

# TULSA METROPOLITAN AREA PLANNING COMMISSION

## Minutes of Meeting No. 2168

Wednesday, July 22, 1:30 p.m.

City Council Room, Plaza Level, Tulsa Civic Center

<b>Members Present</b>	<b>Members Absent</b>	<b>Staff Present</b>	<b>Others Present</b>
Boyle	Gray	Beach	Myers, Legal
Carnes	Midget	Dunlap	Counsel
Harmon	Pace	Huntsinger	
Horner	Selph	Stump	
Jackson			
Ledford			
Westervelt			

The notice and agenda of said meeting were posted in the Reception Area of the INCOG offices on Friday, July 17, 1998 at 11:11 a.m., posted in the Office of the City Clerk at 11:05 a.m., as well as in the office of the County Clerk at 11:00 a.m.

After declaring a quorum present, Chairman Boyle called the meeting to order at 1:40 p.m.

### **Minutes:**

#### **Approval of the minutes of July 1, 1998, Meeting No. 2165:**

On **MOTION** of **HORNER** the TMAPC voted **6-0-1** (Carnes, Harmon, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; Boyle "abstaining"; Gray, Midget, Pace, Selph "absent") to **APPROVE** the minutes of the meeting of July 1, 1998 Meeting No. 2165.

### **Reports:**

#### **Chairman's Report:**

Mr. Boyle congratulated Mr. Westervelt on his delivery of a completed report on the Special Residential Facilities Task Force, which will be considered by the Planning Commission in two weeks.

Mr. Boyle stated that staff should eliminate the Special Residential Task Force item on future agendas.

**Committee Reports:**

**Rules and Regulations Committee**

Mr. Westervelt stated that he is pleased to have the Special Residential Task Force report ready for the Planning Commission to consider after six months of work.

Mr. Westervelt thanked all of the members of the Task Force and the staff for their assistance.

Mr. Westervelt reported that Rules and Regulations Committee had a two-hour discussion with the Task Force and legal counsel. He indicated that the report will be presented to the Planning Commission on August 5 with no recommendations from the Rules and Regulations Committee.

**Director's Report:**

Mr. Stump reported that there are several items on the City Council agenda and he will be attending the meeting. Mr. Boyle indicated that Jerry Ledford, Sr. will attend the City Council meeting to represent the Planning Commission.

Mr. Stump stated that the Infill Task Force met Monday, July 20, which was their third meeting. The Task Force established sub-committees in five different areas. He explained that the sub-committees will meet and do most of the work to develop recommendations for the full Task Force to review. He stated the meetings will be held through September.

**Zoning Public Hearings:**

**Z-6310-SP-5/PUD-467 – Ricky Jones**

(PD-18) (CD-7)

East of northeast corner East 51<sup>st</sup> Street and South Harvard  
(Corridor Site Plan and Detail Site Plan)

**Staff Comments:**

Mr. Stump stated that this application is a corridor site plan and part of the requirements are to submit the landscape plan with the corridor site plan. The landscape plan was not submitted. Staff requests a continuance to August 5, 1998.

**There were no interested parties wishing to speak.**

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES** the TMAPC voted **7-0-0** (Boyle, Carnes, Harmon, Horner, Jackson, Ledford, Westervelt “aye”; no “nays”; none “abstaining”; Gray, Midget, Pace, Selph “absent”) to **CONTINUE** case Z-6310-SP-5/PUD-467 to August 5, 1998 at 1:30 p.m.

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**Subdivisions:**

**FINAL PLAT:**

**Garnett South (3104)**

(PD-5) (CD-6)

Northwest corner East Archer Street and North Garnett Road

**Staff Recommendation:**

Mr. Beach stated that everything is in order on this plat and staff recommends approval subject to final legal review.

**There were no interested parties wishing to speak.**

**TMAPC Action; 7 members present:**

On **MOTION** of **HORNER** the TMAPC voted **7-0-0** (Boyle, Carnes, Harmon, Horner, Jackson, Ledford, Westervelt “aye”; no “nays”; none “abstaining”; Gray, Midget, Pace, Selph “absent”) to **APPROVE** the Final Plat for Garnett South, subject to final legal review as recommended by staff.

\* \* \* \* \*

**SouthCrest (PUD-559) (683)**

(PD-18) (CD-8)

East of the northeast corner East 91<sup>st</sup> Street and South Mingo Road

**Staff Recommendation:**

Mr. Beach stated that everything is in order on this plat and staff recommends approval subject to final legal review.

**There were no interested parties wishing to speak.**

**TMAPC Action; 7 members present:**

On **MOTION** of **WESTERVELT** the TMAPC voted **7-0-0** (Boyle, Carnes, Harmon, Horner, Jackson, Ledford, Westervelt “aye”; no “nays”; none “abstaining”; Gray, Midget, Pace, Selph “absent”) to **APPROVE** the Final Plat for SouthCrest, subject to final legal review as recommended by staff.

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**Ambassador Manor (PUD-536) (683**

(PD-18) (CD-9)

East of the southeast corner East 61<sup>st</sup> Street and South Peoria Avenue

**Staff Recommendation:**

Mr. Beach stated that everything is in order on this plat and staff recommends approval subject to final legal review.

**There were no interested parties wishing to speak.**

**TMAPC Action; 7 members present:**

On **MOTION** of **HORNER** the TMAPC voted **7-0-0** (Boyle, Carnes, Harmon, Horner, Jackson, Ledford, Westervelt “aye”; no “nays”; none “abstaining”; Gray, Midget, Pace, Selph “absent”) to **APPROVE** the Final Plat for Ambassador Manor, subject to final legal review as recommended by staff.

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**Zoning Public Hearings: (continued)**

**Z-6649 – Julius Pegues**

South and west of West Newton Street and North Union

**OL to RS-1**  
(PD-11) (CD-1)

**Staff Recommendation:**

Relationship to the Comprehensive Plan:

**RELATIONSHIP TO THE COMPREHENSIVE PLAN:** The District 11 Plan, a part of the Comprehensive Plan for the Tulsa Metropolitan Area, designates the subject tract as Low Intensity – No Specific Land Use.

According to the Zoning Matrix the requested RS-1 zoning **is** in accordance with the Plan Map.

Staff Comments:

**Site Analysis:** The subject property is approximately 7.3 acres in size and is located west of the southwest corner of West Newton Street and N. Union Avenue. The property is gently sloping, wooded, vacant, and is zoned OL.

**Surrounding Area Analysis:** The subject tract is abutted on the north by single-family dwellings, zoned RS-3; to the south and east by single-family homes, zoned RS-3; and to the west by an apartment complex, zoned RM-1.

**Zoning and BOA Historical Summary:** The Board of Adjustment approved a special exception to allow a single-family dwelling on the subject tract in 1997 and at that time the Board recommended to the owner that any further single-family development on the property would require rezoning.

**Conclusion:** The Comprehensive Plan designates the subject tract as Low Intensity development. Based on the existing zoning and development in the area, staff recommends **APPROVAL** of RS-1 zoning for Z-6649.

**Applicant was present and indicated his agreement with the staff's recommendation.**

**There were no interested parties wishing to speak.**

**TMAPC Action; 7 members present:**

On **MOTION** of **WESTERVELT** the TMAPC voted **6-0-1** (Boyle, Carnes, Harmon, Horner, Jackson, Westervelt "aye"; no "nays"; Ledford "abstaining"; Gray, Midget, Pace, Selph "absent") to recommend **APPROVAL** of the RS-1 zoning for Z-6649 as recommended by staff.

**Legal Description for Z-6649:**

Lot 1, Block 1, Oak Creek Addition, an Addition to the City of Tulsa, Osage County, Oklahoma, according to the recorded Plat thereof, more particularly described as follows: Commencing at the Southwest corner of Lot 1, Block 1, Oak Creek, an Addition to the City of Tulsa, Osage County, Oklahoma, according to the recorded Plat thereof, thence S 89°59'55" E a distance of 821.46' to the Point of Beginning; thence N 00°00'00" E a distance of 463.72' to the North line of Lot 1, Block 1, Oak Creek; thence S 89°59'55" E along the North line of Lot 1, Block 1, Oak Creek, a distance of 692.15' to the Northeast corner of Lot 1, Block 1, Oak Creek; thence S 00°26'31" along the East line of Lot 1, Block 1, Oak Creek, a distance of 438.73' to the Easternmost Southeast corner of Lot 1, Block 1, Oak Creek; thence S 74°26'45" W along the Southerly line of Lot 1, Block 1, Oak Creek a distance of 93.22'; thence N 89°59'55" W along the South line of Lot 1, Block 1, Oak Creek a distance of 605.72' to the Point of Beginning containing 7.3614 acres, more or less.

\* \* \* \* \*

**PUD-558-1 – Michael McGraw**

(PD-7) (CD-2)

1200 South Frisco  
(Minor Amendment)

**Staff Recommendation:**

The applicant is requesting Minor Amendment approval to construct a single-family dwelling on a 12,476 square foot (net) parcel. The request modifies the approved PUD standards allowing four townhomes.

Staff has reviewed the request and finds the proposed single-family use constitutes a substantial reduction in building coverage and intensity from the 1997 townhome approval. Staff notes that during initial TMAPC review, surrounding owners of residential property expressed opposition to townhome development and support for single-family use of the parcel.

Staff finds the use and intensity of the proposed single-family residential use maintains the residential character and intent of the original approval.

Staff, therefore, recommends **APPROVAL** of Minor Amendment PUD-558-1 which modifies the approved development standards as follows:

Permitted Uses:	Single-Family Dwelling - Use Unit 6
Maximum Dwelling Units:	1
Minimum Lot Width:	100.5'
Minimum Livability Space:	5000 SF
Minimum Building Setbacks:	
From east boundary of PUD	66'
From south boundary of PUD	30'
From north boundary of PUD	15'
From northeast boundary of PUD	12'
From centerline of Frisco Avenue	50'

**NOTE:** Minor Amendment approval does not constitute Detail Site Plan approval.

**Applicant was present and indicated his agreement with staff’s recommendation.**

**There were no interested parties wishing to speak.**

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES** the TMAPC voted **7-0-0** (Boyle, Carnes, Harmon, Horner, Jackson, Ledford, Westervelt “aye”; no “nays”; none “abstaining”; Gray, Midget, Pace, Selph “absent”) to recommend **APPROVAL** of the Minor Amendment for PUD-558-1 as recommended by staff.

**Legal Description for PUD-558-1:**

Part of Lot 5, Block 12, Lindsey 2<sup>nd</sup> Addition, beginning at the southwest corner of Lot 5, thence North 50.5’; thence East 76.9’ parallel to the North line Southeast 81.24’ to the Southeast corner, thence West 140’ to the Point of Beginning, and Lot 8, Block 1, Childer’s Heights Addition.

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**PUD-585-1 – Charles Norman**

(PD-18) (CD-9)

Southwest corner East 61<sup>st</sup> Street and South Memorial Drive  
(Minor Amendment)

**Staff Recommendation:**

The applicant is requesting Minor Amendment approval to transfer 2,500 square feet of commercial building floor area from Development Area B to Development Area A to allow construction of a 59,500-square-foot hotel.

The requested transfer of building floor area would increase the maximum building floor area in Development Area A for hotel, motel and office use from 57,500 square feet to 60,000 square feet. The request would decrease the maximum building floor area within Development Area B for Use Units 4,12,13 and 14 from 20,500 square feet to 18, 000 square feet, thereby reducing the total building floor area for all uses in Area B to 44,500 square feet.

The applicant has provided a letter from all owners of property in Development Areas A and B approving the transfer of building floor area.

Staff has reviewed the request and finds it is minor in nature, is consistent with the stated purposes and standards of the PUD Chapter and maintains the intent and purposes of the original PUD approval.

Staff, therefore, recommends **APPROVAL** of Minor Amendment PUD 585-1 transferring 2,500 square feet of commercial building floor area from Development Area B to Development Area A.

**Applicant was present and stated he agrees with staff’s recommendation.**

**Interested Parties:**

**Mr. Lou Reynolds**, 2727 East 21<sup>st</sup> Street, Suite 200, Tulsa, Oklahoma, stated he is representing Granite Properties who are the owners of one of the Triad Center buildings, which is west of the subject property in PUD-202. He explained that between the subject property and the Triad Center project is a private street. He stated the private street needs some maintenance.

Mr. Reynolds stated that there was a crude maintenance agreement entered into between the owners of the two properties in 1980. He explained that the ownership has become fractionated with different interests, and the street has not been maintained as the parties once agreed to. He stated that he is close to an agreement to get the street maintained in accordance with the standards for this type of development.

Mr. Reynolds stated that his client is very supportive of the application, but would like to get the private street repaired and a workable maintenance agreement between the parties in place. He commented that he did not know if this was the time to bring this up before the Planning Commission or at the site plan review phase.

Mr. Reynolds stated that his client supports the application one hundred percent. He indicated that his client's only objection is that a maintenance agreement has not been reached.

**TMAPC Comments:**

Mr. Boyle asked Mr. Reynolds if he is asking the Planning Commission to approve this application. In response, Mr. Reynolds stated his client is asking the Planning Commission to approve this application, but his client would also ask the Planning Commission to help him get the private street repaired and maintained. He commented that his client would like the Planning Commission to condition the approval on getting the private street maintained.

Mr. Ledford asked the applicant where the private street is located. In response, Mr. Reynolds indicated that the private street is located on the west side of the subject property and the east side of the Triad Center. Mr. Reynolds stated that the private street runs from 63<sup>rd</sup> Street north to 61<sup>st</sup> Street.

Mr. Westervelt stated he owns property within the PUD and he doesn't feel that he has a conflict. He asked Mr. Reynolds if the maintenance agreement is as loose as the maintenance agreement that exists between his own lot and the other owners near as well. Mr. Reynolds answered affirmatively.

Mr. Horner asked Mr. Reynolds if he has the responsibility of the design parameters regarding how the street is repaired and a level of maintenance he would recommend. In response, Mr. Reynolds stated that as part of the application, the street would be repaired to its original standards. He further stated that the adjacent parties split the maintenance pro rata to their ownership of linear feet up and down the street. He explained that this is what the property owners have agreed to do here, but they haven't

lived up to the agreement. Mr. Reynolds stated that when the private street matter came up he contacted all of the parties and thought he had an oral agreement. He explained that he sent a letter to all of the parties to sign in order to repair the street; however, no one sent the signed letter back. He commented that he called the parties and no one will return his call, and the only message he did receive is that one of the property owners was willing to sign the letter if all of the other property owners signed.

Mr. Boyle stated he had sympathy for Mr. Reynolds' problems, but he feels that the Planning Commission is the wrong forum for a private street issue. He suggested that the issue should go to District Court. In response, Mr. Reynolds stated he is trying to avoid going to District Court.

Mr. Stump stated that it is within the venue of the standards of this PUD, because that particular road is the only access to this development. Part of the Planning Commission's charge is to make sure that there is adequate access to a development to serve it. If the access is privately owned, then there should be adequate means of maintaining the private access. In response, Mr. Boyle asked if the Planning Commission could impose an agreement to maintain these streets.

Mr. Stump explained that in the original PUD's requirements that restrictive covenants of a subdivision incorporate a mechanism for funding maintenance for public facilities or privately-held common facilities. He commented that the request is uncommon at this point of the PUD process because it has already been recorded, but it is not out of the realm of possibility to consider.

Mr. Ledford stated that this issue is very similar to what happened on the residential property at 101<sup>st</sup> and Memorial, Audubon Park. He explained that the residential property fronted on 98<sup>th</sup> Street, which was a private street. He stated that the Planning Commission required the developers to bring the street up to city standards to allow two-way traffic.

**Applicant's Rebuttal:**

Mr. Norman, 2900 Mid-Continent Tower, stated he has discussed the private street issue with Mr. Reynolds many times. He explained that the document that Mr. Reynolds refers to provides that the owner of any of the abutting properties may proceed to repair the private street and access the abutting owners for a proportion of the costs. While Mr. Reynolds may disagree, the document speaks for itself and is very adequate. He indicated that Mr. Reynolds' client owns all of the west half of the street and the seller of the subject property owns areas A, B and the north two-thirds of the east half of the street. He stated that a third party, who is not present, owns the south one-third.

Mr. Norman stated that the Planning Commission does not have jurisdiction over Mr. Reynolds' client because he is not before the Commission for the west half. He commented that the Commission may have jurisdiction over the east half, but he does not see how mechanically, procedurally or legally, the Commission could impose some

agreement at this point. This would be on what was already in place when the property was originally platted. He commented that his client has an interest in having an adequate driveway because it is the only access point to the middle property, Area A. He indicated that Area B and the property to the south have access to Memorial and 63<sup>rd</sup> Street. Mr. Norman stated that he has taken the position with Mr. Reynolds and would with the Planning Commission that this issue is not within the jurisdiction of the Commission. He explained that the Commission does not have enough jurisdiction to impose any equitable solution on the issue. He indicated that the total cost that was estimated by Mr. Reynolds' client was \$15,000.00 to bring the private street up to standards.

Mr. Norman stated that upon the closing on the purchased property, his client would be agreeable to paying his share and working toward maintaining the street. He reiterated that this is not the place to impose an obligation on one-third of the total frontage to see that it gets done. Mr. Norman stated that the Planning Commission has no authority over Mr. Reynolds' client to make him do anything, because they are not before it in this proceeding.

**TMAPC Comments:**

Mr. Harmon asked the applicant if his client would sign the letter that Mr. Reynolds referred to. In response, Mr. Norman stated that he informed Mr. Reynolds that his client would sign the letter once his client becomes owner of the subject property. Mr. Norman explained that his client is about to complete the closing and Mr. Reynolds has asked that all of the parties agree to his bid for the cost of repairing the road. He stated that his client will have to pay a small amount of three or four thousand dollars. Mr. Norman stated he couldn't speak for the other property owners on either side of his client's property. He explained that the driveway is on four different owners' properties. He stated that whoever thinks that the street needs to be repaired can initiate the repair themselves and make a claim against Mr. Reynolds' client.

Mr. Norman stated that the mechanism is present and Mr. Reynolds' is trying to force some agreement by using this procedure inappropriately to gain a final agreement. Mr. Norman stated he did not see how staff could follow through with their suggestion and say that this Commission can make Mr. Reynolds' client or Dr. Able, neither of whom are before the Commission, agree to sign a letter with this PUD development.

Mr. Carnes stated that he believes that the Commission does have the authority in the Minor Amendment process to make sure the original PUD agreement is enforced. He explained that the Commission could not go any farther than his client's boundary line. He concluded that he believes that the Commission could cause the street to be improved to the client's property as part of a PUD.

Mr. Norman stated that the subject street is a 30-foot wide strip of land and his client will only own one-half of one-sixth of the frontage.

Mr. Boyle asked Mr. Norman if he had a problem if the Commission imposed on his client the obligation to pay its pro rata share of the street improvement. In response, Mr. Norman stated that it has already been provided.

Mr. Boyle indicated that staff agrees with the condition imposed upon Mr. Norman's client to pay his pro rata share for the street repair.

Mr. Boyle asked Mr. Reynolds how the Commission could do any more than impose the condition that Mr. Norman's client pay his pro rata share of the street repair. In response, Mr. Reynolds stated that Mr. Norman's client needs the whole street for their whole access. Mr. Reynolds stated he has had the oral agreement, but when it came time to sign the letter, everyone disappeared.

Mr. Boyle asked Mr. Reynolds if he agreed that the Commission couldn't affect Dr. Able's interest. Mr. Reynolds stated that he did not think the Commission can affect Dr. Able's interest, but the Commission can affect all of the interest between Tracts A and B. Mr. Reynolds explained that the owner of Tract B also owns Tract A.

Mr. Boyle stated that the Commission could not impose anything on Mr. Reynolds' client. In response, Mr. Reynolds stated that the Commission could impose a condition on his client because the Commission has jurisdiction of the private access easement. He stated that otherwise, the Commission is allowing someone to have access from a road that is not maintained.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES** the TMAPC voted **6-1-0** (Boyle, Carnes, Harmon, Horner, Jackson, Ledford, "aye"; Westervelt "nay"; none "abstaining"; Gray, Midget, Pace, Selph "absent") to recommend **APPROVAL** of the Minor Amendment of PUD-585-1, subject to the applicant agreeing to pay his pro rata share of the street improvements for Development Areas A and B, as recommended by staff.

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**PUD-588-1 – Stephen A. Schuller**

(PD-4) (CD-4)

Northwest corner South Utica Avenue and East 11<sup>th</sup> Street South  
(Minor Amendment)

**Staff Recommendation:**

The applicant is requesting Minor Amendment approval to reduce the minimum required building and bulk trash container setback distance from the west property boundary from 25 feet to 20 feet. The applicant will be demolishing the existing convenience store and rebuilding a new store on a larger site. The alleyway shown in the original Conceptual Site Plan has been removed from within the boundaries of the PUD and will be relocated to the west on adjacent property acquired by the applicant. The relocated alleyway will abut the western boundary of PUD 588.

Staff has reviewed the request and finds the relocation of the alleyway to the immediate west of the PUD increases the building and trash compactor setback distance from residential property to the west from 25 feet to 44 feet.

Staff can support the requested modification of the minimum 25-foot setback from the west residential district boundary to 20 feet. The relocation of the alleyway to the west provides additional buffering between the commercial and residential uses and exceeds the intent of the west boundary standard set in the original approval.

Staff, therefore, recommends **APPROVAL** of the Minor Amendment as submitted subject to the following condition:

Provision of an easement for the relocated alleyway on Lot 11 and construction of the same prior to issuance of an occupancy permit.

**Mr. Westervelt announced that he will abstaining from PUD-588-1.**

**Applicant indicated his agreement with the staff’s recommendation.**

**There were no interested parties wishing to speak.**

**TMAPC Comments:**

Mr. Ledford asked staff if the final plat has been filed of record. In response, Mr. Stump indicated that the final plat had not been filed of record at this time.

Mr. Ledford asked staff if the minor amendment will show on the final plat when it is filed. In response, Mr. Stump stated the minor amendment could be incorporated into the final plat. He explained that the extra lot purchased by the applicant is not part of the PUD, but it could be in the final plat.

**TMAPC Action; 7 members present:**

On **MOTION** of **CARNES** the TMAPC voted **6-0-1** (Boyle, Carnes, Harmon, Horner, Jackson, Ledford “aye”; no “nays”; Westervelt “abstaining”; Gray, Midget, Pace, Selph “absent”) to recommend **APPROVAL** of the Minor Amendment for PUD-588-1, subject to conditions as recommended by staff.

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**Other Business:**

**PUD-368 – Dana Hutson**

(PD-18) (CD-5)

East of northeast corner 61<sup>st</sup> Street and Mingo Road  
(Detail Site Plan)

**Staff Recommendation:**

The applicant is requesting Detail Site Plan approval for a 5000-square-foot single-story building on a 30,348-square-foot parcel.

Staff has reviewed the request and finds the site plan conforms to the area, bulk, height, building square footage, screening, setback, parking, access, circulation, and total landscaped area requirements of the PUD.

Staff notes that the platting requirement was waived in 1986 subject to filing the PUD conditions in a "Declaration of Covenants," City Traffic approval of an access point on East 61<sup>st</sup> providing an 11' perimeter utility easement and approval of a site drainage plan by Stormwater Management.

The applicant has provided additional information to demonstrate compliance with the conditions outlined with the approval of plat waiver in 1986. Approval of a site drainage plan will be part of the building permit application.

Staff, therefore, recommends **APPROVAL** of the Detail Site Plan for PUD 368 as submitted subject to the following condition:

Approval of a site drainage plan by Stormwater Management during the building permit plan review process.

**Applicant indicated her agreement with the staff's recommendation.**

**There were no interested parties wishing to speak.**

**TMAPC Action; 7 members present:**

On **MOTION** of **HORNER** the TMAPC voted **7-0-0** (Boyle, Carnes, Harmon, Horner, Jackson, Ledford, Westervelt "aye"; no "nays"; none "abstaining"; Gray, Midget, Pace, Selph "absent") to **APPROVE** of the Detail Site Plan for a tract in PUD-368, subject to conditions as recommended by staff.

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There being no further business, the Chairman declared the meeting adjourned at 1:55 p.m.

Date approved: \_\_\_\_\_

\_\_\_\_\_  
Chairman

ATTEST: \_\_\_\_\_  
Secretary

