

CITY PLANNING COMMISSION  
Austin, Texas

Regular Meeting -- May 16, 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. Baldridge  
Fred C. Barkley  
Howard E. Brunson

Pericles Chriss  
S. P. Kinser  
W. Sale Lewis  
Emil Spillmann

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:

March 14, 1961  
April 11, 1961  
April 25, 1961

The following zoning change and Special Permit requests were considered by the Zoning Committee at a meeting May 9, 1961:

ZONING

C14-61-44 Nelson Puett, Jr.: A to C, 1 to 2  
Burnet Rd., Houston St. and Clay Ave.

DIRECTOR'S REPORT: This property actually fronts on Clay Avenue and is zoned "C" Commercial and "A" Residence. This constitutes a change to Second Height and Area and a change to "C" Commercial for the triangular portion next to Clay Avenue. I would recommend against the change in Height and Area but would recommend the change to "C" Commercial which would round out the zoning. The property along Burnet Road is zoned and developed extensively as commercial. The area to the east is zoned residential in the immediate vicinity of this property.

No one appeared to represent the applicant and no one appeared in opposition. The Director explained that the commercial zoning along Burnet Road had been established for a depth of 150 feet, with the line cutting through the lots and not following lot lines since the lots in this area are not at right angles to Burnet Road. He said this request is for extending the present zoning to include the rear corner of the two lots owned by the applicant so that he can use his entire property for commercial use. The Commission

Cl4-61-44 Nelson Puett, Jr.--contd.

concluded that this small portion in the rear would not be used except in connection with the development on the larger portion of the property and that the zoning change is necessary for the owner to gain the full use of his property and this would be logical zoning. Therefore, it was unanimously

VOTED: To recommend that the request of Nelson Puett, Jr., for a change of zoning from "A" Residence and First Height and Area to "C" Commercial and Second Height and Area for property located on Clay Avenue north of Houston Street and at the rear of 5431-5433 Burnet Road be GRANTED.

Cl4-61-45 Mrs. Sophie Winfield: A to O  
1607 West Avenue

DIRECTOR'S REPORT: This is requested for the purpose of increasing the number of children in a kindergarten. This kindergarten and a nursery school are established uses on a lot which contains about 850 square feet. The surrounding area is developed primarily with duplexes, apartments and single-family homes. To the north there is a fraternity house and a sorority house. To the east along Rio Grande the zoning is "O" Office. To the west the zoning is mostly "A" Residence. The Office area extends from Rio Grande eastward and one-half block west of Rio Grande. It was established several years ago. We have had several recent requests for zoning changes along West Avenue. In view of the fact that this would be spot zoning I would recommend denial but I do recommend that a study be made of the zoning along West Avenue since we have had these recent cases.

Mrs. Winfield appeared at the hearing and presented the following information: I know it is spot zoning but really there is only one house between this lot and an existing "O" Office zone on the north. If they had joined with me it would have been an extension of the "O" Office zoning, but they did not want rezoning now because they thought their taxes would be raised. They have five young children to educate and they are still paying for their home, and they feel they cannot pay any more taxes than they are now paying.

Adabelle Riley (1605 West Avenue) and Mrs. Ray Bolton (1607 West Avenue) appeared in favor of this request.

Written objections were received from Dr. and Mrs. R. Berezovytch (1510 West Avenue) stating that they did not want offices in the "A" Residential area, and from Mrs. W. B. Shoe (712 West 15th Street) whose objections were as follows:

1. This is an area of homes and we, the home owners in this neighborhood for many years, wish to keep it a neighborhood of family homes. The area as a whole has not ceased to be one of homes, and there is in my opinion no reason why it should be changed. There are, in fact, many reasons why the zones should not be changed.

C14-61-45 Mrs. Sophie Winfield--contd.

2. In addition to the fact that it would be a serious detriment to the home owners to have office buildings in the midst of the neighborhood, it would cause an increased traffic hazard on what is already a dangerous street for the many students who attend the high school just below on West Avenue.
3. Located as they are just below the brow of the hill on West Avenue, both of these properties, if they were to be converted into offices, which would have many business cars coming and going, would create a really serious traffic problem not only for the entire neighborhood but for the many "through" cars which use West Avenue. One cannot live as I do, at the corner of 16th and West Avenue, without being very conscious of the many near accidents and numerous actual accidents at the corner even now.
4. The location is one of the most desirable in the city for residences in terms of its fine air and splendid old trees, which would take generations to replace, its general comfort and its convenience to schools and churches; it would be a senseless waste to turn it into office space when there are so many areas in the city far more practical and efficient for business purposes.
5. The proximity of this area to both Pease and Austin High Schools makes it an admirable residential area.
6. As the owner of the home in which I reside, across 16th Street from one property under discussion and next but one to the other, I register strong protest and objection to any "office" use of these properties.

The Committee Chairman reported the following discussion of this case: Mr. Barkley called attention to recent zoning change for a large apartment house south of 19th Street which was not recommended by the Commission but was granted by the City Council and he questioned the need for a study of the area. The Director explained that the above zoning change was for "B" Residence while this request and the request at West Avenue and West 16th Street (C14-61-46) are for "O" Office, one for an apartment house and one for a nursery school. He noted that any of these isolated zoning changes are subject to being taken to court as spot zoning and if the Commission recommends any of these they would be subject to that legal challenge. He felt that the area study should be made to determine if the present "O" Office District has the proper boundary or if it should be extended further westward. The Committee had then agreed that the study should be made (R1320). In response to the explanation by the Committee Chairman that this area study is to be made, Mrs. Winfield said she was willing to withdraw her request pending completion of this study.

In view of the report of the Zoning Committee, the Commission unanimously  
 VOTED: To permit Mrs. Winfield to withdraw her request pending completion of the area study.

C14-61-46 Jim Novy: A to O, 1 to 2  
West Ave. and W. 16th St.

DIRECTOR'S REPORT: This application is in the same area as Mrs. Winfield (C14-61-45) and is a change to "O" Office and Second Height and Area. In this case the applicant proposes to erect an apartment hotel. This is on a vacant lot which contains 21,321 square feet. The surrounding area is developed primarily with duplexes, single-family homes and a few apartments to the west. To the east there are offices, single-family homes and a variety of other uses. In view of this location I would recommend that the study be made of the entire section.

Mr. Novy appeared in behalf of this request and was joined by Mrs. Sophie Winfield (1909 Rio Grande Street and 1607 West Avenue) and Mr. H. C. Byles (5804 Trailridge Drive) who favored the change.

Mr. and Mrs. Vance Riley (1605 West Avenue), Mrs. W. R. Smith, Jr. (1600 Rio Grande), Mrs. W. T. Caswell (1502 West Avenue) and Mrs. Claire Sherin (1002 Possum Trot) appeared in opposition but offered no statements in view of the proposed area study. Written objections were received from Dr. and Mrs. R. Berezovytch (1510 West Avenue) and Mrs. W. B. Shoe (712 West 16th Street) for the same reasons shown in the minutes of Mrs. Sophie Winfield's case. .

The Committee chairman reported the same discussion and action as was taken on Mrs. Sophie Winfield's request and Mr. Novy also requested that his case be withdrawn pending completion of the proposed area study (R1320).

In view of the report of the Zoning Committee, the Commission unanimously

VOTED: To permit Mr. Jim Novy to withdraw his request pending completion of the area study.

R1320 NEIGHBORHOOD STUDIES

West Avenue, 12th St. to 19th St.

In view of the recommendation by the Director and the Zoning Committee in relation to the requests of Mrs. Sophie Winfield (1607 West Avenue -C14-61-45) and Mr. Jim Novy (West Avenue and West 16th Street - C14-61-46), that a study be made of this area in view of the several recent requests for zoning changes along West Avenue in this vicinity, the Commission unanimously

VOTED: To instruct the staff to prepare and the Commission to review a study of the area on both sides of West Avenue from 12th Street to 19th Street.

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C14-61-47 E. T. Holly: A to BB  
W. 10th St. and Possum Trot

DIRECTOR'S REPORT: This application is made for the purpose of erecting an apartment house on a tract which consists of three lots and has four houses located thereon. This area is developed entirely with single-family homes and is zoned "A" Residence. About one-half block to the west is the O. Henry Junior High School. The nearest apartment development is to the north of the school near the intersection of Exposition Boulevard and Enfield Road. In view of the fact that this would constitute spot zoning in a well developed residential area, I would recommend that this be denied.

Mr. Holly appeared in support of his request and submitted the following information: This piece of property has four old shacks that are livable but are in a bad state of affairs. I think it would help the neighborhood to have an apartment development here. There is an apartment house two blocks to the south and one three blocks north. These houses are in bad shape but are not nearly in the condemnation stage. I will assure you that if I don't get an apartment they will be sold and they probably would not be fixed up much as homes.

Five nearby owners appeared in opposition and written objections were filed by one owner. Reasons given may be summarized as follows:

1. The Austin papers have been running an ad under "Real Estate Trades" in which this property has been advertised as "already zoned for 11 apartments - price \$25,000. We feel that this case should be suspended until this matter is cleared.
2. We who live nearby have not enjoyed the close proximity to the types of people who have so frequently moved in and out of the four shacks on the property in question. (Incidentally, these shacks have continued to be rented in opposition to one of the few zoning restrictions we have - that requiring 3 pieces of plumbing in the bathrooms.) It might be different if we thought he would build nice apartments that are well maintained, but because of this advertisement we do not know what would be built there. Until we do know, we think it would be best to wait.
3. This is a very nice neighborhood and we have been trying to keep it a nice neighborhood. These houses are old but I think the City should condemn them or something should be done to them. We do not want any apartment houses there as they would almost ruin our nice residential neighborhood. We have one near here which is quite over-loading these residential streets now.
4. That particular street is not paved and the apartment houses would increase the traffic up and down the street. There is just a beehive around the apartment house on Hearn Street now. We have a lot of school children from O. Henry walking up and down this street going to and from school, and that traffic plus the traffic created by the school would be bad.

C14-61-47 E. T. Holly--contd.

The Commission felt that this would be spot zoning in a residential area and that it should not be granted. Therefore, it was unanimously

VOTED: To recommend that the request of E. T. Holly for a zoning plan change from "A" Residence to "BB" Residence for property located at the southwest corner of West 10th Street and Possum Trot be DENIED.

DISQUALIFIED: Mr. Lewis

C14-61-48 R. E. Westbrook: A to C-1  
Burnet Rd. and Buell Ave.

DIRECTOR'S REPORT: The requested change to "C-1" Commercial is to zone the property in conformance with the adjoining property. The area is generally undeveloped in the immediate vicinity of this development but there is a furniture store to the north and a "GR" zone to the south. Most of the area along Burnet Road in this area is undeveloped. Across Burnet Road is a residential subdivision while on the west side north of Ohlen Road it is zoned strip commercial. In view of the fact that this would constitute an extension of strip zoning and in the analysis of the zoning of Burnet Road this would result in very irregular development, with a strip of land to the rear of this property which will be undeveloped for a considerable length of time, I would have to recommend against this change as a continuation of strip zoning.

Mr. and Mrs. Westbrook appeared and he presented the following statements: The property directly adjoining me is commercial and the property across Buell Street fronting on Burnet Road is "GR" General Retail. The county line splits my property at the rear of this tract, the front 100 feet more or less fronting on Burnet Road. There is no possibility of any future residential development there because I own the property behind this. There also is no possibility of residential development to the north or south of my property. This has no value whatsoever for residential. A greenhouse is now operated here which is in accordance with residential zoning. We submitted this application at the suggestion of the City officials.

The Commission discussed the inconsistent pattern of zoning in this area along Burnet Road and the fact that the applicant does not have definite plans for development at this time. It was concluded that the property should have a "GR" General Retail zoning at this time, which would include most retail operations and conforms to the zoning on the south, and that the Commission would be receptive to consideration of a change to "C-1" when the need is shown. Therefore, it was unanimously

VOTED: To recommend that the request of R. E. Westbrook for a change in the zoning plan from "A" Residence to "C-1" Commercial for property located at the northwest corner of Burnet Road and Buell Avenue be DENIED; but that a "GR" General Retail classification be established for the property.

DISQUALIFIED: Mr. Barrow (owner of nearby property)

C14-61-49 Mrs. Martha G. Yarrington: A to O  
706 West 34th St.

DIRECTOR'S REPORT: This is requested for the purpose of using the property for an architect's office. This property is approximately one and one-half blocks west of Guadalupe Street. It and the property in the area are developed as single-family homes. About five lots to the west there is an "O" Office zoning which is not currently developed. To the east approximately one-half block there is "C" Commercial zoning along 34th Street. In view of the fact that there is a rather disheartening zoning pattern in the area, consisting of two spot "O" Office zones and strip commercial zoning, I think it would be proper to continue the "O" Office zoning and I suggest that the staff try to get a continuation of this zoning.

Mr. Sterling Sasser, Jr. represented the applicant at the hearing and stated that he had nothing to add to the Director's report but in response to the statements of the opposition he made the following statements: I can't promise that the person purchasing this property will always use it for an architect's office but there is "O" Office across and down the street. I don't see how this street could be anything other than commercial at this time.

Mr. and Mrs. Lloyd A. Nauert (710 West 34th), Mary Alice Comeskey (709 West 34th) and Mary and Catherine Hankey (3300 King Street) appeared in favor of the request but offered no statements. Replies to notice were received from three other owners not living on 34th Street, and from Lillian M. Seller (708 West 34th Street) approving the request. The following statements were submitted by Miss Seller: I should like to add, however, that the business of zoning lots piecemeal in the same block makes very little sense to me. On the corner of this block bordering West Avenue at 34th Street there is already a Medical Center. Now the question arises as to zoning for a single lot in the middle of this block. The Medical Center in the block now occupies what were once three lots, on one of which was a house. These lots were zoned for business. May I suggest if the Zoning Commission decides in the affirmative for Mrs. Martha Yarrington, that the other lots remaining in this block, also be automatically zoned for business, after notification to property owners who, if they agree to the property belonging to Mrs. Yarrington being zoned, should not object to zoning the other lots, including their own.

Mr. and Mrs. Walter Barnes (700 West 34th) and Mr. and Mrs. Frank Barnes (704 West 34th) appeared in opposition for the following reasons:

1. The property is to be zoned "O" in order to have an architect's office but when we open the "O" zoning we open it to other things than an architect's office. This is a residential area. We own our homes along this street. This is a completely home-owned block. If it is zoned "O", they can put in a dance studio, a dramatic studio, a nursery or kindergarten, and other uses which would not be desirable. We are

C14-61-49 Mrs. Martha G. Yarrington--contd.

opening the gate to ruining it as a residential neighborhood. We believe that this change will be bad for our living conditions; and we foresee a possible use of this property that will adversely affect the entire residence block.

2. We know that they must provide for off-street parking but we do not know how much. Even if they have parking, the employees park on the street and the street would be choked with cars, then how do older people get out to a taxi.
3. This would reduce the desirability of this neighborhood for residential to people who are not able to change their residence usually. We could get something noisy or an alcoholic home to take care of narcotics patients and other undesirable uses, and then we have the parking problem and you can't lick it by saying that they have to provide parking.

The Director again reviewed the character of zoning and development along this section of 34th Street and the fact that it is developed with single-family homes in the immediate area but is gradually changing to "O" Office along the street. He called attention to the difficulty of providing off-street parking when old houses are re-used for commercial or office uses because these houses are only set back 10 to 20 feet from the street and the only off-street parking that could be provided is on the back of the lot unless someone removes a house and rebuilds, which rarely occurs. He suggested that the zoning change should probably be recommended and that the entire frontage on both sides of 34th Street be recommended for "O" Office except that there is the problem of off-street parking because this is a very important little section of street. Mr. Lewis asked about the possibility of widening the street. Mr. Osborne said he didn't think there was much chance because of existing development but that the paving might eventually be widened some. The Commission reviewed the statements presented and the character of zoning and development in this area. It was concluded that the request should be granted and that the entire block should be changed to "O" Office zoning on both sides of the street. Therefore, it was unanimously

VOTED: To recommend that the request of Mrs. Martha G. Yarrington for a change of zoning from "A" Residence to "O" Office for property located at 706 West 34th Street be GRANTED.

C14-61-76 Planning Commission: Area Study  
 West 34th Street, King Street to West Ave.

In connection with the above case (C14-61-49) and the feeling of the Commission that this entire block should possibly be given an "O" Office classification, the Commission unanimously

VOTED: To instruct the staff to schedule a hearing for the next meeting of the Zoning Committee for a possible rezoning of the remainder of this block on both sides of West 34th Street from King Street to West Avenue.



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C14-61-50 Charles C. Brock: A to C  
Rear 2219-2225 (2209) South 1st St.

DIRECTOR'S REPORT: This application proposes to move a commercial building back from the street and provide parking, or for an auto repair shop. The front portion of the property fronting on South 1st Street is zoned commercial with a repair shop and a grocery store. There are other scattered commercial uses along South 1st Street; however, the area is predominantly residential development. This area was pointed out some five years ago as one of the areas that was an unsound commercial area and I think it still retains this classification and further commercial development causes the removal of residential buildings; however, this lot is rather small. South 1st Street is actually an extremely long collector street extending for about three miles. Oltorf Street about one block south of this property is a thoroughfare. In view of this situation, I would recommend against the change of zoning.

Mr. Brook appeared and presented the following information in support of his request: I talked to all the neighbors and they were all in favor of the change. The store is too close to the street for a lay-down curb since I donated property for the widening of the street. The first 130 feet is zoned commercial and the back end is being requested for the change so I can later add on to the back of my store or put up a new building, but I must get further back from the street. At this time there is only a grocery store here and not a TV shop as shown on the staff report. If it is ever built up enough here to qualify it, I could later put in an auto repair shop.

One reply to notice was received favoring the request.

The Director again called attention to the residential development in the present "C" Commercial area and his recommendation against granting the request because this is an unsound commercial zone with two major shopping centers being established nearby and the only commercial uses of any consequence being located at South 1st and Oltorf Streets. He felt that South 1st Street would never be a suitable street for commercial development since it serves as a collector street and is not a major thoroughfare. The Commission discussed these statements and the staff report. It was concluded that this would be a logical extension of the present commercial zoning and the best usage of the property since it backs up to the creek and has no other access than through the front portion of the property. It was therefore unanimously

VOTED: To recommend that the request of Charles C. Brock for a zoning plan change from "A" Residence to "C" Commercial for property located at the rear of 2219-2225 (2209) South 1st Street be GRANTED.

C14-61-51 Mary B. Harper: A to C  
2130-2132 Goodrich Ave.

DIRECTOR'S REPORT: This request is for a contractor's office and storage yard and a jewelry manufacturing business. This property fronts on Goodrich Avenue about 100 feet north of Lamar Boulevard. The surrounding area is

C14-61-51 Mary B. Harper--contd.

developed with commercial and "C-1" zoning along Lamar. Off of Lamar there is a service station and a motel. The area along Lamar is generally zoned "C" Commercial. To the north in the residential area there is a vacant tract of land with a house fronting on Bluebonnet Lane but there is no development on the subject property. To the north there is a residential subdivision along Frazier Avenue. Goodrich Avenue is a residential street with 50 feet of right-of-way and is currently up for paving along this section. In view of the fact that this would constitute a major extension of commercial zoning for a very intensive use in what is potentially a residential area with a motel next to this and limited development along Lamar Boulevard, I would recommend that the request be denied.

Mr. Doak Rainey (agent) represented the applicant and gave the following information: Mrs. Harper owns the tract from Goodrich to Bluebonnet. She proposes to get the east part of this tract zoned "C" Commercial, a part of which is already zoned "C". The west end of the property is now occupied by a single-family dwelling. She proposes to subdivide the entire tract so that the west portion will be divided into two tracts for residential purposes. The east portion would be left in one piece. She also proposes to give five feet of additional right-of-way on Goodrich Avenue for widening to a 60-foot street. The property to the east is undeveloped but is "C" Commercial. The property to the south is also zoned "C". The only property that would be affected by the change would be to the north. There is a fence around the entire area that is requested for "C" to separate it from any other property.

The applicant was also present and stated that she is paying taxes and does not get any revenue from the property, but the only use she can have is commercial because of the surrounding development.

Three persons appeared favoring the request and one reply to notice was received favoring the change for the reason that this is not suitable for residential use because of the depth of the property.

One reply to notice was received opposing the request.

At the Commission meeting, the staff presented a letter from Mrs. Harper requesting permission to present additional statements and this was granted. Mr. Glen E. Tanner represented Mrs. Harper (as her son-in-law) and replied to the questions raised by the Zoning Committee and reviewed the surrounding zoning and development.

The Commission then reviewed the recommendation of the Zoning Committee. Mr. Kinser said he had suggested to the general contractor who proposes to use this property that the depth of the property might be reduced to the depth of the motel property on the south to form a uniform pattern and that the contractor had said he could use that and leave the rear portion as an "A" Residence buffer zone. Mr. Barrow said he is generally in favor of increasing the area of strip zoning in order to concentrate existing zoning and

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C14-61-51 Mary B. Harper--contd.

questioned the possible use of the front portion of this tract which is "C" Commercial in a triangular shape resulting from strip zoning along Lamar Boulevard. He asked if it would be better to leave it "C" Commercial and force the rear portion to be used for some other use. Mr. Spillmann said he would have no objection to extending the "C" Commercial zoning for the same depth as the motel property on the south since the frontage on Goodrich Avenue is already commercial.

Mr. Osborne said he would continue to recommend against this on the bases that the existing zoning is developed with Local Retail uses along Lamar and the property along Goodrich Avenue is developed with single-family houses or is undeveloped, and he felt that the extension of "C" zoning into this area would create a serious problem for the adjoining tract of land which is currently zoned residential. He also felt that leaving any portion of this tract of land in some other zoning category would possibly be a rather difficult thing to work out and that if any portion is to be zoned, then the entire tract should be. With regard to the front portion of the land now zoned "C" Commercial, he said he would have to see how the land could be developed and whether it would be suitable development since the motel backs to this property and cuts off any view from Lamar Boulevard. He again called attention to the possibility of subdividing both of the residential tracts and to the same problem which applies to both tracts. He thought the motel should be protected by zoning.

After considerable discussion, the Commission unanimously

VOTED: To recommend that the request of Mary B. Harper for a change in the zoning plan from "A" Residence to "C" Commercial for property located at 2130-2132 Goodrich Avenue be DENIED; but that the easterly 361 feet of this property be changed to "C" Commercial.

C14-61-52 Charles D. Nash: A to BB  
1120-1208 East 52nd St.

DIRECTOR'S REPORT: The request is for the purpose of building an apartment house. This is a series of 8 or 9 lots containing an area of about 8500 square feet each, or a total of about 83,000 square feet. The immediate area is undeveloped at the present time except for several single-family homes, some homes now being moved on and rebuilt. To the west there is a service station, washateria, and other commercial development along Cameron Road. To the south is a residential area. In view of the fact that there is an established "BB" Residence zone on the south and this fits in with this fairly reasonable plan and it has a 50-foot street, I feel that it can be zoned for apartment development.

Mr. Robert C. Sneed (attorney) represented the applicant and presented statements which may be summarized as follows: This property is under contract to be sold by Mr. Nash to Mr. Worsham who proposes to erect the apartment

Cl4-61-52 Charles D. Nash--contd.

house on the property and I would like to file a plan for 20 units drawn by Mr. Coleman (architect) to show exactly what the plan is. The property across the street to the south zoned "BB" was recommended by the Planning Commission and zoned by the City Council.

Mr. Moses Kouri (2509 San Antonio) said he thought this is good development for this property. Reply to notice was received from Mr. Thomas C. Wommack (2517 Winsted Lane) who also favored the request. Both own property in this immediate area.

In view of the fact that there is an adjoining "GR" General Retail zone adjoining this property on the north and a "BB" Residence zone across the street on the south the Commission concluded that this would be a logical zoning for this tract. It was therefore unanimously

VOTED: To recommend that the request of Charles D. Nash for a change of zoning from "A" Residence to "BB" Residence for property located at 1120-1208 East 52nd Street be GRANTED.

Cl4-61-53 Irving L. Ravel: C to C-1  
Rear 5610 Adams Ave. (5517 Burnet Rd.)

DIRECTOR'S REPORT: This is for the purpose of the sale of beer and wine for on-premise consumption. A cafe or restaurant will be located on an interior tract just off of Burnet Road. There are a number of commercial uses along Burnet Road and to the east of this along Adams Avenue is "A" Residence and residential development. Adams Avenue is a 40-foot street but has a 30-foot paving width. In view of the fact that this conforms to the zoning in the area and there are several "C" and "C-2" zones in the area, I would recommend the change of zoning.

Mr. and Mrs. Ravel appeared at the hearing and he presented statements as follows: We are going to use only one small portion of this building for this use. A lease is pending for a reputable restaurateur who has been in subbusiness in Austin for a number of years. There will be no liquor sold and it will not be a drive-in business. It will be a very attractive, first-class building facing south with a rear entrance on Adams Avenue but not for customers.

Reply to notice was received from Mr. and Mrs. T. H. McCary (5700 Adams Avenue.) opposing the request and Mr. W. C. Champion (5614 Adams Avenue) stating the following objections at the hearing: I don't object to the building but I object to the change of zoning where beer or liquor can be sold. I have been living here 28 years and I think I am entitled to know what kind of neighbor I have. (Mr. Ravel said Mr. Jimmie Joe Lung will be the probable tenant and it is being built specifically for him.) I don't think it will be good to have an entrance from Adams Avenue.

C14-61-53 Irving L. Ravel--contd.

The Commission concluded that this request conforms to the established policy regarding "C-1" requests in that this property is located in a well developed "C" District. Therefore, it was unanimously

VOTED: To recommend that the request of Irving L. Ravel for a zoning plan change from "C" Commercial to "C-1" Commercial for property located at the rear of 5610 Adams Avenue (5517 Burnet Road) be GRANTED.

C14-61-54 Stanford Enterprises and SCMD Trust:

Tract 1: A to O

7005-07 Mira Loma Lane

Tract 2: A to LR, 1 to 6

7009-11 Mira Loma La. and 2001-13 U. S. Hwy. #20

DIRECTOR'S REPORT: This request is for a change of zoning on Tract 1 for a real estate office and Tract 2 for a filling station, retail store, or offices. This is a planned development in connection with residential and commercial and this is the first part of the commercial to be developed, being the only area within the city at this time. The surrounding area is only partially developed. There is some residential construction to the south. Immediately to the west there is a contractor's storage yard and to the north across Highway 20 there is a motel and a cafe which has "C-1" zoning, that being the northeast boundary of the city limits. The proposal includes between Tract 1 and the residential property a 20-foot buffer strip to protect the residential area. In view of the fact that this is the first step in commercial development until the remainder of the area comes into the city, I would recommend the change.

Mr. Tom Gee (attorney) represented the applicants and said he had no statements to add to what the Director had reported.

One person appeared at the hearing favoring the request and written comment was received from one person who favored the change and commended the applicants for the progress in planning and building a wonderful community in the area mentioned.

In view of the fact that this zoning is in accordance with a planned development of this area, the Commission felt that this would be good zoning to serve the area. It was therefore unanimously

VOTED: To recommend that the request of Stanford Enterprises and SCMD Trust for a change in the zoning plan from "A" Residence to "O" Office for Tract 1(7005-07 Mira Loma) and from "A" Residence and First Height and Area to "LR" Local Retail and Sixth Height and Area for Tract 2 (7009-11 Mira Loma Lane and 2001-13 U. S. Highway #20) be GRANTED.

C14-61-55 John T. Schneider: A to C  
2112 Lawnmont Ave.

DIRECTOR'S REPORT: The applicant proposes to operate an appliance and parts sales service. The surrounding area along Burnet Road to the east is "C" Commercial, with a service station, restaurant and garage adjacent to this. Immediately to the west there are several single-family structures and along Montview itself there are single-family residences. This property suffers rather severely from abutting commercial zoning to the east and fronting on "C" Commercial on the south; however, it also has the problem that the adjoining lots are "A" Residence. In view of this fact I would not recommend the "C" Commercial zoning but request the Commission to consider a more restrictive zoning in the form of "O" Office or "LR" Local Retail to protect the residential development.

Mrs. Svea Sauer (agent) appeared at the hearing and presented the following information in support of this request: Mr. and Mrs. Schneider are here but they have asked me to explain the purpose. Evidently there was a misunderstanding. They do not want to sell appliances but only parts. Mr. Schneider has been engaged in the business of repairing washing machines for 23 years and has lived on Goodwin Avenue for that time. For the past three years he has been in business for himself, operating out of his home. For eight years he has owned the property on Lawnmont which would make an excellent location for his business. He is getting \$65 per month for it now and its value to him as a repair service location, with the increased sale of parts which would be possible, would materially increase the value of the property. Neither Mr. or Mrs. Schneider wish to injure their neighbors in any way and we would be happy to consider anything to benefit everyone, but everything facing the Safeway store is affected by the encroachment of that zoning. Their son is in business with them and he repairs commercial machines, but the applicants repair parts in their home. They hope in the future to change the building so they will not be crowded.

Mr. Bob Young appeared in opposition for the following reasons. He was joined by Mr. D. M. Sauls (2114 Lawnmont) in these statements.

1. I moved into this area some ten years ago and immediately following that time they built the Safeway store, extending commercial zoning back some 20 or 30 feet beyond our property line. I am within 50 feet of this line. Two or three years ago they gave us "C-1" zoning and allowed beer within 100 feet of our property. We thought they would stop there but they went on further to put a package store at the end of the street and now they are moving down toward our home. I have recently spent about \$3500 to improve my home which I needed for a third bedroom.
2. I came down the other day with Mr. Sauls and talked to the Planning Department concerning the fact that we would either have to go along with them or oppose them to keep our property from going further down the drain. The man told us at this time that this was a 50-foot street and normally you ask for a 60-foot street for commercial property; also, he

C14-61-55 John T. Schneider--contd.

had a 50-foot lot. There is 10 to 15 feet between these houses which makes them very close for business.

3. I doubt that he has enough space for off-street parking. As a result, our homes would be continually cluttered with other people's cars. If you rezone this, which I oppose, at the next Planning Commission meeting we wish to ask for ours to be rezoned also to protect our interests. We did not know of this proposal until the letters were received. We would want our requests to come up at the same time as Mr. Schneider's.

The Commission recognized the special problem of this particular property which is across the street from "C" Commercial zoning but felt that "LR" Local Retail zoning would be a more suitable classification and form a more logical zoning pattern by having this as a buffer zone between the commercial and residential property. It was noted that the use proposed by the applicant would be permitted under the "LR" zoning and does not require "C" Commercial. For these reasons, the Commission unanimously

VOTED: To recommend that the request of John T. Schneider for a change of zoning from "A" Residence to "C" Commercial for property located at 2112 Lawnmont Avenue be DENIED; but that an "LR" Local Retail classification be established for this property.

C14-61-56 M. H. Crumley: A to C  
St. Johns Ave. and Northcrest Blvd.

DIRECTOR'S REPORT: This requested change is for three lots and the applicant proposes future commercial development. These are three residential lots in conjunction with a residential subdivision along St. Johns Avenue. The entire area and this neighborhood is subdivided and developed as single-family houses. To the southeast and south the property is undeveloped at this time. St. Johns Avenue is being used as a collector street between North Lamar Boulevard and the Interregional Highway. In view of the fact that this is subdivided and zoned as "A" Residence and entirely developed as such and this would constitute spot zoning, I would recommend against the change.

No one appeared at the hearing to represent the applicant but one reply to notice was received favoring a shopping center in the Elmer Denson Subdivision, Section 2.

Four nearby owners appeared in opposition for the following reasons:

Mr. and Mrs. Charles Bradford (404 W. St. Johns): I am right across the street from this property. I own several lots and my home is in the middle of them. I object to anything that would affect my home. I have had some experience in this before where I owned some property at 702 South Lamar but the applicant brought in plans showing he was going to have a nice development and within six months there was an all-night filling station there.

C14-61-56 M. H. Crumley--contd.

I can't see why anyone would want to move into a residential neighborhood. These lots were purchased for "A" Residence. Northcrest is not even cut through and several other residents near here have sent in written objections. We all have quite a lot to lose financially on this. We all have children and are concerned with residences across the street.

Mr. and Mrs. R. V. Johnston (410 St. Johns): I own two lots adjoining Mr. Bradford and across from this property. I would stand a big loss here too if the zoning is changed.

Mr. and Mrs. T. E. Brisbon (704 W. St. Johns): St. Johns does have a considerable amount of traffic there. At one time we asked the Traffic Engineer for a stop sign there but at that time the traffic did not justify it. At the present time they are developing Anderson Lane which will take a considerable amount of traffic off of this and which will help the residential area.

Mr. Henry Ulrich (504 St. Johns): No statements.

Reply to notice was received from Mr. L. F. Weed (412 St. Johns Avenue) opposing the request but giving no reasons.

The Commission felt that this would not be suitable zoning for this property and would create a spot zone in a residential area, and noted that the applicant had presented no plans for development but only for future commercial use. It was therefore unanimously

VOTED: To recommend that the request of M. H. Crumley for a zoning plan change from "A" Residence to "C" Commercial for property located at the southwest corner of St. Johns Avenue and Northcrest Boulevard be DENIED.

C14-61-57 Chester H. Dormon: A to C, 1 to 6  
Russell Dr. and Ben White Blvd.

DIRECTOR'S REPORT: This request is for future commercial development on this lot which is 70 feet by 191 feet. The property to the southeast of Merle Drive and the area to the north and east of Russell Drive is developed residentially. To the west there is commercial zoning, "GR" General Retail, and a shopping center at the corner of Manchaca Road and Ben White Boulevard, and there is a nursery on the south side at Manchaca Road. In view of the fact that this is spot zoning encroaching into a residential area and would be the start of strip commercial zoning, I recommend that this request be denied.

Mr. Dormon appeared at the hearing and stated the following: This is located in a residential area and I purchased it with the intention of building a house on it, but when they put Ben White Boulevard through here it rendered it not useful for residential. I think of it fronting on a thoroughfare



C14-61-57 Chester H. Dormon--contd.

rather than on Russell Drive because I have 191 feet on the Boulevard. I think eventually all of this along here will be commercial except that I am not getting anything from it at this time and I have no prospects of getting anything for residential use. It is not my intention to detract from this area since I live near this location. I have made no commitments to anyone as to what I would put here.

Mrs. Roy Lancaster (4305 Russell Drive) appeared but offered no statements.

Written approval was received from Mr. Ben H. Roberts (4401 Merle Drive), for the reason that noise on the Boulevard makes property undesirable for residential use, and from Mr. Roy Stewart (4810 Roundup Trail).

Mr. and Mrs. Robert H. Gravis (4311 Russell Drive) and Mrs. Marvin R. Lewis (4303 Russell Drive) appeared in opposition and written comments were received from one owner and a petition signed by five owners was filed. Reasons for the opposition were:

1. We understand they are thinking of putting in a restaurant and having a canopy all the way to the street and that is the reason for the request for commercial zoning. This is a residential area. We still have our homes here and a majority of the owners are older people. When Mr. Womack sold the lots in this subdivision he stated that only property north of Casey Street, which is Ben White Boulevard now, was set aside as commercial. We object to any zoning change south of Ben White Boulevard in this subdivision.
2. We object to any kind of business that will stay open after 5 o'clock, that will have any kind of odors, or will have any kind of trash around it, and to any kind of business that would create more traffic. Ben White Boulevard has added to the traffic already.
3. (Mrs. Gravis): Our house, with three bedrooms on the south, will be right in line with and across the street from this property. This is where we get all of our breeze. We don't want any odors from grease permeating our home which we cannot afford to aircondition. My husband is a cardiac patient and we must have fresh air. I have offered to go along with Mr. Dormon if he will aircondition our home.

The Zoning Committee Chairman reported the following: Mr. Chriss had proposed that a study be made of Ben White Boulevard for the proper zoning of the entire area and had asked Mr. Dormon if he would be willing to withdraw his request at this time pending this study. Mr. Dormon had said he would be glad to withdraw his request, and the Committee had then recommended this action.

In view of the report of the Zoning Committee, the Commission unanimously

VOTED: To permit Mr. Chester H. Dormon to withdraw his request pending completion of an area study along Ben White Boulevard.

R1320 NEIGHBORHOOD STUDIES

Ben White Blvd., Railroad to S. Lamar Blvd.

The Commission reviewed the recommendation of the Zoning Committee that a zoning study of the area along both sides of Ben White Boulevard from the railroad to South Lamar Boulevard in connection with the request of Chester H. Dormon (C14-61-57). At the suggestion of the Zoning Committee, the Commission unanimously

VOTED: To instruct the staff to prepare and the Commission to review a study of the area on both sides of Ben White Boulevard between the railroad and South Lamar Boulevard.

C14-61-58 Tom Moses Attal: A to BB, 1 to 2  
Daniel Dr. and Dawson Rd.

DIRECTOR'S REPORT: This request is for the purpose of permitting multi-unit apartments on a tract of land containing about 12,350 square feet. The tract is currently vacant and undeveloped. It is in a portion of a residential area fronting on Daniel Drive which currently contains a number of single-family homes. There are other single-family homes to the south of this tract. To the north along Barton Springs Road there is strip commercial and "C-1" and "C-2" zoning, with some commercial development. To the southwest the City of Austin has a tract of land which was given to the City some years ago and to the south of that at the top of the hill is the Elks Lodge. Dawson Road is a 50-foot residential street. We had a similar case along Bouldin Avenue a number of months ago in which there were several lots which fronted on Bouldin and which were residential, but I think the lack of similarity of these cases is that this lot does front on Daniel Drive and there is sufficient depth in the lot to provide a buffer zone to Barton Springs Road while the other lots sided on commercial. In view of this, I would recommend denial of the request.

Mr. Robert C. Sneed (attorney) represented the applicant at the hearing and presented information regarding the proposed use of this property, the nature of the area, and the use of Dawson Road.

One adjoining owner and one adjacent owner appeared in opposition and written objections were filed by four nearby owners. The principal objections were that this would encroach into a residential area which is protected by deed restrictions against any use except single-family development and because of the traffic which would be added to the already congested use of Dawson Road.

The Zoning Committee Chairman reported that this Committee had voted to deny the request after it reviewed the statements presented and the development and character of the area.

C14-61-58 Tom Moses Attal--contd.

At the Commission meeting, the staff reported that Mr. Robert Sneed, for the applicant, had requested permission to withdraw this request since it was found that there are deed restrictions on this property which would prohibit its use as planned. The Commission therefore unanimously

VOTED: To permit the applicant to withdraw his request for this zoning change.

C14-61-59 Rogan B. Giles and J. B. Giles, Jr.: A & C to C-1, 1 to 5  
Fernwood Rd., Interregional Hwy., and Airport Blvd.

DIRECTOR'S REPORT: This consists of one acre out of a tract of about  $3\frac{1}{2}$  acres. Part of the tract is already zoned "C" Commercial. The request is for an extension of this commercial area and a change of both to "C-1" Commercial to permit the sale of beer and wine for on-premise consumption in conjunction with a restaurant. Under this zoning, other uses would also be permitted. The site is undeveloped. It is generally level, quite wooded, and has a rather large drainage area running through it. Adjacent to it across Fernwood Road is single-family development throughout the entire area to the northeast. Also, across Airport Boulevard it is single-family residence. To the west across the Interregional there is commercial zoning and some commercial uses. To the southwest of the intersection the property is undeveloped at the present time. Fernwood Road is a residential street with only a portion paved. The Interregional Highway is a major expressway and Airport Boulevard is a major thoroughfare. In view of the fact that this is in a well developed residential area with the property directly fronting on single-family homes and the fact that this would constitute the extension of a small area of commercial zoning which has been here since 1946, I would recommend that the case be denied.

Mr. Rogan B. Giles (applicant) appeared in support of his request and presented information which may be summarized as follows:

1. I would like to call the Committee's attention to the original plat of Delwood 2 which is the area to the north of Airport Boulevard and east of the Interregional Highway which was prepared by Mr. Marlton Metcalfe (engineer) and which was approved July 26, 1946. This showed this tract as having about three plus acres and this tract was not a part of this subdivision. On August 22, 1946, there was 300 feet of this tract zoned "C" Commercial by City ordinance. This was the entire tract. Subsequently a part of this tract was sold off to Mr. N. M. Jackson for a service station. Before he built his station the City acquired the portion of the property for the Interregional Highway.
2. The tract has continuously been in our family. In 1955, the title was transferred to my brother and me. The Interregional Highway construction left a triangular tract. Under the zoning that exists there it is entirely possible, and has been since it was originally zoned, to put in any number of commercial businesses, such as a hamburger stand and other undesirable uses. We have been particularly interested in the

C14-61-59 Rogan B. Giles and J. B. Giles, Jr.--contd.

development of this subdivision. The cutting out of this tract was done with the intention of doing something with it besides residential development. The northeast section of town has come to the point that we feel the time for development of this tract has arrived.

3. It is not sought to be developed as a whole but only the 1.01 acre. This would extend the "C" zoning 100 feet to the east for the purpose of putting in a restaurant which is to be designed by and built under the supervision of Mr. Winfred O. Gustafson (architect). We have alternate plans where the development could face any one of the three bordering streets. Mr. Gustafson wants to make the most possible use of the trees there and to use the natural terrain to make the best use of the site. We want to preserve all of the natural beauty of this tract. Our purpose in waiting this long is to be sure that we could bring something in here that would be a credit to the neighborhood rather than having something undesirable or "junky" development. Mr. Jim Hasslocher (who is State President of the Texas Restaurant Association) is the proposed tenant. The only logical use of this tract is commercial; it is not suitable for residential. We think it would be an asset to the neighborhood and that part of town. I am sure that some of the people here are concerned with the fact that the tract has the large growth and a number of mosquitoes there. The Tax Department continued to extend the property up for tax purposes.
4. The thing that someone took the trouble to do, and I think it is just as well that they satisfied themselves, was to go to San Antonio and see that Mr. Hasslocher has some drive-in establishments, but I presented some plans for the proposed development and sent out a two-page letter to each one of the people who received notices in order to keep false rumors or misinformation from getting started. I laid out the exact plan but I did not at that time have an architect's plan.
5. In relation to the people who repeatedly said this would be a park, I find it difficult to reconcile it with the fact that this property has been zoned since 1946 after notice was given. This was done two months after the original plat was filed of record. These people have a copy of this plat in their abstracts and it was zoned at that time as commercial. Part of it was actually sold for a filling station and was in the process of being planned as a filling station until the Highway Department made its requirements known. Our situation is quite simple. If this Committee has not had the opportunity to go out to this particular tract of land, I wish you would do so. The tract is not suitable for any use except commercial. It cannot be developed as residences on any feasible scheme. It was not originally set up to be residential as shown by the original plat. The fact is, we have shown our faith in not trying to deplete the neighborhood by putting up some type of junk operation. We could have used the money but we would not do that. The neighbors that have lived across from the tract have said that their

C14-61-59 Rogan B. Giles and J. B. Giles, Jr.--contd.

children have gotten poison ivy here and have been caught in trees. There is no way to get any revenue from it in its present state. We intend to develop it in some type of development so we can get some revenue from it with the nicest possible development. We feel that our request is reasonable. I specifically stated in the letter to these people about the representations that were made in order to eliminate any misunderstanding. The proposed restaurant is not a drive-in type restaurant but is an inside operation and the beer is to be served inside the building only and not on the outside. I would like to point out on the part of Mr. Hasslocher that the Texas Restaurant Association has over 2,000 members. They do not put in fly-by-night shysters and people who are trying to put something over on the general public. He is trying to have a good restaurant. We cannot maintain a private park and pay taxes on it.

Eighty owners of property in this neighborhood appeared in opposition, written objections were filed by two owners, and a petition signed by 220 owners was filed. Reasons for the opposition may be summarized as follows:

1. We do not object to the owners making a profit on their investment, but we do object to being forced to pay for this profit through devaluation of our property. Why can't this tract be developed for residential since there is residential across the street, and this would keep the home owners from losing money on their investment. One of the owners on Fairwood Road had occasion to get an appraisal on his property and one of the conditions was to have a statement that the property across the street is not commercial. They would not make a loan if it is zoned commercial.

One owner: In January of 1960, we made plans to add a den and bedroom to our home. Before completing our plans we asked Mr. Bascom Giles what he intended to do with the land. He said he still owned the land but his sons owned a small part of the property on Airport Boulevard and Fernwood Road. He told us then that they would put nothing up to hurt our neighborhood nor the value of our property, so we added on to our home. Now, 1y months later they are asking us to decrease the value of our property. We cannot afford to lose large sums overnight. This devaluation of property would amount to all of our savings for the past 11 years. In addition to the loss in value, the traffic and the disturbance by beer-drinking people would be deplorable. Let's keep some residential in Austin for good family living.

One Owner: I have over \$26,000 in my home and the appraisal was \$15,000, provided I could get a loan, if it is commercial across the street. All of our property will be lowered in value. The back door of these buildings will be in the front door of these dwellings. Some neighborhoods have been ruined by undesirable uses being put in. Fernwood Road is a narrow residential street and I don't know what it would be if this becomes commercial.

C14-61-59 Rogan B. Giles and J. B. Giles, Jr.--contd.

Mr. and Mrs. Aycock have recently acquired property which is within 200 feet of this land and are attempting to list it for sale. They have found the residential value of this property badly damaged by the commercial zoning of this property across the street. This has been a pleasant residential area but if this commercial zoning is extended further down the block it will change the character of the neighborhood and cause the residents to lose the value of their homes. We feel this is not justified by extension of the commercial zoning.

2. We have bought our homes cognizant of the existing zoning and in turn are dependent upon the continued good faith of the regulatory agencies to maintain or improve the existing standards.
3. Strip or spot zoning is detrimental to both the residential area and the business area because it makes one less attractive (thus devalued) and the other less effective due to not having other business to multiply the drawing power.
4. The need for a restaurant in this area has not been demonstrated, and if it should be, there are nearby properties available that already have the required zoning.
5. The many children in the neighborhood are able to visit and play with one another with a minimum of traffic hazards, which would not be true if a business were located here.
6. At the time this area was being developed, prospective purchasers were told by members of the Giles family and their sales organization that the entire tract of land bounded by Airport Boulevard, Parkwood Road, Fernwood Road and East Avenue would be developed residentially or into a park. Such action has not been taken, nor apparently even contemplated. Some of us are among those original purchasers and still maintain our property as a homestead. The reason this piece of land was left out of Delwood subdivision was that Mr. Bascom Giles told me when I bought my land that he would make it into a park. He explained his reasons for not including it in Delwood 2.
7. Mr. F. A. Dement (4515 Parkwood Road): My property is about two blocks from this area but at the time of the original development the field office of the Delwood Development Company was situated on the east end of this tract at Parkway and Airport Boulevard. I worked for Jimmie Connelly, who was the developer, and at that time I was told that this property would be residential or a park. I sold about five lots in there and I definitely know because the field office was located on this tract. I purchased a home in this area and I feel that the people I told and people I advised to live in the area are all entitled to have the entire tract as a park or as residential as originally planned.

CL4-61-59 Rogan B. Giles and J. B. Giles, Jr.--contd.

8. No doubt a beautiful building could be built but the building will not stop the odors from fried chicken and grease, and Mr. Hasslocher has a chain of restaurants in San Antonio and we have no guarantee that what he puts in here will not degenerate into something like some of his drive-in businesses in San Antonio, nor do we have any guarantee that the zoning change would stop at this point. There is no commercial structure of any kind in this entire neighborhood of Delwood 1 and Delwood 2. It is one of the beauty spots of the city. All of us are proud to say we live in the area. We feel that one start of zoning changing and we would have no basic reason to deprive the other owners of commercial development on their property. You can't run a restaurant and sell beer without disturbing the neighborhood.
9. We respectfully request that you reject the proposed reclassification and instead give consideration to rezoning the "C" portion of the tract to "A" Residence District.

The Director reported to the Commission that an additional part of the motion by the Zoning Committee had been to recommend that the present commercial zoning revert to an "A" Residence zoning, and that he had notified Mr. Giles that if this is considered, new notices should be sent.

Mr. Rogan Giles requested and was granted permission by the Commission to present an additional statement. He then reported that the west 300 feet of the original tract was zoned "C" Commercial on August 22, 1946, and the plat was not filed until September 7, 1946, three weeks after this zoning was established, so the zoning was already in effect when the plat was filed; also there was a notation on this plat that "This block not a part of this subdivision".

The Commission then continued consideration of the request and review of the Zoning Committee's recommendations. In response to a question by Mr. Lewis regarding the feasibility of subdividing this property for residential use, Mr. Osborne said you could probably create from eight to ten lots facing on Fernwood Road and that the main problem is the drainage solution. He thought the drainage might cause the loss of probably two lots but you could still have a minimum of eight to ten lots, getting about three lots per acre because of the shape of the property rather than the usual four lots per acre in the adjacent residential property. He noted that you could have awkward depths without fronting any of the lots on Airport Boulevard which he would not recommend. The Commission considered the present "C" Commercial zone at the intersection of Airport Boulevard and the Interregional Highway and it was felt that if one portion of the tract is developed the whole tract should be zoned and developed the same way, and that there seems to be nothing unique in this tract. The two major traffic arteries were discussed and the effect of commercial development here on the adjacent residential development. It was then concluded that the request should be denied for the reasons that any commercial development in the area would constitute an encroachment into a well developed residential area and, with entrance from the one-way frontage street of the Interregional Highway, there would have to be an exit on Fernwood Road which is a residential street. Therefore, it was unanimously

C14-61-59 Rogan B. Giles and J. B. Giles, Jr.--contd.

VOTED: To recommend that the request of Rogan B. Giles and J. B. Giles, Jr., for a change of zoning from "A" Residence and "C" Commercial to "C-1" Commercial and from First Height and Area to Fifth Height and Area for property bounded by Fernwood Road, Interregional Highway and Airport Boulevard be DENIED.

DISQUALIFIED: Mr. Kinser (owner of nearby property)

C14-61-60 Rogan B. Giles: A to O  
LaFayette Ave. and E. 38 $\frac{1}{2}$  St.

DIRECTOR'S REPORT: This request is for a lot fronting on LaFayette Avenue. The width is 50 feet and the depth is 100 feet. These lots are all similarly subdivided. The development south of 38 $\frac{1}{2}$  Street is single-family residential with "A" Residence zoning except for one "B" Residence zoning on a lot at Hollywood Avenue. Across the street there is a shopping center, a drive-in theater, laundry, and other commercial uses. At the present time 38 $\frac{1}{2}$  Street is a 60-foot primary thoroughfare with 40 feet of paving. In view of the fact that this would be an extension into "A" Residence zoning and the small size of the property, being reduced some by the widening of 38 $\frac{1}{2}$  Street, creates a serious problem as to the use of the property. Any zoning change here for office use would result in a minimum parking area. Probably it would meet the minimum parking requirements but I think most of the parking would have to back into 38 $\frac{1}{2}$  Street which would be difficult.

Mr. Giles appeared at the hearing and presented the following information: The deed restrictions of May, 1938, stated that such restrictions shall remain in effect until January 1, 1950. This specific tract is in a curve which was required to straighten out 38 $\frac{1}{2}$  Street. The smallness of the tract does present a problem for any residential development. There is considerable traffic on 38 $\frac{1}{2}$  Street. There is a real estate office further to the west (Mr. Osborne said that was an illegal use) which has been in use for a number of years with signs. There is a doctor's office which fronts on the Expressway in an "O" zone and sides on 38 $\frac{1}{2}$  Street. The proposed use for this tract is a dentist's office for Dr. Wm. L. Meier. We have had plans prepared and checked with the building permit office and it can be built as a building that will fit against the west line of the property with a fire wall. We would have exactly the right amount of off-street parking required, some heading in from LaFayette and some heading in from 38 $\frac{1}{2}$  Street. I have talked with the neighbors and the ones I talked with had no objection. This will make use of property which is largely unsuitable for residential development. I can't imagine putting a house on this small lot with the amount of traffic that is on 38 $\frac{1}{2}$  Street. This is the type of use that will not be open on Sundays. An office of this type is a non-offensive use and we do not think this would be spot zoning since there is a beauty shop up the street in an existing "B" Residence zone and a real estate office and the commercial across the street. We think it should be granted for a specific use.



C14-61-60 Rogan B. Giles--contd.

Written objection was filed by Mr. Bob A. Lilly (3700 LaFayette) on the grounds that to place any kind of structure at this blind corner will further aggravate a safety hazard that already exists. If such approval is granted, a traffic light should be installed at the corner of  $38\frac{1}{2}$  Street and LaFayette Avenue.

The Director reviewed his previous report for the Commission and stated that in terms of the size of the property the off-street parking could be provided if the improvements were designed to fit this lot. He called attention to the fact that East  $38\frac{1}{2}$  Street is proposed for a primary thoroughfare and only has 60 feet of right-of-way but he did not know how sufficient right-of-way and paving could be provided. He thought the paving should be expanded to at least 44 feet, preferably in the neighborhood of 60 feet. Mr. Lewis suggested that they put the entire 60 feet in paving and Mr. Osborne said he would then have the relation of parking both along the street and on the adjoining private property. In response to a question by Mr. Lewis, Mr. Giles repeated his statement that there would be off-street parking, consisting of head-in parking for four cars on  $38\frac{1}{2}$  Street and three on LaFayette, with two islands, which is the only way it can be provided with the building as planned. He stated that under the building regulations the proposed building would technically face LaFayette but will really face toward  $38\frac{1}{2}$  Street. He said there would be a fire wall along the south property line with no windows. Mr. Osborne said he felt the lack of side yard for this property is something that would encroach on the adjoining property.

The Commission also discussed the development across the street and the spot zones and uses on the south side of  $38\frac{1}{2}$  Street and concluded that the lot is not suitable for residential use and that it appears that eventually all of this property along the south side of  $38\frac{1}{2}$  Street will provide a solid buffer zone between the commercial and residential properties. It was concluded that the request should be granted provided the off-street parking can be provided and the wall erected on the south side to protect the adjoining residence. Mr. Chriss said he would vote for this but it was his belief that this was against the principles of zoning. It was then unanimously

VOTED: To recommend that the request of Rogan B. Giles for a zoning plan change from "A" Residence to "O" Office for property located at the southwest corner of LaFayette Avenue and East  $38\frac{1}{2}$  Street be GRANTED.

C14-61-61 Gage Western Investments, Inc.: A to GR  
 7200-7210 Hardy Drive

DIRECTOR'S REPORT: This is a change for slightly less than  $3\frac{1}{2}$  acres which front on Hardy Drive. The property itself has a single-family house on it but it is basically a vacant piece of property. To the west it is "GR" General Retail and "C" Commercial adjacent to Burnet Road. To the north it is single-family residential and also to the east and south. There is a large vacant tract on the south which is zoned "A" Residence. In view of the fact that the surrounding area is developed residentially and the tract of land

C14-61-61 Gage Western Investments, Inc.: A to GR--contd.

at the present time has no outlet except on a residential street. I recommend that the change be denied.

Mr. Leslie Gage appeared for the applicants and presented information as follows: We are requesting this change so that at some future date we might develop this property for General Retail uses. The front of this property is now zoned commercial -- that is six acres directly west. Hardy Street is really not a street at the present. At this point it is really right-of-way which has been donated to the City and at such time as they see fit they might extend the street. There is at present a single-family dwelling on the property and several outhouses and a barn and a few other things. The occupant of this house is in the process of moving at this time. The other buildings will be moved off the property. We do not intend to use Hardy Street as access to this property at this time. At some future date, perhaps the six acres in front and some  $3\frac{1}{2}$  acres in the back can be combined and access to the property can be gained from Burnet Road, so we are trying not to encroach or move into a residential area. I think it is pretty generally understood and known that this area along Burnet Road is commercial not only in zoning but in use as a congested, crowded area. We can get together and use Burnet Road. If we do develop a shopping center, the back portion would be paved for employee parking and we would not put a store within 25 feet of Hardy Drive. We actually don't have any construction planned at this time. We wanted to get it zoned at this time for we feel it should logically be done now to permit orderly development of ours and Mr. Hendrix's property.

Mr. Hal Hendrix (owner of property adjoining on the west) favored the change for the following reasons: I think this is a logical extension and utilization of the property and, as Mr. Gage has mentioned, the property up and down Burnet Road for some distance has been gradually evolving into commercial use. The only access to this property is from Burnet Road and they have no access from Hardy Drive because it is not opened. It is entirely logical that this property will be developed with the property fronting on Burnet Road and possibly with the property that adjoins it on the south. It is quite inconceivable that the front part of this property will be developed as residential on Burnet Road and the zoning requested is entirely proper with the development of this area.

Mr. Louie Gage (applicant) added that this property and that owned by Mr. Hendrix will definitely be developed together; that this would be a good, clean business and he felt that Burnet Road is overcrowded and the zoning should be extended further out.

One reply to notice was received from the M & O Timber Company favoring the request.

Seven persons submitted written comments, a petition signed by 30 owners was filed, and ten owners appeared in opposition. Objections voiced were principally expressed by the following:

CL4-61-61 Gage Western Investments, Inc.--contd.

Mr. and Mrs. Jimmy Thompson (2007 Pasadena Dr.): Hardy Drive has been developed as a graveled street. Mr. Gage is a business man and he is in this to make money but I am a home owner where I will probably be the rest of my life. I would hate to see this go through and have something built behind me that I would not be able to move away from.

Mr. J. G. Lancaster (2006 Pasadena Dr.): I am proud of our neighborhood and think it is an offense that because we are near Burnet Road we should be considered commercial. The only way we can maintain our residential is to keep this and the area to the north residential. I think to extend all the way back to Hardy Drive would be an encroachment into a residential area.

Jane Greer (1917 Madison): I live alone and across the street there is another lady who lives alone and we do not want commercial here. I have been forced once before to move because of commercial and I sincerely object to this. We would like to see houses developed along Hardy Drive. We have commercial uses and plenty of them on Burnet Road and we do not need further commercial.

Bob Davis (2001 Pasadena): Hardy Drive is open but narrow. We are not talking about property that is within 200 feet of Burnet Road but it is at least 1000 feet. There is commercial property along Burnet Road. Mr. Hendrix has a sign on his property that states that the property is over 700 feet deep. The other 400 or 500 feet is definitely residential property. I have spent 14 years trying to get a house in Austin. I bought mine in the middle of March and it will not be a home if there is a store in my back yard. I think this would be superfluous at this time.

Jimmy G. Hilsabeck for Col. C. L. Hilsabeck (1916 Piedmont): There has been a lot of talk here tonight about buffers between residential and commercial and I don't see where there would be a buffer between my house and this. "GR" General Retail in my mind is not a buffer zone.

Mrs. O. B. Sikes (2005 Pasadena Drive): Our lot joins the property in question in the back. Our neighbors take pride in their homes and we keep our back yards the same as our front yards, using our back yards as outdoor living rooms. We couldn't do that with this commercial development here.

At the Commission meeting, Mr. Kinser reported that Mr. Gage had discussed with him the possibility of eliminating the east 100 feet and bringing it in as a residential subdivision, but Mr. Gage was not at the meeting and no written expression had been received from him. The Commission concluded that this is not the highest and best use for the land but that it should be developed as "A" Residence. The Commission therefore unanimously

VOTED: To recommend that the request of Gage Western Investments, Inc., for a change in the zoning plan from "A" Residence to "GR" General Retail for property located at 7200-7210 Hardy Drive be DENIED.

C14-61-62 M. Z. Collins: O & 1 to O & 2  
Edgecliff St., Manlove St., and Interregional Hwy.

DIRECTOR'S REPORT: The applicant proposes construction of a motor hotel. The change in zoning is initiated because First Height and Area requires 1500 square feet and Second Height and Area with "O" Office only requires 750 square feet per unit. Under the present zoning it would permit about 95 units and under the proposed zoning he could have about 121 units. The surrounding area to the east is developed in duplexes and single-family development, however an extensive area has been zoned "B" Residence, with the development of the town lake in this vicinity. The area to the south across Riverside Drive is single-family development. In view of the fact that this would permit too intensive development, I recommend that the zoning remain First Height and Area.

No one appeared to represent the applicant.

A letter was received from Mr. John H. Kavanaugh (1307 Bonham Terrace) objecting to the zoning change for the following reasons:

1. Two years or more ago at two hearings when the "Manlove-Edgecliff" property owner applied for a change from residential to "O" Office and First Height and Area, I objected to the change for two reasons: (1) because I did not favor any tendency to change the residential character of the neighborhood and (2) because I opposed anything that would put even one more car on Riverside Drive between Travis Heights Boulevard and the Interregional Highway before Riverside could be widened and the City could buy right-of-way at residential prices in place of commercial prices.
2. When the second hearing was held a few weeks later (possibly before the City Council) I objected for the same reasons. At that time I was told that the more adjacent property owners had withdrawn their objections after seeing the plans that the Planning Commission had accepted for a doctor's or dentist's office on the site. Some member of the Council or Commission pointed out to me the property owner was entitled to some good use for his property and that this small office building was the best use. He further stated that Riverside was to be widened both east and west of the Interregional that year.
3. Some months later a hearing was held concerning proposed change on the Norwood property at which time I again stated the same objections and pleaded for the City to ask for right-of-way on Riverside between Travis Heights Boulevard and the Interregional Highway before making any change in zoning on that property. I also objected to proponents pointing to the property under discussion tonight as precedent for a change in the Norwood property zoning.
4. For the aforementioned reasons I therefore continue to object to the proposed change in the zoning of the Manlove-Edgecliff-Highway property. Furthermore, may I ask two questions:

C14-61-62 M. Z. Collins--contd.

1. Why hasn't right-of-way for widening Riverside between Travis Heights Boulevard and the Interregional Highway been bought and why hasn't work been started? (I still contend the time to have gotten it was over two years ago before changing any zoning.)
2. Why did the Planning Commission and/or City Council agree to a change in zoning on the Manlove-Edgecliff property without getting assurance that the proposed small doctors clinic would be built? That was the basis on which some property owners withdrew their objection.
5. It was my contention two years ago that any change in zoning would be a growing wedge and that we did not have proper assurance at that time that the property would not become involved in further commercial development at a later date. Possibly none of you are responsible for this, but you can stop any further zoning change. Will you please do so?

The Commission felt that this is a good location for a motor hotel and that it would be the best use of the property. For that reason it was unanimously

VOTED: To recommend that the request of M. Z. Collins for a change of zoning from "O" Office and First Height and Area to "O" Office and Second Height and Area for property located on Edgecliff Street, Manlove Street, and Interregional Highway be GRANTED.

C14-61-63 Austin Corporation and Bradfield Cummins and Bradfield:

Tract 1: Interim A & 1 to LR & 1

3714-3724 Bull Creek Rd., 3800-3810 Dry Creek Dr., 5901-5909 Mountainclimb Dr., and 3801 Hillbrook Dr.

Tract 2: Interim A & 1 to O & 1

5900-5904 Mountainclimb Dr. and 3900-3902 Dry Creek Dr.

Tract 3: Interim A & 1 to O & 1

3803 Hillbrook Dr.

DIRECTOR S REPORT: This is planned zoning in connection with new development in the area. Dry Creek Drive, which is a secondary thoroughfare being developed through the area, will provide service to the retail Tract 1. Tract 2 to the west on Mountainclimb Drive is for "O" Office. There is a third tract for "O" Office which is adjacent to a street which will lead through from Dry Creek Drive to Hillbrook Drive. The tract owned by Bradfield and Cummins fronts on Bull Creek Road, I would recommend be changed to "O" Office to exercise some control over the development. It is the only part of the tract that is shown with access on Bull Creek Road and it would be right at the bottom of a very steep hill with about a 7% grade. I believe that the "O" Office would offer some control for the development; otherwise, direct access would have to be provided at the bottom of the hill on this curved road. I would like to hear the comment on why Tract 3 is requested for "O" Office zoning. In response to further statements by Mr. Bradfield: I consider this curve in Bull Creek Road to be one of the most dangerous intersections in the city. Speed is from 30 to 50 miles an hour. My recommendation on "O"

Cl4-61-63 Austin Corporation et al--contd.

Office is that he would be permitted under "O" Office to come in for special uses. This is a very peculiar piece of property, isolated by topography and the creek. The other property is above this and this is a piece of property sort of left over. The question is how to reasonably control it. I would prefer that this design be worked out with the Commission, the Department and the Traffic Engineer.

Representatives of the applicants appeared and presented information as shown below:

David B. Barrow: In answer regarding Tract 3, if you look at it on the ground, there is a rather steep drop from Lot 2 and a steep drop in the back. This Lot 1 is separated from the other lots topographically. That is the only explanation I have of it. The same thing is true of Tract 2 between Lot 4 and Block 3 there is a steep topographic drop and those four lots fit into the commercial area topographically. The staff report shows that these streets are graveled and that is because the development is not completed. The plan is to pave the streets according to City specifications. Access will be from Dry Creek Drive, with a street connecting back to Hillbrook, but the main entrance will be from Dry Creek Drive which was designed to serve this area.

W. L. Bradfield: In view of the fact that Mr. Barrow does have a commercial strip adjoining my tract, I feel that this should be commercial also. Since it is at the entrance of Mr. Barrow's property and would be of considerable value if made commercial, it would have very little value for residential use. For "O" Office use as recommended by the Director, I do not think it would have its full and best use. The objection which Mr. Osborne has is in that this is at the curve of Bull Creek Road and that we are at the foot of a grade -- whether his point is well taken, it is the steepness of the grade and the blindness of the curve. I had our engineers compute the steepness of the curve and they found that the average grade is  $5\frac{1}{2}\%$ , which is inconsequential. We also find that the blindness of the curve does not exist because you have a sight line in every direction. I also had Mr. Jac Gubbels make a layout for me and he said by putting in a de-acceleration lane taking the traffic off the street that would lead into an entrance to this property, it would be entirely back of any curve in Bull Creek Road. Such a layout would benefit Mr. Barrow's drive also because we have exactly the same hazard. Laying the two out together would be advantageous to both. The advice of an expert on traffic use is that this would be no hazard at all. I also have here Mr. Curington who has made a study of this from a traffic standpoint.

H. W. Curington: I feel that this particular layout Mr. Gibbels worked out would not create any hazard, as Mr. Bradfield pointed out, and with these two de-acceleration lanes we would eliminate the traffic hazard.

The Zoning Committee Chairman reported that no action had been taken by that Committee pending further inspection of the property owned by Mr. Bradfield by some members and that this portion had been referred to the Commission without a recommendation.

C14-61-63 Austin Corporation et al--contd.

At the Commission meeting, the Director reviewed his former recommendation that Mr. Bradfield's property be zoned "O" Office under which an "LR" use could be permitted under a Special Permit and access could be controlled. He noted that he had recommended against the access plan proposed by Mr. Bradfield because of the danger involved at this intersection with Bull Creek Road and reported that he had requested a report from the Traffic Department regarding this plan. He said Mr. Beasley had given him a preliminary report objecting to this intersection and suggesting that, if possible, access be worked out in some other form rather than from Bull Creek Road; that he was considering an inlet driveway from Bull Creek Road into the property but the question then is how to get out of the property. Mr. Beasley had pointed out the possibility of gaining access to the north and northwest across the Austin Corporation property.

The Commission reviewed the statements of the applicants, the report of the Director, and the facts found upon inspection of the site and area. It was concluded that the Austin Corporation property is a part of a planned development and that the tract owned by Mr. Bradfield should be included because of its location in relation to this other property. Mr. Kinser said he is of the opinion that Mr. Bradfield, since he owns the surrounding property which is extensively developed, would be the first one to see that this tract is developed in an orderly, safe and sound manner. Mr. Chriss felt that the Bradfield property should be "O" Office. The Commission then

VOTED: To recommend that the request of Austin Corporation and Bradfield Cummins and Bradfield for a zoning plan change be GRANTED as follows:

Tract 1: Interim A & 1 to LR & 1

3714-3724 Bull Creek Rd., 3800-3810 Dry Creek Dr.,  
5901-5909 Mountainclimb Dr., and 3801 Hillbrook Dr.

Tract 2: Interim A & 1 to O & 1

5900-5904 Mountainclimb Dr. and 3900-3902 Dry Creek Dr.

Tract 3: Interim A & 1 to O & 1

3803 Hillbrook Dr.

AYE: Messrs. Baldridge, Barkley, Brunson, Kinser, Lewis and Spillmann

AYE: Mr. Chriss (on Austin Corporation property)

NAY: Mr. Chriss (on Bradfield property)

DISQUALIFIED: Mr. Barrow

C14-61-64 John D. Hubbert: A to GR

Redwood Ave. and New Manor Rd.

DIRECTOR'S REPORT: Across Redwood Avenue there is single-family residences and vacant land. To the north of Manor Road there is the Municipal Airport and the new terminal building. This area should be subjected to an area study. We anticipate a major increase in traffic on Manor Road. I think this would be reasonably sound zoning but I think you would also like to make a study of the entire area.

C14-61-64 John D. Hubbert--contd.

Mr. J. T. Baumgardner (agent) represented the applicant and stated the following: Mr. Hubbert has no intention of causing a hardship on property owners or his neighbors. He thinks that by getting this zoned commercial that it will help the neighbors instead of hurting them. I agree with Mr. Osborne that all this is potentially commercial next to the Airport, and we have a deal for this corner subject to the zoning change for a major oil company station and that is the reason for the petition, but we want to go along with the neighbors.

Mr. Herman McKinney (1517 Forest Trail) appeared favoring the request and reply to notice was received from Mr. J. M. Boyer (P. O. Box 4308) stating that he would like to see this zoned "GR" as requested.

Mr. Charles McBride (3215 Manor Road) appeared at the hearing in opposition to the requested change.

Upon review of the location of the property and the anticipated increase in activities and traffic near this location, the Commission felt that the request should be granted and that this is a suitable location for "GR" General Retail development. It was therefore unanimously

VOTED: To recommend that the request of John D. Hubbert for a change in the zoning plan from "A" Residence to "GR" General Retail for property located at the southeast corner of Redwood Avenue and New Manor Road be GRANTED.

C14-61-65 Beulah Edmerson: A to C  
Deloney and E. 12th Sts.

DIRECTOR'S REPORT: The applicant proposes a hamburger stand with drive-in facilities here. This property is located directly across from Oak Springs District Park. The surrounding area otherwise is developed with "A" Residence uses and single-family residences. There is a spot "C" Commercial about one and one-half blocks to the east. In view of the fact that this would constitute a spot zone in a very small piece of property in an "A" Residence District, I recommend that the request be denied.

Mr. F. B. Vaughn (agent) represented the applicant, who was also present, and stated the following in support of this request: The City took over Mrs. Edmerson's property across the street from this location where she had a little store, selling a few things. Mr. Fowler, Assistant City Attorney, at that time promised her she could operate across the street. She expected and now wishes to operate at her present location. Our inexperience in this caused us not to bring in this petition approving the request before the meeting, but we are filing it now. If there is any objection to the hamburger stand she would be satisfied with a small grocery store, with soft drinks and small items like she was selling before.



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C14-61-65 Beulah Edmerson--contd.

Mrs. Edmerson then presented the following information orally and in writing: When the City took my property across 12th Street from 3800 East 12th Street for Eastville Swimming pool they deprived me of a small business establishment on that property upon which I depended for a living. Mr. Fowler promised me I would be able to open the same business across the street. If denied this privilege I will have no dependable source of income. My mother is old and I have to stay with her and don't have anything to do. I was hoping that I could have this little place that would help a lot.

Mr. Dudley Fowler (Assistant City Attorney) submitted the following information in reply to Mrs. Edmerson's statements regarding promises by the City: I did represent the City in the acquisition of the Beulah Edmerson property along with other properties which were acquired in the creation of the Oak Springs District Park. At the time these purchases were made I knew, as I know now, that I do not have the power to promise anyone any zoning. There was no promise of any zoning then on any property in connection with any of these acquisitions. The possibilities of commercial zoning were discussed but it was strictly in a sense of a discussion of what might occur at a later date, and it was not in any way connected with the purchase, and I did want to clear this matter up with the Commission. I have no preference for nor against the zoning change and to my knowledge the Legal Department has none, but I did want to clear the record on the representations that were made that I would see to a grant or that a grant would be proposed by any member of the City administration on behalf of Mrs. Edmerson.

The Commission felt that the request should be denied for the reason that this would be spot zoning in a residential area. It was therefore unanimously

VOTED: To recommend that the request of Beulah Edmerson for a change of zoning from "A" Residence to "C" Commercial for property located at the northeast corner of Deloney and East 12th Streets be DENIED.

DISQUALIFIED: Mr. Kinser (owner of nearby property)

C14-61-66 Herman E. McKinney: A to LR  
Exposition Blvd. and Enfield Rd.

DIRECTOR'S REPORT: The applicant proposes to construct all masonry residential type utility station to furnish needed services as from a gas service station. The lot is apparently developed with a single-family residence. The area immediately surrounding this is single-family dwellings and there are some apartment zones across Exposition Boulevard and to the west of this location. There is a "B" Residence zone across Exposition Boulevard. There is a single-family development along Exposition Boulevard and Norwalk Lane. To the south the City has a golf course which is unzoned and undeveloped at this time. In view of the fact that this is in an "A" Residence and single-family residential area and with an apartment area to the east and public property to the south, I recommend that the change be denied as a spot zone in a residential area.

C14-61-66 Herman E. McKinney--contd.

Mr. Trueman O'Quinn (attorney) appeared for the applicant and presented information which may be summarized as follows:

1. I am in the position of being opposed to Local Retail for this property, myself. This application is designed to bring the attention of this Committee and of the Planning Commission to a need for a type of zoning particularly regulated, that will provide areas in which certain personal and mechanical services can be supplied in an area that is already being used or has been developed as a multiple dwelling district. You may recall several years ago that I came in with two applications for "D" Industrial, knowing that this was not suitable zoning for the proposed uses, and requested at that time that the Commission take it under advisement and make a study for "DL" Light Industrial and those two pieces of property are now zoned as "DL". Prior to that a similar development came about with regard to "O" Office District. My point is that as Austin grows and zoning becomes more complex, and it has become more complex on Enfield Road because it has developed in recent years because of the increased number of apartments in this area. The population has increased greatly and the development of Westlake Hills has greatly increased the traffic on Enfield Road. When the O. Henry School was developed, Exposition Boulevard was opened down to Lake Austin Boulevard and as a result this intersection became a very busy intersection.
2. Something I would consider would be "RT" Limited Utility District and it would be designed to furnish personal and mechanical services of various types provided that the structure is all masonry and is a residential type and is a type in keeping with a comprehensive plan in a populous area in which there are a lot of multiple family dwellings, and in addition to the mechanical and personal services to be provided on the premises, must be large enough to supply a certain amount of off-street parking not only for his own business but also for adjacent business on some type of arrangement. In order to have a "guinea pig" ordinarily unless you have a client who is willing to spend a little time and attention you don't have the privilege of presenting something of this sort -- but this case, the fact that this was presented to me in November regarding this piece of property. The people who were interested in acquiring the property came to me, which is the Phillips Petroleum Company, and I said I would not be interested in studying it or going any further with it unless they were willing to make a study of a revolutionary or an entirely new type of merchandising and structure, and I would not be satisfied by approval of their branch office in Houston, but it must be one from Bartlesville, Oklahoma, so they recently came up with a plan of how this thing could work.
3. The building would be situated that adjacent property would be blocked off entirely either by a solid wall or by an open wall, pierced-tile wall. It would be shielded and protected in front and on the corner with the same type of thing and would be so that no doors or no operation would look directly into property either next to it or across the

C14-61-66 Herman E. McKinney--contd.

street and would be so situated that it would provide plenty of off-street parking. All of the pumps, all of the air, and all of the water would be underground, and all merchandising would be done inside the building, with no sign except one similar to one you would find on an apartment house or a clinic. It would not be the usual Neon sign or the windmill sign. It would also be landscaped similar to the apartment houses or a residential piece of property. The architect has provided special specifications for the construction of this building. The trash area and all disposal would be in an inside utility room. The pumps and tanks would be underground and the actual dispenser from which the gas is poured would, of course, have to come up above the ground. We ask that this Committee appoint a committee from your group and the Director, and you have a list of some 21 property owners who have been notified who are within 300 feet and if you want to select the ones that are most vitally affected, it would be a most appropriate thing for them to serve with you without any official capacity, to try to work out something and make a study of this. In that way you could make a report without a recommendation to your Planning Commission because this is a matter which will ultimately reach the City Council. We thought it would be more appropriate to get it presented in this manner and get the other property owners to join in. In this type of utility but in not many others, you have to have a special permit. They have not used this type of utility but they have made a study of it and they believe in this higher type or revolutionary type of merchandising of a utility service and that is why they took it to their national office. Some utilities do not have too much regulation over them such as postal service, neighborhood mailboxes, water service, and similar services. These are industries which tend to support the operation of the home. Another is the transportation to the home and that is a filling station.

Regardless of whether this particular corner should ever be classified for the type of zoning district I am talking about, I still would like for the Committee to appoint a committee and study the matter. We have other sites in the city in mind -- three or four others at least -- and we do have in mind this type of development under strict regulation and it is the regulation we want the Committee to work on regardless of whether it be this corner or some other location with a different situation entirely.

Twenty-three nearby owners appeared in opposition, written objections were received from three owners, and petitions signed by 51 owners were filed. Reasons for the opposition may be summarized as follows:

1. (Mr. Graves Landrum: The University of Texas): I am Business Manager at the University of Texas and I appear here tonight under authorization of my superior to enter an objection formally by the University to the change in zoning of this particular piece of property. As you know, the University owns the golf course. All of it is under lease to the City

C14-61-66 Herman E. McKinney--contd.

of Austin except 11 plus acres which are on the corner of Exposition Boulevard and Enfield Road immediately across the street on the south from the property in question. The present planning of the University is to develop these 11 plus acres. At the present it is our purpose to develop this for staff members.

2. The problem of commercial expansion into residential areas is with us always. A city must grow, and a state and a nation, but unrestricted growth can bring destruction of all we hold dear as citizens, and all which has made us invulnerable as citizens. We believe in the rights of mankind; we are willing to live and die for them, but we also hold that no man is allowed to trample on the rights of others. The right of the petitioner to engage in business is not to be denied. But even more inviolate are the rights of citizens he would injure by his proposed operation.

The area north of Enfield Road is residential. It has always been so. Here people assured of a good neighborhood have built homes. Their cost was higher than average. The development of landscaping is above average. The neighborhood is convenient to community centers but separated from squalor by oak trees and ornamental fences and carefully planned houses. There are not even any alleys, and developers of the section included many restrictions in original deeds.

(Miss Louise Kirk: 2906 Bridle Path): The location in question is in Westenfield No. 1 and that was a residential subdivision put on by the Westenfield Development Company under restrictions for residential use. I have examined numerous abstracts in the area and in one or two instances they failed to put restrictions in some lots and this might be one of the lots, but that does not mean that the subdivision is not subject to the restrictions in the deeds. The apartments are not in Westenfield No. 1. There may be one or two duplexes but it has remained a residential section and it is an old subdivision and it would be a shame at this stage to let commercial uses come into this area that is restricted by deed to residential. Where you permit a special use, you grant the permit for one certain thing, perhaps it isn't successful by this oil company, and another company takes this over and may not comply with those regulations. No one policing all those things, and it would be an endless task, and where a particular use is put in under a zoning it may not be objectionable but there may be more objectionable uses in the future.

3. We value the character of our neighborhood as it now is, with tall oak trees, serene atmosphere and pleasant surroundings. It is an area we want to continue as one of Austin's better residential districts. To allow commercial zoning anywhere in this neighborhood would detract from those qualities which make it desirable for our homes.

C14-61-66 Herman E. McKinney--contd.

The objection to me is \$8,000. I had the real estate appraiser value my property (2706 Enfield Road) and described to him the best I could this new concept proposed and he assured me that if they built this utility service here, the price I could get for my house would be about \$8,000 less than if it were not there. So, there is an intense monetary interest to me on that count. On the other hand, if we continue to live in this place, with the facility as a neighbor, there will be the matter of lights burning at nights invading the privacy of our home and yard, the tire changing all during the night, the smoke from the Casite they use, kids on motor scooters coming in and out and cars backing in and out.

An apartment house owner: I have an apartment house diagonally across the street. I will move back into this neighborhood and return to the apartment. I realize I will lose quite a lot on my investment in the apartment house if the filling station goes up across the street because it would be difficult to keep the apartments rented. The neighborhood would begin to go down.

4. We want to object strongly to this type of spot zoning whatever it is called, in a well established residential area. We would not like to be "guinea pigs" and start service stations on the corner. Please keep faith with us in this neighborhood where you can hardly find a vacant lot and not let a person who buys a lot on a street where the traffic is such that it is valuable as a service station, that if this is recommended they can have a service utility spot there with some bricks in front of us, which to all of us will be a service station. You can't take just Enfield Road because Enfield Road does have some "B" and "BB" zoning and say that this service station should be allowed to be put there because this person has owned this spot which is zoned "A" and where all of us either bought or built our houses, developed our yards, and established our homes in this neighborhood because it was zoned "A" and was for single-family units. We do have this buffer because we do have multiple unit houses along here, but don't break into this strictly residential area and let this man who has owned this lot until it has gotten valuable if you allow it to be used that way -- so valuable that if they spend as much money investigating and finding a way that it can be used there in our neighborhood. It was apparent from Mr. O'Quinn's argument that the Petroleum Company is aware of the undesirable operation of this use. There is considerable growth in apartment houses, people who don't pay taxes and who will move away in time and have nothing to lose, and this service seems to be for them primarily and not for us. We can go just a short distance and get all the gas and oil we need.
5. Mr. Broadus who operates a filling station at 2003 Exposition Boulevard said that he can take care of more business than he has now and he does not think the neighborhood needs any more filling stations. He also

C14-61-66 Herman E. McKinney--contd.

said he has to close the place at times because of the kids in the neighborhood. From the standpoint of necessity, besides Mr. Broadus' station, there are several other stations in the general neighborhood and they all said they could take more business and they did not think there is a necessity for another station. Also, there are community centers within easy walking distance. A nearby boulevard is commercial for most of its length. Lots already converted to commercial enterprise lie unused and for sale.

6. We have no guarantee whatsoever that should this zoning change be permitted the proposed beautiful station would go in, but we do not want the door opened into the residential area for any type of commercial development. Once the change is made we will have very little control over what goes in, and I don't want a 7-Eleven or U-Totem right outside my bedroom window. This is one of the few good, old neighborhoods and I think it should not be discarded by one spot of commercial zoning. If the service station is not successful, he puts a few used cars out there and it can develop into a used car lot. I don't think the neighbors should take the loss on his property just for one man to make a profit on his.
7. The plan shows the entry and exit on Enfield Road and everyone coming from the west will top that hill and you cannot see the traffic coming out of the station. This is a blind hill. Also, all of the students going to the O. Henry High School who live beyond Enfield Road will have to cross this intersection which would be a safety hazard.
8. This petition is no request for large-scale development. It represents no sizeable investment. Its location holds advantage for only small enterprise -- a filling station in this instance. Five blocks away a commercial location (on Robin Hood Trail) has proved unprofitable to several types of businesses. Which, in this instance, is the zoning board obligated to protect -- dozens of home owners who have invested years and thousands of dollars, or a single promotor who proposes to erect one small business? What surrounding values would such a business enhance? Who would benefit except the petitioner? Is a more congested street corner desired for the hundreds of children walking to and from school? Will a filling station glorify the prospective home of the UT chancellor? Is it ever good practice for a zoning board to reach deep into residential areas and designate one location as commercial when no such possibilities are in sight for surrounding properties? Is the charm and gracious dignity and quiet of oak-shaded homes to be sacrificed for a single investor who promises nothing except to keep his business -- if he can show a profit? If not, he will move off without a backward look or a gesture of regret for what he has despoiled.

The Commission reviewed the zoning and development in this neighborhood, the staff report, and the arguments presented. It was concluded that this is not

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C14-61-66 Herman E. McKinney--contd.

a suitable location for this type of use and would be spot zoning in a residential neighborhood. Therefore, it was unanimously

VOTED: To recommend that the request of Herman E. McKinney for a zoning plan change from "A" Residence to "LR" Local Retail for property located at the northwest corner of Exposition Boulevard and Enfield Road be DENIED.

C14-61-67 A. M. Rundell: A to BB

Sunnyvale St., Summit St., Elmhurst Dr., S. Interregional Hwy.

DIRECTOR'S REPORT: This application is for the construction of multiple unit apartments. This is a tract bounded by the Interregional Highway, Sunnyvale on the north, Summit on the east and Elmhurst on the south. It is composed of several lots, two of which have single-family houses and another has a duplex. The surrounding area to the north, east and south is developed with single-family residences and zoned "A" Residence. Across the Interregional is a similar type of development. The block itself is on a rather high hill and drops down on the Interregional Highway frontage road. In view of the fact that this is in a single-family residential area and there are several single-family houses on the tract, plus the duplex, and the remaining tract of land is vacant, and it is susceptible to being subdivided or resubdivided into lots for single-family dwellings or duplexes, and I feel this would be a spot zone to be zoned "BB" Residence, I recommend that it be denied. There would be objection to zoning the part next to the Interregional Highway. There would be other property similarly located and it is not uncommon where you have frontage roads along the Interregional Highway, to have single-family lots siding on the Highway. You would probably have two lots in this block like that and would probably have other lots not fronting on the Interregional; also, the fact that this rises above the frontage road and would not be accessible from it. One point I might mention is that under "A" zoning he can put in duplexes and insofar as putting in rental property, he has the right to do that under the present zoning.

There is probably 30,000 square feet in the undeveloped portion which would include from 15 to 20 units. My other comment on this is that we did establish, in line with a comprehensive plan, a very extensive apartment area along Riverside Drive with a view in mind of protecting this area. We have more apartment zoning within four or five blocks of this than can be developed within the next ten years. Then we have other apartment areas in the general area.

Mr. Rundell appeared in support of his request and gave the following information: Property fronting on the Interregional is not too desirable for residential development. Property directly across Sunnyvale is an old estate on which no taxes have been paid to the City or County since 1926. It is more or less a private pasture and trash dump there, and no one wants to pay what you have to pay to build a house in this day and time where it would be

C14-61-67 A. M. Rundell-contd.

facing on this trash dump. The area to the south is one-family residences, most of them old, some of them in fair condition and some sub-standard. The type of homes that are newly-built there, and I have a new one there and I would be hurt the worst if I put something there that was not in keeping with the neighborhood. Anything I built would be of masonry construction and air-conditioned, with a swimming pool, like the modern apartment houses. I think taking the neighborhood as a whole, anything that would be built in keeping with what is new would add rather than detract from the neighborhood. We have "O" Office zoning at Riverside Drive and town lake. I am facing on the same street as two of the "O" zones and I feel that what I am asking is reasonable. To build apartments, we would have the entrance from the highway and this would be a side view, and if I built houses they would have to front into the trash dump. Mr. Spinks suggested this to me and Mr. Shuler (another developer) is thinking of buying it. Also, there are other people in favor of it. I have discussed it with several, and if they are against it they did not tell me except these two owners. The property across Sunnyvale was an old gravel pit and is now used as a dumping ground.

One person appeared favoring the request and one reply to notice was received approving the change.

A petition signed by 22 owners in the neighborhood who opposed the zoning change was filed and written comment was received from one owner objecting on the grounds that this is a one-family home area. The following persons appeared and expressed opposition as shown:

Jimmy G. Hilsabeck for Col. C. L. Hilsabeck (1916 Piedmont): Colonel Hilsabeck instructed me to speak for him but he did not give any instructions for or against it since he did not know what "B" Residence would mean. Mrs. Benedek has called me twice and said she talked to several people in the neighborhood who were opposed to this. She said no one else could attend the meeting because a lot of the people were military men. I talked to Mr. Van W. Spinks who is developing River Oaks subdivision and it seems to be that in apartments of any type you have more of a transit-type people. Mr. Spinks was telling me that all of the houses he sold in his subdivision were sold for cash. The type of people who are buying these \$20,000 and \$24,000 houses would not approve of apartment houses. If one change is made then someone else would want a change. I think some day with the view he has from this property and the Interregional, these lots will be sold and some very nice houses will be built there, but I would be opposed to apartments there. Mr. Spinks is not against this and he thinks it might benefit him, but he is the only one, I think, that did not oppose it.

Melba L. Benedek (1600 Elmhurst Drive): I thought at the meeting Tuesday that the meeting was over when the first case was closed, and left the room so I am requesting to be heard tonight (Thursday). We presented this petition by owners one block to the north, east and south. It is signed not by an exhaustive group of people but rather by a representative group in these



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areas. Our reasons for objection were that this is a residential section. We felt that there is a certain standard of development in this section that we would like to maintain if possible. We understand that Mr. Rundell has a problem with his property but we are objecting to the fact that he is solving his problems partly at the expense of the surrounding owners. For several years Mr. Rundell has maintained some rental property on this tract and they are not up to the standards of the rest of the district and we would request that this condition not be extended and we feel that it would be if the zoning is changed. In connection with the property north of Sunnyvale, the residents have plans to get that property improved. One of the bases for our objection is that Mr. Rundell does not seem to have definite plans for developing this property. If he had definite plans the neighbors might feel differently about it.

Upon consideration of the staff report and the arguments presented, a majority of the Commission concluded that the request should be denied since this would be spot zoning in this "A" Residence area and would permit a completely different character of development. Mr. Barrow said he thought this is the proper location for an apartment house development because it has nine lots and is completely surrounded by streets on three sides. He did not think it is proper residential property. The Commission then

VOTED: To recommend that the request of A. M. Rundell for a change in the zoning plan from "A" Residence to "BB" Residence for property bounded by Sunnyvale Street, Summit Street, Elmhurst Drive and South Interregional Highway be DENIED.

AYE: Messrs. Baldridge, Barkley, Brunson, Chriss and Lewis

NAY: Messrs. Barrow and Kinser

DISQUALIFIED: Mr. Spillmann

#### SPECIAL PERMITS

CP14-61-3 Southwestern Bell Telephone Company: Central Supply Center, Work Shop, and Mobile Shop  
E. 12th St., Sabine St., and East Ave.

DIRECTOR'S REPORT: We know this is a storage yard in connection with some other maintenance facilities in connection with the Telephone Company, which is required as a special permit. The basic requirement with regard to a storage yard is that the area be enclosed and completely screened. They have proposed two outlets on 12th Street directly at the Interregional Highway which the Traffic Engineer objects to very strenuously. The other item is that this is one of the main approaches to the Capitol. What they plan to do, as far as I can tell, is acceptable but the plan as to how they are going to develop it is a little sketchy. It is probably acceptable with the exception of the exits and the information as to the use.

CP14-61-3 Southwestern Bell Telephone Company--contd.

No one appeared at the Zoning Committee hearing or at the Planning Commission meeting to represent the applicant. One reply to notice was received from the Gateway Investment Company approving the request.

The Director reported to the Commission that he had attempted without success to contact Mr. Arthur Fehr (architect) who has been out of town. He said he has checked the proposed plan for one outlet at the intersection and the Traffic Department has objected to it very strenuously. He noted that there will also be a question of how the traffic from the off-street parking area on the west side will be able to get out.

The Commission reviewed the report of the Director and felt that the request should be postponed pending further information on this site plan. It was therefore unanimously

VOTED: To DEFER action on this request for a Special Permit pending further information.

CP14-61-4 M. Z. Collins: Motel  
 Edgecliff St., Manlove St., Interregional Hwy.

DIRECTOR'S REPORT: There is a very large drainage ditch, which is an old creek, adjoining the Interregional Highway at this intersection and entering the river to the north. The City has granted permission for the applicants to extend their driveway into Riverside Drive just at the point where the cut-off from Riverside Drive turns onto the Interregional Highway but it would exit into two-way traffic. It will be necessary to do some grading of the site and the crossing of the right-of-way in order to make a safe access by means of the proposed exit driveway. Manlove Street will not be normally used as an outlet to this area. In response to a question by Mr. Barrow: This is sufficient access for a motor hotel but there is to be a cafe in conjunction with it, which is permitted in the "O" Office zone. The only access to the cafe would be from Riverside Drive through the new drive, or possibly from Manlove Street. The traffic would be very limited for a motel but there would be some question as to the use of the cafe since the size will be somewhat limited and it will be located overlooking the lake; however, the traffic could be heavy here. I would prefer to have better access if there were other means but I don't feel there is any other feasible means of access. The developers plan for 160 parking spaces as shown on the plan and they will have more than are not now shown. Under the Ordinance they will need 121 spaces.

This is a corner piece of property which is subject to all kinds of pressure as to how it might be zoned and developed. It is next to the lake, next to the Interregional, and next to Riverside Drive. I think this is probably about as good a development as we could possibly expect under those conditions and the location in relation to thoroughfares and the town lake. In turn, apartment uses are suitable to the east. Under "O" Office, a motel may be built by Special Permit on property located on a designated State highway and it does not have to adjoin any commercial property. The provision in the Ordinance that requires filing for a Special Permit involves ingress and egress and safety.

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CP14-61-4 M. Z. Collins--contd.

No one appeared to represent the applicants.

The Commission reviewed the site plan and the report of the Director. The question of traffic created by the cafe was considered and the proper width of the driveway to permit adequate ingress and egress for the motel and the cafe. Mr. Osborne said one problem remains since he has not been able to contact the architect, and that is the control of signs. In view of the lack of some information regarding the plan, the Commission unanimously

VOTED: To DEFER this request pending further information, especially on signs, and the presence of a representative of the applicants at the meeting.

#### R146 SUBDIVISION COMMITTEE

The Committee chairman reported on action taken by the Subdivision Committee at a meeting May 8, 1961. The staff reported that the written report has not been completed but that the following cases had been referred to the Commission without action on:

C8-61-12 Highland Medical Center  
Hancock Drive  
C8-61-14 Northtowne, Sec. 3  
Steck Ave. W. of Burnet Rd.

The Commission therefore took no action on the report of the Committee pending submission of the written report.

#### PRELIMINARY PLANS

C8-61-14 Northtowne, Sec. 3  
Steck Ave. W. of Burnet Rd.

The Commission considered the REFERRAL of this subdivision. Mr. Stevens explained that this subdivision was referred to the Commission since there were a number of problems involved. Most of these problems have been worked out and a revised plan has been submitted and his comments would be on the revised plan. First, there is the Shoal Creek drainage area bordering this subdivision. The flood plain extends to the 705-foot contour and continues on down to the property on Anderson Lane. In working out a final plat, if there is a problem of flooding, the subdivider will have to omit the section from the plat that is subject to flooding. Secondly, to alleviate any drainage problem, an easement must be provided for Shoal Creek and any channel work approved by the Storm Sewer Division as the revised plan excludes the creek area and shows it lying outside the subdivision. The third item is that the number of access streets be reduced if the schematic plan showing how the area between the subdivision and Burnet Road could be used for residential purposes is followed. This area was first shown in large tracts to permit possible commercial zoning and the Department recommended that Glenwood be extended through the subdivision as a collector street serving both

C8-61-14 Northtowne, Sec. 3--contd.

the residential and commercial areas and they have shown that the street can be extended to Burnet Road, which is the basic purpose of the schematic plan. Some additional block numbers need to be shown which were omitted from the revised plat, and the name of Shoalwood Lane and the cul-de-sac should be changed since we have one Shoalwood Avenue.

Mr. Moreau stated that they could comply with all of these request.

Mr. Stevens further explained that a break in Block D has been shown as recommended by the staff to permit possible development of the Kelly McAdams' property adjoining on the south, and if they choose to extend one of the other streets instead of this one that would be acceptable.

The Commission then

VOTED: To APPROVE the plan of NORTHTOWNE, SEC. 3, subject to the following conditions:

1. Omitting the lots within the Shoal Creek drainage area bordering this subdivision on the final plat if a flooding problem in this area develops,
2. Approval of the drainage easement by the Storm Sewer Division,
3. Reducing the number of access streets from Burnet Road as shown on the schematic plan if that area is used for residential purposes,
4. Showing additional block numbers which were omitted from the revised plan,
5. Changing the name of Shoalwood Lane and the cul-de-sac, and
6. Compliance with departmental requirements.

## SUBDIVISIONS - FILED

C8-60-9 Delwood Terrace, Sec. 1  
 Wheless La. and Northampton Dr.  
C8-61-16 Royal Oaks, Sec. 3  
 Rogge La. and Wellington Dr.

The staff reported that this is a part of Delwood Estates which has been approved by the Subdivision Committee and that Mr. Nash Phillips has requested by letter that the subdivision names be changed as shown in the title for the final plats. Mr. Stevens stated that these name changes did not present any large problem but stated that caution should be used in subdivision name changes as some have been changed four or five times. When this happens the subdivision records are complicated and some confusion results. There were

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C8-60-9 Delwood Terrace, Sec. 1--contd.

C8-61-16 Royal Oaks, Sec. 3--contd.

a number of conditions stipulated in the preliminary approval which have not been met in the platting of the final plats, but the subdividers have asked that these plats be accepted for filing and stated that they will make the necessary corrections.

The Director reviewed his recommendation regarding the proposed five-street intersection in the area to the west which was not included in this subdivision and said he asked for a report from the Traffic Engineer on this intersection because he considers it will be extremely dangerous. He said Mr. Beasley has given him only a preliminary report that he is not satisfied with but he did not wish to go beyond that point now. Mr. Osborne said he has no question as to the acceptance of the two final plats but wanted to point out to the Commission the problem of the proposed intersection through the commercial property and the fact that the street would be subject to adjusting one way or another depending on a decision regarding this intersection. The Chairman announced that the Commission takes notice of this problem. It was then

VOTED: To ACCEPT the following final plats for filing, with the understanding that the problems of compliance with the preliminary will be worked out by the Subdivider within 30 days, in which time the subdividers will provide a plat showing the recommendations of the Planning Department:

C8-60-9 Delwood Terrace, Sec. 1

Wheless La. and Northhampton Dr.

C8-61-16 Royal Oaks, Sec. 3

Rogge La. and Wellington Dr.

C8-61-5 Rivercrest Addn., Sec. 1

Bohn Blvd. and Lake Austin

The staff reported that reports have not been received from all departments and recommended that this plat be accepted for filing, subject to the condition that information is submitted that access roads have been dedicated. The Director reported that he had talked with Mr. Fowler of the Legal Department who indicated that at the present time the persons involved have not worked out a satisfactory arrangement on the access road but there was some indication that it possibly might be worked out.

Mr. D. L. Osborn (subdivider) said they have done all they can and it still cannot be worked out but Mr. Fowler had said he would not make that as a requirement for approval of this subdivision. Mr. Barrow stated that some of the nearby owners knew that the roads to this property have been used for 40 years and that there is access to the subdivision over these roads.

Mr. Fowler then appeared at the meeting and gave the following report: I spoke with Mr. Kay Miller, who is Mr. Osborn's attorney, about three weeks ago but the situation is apparently this: Mr. Miller is in a position to

C8-61-5 Rivercrest Addn., Sec. 1--contd.

advise me that there is no question about the purchasers of the lots in the subdivision having the right to proceed to and from the lots which they might buy. The only question involved is whether or not this road has to be required to be dedicated for public use before the subdivision can be approved. Reading the various provisions of the Subdivision Ordinance has led me to the conclusion that it is not intended to be mandatory that all access roads to a proposed subdivision be dedicated for public purposes but apparently there would be occasions such as this where roads have become public roads through a long period of usage rather than through outright dedication. That is apparently the situation we have here. At the very least there is apparently an easement by grant or by prescription for the use of persons buying in this subdivision. I find no requirement as such that required that this road be dedicated to the public as an essential prerequisite to approval of the plan. We know that St. Stephen's representatives have agreed that there is nothing to prevent the purchasers of the subdivision from using the road.

The Commission then

VOTED: To ACCEPT for filing the plat of RIVERCREST ADDN., SEC. 1.

C8-61-10 Braes Ridge, Sec. 2  
Braes Ridge E. of Belfast

The staff reported that this plat was submitted to the Commission in final form at the last meeting but then it was recognized that we had no preliminary plan on this portion. In the meantime the preliminary has been submitted and acted on by the Subdivision Committee and was approved with one condition that the notation on the commercial tract of land be removed and that it be left in one tract of land. We recommend that you accept the final plat for filing with that one notation regarding the commercial tract. The Commission therefore

VOTED: To ACCEPT for filing the plat of BRAES RIDGE, SEC. 2, subject to compliance with the approved preliminary plan.

SUBDIVISIONS - CONSIDERED

C8-60-39 Brinwood, Sec. 1  
South Congress Ave.

It was reported by the staff that this plat includes a portion of Jones Avenue which needs to be vacated and it is recommended that the Commission approve the plat and authorize the staff to hold the plat from recording until after the Thursday City Council meeting so that this portion of Jones Avenue can be vacated. The Commission then

VOTED: To APPROVE the plat of BRINWOOD, SEC. 1, and to authorize the staff to hold the plat from recording until the portion of Jones Avenue in this subdivision is vacated by the City Council.

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C8-61-13 Devonshire Park, Sec. 2  
New Manor Rd. and Lovell Dr.

The staff reported the following: This subdivision joins the Municipal Airport on the north side and we recommend that the plat be disapproved pending additional easements, fiscal arrangements, building setback lines. In Section 1 a plat restriction as to height of buildings and structures was required. Since then, we have the proposed airport zoning ordinance, limiting heights by zones. One part of the subdivision is in the restricted height zone of zero feet and another part is in Zone 2 with a height restriction of 25 feet. We have proposed that the restriction for an aviation easement be put on the plat.

Mr. Fowler said that, with reference to the proposed airport zoning ordinance, he thought it would be best that the plat restriction be specifically worded so that it would limit all structures and growth of trees on the particular lots to the specified height. He said the specified height can be arrived at and he believes it would be preferable from a legal and administrative standpoint to get the heights fixed on the fact of the plat with respect to specific lots; it can be done and he said he was afraid we might possibly run into a question and the restrictions might be voided for indefiniteness if restrictions complying with the proposed airport zoning ordinance is put on the plat. One restriction would propose ground zero and the other would propose a restriction of 25 feet, but without the precluded buildings except by a special permit. The Commission then

VOTED: To DISAPPROVE the plat of DEVONSHIRE PARK, SEC. 2, pending additional easements, fiscal arrangements, building setback lines, and a height restriction to be worked out with the Legal Department in relation to the proposed airport zoning ordinance.

C8-61-15 Oaklawn, Sec. 2  
Webberville Rd. and Meander Dr.

It was reported by the staff that written reports have not been received from two departments but verbal approval has been given by these departments and it is recommended that you approve the plat and authorize the staff to hold it from recording until the written reports are received. The Commission therefore

VOTED: To APPROVE the plat of OAKLAWN, SEC. 2, and to authorize the staff to hold the plat until all necessary departmental written reports have been received.

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-60-113 Chase Addition, Sec. 2  
Hargrave St. S. of Rosewood Ave.  
C8s-61-63 Garden Oaks, Sec. 3  
Cardinal La. and S. 3rd St.

## SHORT FORM PLATS - CONSIDERED

C8s-61-4 Damon A

South 1st and Dittmar

The Director presented the following report: In accordance with the Subdivision Committee's action, this particular subdivision is basically at my request being presented to the Planning Commission. It has received approval from all the departments, including the Health Department. The original plan came in with a different size of lots. First it was disapproved by the Health Department on the basis that this will be a septic tank subdivision located about 2 miles from the south city limits in an area that is only partly developed, and this is one of the first subdivisions in the immediate area. There are houses scattered through the general area but they are on a large tract basis. In a discussion with Mr. Redding (Health Department) originally, the over-all suitability of septic tanks in this particular and surrounding area came up. Mr. Redding said there might be a serious question as to the use of septic tanks on any normal subdivision basis, say 10,000 or 12,000 square foot tracts rather than the normally required 9,000 square feet. A revision was made to the subdivision by Mr. Schoolfield (surveyor) and Mrs. Damon (owner) and they discussed Lots 1, 2 and 3 with the Health Department. Originally they would have cut off Lot 7 and extended it all the way back, but that was changed so that Lots 1, 2 and 3 extend through Lot 8; however, I still felt that there would be some question. First, the over-all development of this immediate area in septic tanks; secondly, this particular tract of land with septic tank use. I asked Mr. Hargis and Mr. Redding particularly about this and asked them to give a report to the Commission.

Mr. Hargis reported the following and general discussion followed:

First of all, this was submitted to us about the time there were two houses under construction. I made some statements, one of them was that we had not made any investigation of the septic tanks for the two houses that are there at present. I found that we had made an investigation and had turned them down, for the reason that although they were put in properly according to minimum standards -- in fact they went a little farther than minimum standards -- but at the time of the inspection, the man who went out there (it was not his territory and that was why I could not find the reports on it, and it is in the county and one of the other men made the tests) had turned it down on the basis that there was water standing all over the place at the time he made the investigation and that he did not feel a minimum requirement would be satisfactory. So these two houses were under construction at the time our investigation of the subdivision came to light. The mere fact that there was standing water from rain was good evidence of the condition of the soil which has black gumbo on top and shale quite a distance below this. For that reason he turned it down for septic tanks.

The inspector did not make a percolation test to determine what would be necessary and he was not requested to make that, and the only thing he did was to look at what was there and turn it down on the basis that water was already standing on the surface. He felt that anytime we had a wet period we would have septic tank failures. Then the subdividers wanted approval of this subdivision. We investigated and felt that if we had a chance to outline exactly what we would need on each of the septic tanks, we would feel



C8s-61-4 Damon A--contd.

more free if we had a little more room. That was the reason we suggested that Lots 1, 2 and 3 be cut into two lots. They then came back with a proposal that Lot 7 be cut in depth and that Lots 1, 2 and 3 be extended, but if we were assured that our recommendation would be carried out and we would have a chance to recommend, which we did not have in these first two instances, we felt that we could go ahead and approve the subdivision. Frankly, there is a question as to whether or not septic tanks will work during a wet period or whether we were in the right in going ahead and approving this. We would consider what the builder put in houses, but even then those minimums are for good soil and this is not good soil.

Mr. Lewis: Mr. Hargis, just what do you recommend?

Mr. Hargis: When we run into a situation like this we have to go out and make tests of the soil, and it will vary from lot to lot, and then determine the approximate size of the lot because we don't know who will live there and then attempt with the builder to design an adequate system that we think will work. The minimum is based on the number of bedrooms, whether they have washers or not, and the minimum is the 500-gallon tank and 150 feet of drainage tile.

Mr. Barrow: Would you give the Department a written approval of the lots?

Mr. Hargis: We would be justified in saying yes, not completely no, if we are guaranteed by the developers that we would have a chance to see these lots prior to construction and work with them on that.

Mr. Barrow: Could that be put on the plat?

Mr. Lewis: Mr. Osborne, if we should approve this as Mr. Hargis recommended, would you have control over it or could you require the proper control?

Mr. Osborne: No, we would not. We attempt to and we have restrictions placed on the plat. We have a good example of this nearby where 70 lots were put in and not one of the 70 lots was inspected.

Mrs. Damon: We didn't know when we started those two houses that they had to be approved until we got their letter, and then I took it to the builder and told him to follow it to the letter, even if we have to make these drainage areas longer. We thought it had been approved.

Mr. Barrow: If the Health Department is to approve it individually, I think that is as far as we can go. It is my opinion that it is possible to do it satisfactorily with their approval. We would have the same thing in anything we did.

Mr. Osborne: The difference is that subdivisions within the city are subject to building permits and some conditions for issuance. Under those circumstances, septic tanks can be controlled. This is not for just this subdivision but it is a general problem.

C8s-61-4 Damon A--contd.

Mr. Barrow: What are you recommending that we do?

Mr. Osborne: I think that the subdivision should be approved with a specific request to the present owner and the builder that prior to any further development each of these lots be worked out with the Health Department so that they are on notice.

Mr. Barrow: I think that should be on the plat.

Mr. Osborne: There is a statement on the plat concerning this that would normally be sufficient. Some  $1\frac{1}{2}$  years ago the Council indicated to me that I should look very carefully into any septic tank subdivision, especially in intensive development where there are soil problems, which are a general thing. This was one area which was pointed out to me, particularly where there appeared to be a soil problem, and that is why I pursued this particular subdivision a little further because it was an area which is developing and is likely to have other subdivisions in the area. I would recommend approval, but I mainly wanted to put the owner, the builder, and the Planning Commission on notice of what kind of particular problems we are getting into. No building permit is required and they can secure a water permit from the Water District without restrictions as to septic tanks.

The Commission then

VOTED: To APPROVE the plat of DAMON A.

C8s-61-41 Ed F. Davenport Resub. Lot 6, Blk. B, Georgian Acres  
Fawnridge Dr. and Georgian Dr.

The staff reported that fiscal arrangements have not been completed for water service, reports have not been received from some departments, and a restriction pertaining to the installation of septic tanks has not been placed on the plat. The Commission therefore

VOTED: To DISAPPROVE the plat of ED F. DAVENPORT RESUB. LOT 6, BLK. B, GEORGIAN ACRES, subject to completion of fiscal arrangements, receipt of all necessary departmental reports, and a restriction on the plat regarding installation of septic tanks.

C8s-61-48 C. L. Angell Resub. Lots 34-38, Blk. 4  
Montopolis Dr.

This plat was reported by the staff as having satisfied all the standards of the Subdivision Ordinance and was recommended for final approval. The staff further reported that Montopolis Drive is scheduled to be widened and paved in 1964 in CIP VIII with a minimum right-of-way of 60 feet; however, no alignment has been set to determine where the widening will be needed and we are not asking for any additional right-of-way with this subdivision. The Commission then

VOTED: To APPROVE the plat of C. L. ANGELL RESUB. LOTS 34-38, BLK. 4.

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C8s-61-60 Royal Oaks Estates, Sec. 1, Lots 15 and 16, Blk. N  
Coventry Lane

The staff reported that this plat satisfies all the standards of the Subdivision Ordinance and all departmental reports have been received except one but verbal approval has been given and the written report will be received tomorrow. The Commission then

VOTED: To APPROVE the plat of ROYAL OAKS ESTATES, SEC. 1, LOTS 15 AND 16, BLK. N.

C8s-61-62 A. L. Wells Addition  
Neans Dr. W. of U. S. 81

Mr. Stevens reported the following: Heretofore we have had two short form subdivisions out of a large tract which was included as a part of Neans Place preliminary as more or less of a homestead tract and left in one tract, the property on the west being in streets and lots. After that was done in 1951, there were two lots later approved as short forms and one tract in the corner at Neans Drive and U. S. Highway 81 was sold by deed, and we got involved in dividing it into so many subdivisions that we asked that no further short forms be permitted on this property until a plan is submitted for development of the remainder of the tract. Mr. Wells advised us that he had bought some property on the south side of Neans Drive, consisting of Lots 1, 2 and 3 in this proposed subdivision, and had owned it since 1956. He, with the Department, worked a schematic plan which he submitted for the balance of the property, and with this as a schematic we are submitting this short form although we have asked that no further short forms be submitted. This will show that the balance of the property can be properly subdivided. Mr. Wells is now building a house on Lot 3. If the Planning Commission feels that the balance of the property would not be handicapped we recommend that the subdivision be approved. Mr. Neans has written on the schematic filed with the Department that "This plan seems O.K. Location of two-story house is in question, however. If street does not interfere with house as indicated, below plan is fine with us". This statement was signed by Albert S. Neans, Kenneth H. Neans, and A. L. Wells. The Commission then

VOTED: To APPROVE the plat of A. L. WELLS ADDITION.

C8s-61-65 Duval Heights, Resub. Lot 2 of Resub. Pt. Lots 22-25  
Interregional Hwy., Hwy. 290, and Reinli St.

The staff reported that this is quite a large piece of land, consisting of two tracts, one having about 6 acres and the other about 2 acres. The subdivider took the plat to the various departments this afternoon and obtained the approval of all except the Sanitary Sewer Department. There will be some money required to serve Lot 2B with sanitary sewer and this is being worked out, whether to acquire some additional property or make some arrangements to extend the sewer line. The subdividers say this will be completed within the next two days and are requesting that the plat be disapproved pending fiscal arrangements and that the Commission authorize the staff to give administrative approval when this has been settled. The Commission therefore

C8s-61-65 Duval Heights, Resub. Lot 2 of Resub. Pt. Lots 22-25--contd.

VOTED: To DISAPPROVE the plat of DUVAL HEIGHTS, RESUB. LOT 2, OF RESUB. PT. LOTS 22-25, and to authorize the staff to give administrative approval when the requirements for sanitary sewer have been worked out.

## ADMINISTRATIVE APPROVAL

The staff reported that 2 plats had received administrative approval under the Commission's rules. The Commission therefore

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

C8s-61-61 Davidson Addition  
Georgian Dr. and Oertli La.  
C8s-61-64 Pleasant View, Resub. Lots 11 & 12  
Clifton and E. Live Oak Sts.

## OTHER BUSINESS

C10-61-1(g) STREET VACATION  
Edgecliff W. of Manlove St.

The staff reported that the La Riviera Hotel Corporation, by Mr. Stanley Blazyk, has requested that the portion of Edgecliff Street from 1204 to the north end of the street at 1304 be vacated in line with a change in zoning granted by the City Council December 10, 1959. It was noted that a zoning change in height and area designation (C14-61-62) and a special permit (CP14-61-4) in relation to the erection of a motel on the abutting property have been considered by the Commission at this meeting. The Commission concluded that the request is logical in view of the proposed design for the motel development and in accordance with previous consideration on the Use zoning for this property. Therefore, it was

VOTED: To recommend that the request of the La Riviera Hotel Corporation, abutting owner, for the vacation of that portion of Edgecliff Street from 1204 to the north end of the street at 1304 be VACATED.

C10-61-1(h) ALLEY VACATION  
E. 16th St. Alley between Chestnut Ave. and Maple Ave.

The Commission considered the request of abutting owners for the vacation of that portion of an alley at the rear of 1604 and 1606 Maple Avenue and extending through to Chestnut Avenue for the reason that this alley is now impassible because of plant growth and debris that has accumulated there. It was concluded that the alley is serving no use to the adjoining owners and should be vacated. Therefore, it was

VOTED: To recommend that the request of abutting property owners for the vacation of East 16th Street Alley between Chestnut Avenue and Maple Avenue be GRANTED.

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C2-53-4 ZONING ORDINANCE: Interim Revisions

The Director reported that the proposal by the Phillips Petroleum Company, which was discussed by Mr. Trueman in presenting a request for rezoning at Exposition Boulevard and Enfield Road (C14-61-66), was very interesting and would involve re-designing of filling stations. He noted that there are several cities which now recommend that filling stations be entirely indoors. Mr. Kinser reported on this type of filling station which he had seen in the eastern part of the United States. The Commission then

AGREED: That the recommendation as presented by Mr. O'Quinn for the establishment of a new zone known as "RT" Limited Utility District would be considered with other amendments to the text of the Ordinance being studied by the Planning Commission.

R141 RULES AND REGULATIONS

The Commission briefly discussed a need for reviewing the previously adopted Rules and Regulations of the Commission and Mr. Barrow suggested that these be very carefully reviewed at the next organizational meeting which will be held when the member appointments are made by June 1st.

REPORTS

R710 LEGISLATION AND PROCEDURES

The Director reported that there is pending before the Senate a favorable bill concerning annexation and limited control of the 5-mile area around the city which, if passed and signed by the Governor, will give the City the type of control by which we can issue building permits outside the city, exercise zoning control, sanitation control, and a number of other items, and at that point will be in a legal and administrative position to actually enforce this legislation. He said this will be a very intensive problem and should be done on a very careful basis; that there are several problems involved in this, the Development Plan being extended into the 5-mile area, and will put the City in a position where land will not have to be annexed before the City is ready for it but will prevent incorporations within this 5-mile area.

R142 COMMISSION MEMBERS

The Chairman announced the resignation of Mr. A. C. Bryant.

SUBDIVISION APPROVAL BY TELEPHONE POLL

C8-61-1 Garden Oaks #2

Barton Skyway W. of Garden Villa Lane

The staff reported that a majority of the Commission had been polled by telephone and had

VOTED: To APPROVE the plat of GARDEN OAKS #2.


MEMBERS CONTACTED: Messrs. Baldrige, Brunson, Chriss, Kinser and Lewis

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ADJOURNMENT

The meeting was adjourned at 10:40 p.m.

  
\_\_\_\_\_  
Hoyle M. Osborne  
Executive Secretary

APPROVED:

  
\_\_\_\_\_  
Chairman