I feel that this is hazardous because of the amount of traffic.

The Commission concluded that this lot is too small for this intense development and that the change in Height and Area would not conform to the policy of the Commission in zoning the area between 15th and 19th Streets along West Avenue. Therefore, it was unanimously

VOTED: To recommend that the request of Armand D. R. Smart for a change of zoning from "O" Office and First Height and Area to "O" Office and Second Height and Area for property located at the northeast corner of West Avenue and West 17th Street be DENIED.

C14-61-22 Annie Mae Timmons: A to O
 Wheless La. and Rear 2706-2710 Wheless La.

DIRECTOR'S REPORT: This is requested for the purpose of establishing a clubhouse for the American Legion Post No. 83. The site is level and developed with a single-family dwelling. The surrounding area is generally developed with single-family dwellings. To the east there are several subdivisions, some of them new, and some to the west currently being developed. We have prepared in connection with this a plan on possible subdivision of the property. Both the lot in question and the surrounding lots would be somewhat difficult to subdivide, primarily because of the ownership pattern; however, we have worked out a possible preliminary plan showing how subdivision could be accomplished. The very great depths of the lots and the houses being

Cl4-61-22 Annie Mae Timmons--contd.

located at the end of the lots are not economical to maintain. Wheless Lane is classified as a collector street while it only has a right-of-way of 50 feet with 26 feet of paving. We recommend 70 feet of right-of-way. Since the area could be developed, so far I recommend against the change.

The following persons appeared in support of this request and presented evidence as shown:

Arthur E. Pihlgren (agent): I represent the owner of the property. This tract of land has $4\frac{1}{2}$ acres but has a frontage of only about 181 feet on Wheless Lane. It was originally a 5-acre tract but a one-acre tract was cut out of the front portion of the property. As Mr. Osborne said, the property is hard to subdivide because of the nature of the tracts which have already been subdivided into large tracts. We have the residences near the street with large back yards. Getting these people to tie their lots in together and subdividing gets to be quite a problem. I have been looking for a site for the American Legion for some time. The American Legion does not have the money to buy a large enough tract which is already zoned for their use. That is why they are looking for a large tract. This tract was offered to them some time ago and they liked it and would like to buy it since they have ample money for this tract. I would like to see them get the zoning changed so they can use it.

Lloyd H. Duty: 1615 Suffolk Drive: I have been a member of Post 83 for approximately 16 years. This Post was organized November a year ago and I would like to correct something -- we would rather not say an American Legion Clubhouse but we would like to call it an American Legion Home. (Mr. Osborne said this is the way it is defined in the Zoning Ordinance.) We organized this new Post simply because we felt that it would carry out the American Legion Program which is set up by National State. We were not doing so in Austin because we had only one Post and we were located in one location. We are principally all of the younger group located in the north end of town, living in GI and FHA homes. A few of the good men in Austin who were old war men encouraged us and even helped us, the younger men, who wanted to push forward. We organized this Post with the theory of building a Post Home and civic center in North Austin. This civic center will be primarily for the use of all of the people in North Austin. We want to sponsor a boy scout group, a junior baseball team, intra-mural court, and allow the ladies to meet there -- Garden Club, PTA, girl scouts, -- it was to serve the 45,000 veterans living north of 19th Street. We brought a lot of men back in who had come from other places. We had no money and still do not have but we have a lot of heart and we know what we can do. Originally, our membership was only 19 and today we have 461 paid members. We intend to have a bar but we do not want a beer joint, and, if we can, to have this civic center where the families could meet together. We are renting a place on East 12th Street. We feel that this is an ideal tract because 99 per cent of our members are in this area. We would not build anything within our own neighborhood that would

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C14-61-22 Annie Mae Timmons--contd.

embarrass us. The Gas Company has an easement across this property for a large pipe and people would not consider this for home subdivision. There is a large spring in the back where we could have a nice picnic and park area. We may later build a swimming pool here. This is for our members and guests only and not for the general public. This will be an asset to this community.

Donald R. O'Connor: 602 Deep Eddy: I have been a member of the American Legion for 16 years and I helped organize this group and the first year we brought in over 500 new members.

Mrs. Annie Mae Timmons (owner and applicant): I have tried for many years to sell this property and there is a handicap because it is narrow in front and extends so far back and it is hard to develop. Now that I have found someone who can go in and develop the property I think I would like to see it zoned as they have requested.

Mr. Sam A. Nooner (5018 Westfield) and Mrs. Leroy Cain (945 East 53rd) also appeared in favor of the request but made no statements.

Eight nearby owners appeared in opposition, written objections were received from seven owners and a petition signed by 19 owners was filed. General comments included: There are several community centers near here to serve the people of the area but they do not interfere in this neighborhood, and Mr. Stanford plans for a clubhouse in this area. Also, this area is now one-half mile from stores of any kind. It is quiet and peaceful. No private club where whiskey, beer and wine may be served with its usual drinks should be in a quiet community which should be kept strictly residential. It does not seem fair for one land owner to be able to benefit to the detriment of other owners. This would be spot zoning in this residential area.

The three following owners presented specific comments as shown:

Mr. and Mrs. Herman L. Newmann: 2613 Wheless Lane: I am also a veteran but I am not a member of the American Legion. I believe in the work of this group but they made a statement that there will be a bar. In the neighborhood where we are raising our children we would like to have it quiet. They will have a drum and bugle corps. The property is, as I understood, bought for \$8500. We questioned the property for sale and we attempted to purchase it but it was \$16,000 over a year ago. They were asking a tremendous amount of money at that time and that is the reason the sale has not occurred. As far as the North Austin area, he would have to cross all the way across North Austin to get to it. It is almost in the eastern limits of the city. People in the area are all well established residents. It is a good community and this would be spot zoning. I imagine in the near future Manor Road will be commercial, or there would be a shopping center somewhere there, and if they were over in that area out of the residential section there probably would

C14-61-22 Annie Mae Timmons--contd.

not be nearly the objection we have at the present time. We feel that this is not an asset to the community at all. In fact, it will continue to hinder the value of our property as well as help the seller at this time to dispose of her property. Just to the north of this is the Pearce Junior High School. I don't know what they would do to enlarge it.

Mrs. J. L. Curlee: 6100 Friendswood Drive: If this were built it would be right in my back yard. We love our home and have worked for it. We are proud of our community. With all due respect to the American Legion I have lived within a block of an American Legion Hall at one time and know if this club should go in there would be no rest for the neighbors. On November 11 and July 4 it would be so noisy and as far as the easement is concerned, I and my husband have been trying for two years to buy the lot next to us with the easement on it. I talked to Mr. Pat Stanford this morning about it and we are trying to get the deal consummated, but the easement does not hurt any yard but it could be beautified with that easement on it. We have a neighborhood of homes and I believe a majority of homes within a radius of two blocks from mine are stable homes where people want to stay. I don't believe there is one who has or wants a bar nearby. I don't think with the homes we have established in this neighborhood, we should have picnics here. I think we should be entitled to our rest and enjoyment of our homes. We built here because it was residential and the area north and east of us is also residential.

Glen D. Jones: 2705 Wheless Lane: I am not a member of the American Legion or the Veterans of Foreign Wars but I am eligible for both. I have participated in the American Legion in several Texas cities and I know if we permit a bar in our neighborhood somebody will get hurt coming away from there because there will be a lot of drunks, like all the other clubs in the surrounding towns. This is the only possible spot in this area that could be used commercially. The rest are all single-family dwellings and most of them are owner-occupied. This would mean an increase in traffic which we don't want; it is not a main artery in a sense of the word because of the very small area it now serves. It would devalue our property. The property on the south side of Wheless Lane was restricted for 20 years to residential use. I don't know about the property on the north side. There is no store within one mile of us and it is at least a mile and a half to a bus line and any traffic in this area would be by automobile which would be a danger to the children.

The Zoning Committee reported its recommendation as follows: Upon review of the statements presented and the staff report, the Committee concluded that this would be spot zoning for a use which would not be compatible with other uses in the neighborhood. Therefore, it was unanimously voted to recommend that the request of Annie Mae Timmons for a zoning plan change from "A" Residence to "O" Office for property located at 2700-2704 Wheless Lane and Rear 2706-2610 Wheless Lane be denied.

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C14-61-22 Annie Mae Timmons--contd.

At the Planning Commission meeting, Mr. Pihlgren requested permission to withdraw this request. The Commission therefore unanimously

VOTED: To permit the applicant to WITHDRAW this request.

C14-61-23 Charles E. Walsh: A to C
1504-1508 Scenic Drive

DIRECTOR'S REPORT: There is an additional small lot included in the area for hearing. This is located along Lake Austin Boulevard and the property runs along Scenic Drive and Lake Austin. The area to the south is zoned "C" Commercial and developed with commercial operations. Across the street is an "O" Office zoning, and to the east is "A" Residence with single-family residences and duplexes. To the southeast along Lake Austin Boulevard there is a "C-1" zoning with a cafe operation. The requested change is for the operation of the sale, service, and storage of boats. Under the Zoning Ordinance, normally this would be permitted under the General Retail if it were an indoor operation but in this case it was with outdoor storage which requires "C" Commercial. In view of the fact that there is a "C" Commercial development on the property to the south of this and the use is connected with Lake operations, I would recommend this change.

Several persons appeared in support of this request and presented statements which may be summarized as follows:

Mr. Trueman O-Quinn (attorney): After the construction of the same, most of the property has been under water. It adjoins a city park which was made available to the public through the Walsh family. The property across the street which is zoned "BB" Residence and "O" Office, together with some property to the east has been acquired by the City of Austin and will be converted to an extensive park development to be used in connection with the City park in the launching of boats and similar uses. Immediately adjoining our property on the south is the Bennett Boat Docks and continuing on is University and the City of Austin property, all of which is classified as "C" Commercial, with much of it used for industrial because they manufacture electricity there. Immediately across the street from there is "C-1" where beer may be sold on the premises in a restaurant or for off-premise consumption. Where there are two docks on this property, we feel that it is a natural thing to develop it for boat purposes. Mr. Ted Walsh has an opportunity now, either by sale or lease, or a combination, of entering into an improved operation so that someone will set up a real arena there and make it a first-class operation. This turns out to be a non-conforming use but we are right next door to the same type of operation which is properly classified, and we want to get the same classification for our property. "C" Commercial will not permit any alcoholic beverages. We have to have a "C" Commercial for the type of lakefront operation where there is some open air use and not all within a closed building.

C14-61-23 Charles E. Walsh--contd.

Mr. Ted Walsh (for owner): I do not intend to sell the property. Nothing additional will be done here except to improve what is there now.

Mr. Victor H. Russell: 3302 Enfield Road: I have a three-year lease on the property owned by Mr. Walsh. I was approached by one of the largest retailers of boats in the Central Texas area with regard to putting a service area there. They will retain their present sales area but will move the service area here. At the present time, due to the zoning restrictions, it is impossible for them to get any type of permit to improve the building because it is a non-conforming use. Contingent upon this rezoning we have already drawn up a 20-year lease through Mr. Walsh for \$10,000 improvements on this building and the immediate surrounding area, besides the docks will be improved considerably. At the present time it is in a discrepant condition and this would improve that. It was useless to improve the outside appearance because it was impossible to rent it due to the restrictions. This will be attractive and an asset in the neighborhood. There will be a large City paved parking area across the street from this which will be used to serve the launching ramp next to this property, which would be a commercial operation if it were a private operation. The present parking congestion would be alleviated by the proposed City parking area and that will permit our customers to park on our own property.

A petition signed by four owners in the area was filed, containing the following information:

1. We are not opposed to the present use of the property for the maintenance of public boat docks which fit in with the natural environment of the area; however, we do feel that any other commercial use of the property in question would markedly decrease the value of the surrounding area as residential property.
2. The Planning Commission over the past ten years has used Enfield Road, the point at which Lake Austin Boulevard ends and Scenic Drive begins, as the natural demarkation line between commercial and residential area. The City of Austin has gone along with this line of action in that it has purchased the lakefront property directly north of 1508 Scenic Drive--the entire west side of the 1600 block--and all the property on the east side of the 1500 block of Scenic Drive and maintains this property as park and parking areas while still retaining the trees and natural beauty. Were further commercial development to encroach upon this area, it would be only a matter of time until surrounding property owners would feel the depreciation in value of their property as places of residence.
3. The traffic hazard potential in creating a commercial enterprise with in-and-out traffic at this point where the traffic flow is channeled from a four-lane boulevard to a narrow, two-lane street is also a factor to be considered.

C14-61-23 Charles E. Walsh--contd.

4. In view of the above objections, we respectfully request the Planning Commission to advise against the proposed zoning change.

Two owners of residential property on Scenic Drive appeared and stated the following:

Dr. and Mrs. Robert E. Eakin: 1603 Scenic Drive: We had not been informed as to the purpose of this change and we noticed there was a sign on the property. We have had to put up a fight here for several years against expanding this commercial area north of Enfield Road. We would like to see the same status continued as long as it is used for this purpose. We did object to "C" before we had reassurance from Mr. Walsh that it would be used as proposed, but if the property is changed it could be used for other uses and could affect our property. A letter was circulated among our neighbors before we knew the purpose. We do not object to the use of the property for the purpose stated.

Mrs. Douglas Finch: 1607 Scenic Drive: What we are interested in is that if Mr. Walsh gives it up someone else could take over and something else might be put in there. That we would object to.

After review of the surrounding zoning and uses, the property being almost surrounded by commercial and "O" Office zoning, the Commission concluded that this would be a logical extension of the "C" Commercial area according to a policy of the Commission. It was therefore unanimously

VOTED: To recommend that the request of Charles E. Walsh for a change in the zoning plan from "A" Residence to "C" Commercial for property located at 1504-1508 Scenic Drive be GRANTED; and that the property known as 1500-1502 Scenic Drive be included in the change.

C14-61-24 Gardner Iron-Metal Company: A to D
9201-9311 FM 1325 (McNeil Rd.) and 9200-9306 Upper Georgetown Rd.

DIRECTOR'S REPORT: This is located to the north of Burnet Road and to the south of the University of Texas Research Laboratory, along McNeil Road and Upper Georgetown Road. It is a triangular tract of land and is within the city limits. A portion of the area to the north of this is developed residentially with about 15 residences, however, the balance of the area to the east and west is either being developed industrially or is potential land and is recommended in the Development Plan for industrial use. I am not sure if "DL" Light Industrial would cover the operation proposed. In view of these conditions, I would recommend the change.

Mr. R. Gardner appeared in support of his request for the following reasons: The primary purpose of this change is that I can sell the piece of property to a construction company who proposes to build a warehouse and also needs

C14-61-24 Gardner Iron-Metal Company--contd.

some parking area for equipment. I am not using the property for a scrap yard. I did have one here at one time but moved it away. The balance of the property besides the considerable-sized warehouse will be used for parking area only.

The Commission concluded that this would be a logical zoning change in view of the surrounding development and the proposal in the Development Plan for an industrial zone in this area. It was therefore unanimously

VOTED: To recommend that the request of Gardner Iron-Metal Company for a change of zoning from "A" Residence to "D" Industrial for property located at 9201-9311 FM 1325 (McNeil Road) and 9200-9306 Upper Georgetown Road be GRANTED

C14-61-25 Norverto T. Lopez: C to C-1
East 7th St. and Waller St.

DIRECTOR'S REPORT: There are apartment houses located on this site. East 7th Street is a primary thoroughfare and the area is generally developed with mixed commercial and residential uses. The entire strip for about 7 blocks is zoned "C" Commercial at this time. There is a motel east of this property across Waller Street and some businesses across 7th Street. In view of the fact that I feel this conforms to the Commission's policy concerning "C-1" uses in a well established commercial area, I recommend the change.

Mr. Lopez stated that he is requesting the change so he can sell beer in his grocery store and make a little profit. Mr. Kenneth R. Lamkin (attorney) explained that Mr. Lopez has operated a store here for 25 years and intends to continue to operate it himself, even if the permit is granted, and it is necessary for him to get as much production out of his store as possible under the law.

One reply to notice was received from Mrs. Sophie Joseph (owner of nearby property) stating that she believes it is best as it is for the neighborhood in general.

In view of the surrounding zoning and development, the Commission concluded that this request is logical and conforms to the policy of the Commission in that this is a well established commercial area. Therefore, it was unanimously

VOTED: To recommend that the request of Norverto T. Lopez for a zoning plan change from "C" Commercial to "C-1" Commercial for property located at the southeast corner of East 7th and Waller Streets be GRANTED.

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SPECIAL PERMIT

CPI4-61-1 Bill Gaston Enterprises, Inc.: Second Floor Offices and Studio and
Radio Transmitting Tower
 North Lamar Blvd., W. 29th St., San Gabriel St.

DIRECTOR'S REPORT: This property is located at 29th and Lamar and the request is for a radio station, transmitting tower, and office space operated at the Gaston Motors property on the second floor of the building, using approximately 800 square feet of floor space. The nature of the problem existing in this operation is the nature of the primary operation for boats and motors. As to the use of the property, at various times of the year, particularly as to off-street parking for boats and automobiles and the repair of boats and motors, etc., I think this has some bearing on the case as to the expansion or addition of the use existing in connection with the radio station. The transmitting tower would be located on top of the building, with three guy wires running to the corners of the property. The radio station would be entirely enclosed and would be within the building itself. In addition to the parking problem, Mr. Gaston has a designated 29 parking spaces but actually there are about 27 available because of the layout. There are also problems of the boats coming in and out of the building. Mr. Gaston has submitted a letter to the Commission regarding parking area on Mr. Kelly McAdams' property under a five-year lease, which will provide at least 20 additional automobile parking spaces. I don't feel that I can make a recommendation because I have been and am currently associated with the radio station but not on a paid basis.

TESTIMONY

Wm. D. Gaston (President): We have developed a desire to move certain phases of our operation away from 29th Street and Lamar but due to the seasonal nature of our business we could not justify additional overhead without producing some kind of additional income in addition to the retail operation already there. By coincidence we got to discussing this matter with a few principals in the radio station and they told me of their necessity to move. It seemed to me for two reasons they would be very likely tenants in our building -- one is that they don't need much space and don't need much parking space. We felt that with the income derived from this use we could justify moving certain phases of our operation to other locations in the city or outside the city, and for that reason I would like to have the Special Permit granted. We have a lease for the parking area across the street for the same time as the lease for the renting of the radio station. I would say an average of 3 or 4 parking spaces would be used by KHFI station.

We have an acre of land north of town adjacent to our boat factory. The operations which would be removed involve one phase of boat rigging consisting of assembling motors, trailer, boat and controls in a very complete package for sale, and while we have been in this location we have done that work at our store. Normally, in the busiest season of the year we will have from

CP14-61-1 Bill Gaston Enterprises, Inc.--contd.

5 to 10 rigs being worked on at one time and this presents quite a problem because of the amount of space it takes. We propose to move that particular function out to this tract of land next to the plant primarily because about 90 per cent of the sales are for boats manufactured in Austin. We feel this would simplify it a lot. What we consider retailing spaces we could use for some useful use. The employees removed more than compensate for the employees added by the radio station. There is about six months of the year when we don't need all of the parking spaces we have. The two operations would dovetail in very well because the radio station would be the busiest in the winter months while ours is in the summer months.

Allen Hurd (KHFI Radio Station): We have at the present 5 full-time and about 3 part-time employees. Due to the fact that we are on the air some 18 hours a day, these 5 full-time employees are not at the station at the same time. For that reason we usually require 3 or 4 parking spaces for our vehicles plus our employees.

Mrs. B. C. Alford: 2901 San Gabriel: I am interested in his parking problem. The City owns a great deal of the parking space now being used for the employees' cars across 29th Street. There is a great deal of storage equipment on the outside of the building that we were promised would all be under cover, and it is taking up space for motorists to come and go. I have a space for one car in front of my building. 25 feet is taken off each way and then I have a bus stop in my back yard. Therefore, there is a car and a boat and a trailer almost continually in front of my house. He has tried to the best of his ability to do something about it but, regarding this parking area that is being leased from Mr. McAdams, I wonder how the parking will be taken care of when it isn't now when they take up the parking space in front of our residence. Until such time as this can be taken care of, I'm afraid it will jeopardize the value of our property and will inconvenience us who live directly across from this place.

The Zoning Committee reported that, according to a report by the Director, all departmental reports had not been received and the Committee had felt that the request should be referred to the Commission pending receipt of these reports. It had therefore voted to refer the request to the Commission pending receipt of all necessary departmental reports.

At the Commission meeting, the Director reported that the Department has received favorable reports in oral form from all departments except the Storm Sewer Division which would not affect the second floor portion of the building.

In response to a question by Mr. Barrow regarding possible interference of the radio transmission tower with television and radio reception in the area, Mr. Osborne stated that it has the possibility of minor interference but it is curable. He explained that this has occurred in connection with radio

CP14-61-1 Bill Gaston Enterprises, Inc.--contd.

stations with respect to nearby buildings, affecting receivers and phonographs but not usually with television reception. Mr. Gaston said he has a letter from an engineer which states that it would be his opinion that this would have little interference with reception and this could be cured. Mr. Barrow questioned the right to place this burden on the adjacent residents.

Mr. Barrow said he voted against the zoning of this property originally and he felt that experience has shown that there is not sufficient room here for the present operation. He said he would be against the special permit without some evidence being presented that it will decrease the hazards since 29th and Lamar Boulevard is a very important intersection. The Commission then

VOTED: To APPROVE the site plan as presented and with no extra conditions and to authorize the Chairman to sign the necessary resolution issuing the Special Permit.

AYE: Messrs. Baldrige, Barkley, Brunson, Chriss, Kinser and Spillmann

NAY: Mr. Barrow

ABSENT: Messrs. Bryant and Lewis

DEFERRED ZONING CASES

C14-61-3 Roy F. Beal: A to C
2317-2409 Thornton Rd.

C14-61-11 H. G. Linscomb: A to C
2519-2707 Thornton Rd.

Mr. O'Quinn reviewed the information presented at the hearing and stated that, while they are in the attitude of wanting to cooperate and are sympathetic with the traffic circulation problem in the area, they don't feel there is much they can do because they don't own any land but that included in the applications. He said they felt that for the operation proposed by Mr. Linscomb they can get in and out without any difficulty and without creating any problem. They also felt that "C" Commercial would be the proper zoning for the property being on the railroad and across the railroad from commercial zoning, with a lot of it already developed. He noted that Mr. Beal already has an access road along his south line which ends where there is a building and could not be extended across the railroad, and that the indication is that other property owners between these two tracts will want commercial zoning, probably ending up with between 15 and 20 acres of commercial property here. Mr. O'Quinn said he did not think this is suitable for residential use and that sufficient access is available since they do not propose to put in any filling station, grocery store, or other retail business that would require people to drive very far to reach. He felt that a man has a right to use his property for the highest and best use he sees as long as it does not interfere with other people, and that should be considered in zoning changes.

C14-61-3 Roy F. Beal--contd.C14-61-11 H. G. Linscomb--contd.

Mr. Harry Nolen said he represents this from a sales standpoint and the people whom he represents are not interested in a through street but are perfectly happy in using the dead-end street. He felt that if the Commission does not recommend this it would be condemning the property and that the zoning change would increase the value of property in the neighborhood.

Mr. Osborne reported that a study of this area had been made, including a field survey from the proposed alignment of Lightsey Road north to Oltorf Street. He said the Department proposes a thoroughfare on the east side of the railroad and the question came up concerning the possibility of a grade crossing from the zoning area to the proposed thoroughfare at several possible locations. He felt that the Railroad Company would be unhappy about the railroad crossing and the City does not encourage grade crossings. He reviewed possible street arrangements on the west side of the railroad and the residential subdivisions and developments in this general area, and the possibility of tying in this street pattern with Thornton Road and its extension to the south. He said the problem in this is to determine the primary use of the area, especially in view of some new and old residential subdivisions and development in the area. He said he would question the advisability of starting intensive commercial use at this location. He called attention to the fact that the non-conforming use on the Beal property is located on a relatively small area, with over half of the tract being undeveloped.

The Commission then discussed the statements and information presented. Mr. Barrow said he sympathized with the people and the problems they have here but it did not appear to him that they have the proper location for commercial development and that the responsibility is on them to plan a street layout for access rather than to zone it without access. He felt that the Commission would not be wise in zoning the property for commercial without proper access even if the owners want to use it for their stated purpose. He noted that there is no assurance that the particular plans of the owners would be followed since other uses would be permitted if the property is zoned commercial.

Mr. Brunson felt that if there were some way to allow it, and the owners of the Beal property only want to make some alteration or improvement to that building, he is of the opinion that it should be permitted, and if in the future they want to have a more intensive development they should have a subdivision and a plan showing circulation in that area. Mr. Kinser said he could not see this particular zoning at this time in this area and until which time we get some access in and out he couldn't see how the Commission could recommend commercial zoning on Thornton Road without other access. After considerable discussion, the Commission unanimously

VOTED: To recommend that the following zoning requests from "A" Residence to "C" Commercial for property as shown be DENIED:

C14-61-3 Roy F. Beal, 2317-2409 Thornton Road

C14-61-11 H. G. Linscomb, 2519-2707 Thornton Road

R146 SUBDIVISION COMMITTEE

The Committee chairman submitted the minutes of the Subdivision Committee meeting of March 6, 1961. The staff reported that no appeals had been filed for review of the Committee's action. The Commission therefore

VOTED: To accept the following report and to spread the action of the Subdivision Committee of March 6, 1961, on the minutes of this meeting.

PRELIMINARY PLANS

C8-60-23 Jung Industrial Sub.
Ben White Boulevard

The staff reported receipt of a letter requesting a 90-day extension of preliminary approval on this plan which expired February 23, 1961, so that further time may be available to complete the final plat. The Committee then

VOTED: To GRANT a 90-day extension of preliminary approval of the plan of JUNG INDUSTRIAL SUBDIVISION.

C8-61-5 Rivercrest Addition
Bohn Blvd. and Lake Austin

Messrs. D. L. Osborn (subdivider), Claude F. Bush (surveyor), Walter Bohn and Eugene E. Naumann appeared in interest of this subdivision. The staff presented the following suggestions and recommendations from the Planning and other departments which were discussed by those present and the Committee.

1. The developer will need to furnish his own water and sewer system since service is not available from the City. Water District No. 10 is about two miles from this property. The Health Department reported that: "We have reviewed the preliminary plans of Rivercrest Addition consisting of 109 lots located adjacent to Lake Austin. Before any approval could be given, it would be necessary that we secure plans for water for the addition and these plans should be submitted in accordance with the State Department of Health's standards for water plants. If the developers intend to install a water plant, it will be necessary that these plans be approved both by this office and by the State Health Department. We also will need additional data on the type of sewerage treatment to be provided for the addition. In our opinion, the septic tanks would not operate satisfactorily on many of the lots, and we would not approve the addition without a thorough investigation on the porosity of the soil."

Mr. Osborn stated that they plan to use septic tanks if possible and their operation will be based on individual lots, and that

C8-61-5 Rivercrest Addition--contd.

they intend to have a community water system and have considered the possibility of using lake water. He said they have explored the possibility of tying into Water District No. 10 but that District feels that it will not be sufficient within the next ten years to serve this subdivision.

2. Additional electric, telephone and drainage easements will be required.
3. Some plat corrections need to be made and the widths of all streets shown.
4. All blocks exceed the Ordinance requirements for block length but a variance is recommended due to the topography.
5. Lots 1-22, Block A, and portions of Lots 1-20, Block B, are subject to inundation by flood water and the Subdivision Ordinance requires adequate drainage facilities for all lots before approval can be given. Based on this requirement, the lot arrangement should be modified to meet this requirement. The estimated flood plain area shown on the Planning Department sketch was based on information from the caretaker of City Park which is located upstream. The Department checked with the LCRA and the Public Works and Electric Department of the City but the information on the flood elevation during the last major flood was available only from the City Park caretaker. Further information may be needed from the subdivider or his engineer regarding the elevation of the water above normal operating level of the lake.

Mr. Bohn explained that he has a boat dock which was built in 1938 and it has never been under water, but when the water runs over the spillway at Mansfield Dam this dock is about 6 inches above the water level. Mr. Bohn said he also has a water pump nearby which has never been affected by high water and an 18" sycamore tree near the water which will not grow in water. He explained that there are several springs in the area and that there is seepage from the hillside, especially during a rainy season. Mr. D. L. Osborn stated that he would rely on Mr. Bohn's statement regarding the water level. Mr. D. B. Barrow (owner of adjoining property) said the water coming from the hillside can be drained off. Mr. Dudley Fowler (Assistant City Attorney) noted that our drainage engineers are using about a 25-year flood frequency in their computations and the flood plain is being based on major floods during that period. Mr. Osborn said these low-lying lots will probably be filled in at a later date.

6. All boundary streets and access streets serving the subdivision must be dedicated public roads. Mr. Osborn explained that they are

C8-61-5 Rivercrest Addition--contd.

negotiating with St. Stephens School for access into Bohn Boulevard, and they have agreed to give this right of access.

7. Lot numbers should be shown on the two areas labeled as parks, and in connection with this the Ordinance requires a cul-de-sac at the southwest end of Riverfront Drive which dead-ends at the designated park area on the southwest.

Mr. Osborn explained that they have reserved 500 feet on each end of the property for use of owners whose lots do not border the lake and at this time they are dealing with St. Stephens School for additional property to the southwest. He said that when this property is acquired Rivercrest Drive will be extended southwesterly and arrangements will be made for use of the park area by the other owners. He further explained that Section 1 will include only the southwest one-half of the area shown on the plan. The Director explained that Mr. Fowler may be able to work out some type of identification of these areas since they should be included as a part of the subdivision and bear some identification. He also explained that inclusion of any additional property would require a revision of the plan.

8. As a portion of the Barrow Subdivision is included in this subdivision, the title should reflect the resubdivision of the lots included.

Mr. Barrow stated that Mr. Bohn bought these 15 lots from his father and they are now under Mr. Bohn's ownership. In relation to the lot lines of these lots, Mr. Barrow said they extend to the old Colorado River bed. Mr. Fowler noted that there have been some questions in the past regarding the land that is under water and he suggested that the subdivider consult his attorney about where the west line of this subdivision is located and to be certain that all property lines extend to this west line which may be in the original river bed. He noted that at some time the water level line may be changed and this would avoid legal complications.

As a result of general discussion on this subdivision as reflected above, the Committee

VOTED: To APPROVE the plan of RIVERCREST ADDITION subject to the following conditions:

1. Clearance from the Health Department regarding septic tank installation and an adequate water supply,
2. Additional information be submitted concerning the flooding of some of the lots or the filling of such land to prevent flooding,

C8-61-5 Rivercrest Addition--contd.

3. Dedication of all boundary streets and access streets serving the subdivision,
 4. Identification of the two areas designated as parks,
 5. Provision for a cul-de-sac at the southwest end of Riverfront Drive,
 6. Inclusion of the 15 lots in the Barrow Subdivision in the title of this subdivision, and
 7. Compliance with departmental requirements; and
- to grant a variance from the Subdivision Ordinance on block length requirements.

C8-61-6 Heritage Way

West 12th and Possum Trot

The staff presented a sketch plan showing a revision of the lot lines in this subdivision to provide an area in each lot to support a duplex. The staff explained that the only question is the number of lots since the developer proposes that each lot have 7000 square feet of area and it is felt the lots could be better utilized if this revision is followed. The staff further explained that 14 feet had been added to the length of the cul-de-sac, that some lot lines might need to be shifted a few feet to provide the desired area, and that the setback might need to be made 30 feet to get the 50-foot width at the building line.

Messrs. Richard Avent (owner) and Doak Rainey (engineer) accepted this revision by the staff and agreed to a 40-foot electric easement requested. It was therefore

VOTED: To APPROVE the plan of HERITAGE WAY as revised and shown on the Department sketch, subject to compliance with departmental requirements.

SHORT FORM PLATS - FILED

The staff reported that reports have not been received from several departments and that no action on the following short form plats is recommended at this meeting. The Commission therefore

VOTED: To ACCEPT the following short form plats for filing:

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SHORT FORM PLATS FILED--contd.

C8s-61-24 Isaac Decker League
Barton Springs Rd. and Sterzing
C8s-61-25 John Applegate Survey
U. S. 81 and Neans Dr.

The staff reported that this was originally a large tract of land and that Mr. Neans had previously sold off a tract and now proposes to sell off Lot No. 2, leaving 475 feet in the original tract, and the staff feels that he should have some plan of development before any other subdivision of the land is made. It was recommended that notice be given to the owner that no other short form subdivision will be accepted until he has submitted a street plan of development for the remainder of the area. The Committee then VOTED: To authorize the staff to notify Mr. Neans that no other short form subdivision will be accepted until he has submitted a street plan of development for the remainder of the area.

SHORT FORM PLATS - CONSIDERED

The following plats were presented under Short Form Procedures and were reported by the staff to comply with all provisions of Section 4 of the Subdivision Ordinance. The Committee therefore

VOTED: To APPROVE the following plats:

C8s-61-13 J. Grant Webster
Airport Blvd. and U. S. 290
C8s-61-22 Bertha Ferguson Sub.
Greenwood Ave. S. of E. 12th St.

C8s-61-11 Freewater Addn., Resub.
Cardinal La. E. of S. 3rd St.

It was reported by the staff that fiscal arrangements have not been completed for the installation of water, sewer and gas facilities for this subdivision. The Committee therefore

VOTED: To DISAPPROVE the plat of FREEWATER ADDN., RESUB., pending completion of fiscal arrangements.

ADMINISTRATIVE APPROVAL

The staff reported that one plat had received administrative approval under the Commission's rules. The Committee therefore

VOTED: To ACCEPT the staff report and to record in the minutes of this meeting the administrative approval of the following subdivision:

C8s-61-23 Walter A. Jones Sub.
Ashby Ave. and Bluebonnet La.

SUBDIVISIONS - FILED

The staff reported that reports have not been received from several departments and that no action on the following final plats is recommended at this meeting. The Commission therefore

VOTED: To ACCEPT the following final plats for filing:

C8-60-7 Reissig Heights, No. 3

Burleson Rd. and Terrilance Dr.

The staff reported that a preliminary plan for this property was approved in 1954 on which a final plat had been submitted. Since that time a thoroughfare has been proposed which crosses the Low Water Dam and extends south, the right-of-way having been acquired to within two tracts north of this subdivision. There is now a question of the extension of this thoroughfare to the south to connect with Burleson Road and several alternative routes have been considered but no definite one has been determined. This subdivision is located about one-half mile north of Ben White Boulevard and the subdivider is now proposing a final plat for a portion of the property at this time. The staff reported that no reports have been received from other departments and that the plat be accepted for filing and that the Commission take note of these problems before final action is taken.

C8-60-41 White Plains, Sec. 2

Westerly Ext. McPhaul St.

C8-61-3 North Oaks, Sec. 2

Interregional Highway and Berrywood Rd.

C8-61-6 Heritage Way

W. 12th and Possum Trot

The staff called attention to the 37-foot setback lines shown on two of the lots to provide the 50-foot lot width required.

C8-61-9 Holiday Hills, Sec. 2

Northcrest and Northway Dr.

C8-61-10 Braes Ridge, Sec. 2

Braes Ridge Dr. E. of Belfast Dr.

SUBDIVISIONS - CONSIDERED

C8-60-2 Barton Hills, Sec. 5

Barton Parkway and Wilke Dr.

It was reported by the staff that fiscal arrangements have not been completed, that additional easements are required and some plat corrections need to be made. Mr. Gerald Williamson (Marvin Turner Engineers) stated that they have made the plat corrections but are holding the tracing for completion of fiscal arrangements. The Commission therefore

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C8-60-2 Barton Hills, Sec. 5--contd.

VOTED: To DISAPPROVE the plat of BARTON HILLS, SEC. 5, pending completion of fiscal arrangements, showing of additional easements and plat corrections.

C8-60-19 Highland Hills, Sec. 6, Phase 1 (Revised)
Highland Hills Parkway

The staff reported that fiscal arrangements have not been completed and that some plat corrections need to be made. Mr. Williamson explained that the plat corrections have been made but they are holding the tracing for completion of fiscal arrangements. The Commission therefore

VOTED: To DISAPPROVE the plat of HIGHLAND HILLS, SEC. 6, PHASE 1, as revised subject to completion of fiscal arrangements and plat corrections.

C8-60-25 Industrial Terrace, Sec. 1 (Revised)
Farm Rd. #1325 N. of Burnet Rd.

The staff reported that Industrial Terrace No. 1 is a recorded subdivision which provides a drainage easement and which easement is both within and outside of the city. The subdivider has submitted a plat showing the relocation of the drainage easement, as it interferes with the development planned for Block B and a large tract to the south.

Messrs. Gerald Williamson and H. W. Curington (Marvin Turner Engineers) showed the revised plat showing the relocation of the easement along the north line of Block B which would drain into the highway drainage in Farm Road 1325. They said the Highway Department has approved the lowering of the highway drainage ditch to care for this additional drainage, and that the Commissioners Court Monday morning said they would approve this revision and liked the relocation, but would like to have an amended plat filed which would have to be re-dated and approved by the Commission. They stated that they have a plat which has been approved by Mr. Morgan of the Drainage Department and would like to have the approval of the Commission on these changes so that a linen tracing can be made and signed by the proper authorities so that they can take it to the Commissioners Court next Monday for their approval and it can be recorded.

The Commission felt that the relocation of the drainage easement would provide better building areas and it was therefore

VOTED: To APPROVE the plat of INDUSTRIAL TERRACE, SEC. 1, as revised, and authorize the staff to hold the plat for an engineering check.

C8-60-36 Charles Street Addition
Gunter St. S. of Goodwin Ave.

The staff reported that fiscal arrangements have not been completed and that plat corrections need to be made and building setback lines shown. The Commission therefore

C8-60-36 Charles Street Addition--contd.

VOTED: To DISAPPROVE the plat of CHARLES STREET ADDITION subject to completion of fiscal arrangements, plat corrections, and showing of building setback lines.

C8-61-4 Assumption Cemetery, Sec. 16
South Interregional Highway

It was reported by the staff that all departmental reports and tax certificates have not been received.

Mr. J. P. Darrouzet represented the subdivider and stated that he was surprised that taxes are required since certificates were not required for the remainder of the cemetery, which is owned by the Catholic Cemetery Association of Austin, and that no taxes are required by the State and County under the Attorney General's opinion. He explained that the property is not within the city limits but is apparently within the school district. He said he discovered this morning that Mr. DeSteiguer (attorney in the Tax Department) was making a study of this and if the City decides the property is subject to taxation they will clear it up. He further explained that other sections of the cemetery were approved in 1952 before the present Subdivision Ordinance was adopted, and that the land was formerly owned by St. Edwards University and was subject to taxation. He stated that under the present method of operation the land is tax exempt by the County and State.

Mr. Barrow stated that he did not think the Commission could take any action on this until the tax question is settled. It was then

VOTED: To DISAPPROVE the plat of ASSUMPTION CEMETERY, SEC. 16, pending receipt of departmental reports and clarification of the tax situation.

C8-61-8 Allandale North, Sec. 1
Irene Dr. E. of Burnet Rd.

The staff reported receipt of a letter from Mr. Nash Phillips requesting that the name of Allandale Hills, Section 1, be changed to Allandale North, Section 1. It was their opinion that, since there are a number of other subdivisions bearing the name "Allandale", this area would be more logically identified and more easily located by designating it as "North" since it lies north of the other Allandale areas. The Commission then

VOTED: To APPROVE the change of name from "Allandale Hills, Section 1" to "Allandale North, Section 1".

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SHORT FORM PLATS - FILED

The staff reported that reports have not been received from several departments and that no action on the following short form plats is recommended at this meeting. The Commission therefore

VOTED: To ACCEPT the following short form plats for filing:

C8s-61-26 Eubank Acres, Sec. 2, Resub. Lots 6 & 8, Blk. G
Hilltip Street

C8s-61-27 Burks-Hall Sub.

Cameron Rd. S. of Dungan La.

Mr. Schoolfield (surveyor) explained that he had instructed one of his men to take the plat to the various departments but there had been a misunderstanding and that is the reason no reports have been received. The Commission instructed the staff to give administrative approval when satisfactory reports have been received.

SHORT FORM PLATS - CONSIDERED

C8s-61-12 Ernest Williams Sub.
Spicewood Springs Rd.

It was reported by the staff that fiscal arrangements for water service have not been completed, that additional drainage easements are needed, that some plat corrections need to be made, that tax certificates have not been filed, and no report has been received from the Legal Department as discussed at the previous meeting. The Commission therefore

VOTED: To DISAPPROVE the plat of ERNEST WILLIAMS SUB. pending completion of fiscal arrangements, showing of additional drainage easements, plat corrections, receipt of tax certificates, and a report from the Legal Department.

C8s-61-28 Georgian Acres Estates, Resub. Lots 1 and 2
Florence Dr. and East Dr.

This plat was presented under Short Form Procedures and was reported by the staff to comply with all provisions of Section 4 of the Subdivision Ordinance. The Commission therefore

VOTED: To APPROVE the plat of GEORGIAN ACRES ESTATES, RESUB. LOTS 1 AND 2.

C8s-61-29 Benenger's Sub.
Webberville Rd. S. of Niles St.

The staff reported that this subdivision is a part of a larger tract which fronts on Webberville Road and extends north to East 8th Street and on which there are located eight dwellings. Mr. Cal Marshall has purchased what is

C8s-61-29 Benenger's Sub.--contd.

shown as Lot 11A and wishes to improve the existing dwelling. He is requesting a variance from the filing requirements so that it will not be necessary to get the signatures of the other owners. Taxes are due on four of the eight parcels involved but Mr. Marshall has submitted a tax certificate on his one lot. All of the departmental reports have been received.

Mr. Marshall explained that Virgil Lott originally owned this entire tract and erected the houses several years ago before the City annexed the area. He said Mr. Albert R. Davis had checked the records back to the time the property was located in the County. Mr. Marshall explained his problem, stating that he repaired this building and tried to make it more livable, proposing to install a water heater and a bath, having obtained a building permit for this work, but now he cannot get a check on his plumbing until the subdivision is approved. He said he had done about \$2,000 worth of repairs and he didn't question the situation since it fronted on Webberville Road and had sufficient area for an interior lot. He stated that it is connected to a sewer line which cuts across the other property but he would like to get a separate sewer tap for his lot. He said that Mrs. Cardenas (owner of the adjoining property on Webberville Road) has married again and he could not locate her. Mr. Marshall felt that with the start he is making, maybe something can be worked out for the area. On the question of access to the other property and Mr. Stevens' information that four of the structures are served by means of a 10-foot access easement, Mr. Marshall said this is used as an alley at this time.

The Director stated that, in view of the delinquent taxes on the property, this would result in a sub-standard situation of multiple residences on a lot and this subdivision would split off two of the lots which would not improve the situation in any way. He felt that with respect to the entire tract of land he didn't think this would be an improvement. In response to a question by Mr. Barrow regarding a method of clearing this problem, Mr. Osborne said he doubted that from a practical standpoint you could clear it up other than requiring the removal and some form of standard subdivision, but apparently these houses are on separate lots under separate ownerships. Mr. Barrow noted that we had a case similar to this but one man owned all of the property and could do something about it but in this case where there is different ownership he didn't know what could be done. He said his objection to this situation is that we get in the attitude of approving these situations and there is nothing to prevent other people from doing the same thing again. Mr. Brunson noted that we definitely know that Lot 11 has access to Webberville Road and some of the other lots by a 10-foot easement.

After considerable discussion, the Commission finally concluded that in view of the existing situation and the difficulty in locating the other owners for signatures, the variance should be granted and that to approve this subdivision would not change the existing status. Therefore, it was

VOTED: To APPROVE the plat of BENENGER'S SUB. and to grant a variance from the Subdivision Ordinance on filing requirements.

OTHER BUSINESS

C10-61-1(b) STREET VACATION

Northcrest Blvd. N. of Croslin St.

The staff reported that Mr. E. E. Duvall had submitted a written request regarding a triangular tract which was originally a part of Northcrest Boulevard but which is no longer used as a street since Northcrest Boulevard was narrowed north of Croslin Street. He said he had built a duplex on his property in 1958 and the street was changed in 1960 and he felt that he has suffered considerable damage by this procedure and that some consideration is due him. He reported that after talking to Mr. Rountree (Public Works Department) he would like to have this tract deeded to him.

The Commission considered the tract of land involved. Mr. Fowler said in answer to a question by Mr. Osborne regarding title to this tract that he had reported that the City makes no effort whatever to pass on land titles, and the only power it has is to vacate the street and what happens to the vacated portion and in whom the title vests would be the abutting owners' problem. He said that normally one-half of the property vests to the abutting property owners but there are no definite standards.

Mr. Osborne questioned the possibility of this becoming a separate lot under some other ownership and said this would be creating a sub-standard lot since it would not have sufficient area for a standard lot. Mr. Fowler felt that in this situation the tract would vest in the adjoining lot owner since the original line of the Boulevard was abutting Mr. Duvall's lot, and when the City buys property for right-of-way it buys the fee simple.

The Commission then

VOTED: To recommend that the triangular tract at the northwest corner of Northcrest Boulevard and Croslin Street, which was a part of the original right-of-way of Northcrest Boulevard, be VACATED subject to departmental requirements.

C10-61-1(c) STREET VACATION

West 49th St. W. of Shoal Creek Blvd.

A request was submitted by the abutting owners for the vacation of a portion of West 49th Street located between Shoal Creek and Shoal Creek Boulevard for the following reasons:

1. Since the school district line changed ten years ago, there has been no school traffic over this part of the street.
2. There is no foreseeable need for a vehicular crossing here.
3. There would be a considerable maintenance cost saving to the City because the undersigned property owners would assume the responsibility of caring for this section of the street.

C10-61-1(c) Street Vacation: W. 49th St. W. of Shoal Creek Blvd.--contd.


4. All public utility rights would, of course, be recognized by the two property owners involved.
5. The existing footbridge has reached such a deteriorated state that it must be considered a hazardous crossing.
6. If the City vacated this section, numerous calls to the City Police relating to vandalism could be eliminated.
7. It has been impossible for the City or adjoining owners to properly keep this section of 49th Street clean and safe.

The staff reported that an explosion recently wrecked the house on the lot on the south side of the street and when the owners started to rebuild it was discovered that this had a non-conforming setback from 49th Street and construction was stopped by the Building Inspector. It was further reported that this street has never been opened but there should be retained an 8-foot walkway through the street to the footbridge over Shoal Creek. The Commission then

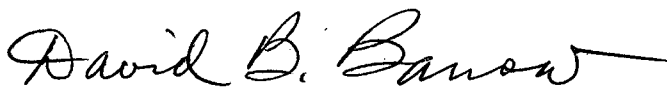
VOTED: To recommend that the portion of West 49th Street located between Shoal Creek and Shoal Creek Boulevard be VACATED subject to the City retaining an 8-foot walkway through the street to the footbridge crossing the Creek and subject to departmental requirements.

ADJOURNMENT

The meeting was adjourned at 10:45 p.m.


Hoyle M. Osborne
Executive Secretary

APPROVED:


Chairman